

Council Chambers, 25 West Market Street, 7:52 p.m. Mayor David Butler presiding.

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

Council Members Absent: Council Member Dunn was absent between 9:27 and 9:46 p.m.

Staff Present: Town Manager Kaj Dentler, Deputy Town Manager Keith Markel, Town Attorney Barbara Notar, Assistant Town Manager Scott Parker, Director of Planning and Zoning Susan Berry Hill, Director of Plan Review Bill Ackman, Director of Capital Projects and Public Works Renee Lafollette, Deputy Director of Public Works Charlie Mumaw and Clerk of Council Lee Ann Green,

AGENDA

ITEMS

1. **Items for Discussion**

a. Courthouse Expansion

Irish Grandfield reported on the changes to the application that were made in response to the public hearing.

Key Points:

- Revised proffers were submitted too late to be included in the public hearing staff report.
- Rezoning amends the proffers and concept plan to increase the square footage to 92,000 square feet.
- Town Plan amendment changes the land use for the Pennington Lot from low density residential to downtown.
- Pennington Lot rezoning the property from R-6 to GC, to allow the parking garage use.
- A four-story parking garage is still proposed.
- Updated landscaping plan includes additional landscaping including evergreens.
- Architectural elevations have been updated.

Council Questions/Comments:

- Burk: Questioned the offsite proffers for the Edwards Ferry Road/Catoctin Circle intersection.
Staff answer: The Traffic Impact Analysis shows a light being needed for this intersection at some point in the near future. The proffer has been generalized so that it is not required to be used only for this improvement.
- Hammler: Questioned whether the county has proffered design/build for the North King Street/North Street traffic improvement.
Staff answer: They have only proffered \$400,000, which is less than what the improvement is estimated to cost.

- Hammler: Questioned whether the proffer for the improvement to Edwards Ferry Road and Catoctin Circle is worded broadly enough to allow the funds to be used for things such as moving the historic buildings that are slated for demolition.

Staff answer: The Zoning Administrator would have final say, but the proffer would probably not allow for the use of the funds for non-transportation related uses.

Public input was begun at 8:04 p.m.

John Burnham, 114 Slack Lane, N.E., stated he did not receive notice of the public hearing in time to attend because the post office took 13 days to deliver the notice. He suggested that the length of time for notice be adjusted to take in to account slow United States Postal Service delivery. He addressed the over-parking of the project, noting that the garage should be made open for public use. He noted that the county employees will tend to park on the lower levels for convenience. Further, he stated he does not like the way the garage looks.

Gina Mann, The Hamlet, stated she and her family are new in the neighborhood and moved there because of the proximity to St. John's Catholic Church and the downtown. She noted that the Pennington Lot is almost always empty during the week and it is unlikely that a four-story garage will be used. She noted that the woodland creatures that live in the woods where the garage is proposed would be displaced.

The public input was closed at 8:14 p.m.

Rich Brittingham of Dewberry, representing the County of Loudoun, presented his slide show that addressed the items in the staff report. He thanked the Council for giving those that did not get their notification on time to speak.

- Proffered a later start of 7 a.m. and are hesitant to reduce construction hours further, thus lengthening the construction period.
- Revision to the Edwards Ferry Road/Catoctin Circle Intersection proffer to give flexibility to the funds.
- Lower levels of the parking garage are sunk into the hill, particularly on the eastern side.
- Incorporated 55 evergreens and 72 supplemental evergreens into the landscape plan.
- Fire Marshal no longer wants to have their emergency ingress/egress from North Street and prefers the Pennington Surface Lot. Emergency access point on North Street will be converted to a maintenance access only to maintain the storm filter. This allows the entrance to be made smaller – 15 feet and increase the landscaping.

- Proffer has been changed for the Catoclin Circle/Edwards Ferry Road improvements to allow other uses for the proffered funds.

Council Comments/Questions:

- Burk: Questioned the need for a four level parking garage when the Pennington Lot is currently under utilized.
- Applicant answer: Use of the Pennington Lot currently is different from the expected use once the courthouse expansion is completed and explained the current spaces that will be lost.
- Butler: Noted that the requirements assume that the Pennington Lot is currently full, but since it is not that extra capacity should be figured into the numbers.
Applicant answer: 451 spaces required for the originally approved application, 50 of which were at the Harrison Street lot which is no longer available.
- Dunn: Pointed out that the Harrison Street lot was never full when it was being utilized by the county.
- Butler: Stated that the town may be overestimating the number of spaces needed based on the number of half empty lots around the downtown.
- Dunn: Questioned whether the shortage of parking is only because of the county employees.
Applicant answer: Visitors from out of town are directed to park in the county garage and at the Pennington lot, taking up spaces needed for county employees.
- Dunn: Stated he does not feel there is a need for that many spaces.
- Fox: Questioned whether county staff would be directed to park at Pennington.
Applicant answer: Yes.
- Burk: Questioned the applicant on the possibility of green walls.
Applicant answer: The added support for the weight of the green wall and additional ventilation is cost prohibitive.
- Hammler: She expressed a desire that the proffer be written to allow the funds to be used for creative parking solutions partnered with the county.
- Fox: Requested information about the traffic calming measures and All-way stop King Street and North Street.
Mr. Tushar Awar with Gorove/Slade Associates: Stated that based on the existing and projected traffic counts, the volume does not justify a four way stop at King and North Streets. He noted that a traffic signal would work well at this location and would be coordinated with the Market Street traffic signal.
- Dunn: Requested feedback on whether the homeowners in the area would want permit parking and whether the county would be willing to

pay for it. Further, he requested whether an analysis was done on what would be needed to expand the current county parking garage.

Applicant answer: Analysis confirmed that the existing foundation for the garage is not sufficient to accommodate another level; however, they estimated an additional structure on the outside of the existing structure would cost approximately \$8 million and add about 110 spaces.

- Dunn: Stated that if the county government moves out of Leesburg, then the courts can use the County government center and the need for parking will be reduced.

Applicant answer: Currently, only the Economic Development Department is planned to move to Loudoun Station.

- Dunn: Questioned whether parking could be reconfigured to create more spaces.

Applicant answer: Reconfiguration does not achieve the necessary number of spaces without the fourth level of the proposed garage.

- Gemmill: Questioned whether three tiers could be built now and as the need arose, a fourth level could be built later.

Staff answer: The proposal includes 213 additional spaces over what is required by the zoning ordinance and removal of one tier would still be in excess of the zoning ordinance minimum.

Applicant answer: It would have to be taken back to the Board of Supervisors.

- Burk: Questioned whether this will be built on limestone.

Applicant answer: Extensive geotechnical studies have been done and appropriate building measures will be taken for construction on limestone.

- Burk: Questioned whether undergrounding of all utilities including telephone will occur.

Applicant answer: Proffered undergrounding of all utilities which will improve the ADA accessibility for the site because of the removal of telephone poles.

- Burk: Questioned the economic impact study and forest management plan.

Applicant answer: No economic impact study has been performed and the forest management plan is required by the town when you are asking for credit for tree save areas in lieu of required landscaping and buffering. It identifies invasive species that are problematic to the existing tree stand and at risk trees that may be dangerous to construction to promote the long term health of the tree save area.

Staff answer: Forest management plan improves the health of the tree save area.

- Burk: Questioned the amount of blasting that will need to occur for construction.

Applicant answer: Could not answer the question because the amount of blasting is not known in advance; however, notification will be made to a wider area than required by code as per proffer.

- Hammler: Invited the public to come to the meeting on Tuesday to give additional comment regarding the changes that have been made. Further, she questioned whether the Board of Supervisors could be polled before tomorrow night's meeting to see whether they would be willing to work with the town to find options other than the fourth floor of this parking garage.

Applicant answer: Specific direction from the Board of Supervisors was to add an additional level to the parking garage to alleviate the shortage in parking created by the loss of the Courthouse Square leased parking and the Harrison Street lot.

- Hammler: Stated that the town would love to partner with the county because the town has additional parking needs. Further, she noted that Pennington is not the most desirable place for additional parking and stated that the Town will continue to look for the best possible way to partner with the county to find parking.
- Fox: Stated that any other parking options would require purchase rather than using property already owned by the town or county. She questioned when construction on the garage would commence. She requested clarification of whether the county would continue to work with the town to seek better options, even if the parking garage is approved.

Applicant answer: Approval is needed so that the project can continue to move forward, but will be committed to continuing to work with the town for another solution for parking.

- Butler: Questioned how sensitive the motion sensors would be on the top level of the parking garage. Further, he suggested parking county employees on the third level until space needs required them parking on the fourth level, eliminating the question about the lights for a few years to give vegetation time to grow.

Applicant answer: Something around the size of a medium sized dog will trigger the lights.

- Butler: Requested clarification on the quantity of additional spaces that are needed for County use.

Applicant answer: Somewhere between 100-200, which varies from day to day.

b. Planning Work Plan

Susan Berry Hill stated the two subjects that will be covered are the Town Plan Action Program and the Planning Staff Work Plan.

Key Points:

- Town Plan Action Program is reviewed with the Planning Commission on an annual basis.

- Planning Commission recommended Council be briefed on the Action Program and confirm priorities.
 - Develop criteria for how to put items on the Capital Improvement Program – completed.
 - Update the town’s ordinances for consistency with Federal Emergency Management guidelines – on hold, but to be restarted this spring.
 - Revise or replace the H-2 Design Guidelines and develop a small area plan for the East Market Street corridor outside the bypass – work has begun on the small area plan.
 - Development of low impact development regulations – would like to commence work on this upon completion of the floodplain ordinance.
- Planning Commission recommended that staff review Appendix B of the Zoning Ordinance, the Preservation Plan, and Plan for Public Park areas.
- Things that need further discussion and direction include development of a capital intensity factor proffer guideline, recommendation from the EAC to do watershed planning for the Cattail Branch and Big Spring.
- Petitioners have requested bikeway planning throughout town.
- Airport Master Plan and update of surveys of the historic district.
- Staff recommends continuing with the current work projects as they are currently prioritized.
- Reached out to the University of Virginia for assistance from students on the East Market Street Small Area Plan.
- Zoning Ordinance Text Amendments: Flex Industrial, Commuter Lots in the I-1 and Planned Residential District to be completed in the spring/early summer time frame.

Council Comments/Questions:

- Fox: Questioned why the floodplain ordinance requires updating. Staff answer: FEMA has commented that the town’s floodplain ordinance is out of date and has provided a template of what should be contained in the town’s flood plain ordinance. Further, state mandates for stormwater require the floodplain ordinance to be updated.
- Fox: Requested an example of low impact development. Staff answer: Some things that the EAC has looked at are making public parking facilities by-right as opposed to special exception, include provisions in the Design and Construction Standards Manual regarding “green roofs” and rain gardens to retain drainage on site rather than creating run off.
- Hammler: Stated her support for moving the Capital Intensity Factors research up on the list.

- Burk: Agreed that the Capital Intensity Factors research needs to be moved up on the list. Further, she questioned when the last time Appendix B was updated.
Staff answer: The indexing has been updated; however, the methodology has not been updated for over 20 years.
- Dunn: Questioned how long a text amendment takes to complete.
Staff answer: Depends on the complexity of the text amendment and what the current work load is for the department. If Council directs it as a priority, it gets moved up.
- Dunn: Questioned how much time would be needed to remove the H-2 Overlay. Further, he noted that items with possible economic impact need to be moved up the list of importance.
Staff answer: Removal of the H-2 was combined with the Market Street area plan because there are sections of East Market Street that are developable.
- Dunn: Stated that removal of the H-2 was a Council priority that has not been done and now additional work is being added to it. He expressed that this is unacceptable. He stated the H-2 is a failed process that slows down applications.
Staff answer: If Council wants to add repealing the H-2 to the work plan, staff will work on repealing it.
- Butler: Suggested that staff return with specific items that can be completed to the next work session.
Staff answer: If Council can identify what their top priorities are, staff can create a plan to achieve what is being suggested.

There was Council consensus to bring this back to the next work session.

2. **Additions to Future Council Meetings**

Council Member Hammler requested the following items:

- Memo from Parks and Recreation regarding seeking grants for riverfront parks – there was consensus from Council for this.
- Direct staff to work on a parking partnership with the Board of Supervisors to find parking downtown – there was consensus from Council for this.
- Memo on residential permit parking that was brought up by a citizen – this has not been brought to the Town Manager for a public hearing at this time.
- Debrief on the work the Association of Police Chiefs is doing in the search for a new police chief – The IAPC is developing a profile which will develop the job description and advertising. Once five or six applicants have been identified, on-site interviews will occur.

Mayor Butler requested the following items:

- Removal of his nominee to the EDC and appointment of a new nominee – this will be added to the consent agenda for tomorrow night’s meeting.
- Renewal of discussion about Arts and Cultural district incentives – this will be discussed as part of the budget process.
- Northern Virginia Regional Commission Adopt a Hydrant Program – will be added to a future council meeting.
- Recommendation for change in the rules of procedure to require pre-approval of items to be brought into the Council Chambers for display purposes by speakers – staff was requested to produce a memo on this.
- Requested a text amendment regarding recreational facilities to allow indoor recreational facilities to be within 50 feet of the property line – this will be added to the next meeting.

Council Member Dunn requested a short list from Council of items to send to the county for which Council would like to see funded – staff noted that this has already been completed and transmitted to the county.

On a motion by Council Member Fox, seconded by Council Member Hammler, the meeting was adjourned at 10:37 p.m.

Clerk of Council
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Council Chambers, 25 West Market Street, 7:30 p.m. Mayor Butler presiding.

Council Members Present: Kelly Burk, Thomas Dunn, II, R. Bruce Gemmill, Katie Sheldon Hammler, Fernando “Marty” Martinez, Suzanne Fox, and Mayor Butler.

Council Members Absent: None.

Staff Present: Town Manager Kaj Dentler, Town Attorney Barbara Notar, Deputy Town Manager Keith Markel, Director of Finance and Administrative Services Clark Case, Director of Utilities Amy Wyks, Director of Capital Projects and Public Works Renee Lafollette, Director of Planning and Zoning Susan Berry Hill, Interim Police Chief Vanessa Grigsby, Assistant Town Manager Tom Mason, Assistant Town Manager Scott Parker, Director of Plan Review Bill Ackman, Management Analyst Jason Cournoyer, Management Analyst Cole Fazenbaker, Library Manager Alexandra Gressitt, Director of Parks and Recreation Richard Williams, Human Resources Manager Mark Hauer, Information Technology Manager Annie Carlson, Network Administrator John Callahan, Public Information Officer Betsy Arnett, Environmental Planner Irish Grandfield, Airport Manager Scott Coffman, and Executive Associate Tara Belote.

AGENDA

ITEMS

1. **CALL TO ORDER**
2. **INVOCATION** was led by Council Member Dunn
3. **SALUTE TO THE FLAG** was led by Vice Mayor Burk
4. **ROLL CALL** showing all members present.
5. **MINUTES**
 - a. Special Session Minutes of February 8, 2016
On a motion by Council Member Hammler, seconded by Council Member Dunn, the special session minutes of February 8, 2016 were approved by a vote of 7-0.
 - b. Work Session Minutes of February 8, 2016
On a motion by Council Member Hammler, seconded by Council Member Dunn, the work session minutes of February 8, 2016 were approved by a vote of 7-0.
6. **ADOPTING THE MEETING AGENDA**
On a motion by Council Member Fox, seconded by Council Member Hammler, the meeting agenda was adopted as presented by the following vote:
Aye: Burk, Dunn, Fox Gemmill, Hammler, Martinez, and Mayor Butler
Nay: None
Vote: 7-0
7. **PRESENTATIONS**
 - a. Certificates of Appreciation – Friends of the Thomas Balch Library Board

Certificates of Appreciation were presented to the following members of the Friends of the Thomas Balch Library Board of Directors for their service to the Library:

Dan Morrow
Derrick Clark
Phil LoPresti

Ann Daye
The Honorable Thomas C. Horne

b. Presentation – Environmental Advisory Commission Energy Conservation

Spencer Morgenthau stated that over the past year the Commission has been working analyzing energy consumption within town facilities.

Key Points:

- Total of approximate \$2 million on electricity and heating fuel spent on town facilities.
- About \$1.8 million spent at six facilities, Water Pollution Control, Ida Lee, Water Treatment Plant, Airport, and street lights.
- No single system for tracking or analyzing data.

There was consensus to place this on a future work session for discussion.

c. Presentation – Proposed Fiscal Year 2017 Budget

Kaj Dentler presented the proposed budget for the upcoming fiscal year

Key Points:

- Includes the General Fund, Utilities Fund, and the Six Year Capital Improvements Program.
- Second year of the two-year budget cycle.
- Debt service will rise – this is the “fiscal cliff”.
- Savings from health insurance contract can be put towards payment of the overhead costs of the capital improvements program.
- Equalized tax rate plus cost of inflation is proposed.
- Average 3% pay for performance increase for employees.
- 75% of all funds go to a combination of capital projects and debt service.
- 24% of all funds come from intragovernmental sources – Federal and State.
- Parks and Recreation and Meals Tax bring in about 5% each.
- Sluggish economy on a national level is keeping assessments level.
- Based on the average assessment, increase in tax bill in FY 2017 is approximately \$4.
- Proposing a tax rate of 18.72%
- Enhancements include:
 - Downtown improvements - \$60,000.
 - Convert contract employee to a staff employee in the IT Department

- Replacement police in-car cameras and body cameras.
- Town Hall Repairs
- Council Chamber Audiovisual improvements
- Capital Improvements:
 - South King Street widening
 - Battlefield Parkway
 - Catoctin Skate park
- Increase resources or change service level expectations.
- Only town in Virginia that is triple A rated by all three agencies.

8. PETITIONERS

The Petitioners section was opened at 8:12 p.m.

Michael Banzhaf: 122 Chesterfield Place, SW. Thanked Council for initiating two resolutions for text amendments for I-1 and PRC zoning districts. He stated they are both good government opportunities. He described the reasons that these text amendments are necessary.

Andrew Borgquist: Stated he is speaking on the same issue he has been speaking on numerous occasions. He stated he was a town employee for many years. He stated the town has a low service expectation for employees. He stated his opinion that he was treated poorly and despite the fact that personnel issues are a town manager's job, if the personnel issue is with the town manager, then it is a council issue. He questioned whether council believes he was treated poorly. He questioned that if the answer is yes, why has council done nothing and if the answer is no, why the council does not see that this is something that they need to pursue. He stated he is available for questions if someone wants to discuss it further.

Ron Campbell: Stated it is appropriate tonight to start with a quote from Martin Luther King, Jr. – "The time is always right to do what is right". He stated he would like to point out a few issues of concern with the budget. He stated that somewhere in the council's budget deliberations, investment in the people of Leesburg should be discussed. He stated it would be a travesty if none of the economic wealth generated by the citizens of the town benefits the citizens of the town through contracts with entities outside the town. He expressed concern that 80 percent of the employees do not live within the town. He suggested having some public meetings on the budget in other locations to enable more people to have a voice in the budget process.

John Burnham: 114 Slack Lane, N.E. Stated the neighbors were dismayed at the size of the courthouse parking garage. He stated that he has an issue with the construction hours for the parking garage. He stated that the hours in the code are generally for residential construction in a residential neighborhood and do not take into consideration the size of the equipment that will be necessary for constructing the garage. He stated the town council can change the number of spaces that are required for the parking garage. He requested that the Council change the number of required spaces so that the garage could be downsized to three levels.

Jimmy Csizmadia, 115 Carlton Street, SW. Congratulated Mr. Gemmill on his appointment. He stated he is on the Standing Residential Traffic Committee (SRTC). He stated they have been asked to review a proposed crosswalk at Battlefield Parkway and the Leesburg Bypass. He stated they have asked staff to give them more information, but based on what they currently know, the SRTC does not believe it will be a good idea. He stated at 4 feet per second for the average pedestrian, they will not be able to clear the intersection in one light cycle. He noted that they would be stranded in the median strip until the light changes again. He requested that Council not make any decisions on this until the SRTC has time to fully review the proposal. Further, he stated that he opened several streets with his personal pick up because it was not getting cleared during the big snow storm. He stated the resources that were deployed to clean up the downtown before all the town residents were able to get out was a very bad decision.

Ken Reid: Congratulated Mayor Butler and Bruce Gemmill. He offered his assistance to them. He urged the Council to approve the special exception for the courts including the fourth deck on the garage. He stated the county may not necessarily need to build it and expressed his hope that the county may be able to make an arrangement with the developers of Courthouse Square to park their overflow. He cautioned the Council to not give the Board of Supervisors a reason to move the county government out of town as that would cause the death of the town. He stated that the downtown needs residential. He stated he would like to convene a meeting between commercial brokers and landowners

Bob Sevila: Congratulated the Mayor and Bruce Gemmill on their appointments. He stated he came two weeks ago and requested an amendment to the Zoning Ordinance regarding the I-1 zoning district and allowing flex industrial uses. He stated this will help alleviate the tax burden of the residents.

The Petitioners section was closed at 8:42 p.m.

9. APPROVAL OF THE CONSENT AGENDA

On a motion by Council Member Hammler, seconded by Council Member Fox, the following consent agenda was proposed:

- a. *Performance Guarantee and Water and Sewer Permits for Village at Leesburg – Interim Pump Station (TLPF 2006-0016)*

RESOLUTION 2016-019

Authorizing an Agreement and Approving a Performance Guarantee and Water and Sewer Extension Permits for Village at Leesburg – Interim Pump Station (TLPF 2006-0016)

- b. *Performance Guarantee for Public Improvements at Crescent Place Harrison Street Roadway Improvements (TLPF 2014-0016)*

RESOLUTION 2016-020

Making a Reduction of the Performance Guarantee for Public Improvements at Crescent Place – Harrison Street Roadway Improvements (TLPF 2014-0016)

- c. *Performance Guarantee for Public Improvements at Crescent Place – Phase 1, 2 & 3 (TLPF 2014-0025)*

RESOLUTION 2016-021

Making a Reduction of the Performance Guarantee for Public Improvements at Crescent Place – Phase 1, 2 & 3 (TLPF 2014-0025)

- d. *Making Appointments to the Environmental Advisory Commission (Dunn and Burk)*

RESOLUTION 2016-022

Making Appointments to the Environmental Advisory Commission (John Hilton and Sherry Wetherill)

- e. *License Agreement between the Town of Leesburg and Century Link Communications, LLC for Telecommunication Facilities in Town Right of Way*

RESOLUTION 2016-023

Authorizing the Town Manager to Execute a License Agreement Between the Town of Leesburg and Century Link Communications, LLC for Telecommunications Facilities in Town Right-of-Way

- f. *Amending Previously Approved Motion 2015-018 – TLZM 2013-006 Crescent Parke*

MOTION 2016-004

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~~ as expeditiously as possible

- g. *Agreement with Panda Stonewall, LLC for Water Pollution Control Facility Upgrades*

RESOLUTION 2016-024

Authorizing the Mayor to Execute an Agreement with Panda Stonewall, LLC, in Relation to Water Pollution Control Facility Upgrades for the Reclaimed Water Line

- h. *Economic Development Commission Appointment (Butler)*

RESOLUTION 2016-025

Removing an Appointee and Making an Appointment to the Economic Development Commission

The Consent Agenda was approved by the following vote:

Aye: Butler, Dunn, Fox, Gemmill, Hammler, Martinez, and Vice Mayor Burk

Nay: None

Vote: 7-0

10. PUBLIC HEARINGS

- a. None.

11. RESOLUTIONS AND MOTIONS

- a. Initiating a Zoning Ordinance Amendment – Commuter Lots in the I-1
On a motion by Council Member Hammler, seconded by Council Member Fox, the following was proposed:

RESOLUTION 2016-026

Initiating Amendments to the Leesburg Zoning Ordinance for the Purpose of Updating the Appropriate Zoning District Use Standards and Performance Regulations related to Commuter Parking Uses Including, but not Limited to Article 6 and 9

Council Comments:

- Hammler: Stated this is important in order to provide parking for the residents to access the Silver Line. She noted that the proposed location is under the power lines and a reasonable request.
- Dunn: Encouraged staff to work as quickly as possible on this since a lot of the initial work establishing the wording has been done by the private sector.

The motion was approved by the following vote:

Aye: Burk, Dunn, Fox, Gemmill, Hammler, and Mayor Butler

Nay: None

Vote: 7-0

- b. Initiating a Zoning Ordinance Amendment – Flex Industrial
On a motion by Council Member Hammler, seconded by Council Member Dunn, the following was proposed:

RESOLUTION 2016-027

Initiating Amendments to the Leesburg Zoning Ordinance for the Purpose of Updating Definitions, Use Standards, and Performance Regulations Related to Flex Industrial Uses Including, but Not Limited to Articles 6, 9, 11 and 18.

Council Comments:

- Hammler: Stated that this moves the town in the right direction in terms of increasing the town's commercial towards the 30 percent mark and the

more the town can stay focused on commercial investment, the better it will be for the residents.

- Dunn: Stated this is a definition that has been needed for a long time and encouraged staff to work quickly to move this forward.
- Fox: Thanked Mr. Sevila for his comments and expressed her agreement with the request.
- Hammler: Noted that this is only an initiation. She encouraged everyone to get the word out as Council looks forward to hearing from the public.

The motion was approved by the following vote:

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

Nay: None.

Vote: 7-0

c. Initiating a Zoning Ordinance Text Amendment – Planned Residential Community

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

RESOLUTION 2016-028

Initiating Amendments to the Leesburg Zoning Ordinance for the Purpose of Updating the Planned Residential Community District to Revise or Replace the Required Ratio of Commercial to Office Land Use Including, but not Limited to Amendments to Articles 8, 9, and 18.

Council Comments:

- Dunn: Stated this is a very useful ordinance that will help the community. He encourage staff to work with Mr. Banzhaf as it will help with future residents and businesses in town.
- Butler: Agreed with Council Member Dunn and noted that this is just an initiation to be reviewed by staff and the Planning Commission.
- Hammler: Questioned how the ratio off commercial to office land use would change with this initiation.
Staff answer: Stated that the objective is to make it more flexible than it is right now because there is a very specific commercial to office ratio and the objective is to also allow the council some flexibility as each project is reviewed to pick the right ratio for each individual project.
- Hammler: Stated her intention not to support this change. She stated increasingly what happens over time is that localities cannot maintain an adequate balance because what is submitted is increased residential and a preponderance of retail. She stated that office space is needed to bring jobs to Leesburg.
- Dunn: Reminded everyone that this is simply an initiation which would give plenty of time for the public, staff, and the Planning Commission to review. Further, he stated this is nothing different than what has already been done on an individual basis in other places throughout town.

The motion was approved by the following vote:

Aye: Dunn, Fox, Martinez, and Mayor Butler

Nay: Burk, Gemmill, and Hammler

Vote: 4-3

12. ORDINANCES

a. Loudoun County Courthouse Expansion

i. TLZM 2015-0002 Loudoun County Courthouse Expansion

Irish Grandfield stated that the town received proffers at 5 p.m. today. He distributed copies to Council to show the changes. He stated the applicant has provided three proffer changes in response to Council's work session discussion:

- Add flexibility on how the offsite transportation improvement proffers can be spent.
- Provide money for residential parking permit zones along Slack Lane and North Street, should the town designate these areas as such.
- Language relating to the fourth tier of the parking garage to not use it until necessary.

Mr. Grandfield stated that the ordinances provided in the Packet referred to a proffer date of February 22 and it should be February 23.

Mr. Gemmill recused himself from the discussion because he is an officer at John Marshall Bank.

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

ORDINANCE 2016-O-004

Approving Concept Plan and Proffer Amendment TLZM 2015-0002 Loudoun County Courthouse Expansion to Allow a 92,000 square foot Courts Expansion at 2 Church Street, Northeast

Council Comments/Questions:

- Hammler: Questioned whether staff had any input on the parking issues.
Staff answer: Stated that the parking was developed cooperatively with the county.
- Hammler: Questioned whether the numbers needed been reevaluated since the original submission in 1998.
Staff answer: Stated that they have not been reevaluated, but the town performed a parking study in March. He stated the results show that the Pennington lot was less than 60 percent utilized.

- Hammler: Questioned whether the County could comment on the 9 o'clock construction stop time. She also questioned whether this would extend the duration of the construction.
Applicant answer: Stated that the county is willing to compromise on the 9 p.m. stop time \
- Fox: Questioned whether the county was open to continuing to have a conversation on some of the resident concerns.
Applicant Answer: County staff confirmed that they would be open to continuing to work on the resident concerns.
- Hammler: Requested clarification on the intersection improvements at Edwards Ferry Road and Catoctin Circle. She questioned whether the language had been changed to give some flexibility on how the money could be applied to parking facilities.
Notar: Stated that under the State Code transportation improvements would allow parking facilities.
- Dunn: Expressed concern about the overall cost of the process and the fact that the need for the courthouse would not be realized for at least eight to ten years. Further, he stated his disappointment with the county's unwillingness to look at design options that would allow the historic homes on Edwards Ferry Road to be preserved. He stated that the threats to move either or both the courts and the County government out of town were in bad form and an effort to instill fear in the citizens. He noted that moving viable businesses in to those spaces, there would be a more positive impact to local businesses downtown than what is seen by 9-5 government uses. He stated he would vote against it if he thought it would do any good.
- Burk: Questioned the meaning of "the fourth tier parking shall not be opened until the county deems necessary"?
Staff answer: Stated that this was added in response to the request made at the work session from Mayor Butler.
- Hammler: Asked for clarification as to the interrelated nature of the three legislative actions that would be needed.
Staff answer: Stated that all three pieces of legislation need to be approved in order for the courthouse expansion project to move forward.
- Hammler: Thanked everyone for working together. She noted that this project represents an approximate \$65 million investment in Leesburg's downtown and is very important to the future of the historic downtown. She stated that approval of this project tonight will put the county in a good place to partner with the town to find other workable solutions to the parking situation. Further, she stated that there will opportunities for the town to partner with others to bring the parking that the town needs central to Market Station. She stated she has several dialogues ongoing on creative ways to move the historic buildings.

The motion was approved subject to the amended proffer that the county has agreed to stop construction by 9 p.m. and the amended proffer date by the following vote:

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

Nay: None.

Vote: 6-0-1(Gemmill abstaining)

ii. Town Plan Amendment Application TLTA 2015-0001, Pennington Lot Land Use

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

RESOLUTION 2016-029

Adopting Town Plan Amendment TLTA 2015-0001 Amending the Town Plan Land Use Policy Map to Replace the “Low Density Residential” Planned Land Use Category with “Downtown” on the Pennington Lot and Provide Parcel Specific Policy Language for Appropriate Land Use

Council Comments/Questions:

- Fox: Stated that the county has owned this land for 40 years with the intent to expand when needed.
- Dunn: Questioned whether once these are approved that the county can go ahead and do what is approved unless they decide to change something.

Staff answer: Verified that Council Member Dunn’s statement is correct – that anything that is consistent with the concept plan and proffers, only administrative actions are necessary moving forward. However, the county has expressed willingness to discuss other possibilities and the approval for the garage is structured so that if a fourth tier is not needed, it does not have to be built.

The motion was approved by the following vote:

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

Nay: Martinez

Vote: 5-1-1 (Gemmill abstaining)

iii. TLZM 2015-0003 Pennington Lot Parking Garage

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

ORDINANCE 2016-O-005

Approving Application TLZM 2015-0003 Pennington Lot Parking Garage to Rezone the Site from R-6 to GC to Allow a Four Story Garage to Provide Parking for the Courts Complex

Council Member Dunn offered a friendly amendment to reduce the number of stories to three. The amendment was not accepted as friendly.

Council Member Dunn offered a motion to reduce the number of stories to three.

Ms. Notar noted that proffers are voluntary and cannot be changed without the applicant's consent.

The motion was withdrawn.

Tim Hemstreet, Loudoun County Administrator, spoke to the County's desire to expand parking for the county employees in order for all the functions that are presently housed there to remain. He stated their willingness to work with the town on finding other options that are closer to the government center.

Council Comments/Questions:

- Burk: Questioned which would be constructed first, the parking garage or the courts building.
Hemstreet: Stated that construction would commence with the parking garage.
- Hammler: Questioned what can be done to reassure the residents that the fourth floor will not be built if another option for parking can be found.
Hemstreet: Stated that an agreement could be made to that effect. Further, he added that adding a fourth deck to the garage after construction is completed is impractical because it would require closing the structure once it is in use.
- Butler: Noted that this ordinance was recommended for approval by the Planning Commission on a 5-1 vote. He stated that the issue of the lights may be a non-issue because they only come on if a car happened to be on the top deck at night which is unlikely because it is past normal working hours for county employees. He stated it is significant that the county is willing to close the fourth floor until it is needed. He also noted that if closer parking is found before construction begins, they will only build three floors of the garage. He also stated that both former supervisor Ken Reid and current supervisor, Kristen Umstattd, are in agreement that if the town does not approve the courts complex, a majority of the Board of Supervisors will take steps to move the county government out of Leesburg. He expressed his optimism that something could be worked out over the next few months that would make three floors of the parking garage sufficient.
- Hammler: Stated her belief that it is very important for the future of the downtown that the courts remain downtown. She stated her hope that staff can come up with creative policies to add parking.
- Fox: Stated Leesburg has been the county seat for almost 250 years and it stands to reason as the county grows, expansion will be needed. She

stated if Leesburg wishes to remain the county seat, it needs to be flexible in its demands and expectations. She stated she is not enthusiastic about anything that puts downtown business or investment at risk. She added that the Pennington Lot has been owned by the county for 40 years in anticipation of the need for expansion, so a vote against the fourth floor of the parking garage would be a signal to the Board of Supervisors that the town is not willing to work with them to keep the government center downtown. She stated she is interested in what is best for the long term good of Leesburg as keeping Leesburg as the central hub of Loudoun plays an important role in continued economic and cultural growth as well as quality of life.

- Burk: Stated she has no doubt that the fourth floor will be built no matter what. She stated the project has been improved, but is still disappointing that it is not what was hoped for. She stated she will personally hold the county responsible for the promise to hide the building behind the buffers and trees. She stated it is significantly important to her that the tree save is maintained as a forest that is hospitable for wildlife. She stated her understanding that the project needs to go forward. She thanked both the town and county staff for their work and expressed her hope that the inconvenience of this project will end up making things better, not worse.
- Butler: Clarified that the garage will be open to the public and that if the emergency exit was to be converted to a regular exit, a proffer amendment would have to come before Council.
- Dunn: Requested proof that the proffers include the possibility of not building the fourth level if it becomes unnecessary. Further, he stated the council could add stipulations to the proffers.
Staff answer: The substantial conformance clause includes the words “may be developed”. Mr. Grandfield noted that proffers are voluntary agreements and the town has no authority to change the proffers. They can request that the applicant change the proffers, but the applicant must be willing to do so.
- Dunn: Stated that Council usually looks to the County for help with parking; however, now they are turning it around for convenience sake. He requested information on whether the town can use the county’s parking garage. He expressed curiosity as to where the town could find parking for the county. He pointed out that this is for a courthouse expansion, not a government center expansion. He stated trading the parking garage for a government use that will be leaving isn’t a good trade.

The motion was approved by the following vote:

Aye: Burk, Butler, Fox, and Hammler

Nay: Dunn and Martinez

Vote: 4-2-1 (Gemmill abstaining)

13. UNFINISHED BUSINESS

- a. None.

14. NEW BUSINESS

- a. None.

15. COUNCIL COMMENTS

Vice Mayor Burk: Stated she is working with the Marshall Foundation and they will be having a rummage sale at Dodona Manor. She stated she attended Sen. Warner's talk at the Mason Enterprise Center on technology economy where lots of ideas were shared. She stated she went to the YMCA Chocolates Galore. She stated she attended a ribbon cutting at the Knutson model homes off Harrison Street. She noted that they are a great addition to the town. She stated she attended the Humane Society of Loudoun County's 50th Year Anniversary. She stated the group does a lot in the county to help animals. She noted that she would be appointing Teena Clayton to the Technology and Communication Commission.

Council Member Hammler: Disclosed a few phone calls with Peter Burnett about the historic houses that are slated for demolition with the Courthouse expansion. She stated she had a conversation with Dieter Meyer trying to get some information about a parking structure back up plan. She stated she ran into someone at Coopers Hawk and discussed Don Knutson's residential rezoning application on King Street. She stated she is looking forward to Chief Price's retirement luncheon on Thursday. She welcomed Bruce Gemmill for stepping in as an interim council member.

Council Member Fox: Disclosed a phone conversation with Mike Banzhaf concerning the proposed zoning amendment to allow commuter parking in the I-1. She stated she attended the Crescent Place ribbon cutting. She welcomed Bruce Gemmill to Council.

Council Member Martinez: Had no comments.

Council Member Gemmill: Stated his belief that Council would get a lot accomplished and that he looks forward to working with everyone.

Council Member Dunn: Offered his condolences to Council Member Gemmill.

16. MAYOR'S COMMENTS

Mayor Butler stated that it no longer appears that they will need to move forward with a text amendment for indoor recreation facilities because the applicant and the zoning administrator have worked it out. He stated he also attended the ribbon cutting at the Knutson Homes and the YMCA Chocolates Galore. He stated his intention to attend Chief Price's retirement luncheon. He welcomed Mr. Gemmill to Council for the next 10 months. He thanked staff for their hard work on the budget presentation.

17. MANAGER'S COMMENTS

Kaj Dentler had no comments.

18. CLOSED SESSION

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

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

a. Probable litigation – Exeter Pond/Dam Issue

Council Members Hammler and Martinez disclosed that they are residents of Exeter and recused themselves.

The motion was approved by the following vote:

Aye: Burk, Dunn, Fox, Gemmill, and Mayor Butler

Nay: None.

Vote: 5-0-2 (Hammler and Martinez abstaining)

The Council convened in closed session at 9:51 p.m.

The Council reconvened in open session at 10:30 p.m.

On a motion by Council Member Fox, seconded by Council Member Gemmill, the following was proposed:

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

The motion was approved by the following roll call vote:

Aye: Burk, Dunn, Fox, Gemmill, and Mayor Butler

Nay: None.

Vote: 5-0-2 (Hammler and Martinez abstaining)

19. ADJOURNMENT

On a motion by Council Member Fox, seconded by Council Member Gemmill, the meeting was adjourned at 10:30 p.m.

David S. Butler, Mayor
Town of Leesburg

ATTEST:

Clerk of Council
2016_tcm0223

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

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

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 Planning and Zoning Susan Berry Hill, and Executive Associate Tara Belote.

AGENDA**ITEMS****1. Items for Discussion****a. Council Strategic Priorities**

Mayor Butler stated this is an opportunity for Council to be proactive rather than reactive.

Key Points:

- Council has a duty to be proactive in strategic priorities.
- First step is for Council to brainstorm programs that they feel are important for the town.
- Possibilities including, but not limited to:
 - Resolve daytime parking capacity downtown
 - Set service levels for snow removal

Council Questions/Comments:

- Gemmill: Suggested short and long term priorities.
- Fox: Stated there are a lot of transportation issues that come with growth. She noted that the town is very dependent on the county and questioned whether this is the forum to bring this up.
- Butler: Stated that if it ends up as one of the top five issues that the Council identifies, then follow-up would be directed.
- Burk: Stated that this is a good process, but she is concerned that this is premature since budget discussions have not yet begun.
- Butler: Responded that he does not see this as things to do, but rather things to look at.
- Martinez: Stated he would like the Council to have a vision of what the town can be in 5-10 years. He stated the example of the completion of Catoctin Circle where Council would need to know what types of legislative changes would be needed to see that corridor develop. He stated that the zoning should be in place to allow redevelopment to occur the way Council wants it to. He stated he would also like to see a bike path around town that would allow riders to access any area of town on a bicycle.

- Butler: Stated that these are beautiful ideas and the next step would be to outline the tasks needed. He added that each Council member should put their five choices on a sticky note.

Council reviewed each of the suggestions and divided them into things that they could work on now (short term) and things that would take more time (long term). Council then chose the items that they were most interested in working on.

The following were Council's choices of top priorities:

- Standard funding process from County
 - Create Town/ County joint funding subcommittee of elected officials.
 - Town Manager and County Administrator to discuss specific items (Balch, SkatePark, fire and rescue, SRO funding).
 - Determine the town's cost for redundant services.
 - Research how other countys/towns determine their funding processes
- JLMA/ Annexation
 - Ask staff to update existing financial impact.
 - Call meeting of town and county annexation committee.
 - Determine support for boundary line adjustment.
- Increase commercial revenue to 40%, thus reducing average commute times.
 - Fight proffer bill.
 - Briefing from Loudoun County Economic Development liaison and Town on long term job trends - How can the Town maximize county EDC Services.
 - Economic Development Commission recommendations
 - Research economic development incentives
 - Food trucks and other creative job creation
 - Evaluate telework centers
- Resident service levels and outsourcing
 - Council Member Gemmill to get info from Sharon Bulova to learn from Fairfax County.
 - Ask staff to provide budget detail of expenditure for residential services.
 - Ask staff to quantify service levels to account for future growth.
 - Have staff research private out-sourcing resources.
 - Learn what services can be replaced with contracted services.
- Bike lanes around Town.
 - Refer to the Parks and Recreation Commission.
 - Determine cost and planning issues.
 - Crosswalk at bypass.
 - Finish Leesburg Loop Bicycle Plan.

- Create an action plan in conjunction with the Parks and Recreation Commission
 - Paint bike lanes – one per month.
 - Get private sector support to link destinations.
 - Research bike lane in alley downtown.
 - Conduct interchanges with bike/pedestrian lanes at major intersections.
- Park across from Loudoun County High School (Rogers' property)
 - Refer to Parks and Recreation Commission for recommendation.
 - Begin the outreach to the property owners.
 - Park plan.

b. Planning Work Plan

Mayor Butler stated that this is the planning staff's work plan excluding applications that are in process. He queried the priority order of these non-essential items.

Council Comments/Questions:

- Hammler: Questioned where Capital Intensity Factors appears on the list.
- Butler: Stated those have not been included because it is more of a finance function.
- Gemmill: Noted that there was a staff recommendation to table this item until more information comes out of the disposition of Senate Bill 529.
- Hammler: Suggested that Capital Intensity Factors be put under new business for discussion.
- Fox: Questioned what PRC in the active amendments category.
Staff Answer: Stated it was initiated by Council on February 23 after a request by Mr. Banzhaf to look at the Planned Residential Community District ratios of office to commercial. Further, she noted other amendments that were brought forward for discussion were a repeal of the H-2 overlay and a provision to allow commuter lots in the I-1.
- Fox: Questioned why staff does not recommend repeal of the H-2 overlay district.
Staff answer: Stated there is a concern about repealing the overlay district without having some type of design guideline in place. She noted that there are sections of East Market Street that are undeveloped at this time and are being considered as part of the East Market Street small area plan.
- Burk: Stated her feeling that the H-2 is no longer relevant as it is all developed except the one section on East Market Street.
Staff answer: Stated that there are a few parcels remaining on S. King Street as well as outside the bypass on East Market Street.

- Gemmill: Stated his support for repeal of the H-2 overlay district.
- Butler: Clarified that voting to “repeal” the H-2 would only be an initiation of a zoning ordinance amendment. Further, he agreed that the East Market Street Plan is more complicated than it needs to be, but is being worked on by students at no charge to the town.
Staff answer: The students who are working on the plan are receiving credit for focusing on a specific, real-world project.
- Fox: Questioned where Mobile Hope’s application is in the process.
Staff answer: Stated the applicant has requested the application be put on hold at the current time.

There was consensus to move forward with the repeal of the H-2 overlay district.

- Butler: Questioned whether Council wants to reorder the priorities. He questioned whether staff would be able to change the timeline for repeal.
Staff answer: Stated that some of the amendments that have been proposed or initiated have applications that are waiting for the amendments. She noted that there are no applications that will be affected by repeal of the H-2.

There was Council consensus to initiate the repeal of the H-2 and start the review process in mid-May with completion expected before the end of the year.

- Hammler: Questioned why Council put the parking credit in the H-1 on hold. She stated it is important for creating infill.

There was no consensus to restart action on this subject.

- Dunn: Questioned what makes the East Market Street Small Area Plan different from the Crescent Design District.
Staff answer: Stated that the Crescent Design District is a zoning district with sub-districts to implement the Crescent District master plan. She stated that the area outside of the bypass was not considered as part of the Crescent District Master Plan where the idea was to make the area more walkable and compact in terms of its development pattern. She stated it may not be the correct development pattern for the area outside of the bypass. She noted that there are things that can be drawn on from the Crescent District; however, the area is different in its make up than the Crescent District.

- **Dunn:** Questioned why the town would want to put an “umbrella” over the various types of zoning in the area.
Staff answer: Stated that staff is trying to create a more tailored land use/transportation plan for the area outside the bypass. She noted that this would encompass working with the stakeholders and landowners.

2. Additions to Future Council Meetings

Council Member Dunn requested discussion regarding creation of a zoning ordinance advisory group. He stated this would not delay the process, but be a group of unpaid stakeholders who look at the zoning ordinance and make recommendations.

He requested that the town request that the county pay 100 percent of town police officer costs for School Resource Officers.

There was consensus to send a letter to the county asking for full funding of the cost of Leesburg Police officers as School Resource Officers.

He further requested changing the Council’s rules to allow something to be put on an agenda without consensus of four members of Council.

Vice Mayor Burk requested two proclamations - one for Relay for Life and one for Irish-American Heritage Month. She also requested consideration of a text amendment for Mr. McLister’s property. She noted that someone would be coming to speak as a petitioner tomorrow night regarding this request.

Council Member Hammler requested authorization for the town manager to work with the county on parking options other than the Pennington garage.

There was consensus to discuss the limits of the town manager’s negotiating ability during closed session on Tuesday.

She requested an update on SB529 and how it relates to the Capital Intensity Factors.

Ms. Notar stated this would be part of the legislative wrap up.

She also requested referring the possible river front park grant opportunities to the Parks and Recreation Commission for their review.

There was consensus to refer this issue to the Parks and Recreation Commission.

Council Member Gemmill requested consideration of something to mitigate the impact of the Pennington Garage on the neighborhood.

Keith Markel noted that localities generally do not enhance private property and it would set a dangerous precedent.

He requested another Police Appreciation Day. He stated that John Marshall Bank would be happy to participate in that again.

Mr. Markel stated that the plan is to repeat it again in May 2017, which is National Police Appreciation.

It was decided to schedule a recognition event sooner than that.

Mayor Butler requested an amendment to the Zoning Ordinance to bring the ending time for noise generation in line with the Town Code.

There was Council consensus to add an initiation resolution to Tuesday night's agenda.

He requested a State of The Town Address.

There was Council consensus to have this during a Council meeting.

On a motion by Council Member Fox, seconded by Council Member Gemmill, the meeting was adjourned at 10:13 p.m.

Clerk of Council
2016_tcwsmin0307

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

Council Members Present: Kelly Burk, Thomas Dunn, II, R. Bruce Gemmill, Katie Sheldon Hammler, Fernando “Marty” Martinez, Suzanne Fox, and Mayor Butler.

Council Members Absent: Council Member Martinez arrived at 7:36 p.m.

Staff Present: Town Manager Kaj Dentler, Town Attorney Barbara Notar, Deputy Town Manager Keith Markel, Director of Finance and Administrative Services Clark Case, Director of Utilities Amy Wyks, Director of Capital Projects and Public Works Renee Lafollette, Director of Planning and Zoning Susan Berry Hill, Interim Police Chief Vanessa Grigsby, Assistant Town Manager Tom Mason, Assistant Town Manager Scott Parker, Director of Plan Review Bill Ackman, Director of Economic Development Marantha Edwards, Management Analyst Jason Cournoyer, Management Analyst Cole Fazenbaker, Library Manager Alexandra Gressitt, Director of Parks and Recreation Richard Williams, Human Resources Manager Mark Hauer, Information Technology Manager Annie Carlson, Network Administrator John Callahan, Public Information Officer Betsy Arnett, Airport Manager Scott Coffman, Deputy Director of Parks and Recreation Kate Trask, Senior Engineer Anne Geiger, and Clerk of Council Lee Ann Green.

AGENDA

ITEMS

1. **CALL TO ORDER**

2. **INVOCATION** was led by Council Member Fox

3. **SALUTE TO THE FLAG** was led by Mayor Butler

4. **ROLL CALL** showing all members present.

5. **MINUTES**

a. Regular Session Minutes of February 9, 2016

On a motion by Council Member Dunn, seconded by Council Member Fox, the regular session minutes of February 9, 2016 were approved by a vote of 5-0-1-1 (Gemmill abstaining/Martinez absent).

b. Special Session Minutes of February 22, 2016

On a motion by Council Member Dunn, seconded by Council Member Fox, the special session minutes of February 22, 2016 were approved by a vote of 6-0-1 (Martinez absent).

6. **ADOPTING THE MEETING AGENDA**

On a motion by Council Member Fox, seconded by Council Member Dunn, the meeting agenda was adopted as presented by the following vote:

Aye: Burk, Dunn, Fox Gemmill, Hammler, and Mayor Butler

Nay: None

Vote: 6-0-1 (Martinez absent)

7. PRESENTATIONS**a. Certificate of Recognition – Michael Burnett, Head Coach, Tuscarora High School Varsity Football – NFL’s High School Coach of the Year**

A Certificate of Appreciation was presented to Mr. Burnett, who is the recipient of the National Football League’s Don Shula High School Coach of the Year.

b. Introduction of Captain Vanessa Grigsby – Interim Chief of Police

Kaj Dentler introduced Captain Vanessa Grigsby who has been selected as Interim Chief of Police until the hiring process is completed for the new Chief.

c. Commission on Public Art Bike Mural Proposal

Commission on Public Art Chair, Tom O’Neil, presented the Commission’s recommendation for a public art mural in the town’s parking garage along the wall where the bike rack is mounted.

Key Points:

- Costs to be covered by the Friends of Leesburg Public Arts
- Work to be done by Commission members and high school art students.
- Art work will feature a bike-related theme.

8. PETITIONERS

The Petitioners section was opened at 7:44 p.m.

Gwen Pangle, 604 Blue Ridge Avenue, stated that she is petitioning Council on behalf of McLister Enterprises. She stated he is requesting some changes to the lot size requirements for townhouses in the Historic District as this would allow him to fit three upscale townhomes on the lot he owns on Loudoun Street, S.W. She stated that Mr. McLister has renovated and rents out several buildings in the historic district. Further, she noted that he offers a rent break for those who qualify as an artist or an art based business.

Andrew Borgquist, stated he has spoken to the Council on numerous occasions. He stated that the town has an expectation to provide the highest level of services to residents. Further, he stated he has been treated poorly by the management of the town and has not gotten any traction with regard to his complaints. He stated his opinion that there was willful and inappropriate deviation from the employee manual with respect to his termination. He advocated Mr. Dentler’s reprimand or removal.

Tom O’Neil, stated he represents himself as a business owner and landlord at 110 Loudoun Street, SW. He stated he is also the chair of the Commission on Public Art. He stated he is in favor of the budget item for the promotion of the Arts and Cultural District.

Doris Kidder, encouraged Council to listen to what Mr. O'Neil spoke about. She stated she was on one of the original boards that created the Arts and Cultural District and would like to keep the momentum up.

The Petitioners section was closed at 7:57 p.m.

9. APPROVAL OF THE CONSENT AGENDA

On a motion by Council Member Hammler, seconded by Council Member Gemmill, the following consent agenda was proposed:

- a. *Termination of Public Art Agreement with Northland Design and Construction, Inc. for Parking Garage Mural Project*

RESOLUTION 2016-030

Termination of Agreement between Town and Artist for the Parking Garage Mural Project

- b. *Extension of Board of Zoning Appeals Appointment*

RESOLUTION 2016-032

Recommending Reappointment of Board of Zoning Appeals Appointee to the Circuit Court

- c. *Awarding Contract for Survivable Remote Site Telephony/Voice Gateway Routers and Audio and Video Project*

RESOLUTION 2016-033

Awarding the Contract for the Survivable Remote Site Telephony/Voice Gateway Routers and Audio and Video Project to DISYS Solutions, Inc., in the Amount of \$96,812.92.

- d. *Milestone Communications Monopole Permit*

RESOLUTION 2016-034

Approving a 120-Day Time Extension for the Review of Commission Permit Application TLCP 2016-0001, Milestone Communications

- e. *Virginia Department of Transportation Fiscal Year 2017 Primary Extension Paving Program Funding Application*

RESOLUTION 2016-035

Application for the Virginia Department of Transportation Fiscal Year 2017 Primary Extension Paving Program Funding

- f. *Making an Appointment to the Technology and Communication Commission (Burk)*

RESOLUTION 2016-038

*Making an Appointment to the Technology and Communication Commission
(Teena Clayton)*

The Consent Agenda was approved by the following vote:

Aye: Butler, Dunn, Fox, Gemmill, Hammler, Martinez, and Vice Mayor Burk

Nay: None

Vote: 7-0

10. PUBLIC HEARINGS

a. Proffer Amendment and Special Exception Application –
Airpark/Gelman

The public hearing was opened at 8:28 p.m.

Scott Parker gave a brief presentation on the request for a proffer amendment and special exception to allow expanded uses at 741 Miller Drive, S.E.

Key Points:

- TLZM 2016-0001 and TLSE 2015-0012 Airpark Gelman is a reference to the ownership group of the property.
- Request to amend approved proffers for an existing building at 741 Miller Drive, which would allow the plumbing supply use as a special exception.
- Planning Commission recommended both applications for approval by a vote of 7-0 with limited discussion.
- It was clarified that there is no outdoor storage associated with the plumbing supply use.
- Original proffers associated with this property limited it to warehousing, office, research and development and prescribed percentages to it.
- Amendment will allow this property to enjoy the same variety of uses allowed in other I-1 zoned properties throughout town.
- Staff recommends approval subject to standard conditions.

Bob Sevila spoke on behalf of the applicant. He stated that the applicant and staff have come a long way and resolved all the issues.

Key Points:

- No negative feedback has been received.
- The intended tenant is a very successful wholesale plumbing distributor.

Kevin Goeller, stated he was one of the original brokers leasing this office park in 1986 and has been dealing with the zoning issues. He explained the history of the property that squeezed out the industrial uses.

The public hearing was closed at 8:48 p.m.

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

ORDINANCE 2016-O-006

Approving TLZM 2016-0001, Airpark-Gelman, for a Rezoning (Proffer Amendment) to Allow Expanded I-1 Uses at 741 Miller Drive

The motion was approved by the following vote:

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

Nay: None.

Vote: 7-0

Council Comments:

- Burk: Stated that this will bring business into town that will be beneficial.
- Fox: Thanked the applicants for their work. She stated that this will create a great designer showroom floor and bring jobs into town.
- Hammler: Expressed her gratitude for the applicant's partnership towards reaching the town's economic development goals. She stated that Council has discussed increasing the goal to 40% of commercial in the town. She stated her desire to continue working with the applicants to bring more business into town.

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

RESOLUTION 2016-039

Approving Special Exception TLSE 2015-0012, Airpark-Gelman, for a Plumbing Supply Company at an Existing Facility at 741 Miller Drive

The motion was approved by the following vote:

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

Nay: None.

Vote: 7-0

b. Fiscal Year 2017 Budget

The public hearing was opened at 8:51 p.m.

Clark Case gave a brief overview of the proposed budget.

Key Points:

- Second year of a two year budget process that mirrors the state's process.
- Includes governmental funds, utilities fund, and the six-year capital improvement program.
- Themes of the budget are fiscal restraint, long term fiscal sustainability and organizational efficiency.
- Debt service cliff is here.

- Offsetting a number of operational increases through savings in the health insurance program.
- Pay for performance salary increases averaging 3%.
- Capital Projects Program shows a 31% decrease as a result of completion of some transportation projects in FY2016.
- Utilities Fund shows an increase primarily due to the completion of some maintenance work.
- Proposed budget includes the residential equalized tax rate plus inflation of \$0.186.
- Regional inflation rate for operating expenses is 0.6% which translates to 0.12 cents on the tax rate.
- Advertised rate is slightly higher to give the Council capacity to add projects.
- Projected tax bill for the average tax payer would be approximately \$3.76 more than last year.
- Inflation was factored in because it eats away at the buying power of the town.
- Comparisons between other localities show that Leesburg residents are still getting a lot of service for a good price.
- Enhancements include treating the downtown as a park with daily trash removal, additional marketing and programming for events in the downtown area, a network administrator position for the Information Technology Department, Capital Asset replacements including in-car and body cameras for the Police Department and repairs needed in Town Hall.
- The bulk of the Capital Projects program is for transportation projects.
- Debt service payments will remain high for the next several years, but the long term sustainability program has planned and provided for it.

Council Comments/Questions:

- Burk: Questioned the savings related to bringing a network administrator onboard over outsourcing the work.
Case: Confirmed that there are additional costs that the outsourcing company adds.
- Hammler: Stated that she would like to see citizen questions and answers as well as those asked by Council. She questioned what the actual dollar amount will be of the 3% increases and how many employees will be eligible for the increase.
Cournoyer: The actual dollar amount would be dependent on how many employees were found to be eligible through the performance review process. But the average is \$450,000 on an annual basis.
- Hammler: Asked for clarification of the amount for downtown improvements.
Case: \$60,000 is the amount allowed for marketing and promotion of the additional events.

- Hammler: Questioned whether the full employee cost including retirement and health benefits of hiring a network administrator have been factored into the cost.
Case: Stated that everything has been factored in.
- Hammler: Questioned why body and in car cameras are listed as a replacement fund item.
Case: Stated the automobile cameras need to be replaced and the body cameras are in addition. He stated the new technology ties the two together so it makes sense to purchase both at the same time.
- Hammler: Questioned why an audiovisual upgrade for the council chambers is included since Council made the decision not to pursue this last budget cycle.
Case: Stated that the approximately \$150,000 includes replacing all the video and audio equipment and software as well as the connectivity to the web and broadcast. Further, he noted that sound reinforcement is required for the public in the audience.
- Fox: Questioned whether the lower assessments is one of the reasons for the small bump in the tax rate.
Case: Confirmed this.
- Fox: Questioned whether staff has taken the possibility of a deflationary period in the budgeting process.
Case: Stated that if deflation occurs, then the town will produce a budget that reflects that.

Gwen Pangle and Allen Robinson spoke on behalf of the Leesburg Downtown Business Association. She stated they feel that the enhancements for the downtown are an excellent idea and be very helpful to increasing traffic downtown. Mr. Robinson stated that the town is the unifier of activities downtown and expressed his appreciation for the vision of viewing the downtown as a park. Further, Ms. Pangle stated that First Friday is an LDBA function and has been bringing a lot of people downtown, which is definite benefit to the merchants. She stated they would love to see that enhanced by the addition of allowing alcohol.

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

- c. Amending the Town Code – Alcohol in the Right of Way and Authorize Consumption in Additional Town Facilities
The public hearing was opened at 9:19 p.m.

Barbara Notar presented the proposed amendments to the Town Code to allow full service dining on the sidewalks in the historic district, as well as expand the service and consumption of alcohol at town facilities.

Key Points:

- Currently a criminal offense to consume alcoholic beverages in public areas not permitted in the Town Code.
- Amendment would allow alcohol to be served and consumed in town right of way, which includes sidewalks.
- Right of Way permits will be reviewed and enforced by the Public Works Department.
- Economic Development Commission supports the amendments as they feel it will increase foot traffic downtown.
- Amendment will also add the service and consumption of alcohol to special events that close the streets in the downtown area.
- Virginia Alcoholic Beverage Control Board permits and regulations are always required and followed.
- A five foot pedestrian clear way is proposed for on-sidewalk dining.
- Currently alcohol can be served and consumed with an ABC permit at Ida Lee Park Recreation Center, Ida Lee Park Tennis Center and the Olde Izaak Walton Park building.
- Proposing to add the Leesburg Executive Airport (terminal and ramp), Leesburg Town Green, Mervin Jackson park (including the Rose Garden) and the Ida Lee park festival field.
- The proposed ordinance also expands the type of alcohol that can be served and consumed to include liquor in addition to beer and wine on a trial basis.

Council Comments/Questions:

- Fox: Stated that the event organizer is responsible for the additional police costs, but often Council is petitioned to waive fees for events. She stated she would not like to see the public be responsible for paying for the additional police costs. She also noted that some businesses would not be able to benefit from having street-side dining.
- Hammler: Questioned what other localities do regarding public consumption of alcohol.
Notar: Responded that other localities allow it with a permit.
- Hammler: Questioned the duration of an ABC permit.
Notar: Stated that ABC permits are administered by the ABC and inspected regularly.
- Hammler: Questioned who gets the ABC license for events held on town property that are not town events.
Trask: The ABC license is in the event holder's name, not the towns.
- Martinez: Noted that some businesses did not want to have the sidewalks widened in front of their establishments – they chose to have a loading area.
- Burk: Stated that the town widened the sidewalks with the specific idea of allowing outdoor dining and this is an opportunity that should not be passed up.
- Gemmill: Stated that any time businesses downtown can be supported, it is appropriate.

- **Dunn:** Questioned whether dining is allowed on the sidewalk currently. **Notar:** Stated it would be allowed currently and there is a minimum four foot ADA required sidewalk between the tables and the curb.
- **Dunn:** Requested confirmation that this is only to allow alcohol service and consumption on public property. He also questioned whether alcohol at the airport is only for special events. **Notar:** Confirmed that alcohol could be served and consumed on private property and only for special events at the airport, such as the airshow.

Gwen Pangle, stated she is speaking on behalf of the Economic Development Commission, as their chair. She stated they had an enthusiastic 7-0 vote for support of this amendment to the Town Code. Further, she stated with all the effort the County is putting into boosting the nighttime economy, it would be a good idea for Leesburg to do the same thing. She stated her belief that it would benefit first Fridays and downtown events to bring more people.

David Saaredia, stated he runs and operates Palio Restaurant and the Leesburg Diner. He stated he is speaking on behalf of Mr. O'Connor and all the employees of the two restaurants. He stated they calculate it will increase business for them by about 10%.

Fred Williams, 21 Wirt Street, N.W., stated he is here to present an alternate view of this ordinance. He stated the only information he has is what was included in the agenda packet. He stated that currently there isn't enough room between existing tables and the curb so he is concerned about the permitting process and enforcement. He stated his concern that serving alcohol requires the roped off area, which takes up more space and makes navigating the sidewalks more difficult. He stated there are two business owners that will benefit and many other business owners and residents that would not benefit and actually be adversely impacted. He questioned whether the quality of life in Leesburg is just dependent on alcohol.

Jason Miller stated he is one of the owners of the Wine Kitchen and lives about two blocks away. He stated Frederick, Maryland allows this and it shows vitality on the streets downtown. He stated sales are down because there are other options like One Loudoun and the Village at Leesburg. He asked that Council level the playing field as those other places have outdoor dining. He stated that passing this and doing it quickly is the best outcome for the town.

Curtis Allred, stated he is the manager at Shoe's Cup and Cork. He stated he has been a restaurant manager in New York City and Washington, DC. He stated he was the manager at Fire Works Pizza where outdoor dining is rated in the top three every year. He stated people want to eat and drink outside. He stated the difference between four feet and five feet is huge. He stated this will not affect Shoes, but this is his community and it will attract people downtown. He stated if the downtown doesn't have this, people will go to the other fake downtowns and drink outside.

Dana Allred, stated she has three small children and no time for herself. She stated she doesn't live downtown or work downtown. She states she visits downtown with her kids and her friends and the outdoor dining makes it more attractive and more fun.

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

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

ORDINANCE 2016-O-007

To Amend and Reordain Chapter 24 (Offenses and Miscellaneous Provisions), Article V (Offenses Against Public Peace and Order), Division 1 (Generally), Section 24-184 (Public Profanity and Intoxication) of the Leesburg Town Code by Adding New Sections 24-185 (Consumption or Service of Alcohol Without License) and 24-186 (Alcohol Permitted on Public Property; Exceptions for Outdoor Dining, Special Events, Etc.), to Allow Alcohol to be Served and Consumed on Designated Areas of Public Property Under Limited Circumstances and When Issued an Outdoor Dining or Special Event Permit by the Town

Council Comments/Questions:

- Butler: Stated that this ordinance does not set the number of feet for the setback from the curb. He stated if the ordinance passes, Council will need to make a motion regarding the distance from the curb.
- Burk: Stated that Council approved widening the sidewalks with the intention of allowing outdoor dining, including the consumption of alcohol. She stated it is done in many other places and it is a disservice to the downtown businesses, if they cannot do it. She states she understand the concerns but this will vitalize the downtown.
- Dunn: Stated that dining is already allowed and the only difference is the dining will have to be cordoned off. He noted that this would not reduce or expand the current levels of seating. He requested confirmation that currently at least four foot clearance is required.
Notar: Confirmed that four feet are currently required.
- Dunn: Stated he is hesitant to open up town property to alcohol consumption. He stated that if people want to drink, they can take them inside because he is concerned about the health, safety and welfare of people passing by.
- Gemmill: Stated this will help the restaurants and is good for tourism. He stated when there is a glass of wine, it encourages people to stay longer.
- Hammler: Stated that Mr. Williams had an interesting point about the \$100 fee for the permit. She questioned what other localities charge.
Notar: Stated they vary from no fee up to \$150.
- Hammler: Stated that given it will end at 9 p.m. and can be revoked, it is important to move this forward. She disclosed that she is on the County's

nighttime activities board. She stated it is important to bring people downtown for dining as this will generate meals taxes. Further, she stated it will energize the downtown and give people the opportunity to visit more stores. She stated her feeling that this may spur private investment in the downtown.

- Fox: Thanked those that came out to speak. She stated opening town property for alcohol doesn't bother her as there is appropriate licensure and enforcement. She stated she does have a problem if an event requires police staffing, she would not like to have the fees waived.
Notar: A restriction on fee waivers could be added to the permit.
- Butler: Stated this is something he has been a strong advocate for – arts and on-street dining.

The motion was approved by the following vote:

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

Nay: Dunn

Vote: 6-1

On a motion by Vice Mayor Burk, seconded by Mayor Butler, a five foot setback was proposed as recommended by staff.

Council Comments:

- Burk: Stated that the setback is an important component as if there isn't enough space for tables and chairs, the purpose of the sidewalk widening has been defeated. She stated this will not be a full scale restaurant, but allowing enough room for four to six tables to create vitality. She stated that it is important to acknowledge that ADA requires four feet and this is a proposal for five feet. She stated the five feet will allow wheelchairs and strollers to traverse the sidewalk without problems.
- Butler: Stated his concern that this is really not a five foot setback because where there are obstructions, it is only four feet. He stated a straight line of a seven foot setback would allow pedestrians to walk a straight line down the street without having to zig-zag around obstacles. He stated his concern that a five foot sidewalk will create a safety issue when people have to walk in the street. He noted that some establishments have less room because of obstacles located in front of their businesses and questioned whether this is fair. He stated it will be easy to expand the restaurants' area, but difficult to reduce it once the merchants have purchased outdoor furniture.

Mayor Butler offered a motion to amend the setback to seven feet. The motion was seconded by Council Member Dunn.

Council Comments/Questions:

- Dunn: Requested clarification from staff that this is related to the service of alcohol. He stated if other restaurants can serve food, but not alcohol, they would be allowed a different setback of four feet from any

obstruction. He stated that this motion would increase the setback for those that wanted to serve alcohol. He stated that the Town Code should be changed to increase the setback for any type of on-street dining, regardless of alcohol.

Notar: Stated that if the Mayor's amendment is passed, then a resolution initiating an amendment to the Town Code may be necessary if Council wanted to align the setback for businesses that do not serve alcohol.

- Gemmill: Stated that other localities have zig-zag pathways through outdoor dining areas so he does not see an issue with this.
- Burk: Stated her opposition to this amendment as it will not meet the needs of the community.
- Martinez: Stated this is another example of the Council trying to fine tune an ordinance that is fine the way it is.
- Butler: Stated in 2013, Council Member Martinez stated that the widenend sidewalks were not about on-street dining, but about making it easier for people to walk downtown. He stated that once all the tables are placed outside, people will criticize the loss of the wider sidewalks.

The motion failed by the following vote:

Aye: Fox and Mayor Butler

Nay: Burk, Gemmill, Hammler and Martinez

Vote: 2-4-1 (Dunn abstaining)

Council Comments:

- Hammler: Expressed support for the five foot setback. She stated people will enjoy seeing the vitality created by on-street dining.
- Martinez: Explained that when he first came on Council in 2002, all the businesses claimed they needed more walking traffic and one way to provide that was to widen the sidewalks and make people feel more comfortable. He stated one of the reasons he wanted this expanded was the revenue being lost at Ida Lee.
- Dunn: Stated he is not in favor of amending the setback because of the current town code and ADA compliance. He stated the success of this will be determined by the market. He stated that adding these seats outside, it will be challenging for those in wheelchairs.
- Burk: Stated that the space is being limited and guidelines are being provided. She stated that people will find this exciting and interesting and cause them to want to come downtown.

The motion for a five foot setback was approved by the following vote:

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

Nay: Dunn

Vote: 6-1

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

MOTION 2016-005

I move that there will be no waiver of fees for an event involving alcohol on town property.

Council Comments/Questions:

- Fox: Stated her feeling that if there is an additional challenge requiring police, that should be sponsored by the persons hosting the event.
- Dunn: Stated his concern that by making that a requirement, it may somehow impact the Council's flexibility in waiving fees for other requests.

Notar: Stated the application would say that if alcohol is involved, the applicant cannot request a waiver of fees from Council.

- Burk: Stated that this is redundant as Council has the ability to say no to waiver requests.
- Fox: Stated her desire for applicants to know this up front.

The motion was approved by the following vote:

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

Nay: None.

Vote: 7-0

11. RESOLUTIONS AND MOTIONS

- a. Lease Amendment and Extension Agreement for the Mason Enterprise Center

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

RESOLUTION 2016-031

Authorizing the Town Manager to Execute a 5-Year Lease Extension Between the Town of Leesburg and Virginia Heritage Properties, LLC for Occupancy of the Office Building and Related Facilities at 202 Church Street

Council Comments:

- Hammler: Stated that this is a lease amendment that extends the lease for the Mason Enterprise Center. She stated there is very rarely an opportunity for the town to provide seed money that has such a force multiplier effect in terms of job creation and commercial growth. She stated this has a positive benefit to the entrepreneurial attraction of this town to businesses.
- Dunn: Stated that the original agreement was to help Mason Enterprise Center for the first five years and then they were supposed to become self-supporting. He stated he was not thrilled about having to renew an additional five years.

Dentler: Stated that the intent was for the Mason Enterprise Center to break but as time has gone on, it has become clear that expectation was

not the norm. He stated that the Director of the Mason Enterprise Center has indicated that to Council. He stated that this is the town's financial investment for economic development.

- Gemmill: Questioned whether the flow of businesses through the Mason Enterprise Center would continue without Leesburg's support.
Dentler: Stated that financially this program would not work without the town's support both financially and with the efforts of the town economic development staff.
- Burk: Stated that the Mason Enterprise Center is one of the most successful economic development projects that the town has put together and the number of businesses that have grown there, many of them staying in Leesburg after their graduation from the program, has been a real plus for the community. She stated that this is a great investment for the town.
- Fox: Stated her opinion that this vote does not belong before budget deliberations and she cannot support it.
- Butler: Stated that not voting for this would be neglect of the town's overall prosperity.
- Hammler: Stated that there is also tremendous synergy because of the opportunities created by the Mason Enterprise Center being located in the HUB Zone.

Aye: Burk, Hammler, Martinez and Mayor Butler

Nay: Dunn, Fox and Gemmill

Vote: 4-3

- b. Appropriation Fund Balance for Winter Storm Jonas Cost
On a motion by Vice Mayor Burk, seconded by Council Member Martinez, the following was proposed:

RESOLUTION 2016-036

Appropriating General Fund Unassigned Fund Balance in the Amount of \$645,915 and Utilities Fund Unassigned Fund Balance of \$50,516 for Emergency Response Costs for Winter Storm Jonas Above the Amounts Provided in the Approved Fiscal Year 2016 Operating Budgets

Council Comments/Questions:

- Burk: Stated her surprise to see that the Utilities fund, which is an enterprise fund, involved in this action. She questioned why the repairs part of the action is so large.
Case: Stated that the repairs are to the infrastructure that was damaged by the snow clearing operation, such as fire hydrants, man holes, curbs, etc. He stated the mechanical equipment also takes a beating from a snow of that size.
- Burk: Questioned why any money would be needed from the Utilities enterprise fund.

Case: Stated that utilities incurred costs such as personnel and equipment costs during the storm to clear utilities properties.

Markel: Stated that the Utilities department has numerous facilities including the plants and pump stations. Access to those facilities had to be kept clear so that they could be monitored and serviced.

Dentler: Noted that the Utilities staff assisted the Streets staff to provide the necessary manpower to clear the snow. In addition, he stated that in the past, the number of storms budgeted for was reduced with the theory that the town responds to the storm event regardless of budgeted resources but when the budget for storm response is exceeded, money would be transferred from the unassigned fund balance.

- Martinez: Stated that the work was actually done on the utilities properties. He questioned when the town will get reimbursement from the state.

Dentler: Stated that the information has been provided to the county, who is coordinating the reimbursement effort.

- Martinez: Stated that the money would have to come out of the unassigned fund balance/reserve to be replenished if and when reimbursement funds are received.

Dentler: Stated that this is why the town has these reserves. He stated the size of the storm was a surprise, but reimbursing the operating budget out of reserves has been the town's practice over the past several winters.

- Gemmill: Questioned whether this is just an accounting practice that was instituted under the prior town manager.

Dentler: Stated that Council approved this accounting practice that assists the town with managing the budget through tough times. He noted that the crews do not stop when the money runs out.

- Hammler: Stated she pulled this from the Consent Agenda for several reasons, not the least of which is that it is a significant amount of money. She stated it should be out in the open, not a Consent vote, and it is important that it be discussed. She stated there were many questions from citizens about the snow response and her feeling that the after action report should have happened before this accounting issue was brought forward. She stated that Council needs information on what the average amount of reimbursement the town can expect based on what has been received in the past and the experience of other localities in their reimbursement requests. She questioned whether there is any impact in terms of maintaining the AAA bond rating.

Case: Stated that the town can sustain the loss without jeopardizing the bond rating, but it does make the process of getting from 15% to 20% reserves, as promised would be completed by 2021, a little more difficult. He stated the town will continue to engage in frugal budgeting practices.

- Fox: Stated her understanding based on conversations with staff, that in place of VDOT services, the town receives VDOT reimbursement every year for snow removal.

LaFollette: Stated that the town receives payment from VDOT every year based on their formulas for primary and residential streets. She stated

those maintenance payments cover not only snow removal, but milling, paving, mowing, weeds, clean up, etc.

- Fox: Questioned whether these payments are allocated to snow removal. Case: Stated that payments are part of the operating budget for streets maintenance every year.
- Dunn: Stated a number of comments were made by the public/press/staff that the issues with snow removal was a funding issue. He stated this was not a funding issue since the town has the ability to go into the reserve funds to get what was needed. He stated the issues were caused by management decisions. He stated the approach of waiting for mother nature to melt the snow was not the correct approach. He stated Council's job is to pay the bills.
- Butler: Stated his agreement that this is an accounting issue – the money has been spent and the bills need paid. He stated the approach can be discussed later.

The motion was approved by the following vote:

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

Nay: None.

Vote: 7-0

- c. Assigning Fiscal Year 2015 General Fund's Unassigned Fund Balance to the Capital Asset Replacement Fund and the Debt Service Reserve
On a motion by Council Member Martinez, seconded by Council Member Gemmill, the following was proposed:

RESOLUTION 2016-037

Assigning General Fund Unassigned Fund Balance in the Amount of \$1,945,863 for Capital Asset Replacement Fund and Accumulating Funds for Debt Service Reserve

Council Comments/Questions:

- Butler: Stated that this is something the Council agreed to as part of the long term sustainability program.
- Martinez: Stated this is standard practice that needs to be continued.
- Dunn: Questioned whether the amounts were agreed to.
 Case: Stated that the amount is unclear until then end of the fiscal year. An estimate is approved during the budget process and the fiscal sustainability policy states the amount will be split between the Capital Asset Replacement Fund and the Debt Service Reserve.
- Dunn: Questioned whether this needs done now or can it be discussed as part of the budget.
 Case: Stated this is part of the sustainability plan for FY2015 that moves the money into the FY2016 budget. He confirmed that there is no specific reason that action must occur tonight; however, this is traditionally the meeting where this is done.

- Dunn: Noted that the fiscal year extends to June 30 and Council will be discussing the budget in a few days. He questioned whether it can be voted on in two weeks since it might impact the upcoming budget. Case: Stated this will not impact the upcoming budget as the dollar amounts are not significantly different from what was estimated as part of the FY2016 budget.
- Hammler: Stated she moved it from the Consent Agenda because of the significant size of the amount as well as it is beneficial to set the record straight before the budget public hearing.
- Butler: Stated this is part of last year's approved budget, not part of the upcoming budget.

The motion was approved by the following vote:

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

Nay: None.

Vote: 7-0

d. Employee Health Insurance

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

RESOLUTION 2016-040

Enter an Adoption Agreement for Employee Health Benefits with the Local Choice

The motion was approved by the following vote:

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

Nay: None.

Vote: 7-0

12. ORDINANCES

- a. None.

13. UNFINISHED BUSINESS

- a. None.

14. NEW BUSINESS

- a. Initiating Amendments to the Zoning Ordinance to Comport with the Town Code as relates to Noise in the R-1 Zoning District

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

RESOLUTION 2016-041

Initiating Amendments to the Zoning Ordinance to Comport with the Leesburg Town Code as it Relates to Noise in the R-1 Residential Zoning District

Council Comments:

- Dunn: Clarified that this just adds the extra hour to this zoning district as allowed in other areas.
- Hammler: Disclosed that she backs up to Paxton and most of the area around Paxton is R-4, which will receive the impacts. She requested that all the adjacent homeowners be notified.

The motion was approved by the following vote:

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

Nay: None.

Vote: 7-0

b. Initiating an Amendment to the Leesburg Zoning Ordinance to Repeal the H-2 Overlay District

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

RESOLUTION 2016-042

Initiating Amendments to the Leesburg Zoning Ordinance for the Purpose of Repealing the H-2 Historic Corridor Architectural Control Overlay District and the Associated Provisions in the Ordinance Related to the Implementation of the H-2 Overlay District Including, but not Limited to: Articles 2, 3, 7, and 15

Council Comments:

- Martinez: Stated he cannot support this because it protects the entrances into town. He stated that the planning commission is working on something to take its place on Market Street, but it would not protect the north/south entrances.
- Dunn: Stated that form based code could be implemented in those area. He stated the review process would be done by the Planning Commission, not the Board of Architectural Review. He stated initiation would allow the BAR and Planning Commission to weigh in.

The motion was approved by the following vote:

Aye: Dunn, Gemmill, Fox, and Mayor Butler

Nay: Hammler and Martinez

Vote: 4-2-1 (Burk absent)

c. Authorizing a Letter to the Loudoun County Board of Supervisors regarding School Resource Officer Funding

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

MOTION 2016-006

I move to authorize the Mayor to sign the letter to the Loudoun County Board of Supervisors requesting full funding of School Resource Officers in the Fiscal Year 2017 Budget

Council Comments:

- Dunn: Stated that it is late in the county's budget process, but it should still be tried. He noted that it would be less expensive for the county to pay 100% of school officer's since they are involved in school issues year round versus having sheriff's deputies take over that assignment.
- Hammler: Stated that all Council members should follow-up given the need to act rather quickly. She stated it will set the tone for a productive shared efficiencies committee. Further, she stated she does not have a problem with Sheriff's deputies providing the School Resource Officer duties.
- Burk: Stated if she was a supervisor and she received this letter at this time asking for full funding, she would not react favorably.
- Gemmill: Stated is it worth a try since it is a substantial amount of money. He stated believes the sheriff's should take that responsibility. He noted that the police department is concerned with losing face time with the youth. He asked that some way to accommodate this concern be worked out.
- Butler: Stated his agreement with the Vice Mayor that there is no way this will have a positive impact as it is too late in the process.
- Dunn: Stated that there is always a negative impact when the town stands up and asks for its fair share of the money that the county has been freely spending over the years with very little return to the town. He noted that there would be a greater cost to the county to use sheriff's deputies.

The motion was approved by the following vote:

Aye: Dunn, Fox, Gemmill, Hammler, and Martinez

Nay: Burk and Mayor Butler

Vote: 5-2

15. COUNCIL COMMENTS

Vice Mayor Burk stated she would like to initiate a text amendment to change the single family attached interior lot size to allow more opportunities to provide housing on very small lots in the old and historic district. She disclosed that she met with Mr. McLister.

Ms. Notar stated that staff will need some time to provide an initiating resolution.

16. MAYOR'S COMMENTS

Mayor Butler had no comments.

17. MANAGER'S COMMENTS

Kaj Dentler had no comments.

18. CLOSED SESSION

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

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

- a. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made publicly initially, the financial interest of the town would be adversely affected.*

The motion was approved by the following vote:

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

Nay: None.

Vote: 7-0

Council Member Gemmill recused himself.

The Council convened in closed session at 11:11 p.m.

The Council reconvened in open session at 11:47 p.m.

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

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

The motion was approved by the following roll call vote:

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

Nay: None.

Vote: 6-0-1 (Gemmill recused)

19. ADJOURNMENT

On a motion by Council Member Martinez, seconded by Council Member Hammler, the meeting was adjourned at 11:47 p.m.

David S. Butler, Mayor
Town of Leesburg

ATTEST:

Clerk of Council
2016_tcm0308