

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, Suzanne Fox, and Mayor Butler.

**Council Members Absent:** Council Member Hammler arrived at 8:20 p.m. Council Member Martinez absent.

**Staff Present:** Town Manager Kaj Dentler, Town Attorney Barbara Notar, Deputy Town Manager Keith Markel, Assistant Town Manager Scott Parker, Director of Planning and Zoning Susan Berry Hill, Director of Capital Projects and Public Works Renee Lafollette, Deputy Director of Planning and Zoning Brian Boucher, Senior Planner Irish Grandfield, and Paralegal Carmen Smith.

## AGENDA

## ITEMS

1. **CALL TO ORDER**
2. **INVOCATION** was led by Mayor Butler
3. **SALUTE TO THE FLAG** was led by Council Member Dunn.
4. **ROLL CALL** showing all members present.
5. **MINUTES**
  - a. Work Session Minutes of May 23, 2016  
*On a motion by Council Member Dunn, seconded by Council Member Gemmill, the work session minutes of May 23, 2016 were approved by a vote of 5-0-2 (Martinez / Hammler absent).*
  - b. Regular Session Minutes of May 24, 2016  
*On a motion by Council Member Dunn, seconded by Council Member Fox, the regular session minutes of May 24, 2016 were approved by a vote of 5-0-2 (Martinez / Hammler absent).*
6. **ADOPTING THE MEETING AGENDA**  
*On a motion by Council Member Dunn, seconded by Council Member Gemmill, the meeting agenda was adopted as presented by the following vote:*  
*Aye: Burk, Dunn, Fox, Gemmill, and Mayor Butler*  
*Nay: None*  
*Vote: 5-0-2 (Hammler / Martinez absent)*
7. **PRESENTATIONS**
  - a. Certificate of Recognition – 25<sup>th</sup> Anniversary of Twice is Nice (INOVA Ladies Board)

A Certificate of Recognition was presented to the Ladies Board of the INOVA Loudoun Hospital in recognition of the 25<sup>th</sup> Anniversary of the Twice is Nice thrift shop.

**8. PETITIONERS**

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

Gwen Armstrong, 304 Patterson Court, NW, stated that last Sunday was Pentecost Sunday and the celebration of Shavuot and offered a prayer for the Council.

Unidentified Gentleman stated the Council should be held accountable to the fact that Harrison Street may turn into a major street according to the Town Plan. He stated the park behind the Food Lion is the largest green swath left in Leesburg.

Tom Domann voiced his support for Crescent Parke. He stated it will be a continuation of positive economic development for the town.

The Petitioners section was closed at 7:50 p.m.

**9. APPROVAL OF THE CONSENT AGENDA**

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

- a. *Performance Guarantee and Sewer Extension Permit for Leesburg South Offsite Sanitary Sewer (TLPF 2014-0010)*

**RESOLUTION 2016-072**

*Authorizing an Agreement and Approving a Performance Guarantee and a Sewer Extension Permit for Leesburg South Offsite Sanitary Sewer (TLPF 2014-0010)*

- b. *Supplemental Appropriation of Virginia Municipal League Insurance Payments*

**RESOLUTION 2016-073**

*Amending the Fiscal Year 2016 General Fund Budget and Making a Supplemental Appropriation in the Amount of \$4,758.74 from Insurance Payments from Virginia Municipal League for the Repair of Town Vehicles*

- c. *Supplemental Appropriation of Loudoun County Refuse Grant Money*

**RESOLUTION 2016-074**

*Amending the Fiscal Year 2016 General Fund Budget and Making a Supplemental Appropriation in the Amount of \$9,158 from the Virginia Department of Environmental Quality, Division of Land Protection and Revitalization Grant Money for Purchasing Supplies for the Refuse and Recycling Program*

- d. *License Agreement with AT&T Corporation*

**RESOLUTION 2016-075**

*Authorizing the Town Manager to Execute a Second Renewal of License Agreement Between the Town of Leesburg and AT&T Corporation*

- e. *Request for an Additional 120 Day Review Extension for TLCP 2016-0001 Milestone Communications*

**RESOLUTION 2016-076**

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

- f. *Town Plan Amendment to Remove Miller Drive east of Sycolin Road*

**RESOLUTION 2016-077**

*Initiating Amendments to the Leesburg Roadway Network Policy Map in the Town Plan to Delete Miller Drive East of Sycolin Road*

- g. *Request for Carry Over of Fiscal Year 2016 Funds in the Amount of \$652,591.72 to Fiscal year 2017 Budget*

**RESOLUTION 2016-078**

*Appropriating Department of Utilities Unexpended Funds for Carry Over from Fiscal Year 2016 to Fiscal Year 2017 Budget*

- h. *East Market Street Waterline Improvements Project*

**RESOLUTION 2016-079**

*Awarding the Construction Contract for the East Market Street Waterline Improvements Project to Utilities Unlimited, LLC, in the Amount of \$110,830*

- i. *Town Shop Storage Tank*

**RESOLUTION 2016-080**

*Awarding the Construction Contract for the Underground Storage Tank Removal and Above Ground Tank Installation Project in the Amount of \$115,500*

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

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

*Nay: None*

*Vote: 5-0-2 (Hammler / Martinez absent)*

**10. PUBLIC HEARINGS**

- a. *Crescent Parke Rezoning Application*  
The public hearing was opened at 7:52 p.m.

Victoria Yergin, stated she is the Secretary/Treasurer of the Virginia Knolls Community Association. She stated that the value of the townhomes affected by a possible extension of the Dulles Greenway is more than \$3.5 million dollars. She stated a 90 foot reservation area is unsuitable as the elevated roadway would also be 90 feet wide and begin on shared property lines with a zero clearance between the fence line and the proposed roadway. She requested an actual traffic count of existing traffic levels and opposed the recommendation for a light at Gateway and Sycolin Road. She noted that developer proffers change on July 1 and this worries the residents. She stated that the community is looking for leadership and community support for things that are important for the community as well as the growth and development of Leesburg. She stated they are not opposed to it, but not at their expense.

Juan Gonzalez 743 Vanderbilt Terrace, SE, expressed his concern over the changes to Gateway Drive in reference to the Crescent Parke project. He stated that Gateway is the main access for many communities and is heavily used. He stated he is unaware of any traffic counting that has occurred on Gateway Drive and noted sight distance problems at the intersection of Gateway and Sycolin. He also expressed concern about drainage from the Gateway communities.

John Hilton stated he is a member of the Environmental Advisory Commission, a resident of Oaklawn, and a candidate for Town Council. He stated he has heard concerns about the Crescent Parke development. He stated a project should be voted up or down on its merits, but the concerns of the community and the Planning Commission should be taken into consideration when deliberating.

Ralph Fiorello, 216 Edwards Ferry Road, stated he promotes the Crescent Parke build out. He stated he is wildly excited about Crescent Place opening and the tangible results that this developer's vision has created. He stated he is investing on the private end and the business end.

Ken Reid stated that the Mayor did a great job at the Northern Virginia Transportation Authority meeting stating the importance of the Battlefield and Route 7 interchange. He stated the public needs to know the importance of that interchange. He stated this developer has done a good job changing a brownfield into Crescent Place. He stated acquiring the land for the dog park and the recreation center is a good goal. He stated he is interested in seeing residential development, like Crescent Place, closer to downtown Leesburg but he is concerned about putting units in this pristine area.

Mr. Yergin stated he is president of the Virginia Knolls Community Association. He stated three traffic studies have been done over the past few years. He stated since the construction of the flyover, the traffic volume has increased. He stated that the traffic study done by Mr. Mitchel is flawed.

The public hearing was continued until the next meeting.

- b. TLOA 2016-0002 Commuter Parking Lots in the I-1 Zoning District  
The public hearing was opened at 8:29 p.m.

Irish Grandfield gave a brief presentation on the proposal to amend the Zoning Ordinance to allow a commuter parking lot in the I-1 Zoning District and to establish standards for the use.

Key Points:

- Loudoun County and the Town of Leesburg share the common objective to provide mass transit options.
- Town Plan identifies two corridors for commuter parking – Rt. 7 and Dulles Greenway.
- Existing zoning regulations do not allow for development of the desired parking in these zones.
- Removes commuter parking as a by right use in the B-3.
- Provides eight performance standards for commuter parking lots.

Council Comments/Questions:

- Dunn: Questioned requirements for lighting.  
Grandfield: Stated the lighting requirements in the zoning ordinance must be met. Further, he stated the eight use standards are not covered in other areas in the zoning ordinance.
- Burk: Questioned the Planning Commission's recommendation for landscaping.  
Grandfield: Stated that the Planning Commission recommended that Council initiate a zoning ordinance amendment to increase the landscaping requirement for commuter parking lots. He stated that staff recommends rather than initiating a new zoning ordinance amendment to address buffering of commuter parking lots, that it be included as a use standard.

Ken Reid stated this is a very important project for transit in Loudoun County and Leesburg. He stated he is appreciative of what everyone has done to make this park and ride a reality.

The public hearing was closed at 8:47 p.m.

Council Member Fox stated that the Board of Architectural Review heard a petitioner that stated there is a possibility of the subdivision of this property which would mean other projects could be planned for this property.

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

***ORDINANCE 2016-O-015***

*Amending Zoning Ordinance Articles 6 and 9 to allow a Commuter Parking Lot in the I-1 Zoning District and to Establish Standards for Use*

## Council Comments:

- Gemmill: Stated that Mr. Reid had compelling arguments and was recommended for approval by the Planning Commission and staff.
- Dunn: Questioned whether it is just for this one property or for the entire I-1?  
Grandfield: Verified that is correct so that the town can meet the Town Plan intent of allowing commuter parking lots in the Route 7 corridor.
- Dunn: Stated this is a good use for the I-1 generally and this property in particular.
- Hammler: Expressed her support as travel around this region is difficult and facilities to ease congestion are needed.

*The motion was approved by the following vote:*

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

*Nay: None*

*Vote: 6-0-1 (Martinez absent)*

c. Town Plan Amendment TLTA 2015-0003, Brown's Car Stores Land Use and Transportation

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

Scott Parker gave a brief presentation on the proposed Town Plan amendment.

## Key Points:

- Amends the Town Plan Southeast Planning Policy Area Objective 9 to add language to expand the area allowing new auto dealerships south of Route 7.
- Amends the Roadway Network Policy Map to Eliminate a segment of Keystone Drive (a through collector road) south of Russell Branch Parkway to Trailview Boulevard across Tuscarora Creek.
- Two related applications – TLZM 2015-0001, rezoning the site from I-1 to B-3 and a TLSE 2015-0013, a special exception to allow development of two auto dealerships under B-3 zoning.
- In 2015, the Town Council adopted a policy that requires Planning Commission action on a town plan amendment to occur before a rezoning application is advertised for Planning Commission public hearing.
- Current land use designation for the property is regional office and no change is requested.

## Council Comments/Questions:

- Fox: Stated she has no problem with the land use part of this application. She confirmed that staff supports the deletion of Keystone Drive; however, the county and planning commission recommend keeping the connection.  
Parker: Stated that the county acknowledges that the connection is not required by the current information.
- Fox: Questioned what type of expenses are involved in removing the portion of Keystone Drive.  
Parker: Study has already been done by the applicant.
- Hammler: Questioned how denying the transportation portion will affect the land use portion of the application and proffers.  
Parker: The applicant will have to show the 90 foot reservation on their property. Further, he noted if it is left on the plan, it would be open for discussion with regards to proffers.
- Burk: Questioned whether the applicant have to build Keystone, if left in.  
Parker: Stated there is a portion along their frontage that they would have to do; however, the portion across Tuscarora Creek would be discussed during proffer negotiations.
- Burk: Asked for clarification of the flood plain and tree canopy protection references.  
Parker: Stated that if the road if built, it will go through the stream valley. However, if the right of way is preserved, there are ways to protect the creek valley buffer.
- Burk: Stated that the town needs to be careful about taking roads off the map and be thinking about the future.
- Gemmill: Questioned why the Planning Commission did not recommend removal of the portion of Keystone.  
Parker: Stated that their point of view was the same as Vice Mayor Burk's.
- Dunn: Verified that this development will adhere to the H-2 Corridor Guidelines for architecture and design. Further, he questioned whether the cars would be closer to Rt. 7.  
Parker: Stated that the plan that is currently being reviewed, both dealerships would front on Russell Branch Parkway. He noted that the applicant has gone to the BAR and gotten general feedback regarding their submittal.

Christine Gleckner, Walsh Colucci, representative for the applicant, gave a short presentation regarding the application.

Key Points:

- Applicant concurs with the staff's recommendation.
- Given the shape of the property and the surrounding land uses, auto dealerships are appropriate in this location.
- Appropriate buffer between residential uses.

- Crosstrail and Battlefield provide adequate north/south connections.
- Costly road connection that would not provide a significant benefit.
- Land will remain open so nothing would prevent the road from being built in the future.

Council Comments/Questions:

- Burk: Not asking the applicant to build the road.
- Gemmill: Questioned whether there would be an outdoor intercom system.  
Gleckner: Stated that can be addressed with the rezoning and special exception applications.

Craig Lane, 613 Cobbler Terrace, stated he has no concern with the auto dealership, but his concerns have to deal with transportation. He stated his preference would be to keep this piece of Keystone and connect it to the future Trailview Boulevard. He stated it would be a prudent step to take.

Ken Reid, stated that the reason there is such terrible traffic in the Northern Virginia area is some 1500 lane miles have been removed from master plans in Virginia, Maryland and DC mostly because of citizen opposition and environmental concerns. He stated that he wanted the back door connection of Keystone and negotiated its inclusion.

The public hearing was closed at 9:44 p.m.

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

**RESOLUTION 2016-081**

*Adopting Town Plan Amendments through TLTA 2015-0003, Amending Town Plan Policy Language for the Southeast Planning Area Regarding Auto Dealerships and Revising the Town Plan Roadway Network Policy Map to Remove the Portion of Keystone Drive Between Russell Branch Parkway and Tuscarora Creek*

Council Comments/Questions:

- Gemmill: Questioned whether the notation about Tuscarora Crossing's proposed residential uses generating less traffic than industrial/commercial is a different issue.  
Parker: Agreed that they are two separate issues. He stated the analysis of residential units was taken into consideration.
- Hammler: Stated that she did not support Tuscarora Crossing or Lowes. She supports regional office wherever it can be maintained. She noted the location of the property makes it more difficult to get high wage office uses.

- Fox: Questioned whether two uses could develop on the parcel since it is bifurcated.  
Parker: Confirmed the potential does exist.
- Dunn: Stated he is not in favor of removing the portion of Keystone Drive.
- Hammler: Stated she could support the land use because it is the lesser of two evils to have the car dealership here rather than in the Crescent District.

*Council Member Gemmill offered a friendly amendment to separate the land use paragraph from the transportation paragraph. The amendment was not accepted as friendly.*

*Vice Mayor Burk requested the question be divided.*

*Council Member Gemmill made a motion to approve paragraph 1, seconded by Vice Mayor Burk.*

*The motion to approve paragraph 1 was approved by the following vote:*

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

*Nay: None.*

*Vote: 6-0-1*

*On a motion by Council Member Hammler, seconded by Council Member Gemmill, removing the portion of Keystone Drive between Russell Branch Parkway and Tuscarora Creek was proposed.*

Council Comments/Questions:

- Dunn: Questioned what the county wants.  
Parker: Stated that the county has not specified a specific road right of way, but they wanted a 90 foot reservation.  
Boucher: Stated that there is a study that says the road is not necessary for the efficient moving of traffic in the area for the next 20 years. He noted that if the road is built on the town's side, money will have to come from somewhere on the county side to complete the road and bridge crossing. Further, he noted that the proffers for Tuscarora Crossing state if the town removes the road from our plan, then the reservation for it goes away on the Tuscarora Crossing property which indicates that they agree it is not necessary. He noted that this is a unique situation – keeping the road on the Town Plan is asking the developer to keep proffer right of way for a road that studies show is not necessary and the money for this road improvement will most likely have to come from other public funds in the future.
- Fox: Questioned the county's request to keep the road.

Boucher: Stated that they asked the Tuscarora Crossing applicant to build the road up to the property line, but did not request anything else such as the bridge crossing.

- Burk: Questioned why they wanted the road to stay in the Town Plan.  
Boucher: Stated the transportation department said the road is not necessary, but the county planning staff would like the connection for connectivity.
- Burk: Questioned whether the town ever takes into consideration the cost of a request to the developer.  
Boucher: Stated that the town does not, but will try to get as much as possible.
- Dunn: Stated that the county Planning Commission felt that the four lanes could be built if the 90 foot reservation remained.  
Boucher: Stated that over time, due to some of the land use decisions that were made in the area, the area will develop as much less dense than originally anticipated.
- Butler: Questioned whether Trailview will just stop within Tuscarora Crossing.  
Parker: Stated it goes into the development and turns into a circle that comes back out with two exit points on Crosstrail Boulevard.
- Hammler: Stated all the studies point to the fact that the road in question is not required. She stated from the town taxpayer perspective, the rezoning application with a \$2 million plus positive impact will be a benefit to the residential taxpayers.
- Dunn: Stated he is not convinced that there will be no need for this road.
- Burk: Stated she is not comfortable taking the road off the map.
- Butler: Questioned if the road is taken off the network, if there is anything in the applicant's plan that would prevent a two lane road from being built in the future.  
Gleckner: Stated nothing significant as the right of way reservation primarily crosses flood plain on the applicant's property. She stated they are proposing at staff's request, a parking area to allow for parking along the trail that they are constructing along the creek.
- Hammler: Stated that policy is most sound when it is based on facts.

*The motion to delete the portion of Keystone Drive between Russell Branch Parkway and Tuscarora Creek was approved by the following vote:*

*Aye: Fox, Gemmill, Hammler, and Mayor Butler*

*Nay: Burk and Dunn*

*Vote: 4-2-1 (Martinez absent)*

## 11. RESOLUTIONS AND MOTIONS

### a. Creation of a Town of Leesburg Other Post Employment Benefits (OPEB) Trust

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

**RESOLUTION 2016-082**

*Authorizing and Establishing a Town of Leesburg Other Post Employment Benefits Trust and Authorizing Investment Management, Custody and Trust Agreements, and Creation of a Finance Board to Oversee the OPEB Trust*

Council Comments/Questions:

- Hammler: Stated based on the information she has received, she is able to support this resolution.

*The motion was approved by the following vote:*

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

*Nay: None*

*Vote: 6-0-1 (Martinez absent)*

- b. Personnel Procedures Manual – Employee Dismissal Process  
*Council Member Dunn moved the motion; however, it died for lack of a second.*

**RESOLUTION**

*Initiate Directing the Town Manager to Revise Section 13.3 of the Personnel Procedures Manual as it Fails to Comply with the Personnel Policy Manual*

Council Comments/Questions:

- Dunn: Questioned if there was some reason it was either or.
- Notar: Stated it could be both.
- Dunn: Stated repeal of the ordinance would allow Council to look at the oversight procedures to see if Council has any recommendations for the town manager.

**12. ORDINANCES**

- a. Town Code Amendment to Add Mixed Beverage Restaurant License and Tax for Restaurants with 1 to 50 Seats

Barbara Notar stated there was a request by Council to notify the three restaurants that would be affected by this amendment that would change the language in the Town Code to match the language in the state code.

No motion was made.

**13. UNFINISHED BUSINESS**

- a. None.

**14. NEW BUSINESS**

- a. None.

**15. COUNCIL COMMENTS**

Council Member Fox disclosed attendance at the K2M ribbon cutting as well as the Creative College Connections ribbon cutting. She wished all the graduates good luck and commended them on their accomplishment.

Council Member Hammler disclosed a conversation with Christine Gleckner on June 8 and Hobie Mitchel today. She asked for support of the \$75,000 study if Council desires to remove the Greenway extension and he was favorable and will be reviewing that. She congratulated all the high school graduates and wished them great celebrations with their families.

Vice Mayor Burk congratulated all the graduates. She stated she attended the Latino graduation at Simpson Middle School. She congratulated the car show which was very entertaining. She stated the K2M ribbon cutting was fantastic. She stated Michelle Lindsay's photo business is certainly interesting. She thanked all the members of the town and Council that attended the Northern Virginia Transportation Authority meeting regarding funding for Route 7 and Battlefield Parkway overpass. She stated the town was very well represented. She thanked Supervisor Umstadd for organizing the effort.

Council Member Gemmill: disclosed a telephone conversation with Hobie Mitchel.

Council Member Dunn: stated the country is becoming many groups of people who do not aspire to be one nation. He stated it is okay to disagree and uphold your heritage, but the rancor that is going on is reaching heights that he cannot recall. He showed a video by Red Skelton saying the Pledge of Allegiance.

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

Mayor Butler disclosed a meeting with Mike McLister on some potential text amendments. He disclosed a meeting with Chris Gleckner on various items. He stated there have been a lot of ribbon cuttings: Creative College Connections, Life Mark Securities, Body Brite Day Spa, Michelle Lindsay Photography, and K2M. He stated the Latino Association at Simpson's graduation ceremony was fantastic. He congratulated all graduates. He stated the car show was fantastic and there was a wedding party that meandered through the car show.

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

Mr. Dentler stated that staff has been very successful in getting funding for major capital projects. He stated they received \$5 million in total in revenue sharing funds, \$2 million to complete the last phase of Sycolin Road widening, Evergreen Mill Road, Battlefield Parkway, and primary paving funds. He reminded Council of the Employee Service Awards at Ida Lee next week. He noted the two retirement celebrations, Mark Davis, and Mary Frye.

#### **18. CLOSED SESSION**

- a. None.

**19. ADJOURNMENT**

*On a motion by Council Member Fox, seconded by Council Member Hammler, the meeting was adjourned at 10:45 p.m.*

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David S. Butler, Mayor  
Town of Leesburg

ATTEST:

\_\_\_\_\_  
Clerk of Council  
2016\_tcm0614

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

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

**Council Members Absent:** None.

**Staff Present:** Town Manager Kaj Dentler and Town Attorney Barbara Notar.

AGENDA ITEMS

**1. CALL TO ORDER**

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

**3. CLOSED SESSION**

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

*Pursuant to Section 2.2-3711(A)(1) 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. Interviews of Prospective Candidates for Employment – Chief of Police*

*The motion was approved by the following vote:*

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

*Nay: None.*

*Vote: 7-0*

The Council convened in closed session at 4:00 p.m.

The Council reconvened in open session at 6:46 p.m.

**4. ADJOURNMENT**

*On a motion by Council Member Gemmill, seconded by Council Member Fox, the meeting was adjourned at 6:46 p.m.*

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David S. Butler, Mayor  
Town of Leesburg

ATTEST:

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Clerk of Council  
2016\_tcm0627spec

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

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

**Council Members Absent:** None.

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

AGENDA

ITEMS

**1. Items for Discussion**

a. Certifying Closed Session

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

***MOTION 2016-011***

*In accordance with Section 2.2-3712 of the Code of Virginia, I move that Council certify 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.*

Council Comments:

- Dunn: Requested that the public be informed why Council was in closed session.
- Butler: Stated that the council was in closed session for the purpose of discussing and receiving information regarding interviews of prospective candidates for employment as the chief of police.

*The motion was approved by the following roll call vote:*

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

*Nay: None.*

*Vote: 7-0*

b. Stipends for Advisory Commissions

Council Member Gemmill noted that he provided supporting documentation in the packet to support his goal.

Key Points:

- State of Virginia calls serving on a Board or Commission an “honor and a privilege” and service is without stipend.

- Loudoun County has 43 commissions and boards – eight include a very small stipend.
- Discussion does not include the Board of Architectural Review, the Planning Commission and Board of Zoning Appeals.
- Stipends are \$76,000 for the remainder of the Commissions.
- Would hope that Commissioners would voluntarily give up their stipends.

Council Comments:

- Dunn: Stated that the stipends were just increased a few years ago, so it makes it awkward to go back and ask them to forego their stipends. He suggested trimming down the number of commissions by creating a sub-committee structure with unpaid sub-committees.
- Burk: Stated she would rather not do this in the middle of the budget cycle.
- Hammler: Stated she would be willing to look at changes in the commission structure.
- Fox: Agreed that there is some compacting that can be done with respect to the commission structure.
- Hammler: Stated she would like to include the Boards and Commission in the policy discussion.
- Fox: Questioned why staff does not support this.
- Dentler: Stated that staff has not taken a position on this.

There was consensus to have the commissions provide feedback.

There was consensus to discuss changes to the commission structure.

c. New Proffer Policy

Barbara Notar gave a brief presentation on the new proffer policy.

Key Points:

- Recommend initiating fee increases to offset increased cost of administering new regulations.
- Recommend adopting an interim policy which will prohibit the submission of proffers until amendments can be finalized.
- Similar to plans by other jurisdictions.
- Onsite proffers must be specifically attributable to the impact created by the new residential development.
- Offsite proffers include cash proffers and must meet a stricter test to be considered to be reasonable.
- Under the state code, the developer of an approved development could bring suit.
- New statute allows an unreasonable proffer to be struck entirely by the court as well as a court order of the rezoning.

- The Town will adopt a similar plan to those being put in place by other local jurisdictions.
- Developers fully anticipate increased fees as a result of the new law.
- Meetings with developers should include either a representative from the Town Attorney's office or the Director of Planning and Zoning.

Council Member Comments/Questions:

- Burk: Questioned whether applications will stall because the legislation is not yet in place.  
Notar: Stated that they can still move through the system, but the town cannot accept proffers. Further, she stated that the town cannot impose a moratorium on applications. She stated that the development community understands that this will take some time for approximately six months.
- Fox: Noted that the clock is still running during this period of time. She questioned why a consultant is necessary.  
Boucher: Stated that the state has given a presumption of a law suit against the town anytime anyone claims an unreasonable proffer has been requested. He stated that the consultant will determine the impact.
- Hammler: Stated that the consultant as well as staff time to manage the consultant is included in the increase in the application fees. She suggested making commercial by-right.  
Berry Hill: Stated from a planning perspective, mixed use development can be a good thing to generate the support within the development for the commercial uses.
- Fox: Questioned what applicant initiated Town Plan amendments have to do with proffers.  
Notar: Stated the Town Plan gains significance with this law and the town should be in charge of the Town Plan.
- Gemmill: Stated he talked to a representative from a construction company who stated that many of the members of the NVBIA are not thrilled about this because it will slow down development.
- Butler: Stated an off-hand comment by a council member or staff could cause issues.

**2. Additions to Future Council Meetings**

There were no additions.

**3. Adjournment**

*On a motion by Council Member Martinez, seconded by Vice Mayor Burk, the meeting was adjourned at 8:45 p.m.*

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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, Suzanne Fox, Marty Martinez and Mayor Butler.

**Council Members Absent:** None.

**Staff Present:** Town Manager Kaj Dentler, Town Attorney Barbara Notar, Deputy Town Manager Keith Markel, Director of Plan Review Bill Ackman, Director of Planning and Zoning Susan Berry Hill, Director of Finance and Administrative Services Clark Case, Senior Management Analyst Jason Cournoyer and Paralegal Carmen Smith.

AGENDA ITEMS

1. **CALL TO ORDER**
2. **INVOCATION** was given by Minister Hubble
3. **SALUTE TO THE FLAG** was led by Council Member Martinez.
4. **ROLL CALL** showing all members present.
5. **MINUTES**
  - a. Work Session Minutes of June 13, 2016  
*On a motion by Council Member Hammler, seconded by Council Member Dunn, the work session minutes of June 13, 2016 were approved by a vote of 6-0-1 (Martinez abstaining).*
6. **ADOPTING THE MEETING AGENDA**  
*On a motion by Council Member Hammler, seconded by Council Member Fox, 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. Proclamation – Ann Robinson  
*On a motion by Council Member Martinez, seconded by Council Member Hammler, the following was proclaimed:*

# ***PROCLAMATION***

## **In Recognition of Ann Robinson**

**WHEREAS**, Ann Robinson is one of Leesburg's most effective voices for children, minorities and lower income residents; and

**WHEREAS**, Ann Robinson is an active participant in the local political process to give voice to those less fortunate than herself; and

**WHEREAS**, she reaches out to the youth of the community by volunteering for All Ages Read Together; and

**WHEREAS**, she has worked tirelessly to secure bus shelters, effective public transportation and safe walking routes to help ensure resident's ability to access employment, health care, and education; and

**WHEREAS**, she has advocated consistently to keep green space in low income neighborhoods.

**THEREFORE**, the Mayor and Town Council of the Town of Leesburg in Virginia hereby commend Ann Robinson for her contributions to the health and well-being of Leesburg residents and to the ideals that make us a better government and a better place to live.

**PROCLAIMED** this 28<sup>th</sup> day of June, 2016.

- b. Proclamation – Father John Mosimann  
*On a motion by Council Member Gemmill, seconded by Vice Mayor Burk, the following was proclaimed:*

# ***PROCLAMATION***

## **In Recognition of Father John Mosimann**

**WHEREAS**, Father Mosimann became Pastor of St. John the Apostle in 2009 after serving the parish for several years; and

**WHEREAS**, Father Mosimann oversaw the design and construction of the new church located at the corner of North King Street and Oakcrest Manor Drive; and

**WHEREAS**, during Father Mosimann's tenure as Pastor, the church has received many recognitions and accolades such as Leesburg Economic Development 2013 Small Business Heritage Award and 2014 Loudoun County Design Cabinet Excellence Award for Familiar Spaces; and

**WHEREAS**, Father Mosimann’s dedication to the town’s historic character is evident in the preservation and renovation of the “little church” on the corner of North King and Union Streets; and

**WHEREAS**, Father Mosimann encourages the parish to participate in the community by creating floats and participating in the Christmas and Holiday Parade as well as the Independence Day Parade and leading the first Corpus Christi procession through the streets of historic Leesburg.

**THEREFORE**, the Mayor and Town Council of the Town of Leesburg in Virginia hereby commend Father John Mosimann for his contributions to the Leesburg community and the preservation of its historic downtown.

**PROCLAIMED** this 28<sup>th</sup> day of June, 2016.

## **8. PETITIONERS**

The Petitioners section was opened at 7:47 p.m.

Hobie Mitchell, stated he did not and does not support the new proffer legislation. He stated he has concerns about it. He stated the previous rules weren’t perfect, but developers and localities were able to work things out. He stated the proposed motion does not make it clear whether previously accepted applications are included in the new legislation. He stated he feels the Crescent Design District should not be included in the new regulations.

Andrew Borgquist, stated that all employees should be protected from arbitrary action and he is disappointed in Council’s inaction. He thanked Council Member Dunn for his commitment to having the Town of Leesburg be a demonstratable merit based employer. He stated while the manager did not break any legally enforceable law, the policy was violated. He played an audio clip of former Town Manager John Wells.

Gwen Armstrong, 304 Patterson Court. Sang “Jesus Loves You” to Council. She spoke about God’s love.

Ron Campbell, 812 Fort MacLeod Terrace, thanked Council for recognizing his friend, Ann Robinson. He stated it is necessary for him to put in the record what Ann meant for the community. He stated she did a lot of quiet mentoring and gave courage to listen to your own voice.

The Petitioners section was closed at 8:06 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. Performance Guarantee, Waterworks Extension Permit and Sewer Extension Permit for Village at Leesburg, Landbay C (TLCD-2014-0001)

**RESOLUTION 2016-083**

*Authorizing an Agreement and Approving a Performance Guarantee, a Waterworks Extension Permit, and a Sewer Extension Permit for Village at Leesburg – Landbay C (TLCD 2014-0001)*

- b. Performance Guarantee and Waterworks Extension Permit for Leesburg South SWM/BMP Plan (TLPF 2014-0011)

**RESOLUTION 2016-084**

*Authorizing an Agreement and Approving a Performance Guarantee and Waterworks Extension Permit for Leesburg South SWM/BMP Plan (TLPF 2014-0011)*

- c. Carryover of Fiscal Year 2016 Funds in the Amount of \$50,000 to the Fiscal Year 2017 Budget

**RESOLUTION 2016-085**

*Appropriating \$50,000 from Fiscal Year 2016 to Fiscal Year 2017 Budget for the Construction of a Permanent Stage on the Town Hall Green*

- d. Requesting VDOT to Plow Certain Primary Roads in Leesburg

**MOTION 2016-010**

*I move to authorize the Mayor to send a letter to the Virginia Department of Transportation requesting they assume snow clearing responsibility for certain primary roads within the town limits*

- e. Public Art Exhibit by Connie McKnight

**RESOLUTION 2016-087**

*Approval of Public Art Exhibit at Town Hall by Connie McKnight*

- f. Encroachment Agreement with Spanky's Enterprises, Inc.

**RESOLUTION 2016-088**

*Authorizing the Mayor to Execute an Encroachment Agreement Between the Town of Leesburg, Virginia and Spanky's Enterprises, Inc., to Allow a Removable Structure to Encroach upon a Town Waterline Easement*

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

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

*Nay: None*

*Vote: 7-0*

**10. PUBLIC HEARINGS**a. Crescent Parke Rezoning Application

The public hearing was continued open from the previous meeting.

Kevin Wright, 109 Pershing Avenue, NW, stated since at least 2001, he has been trying to get the Greenway extension off the Town Plan. He stated it does not appear on the Crescent District Road Network because it was anticipated the road would eventually come off the Town Plan. He stated the town's debt capacity could not support purchasing Olde Izaak Walton Park. He stated the application should stand on its own merits.

Russell Yergin stated he normally speaks about traffic, water run off, building height and grading. He thanked Mayor Butler, Vice Mayor Burk and Council Member Fox for meeting with them to listen to their concerns and fears. He stated the clarifications they received from the conversation were very helpful.

Victoria Yergin stated they were delighted with Council's response to meet with them over the weekend. She stated they appreciated the hands on time given by the Council members. She stated it is imperative that the Council understands what the community's concerns will be.

Sarah Richardson thanked Council for visiting the neighborhood. She stated her home faces the proposed development. She asked Council to imagine the changes to the property created by surrounding developments. She questioned the disposition of Olde Izaak Walton Park. She stated residents expect full consideration of the issues surrounding the park. She questioned whether owning the park is a good plan for the town.

Hobie Mitchel stated that they have been working with staff on the proffers and the residents and they will continue to do so.

Cecelia Emanuel, 676 Gateway Drive, stated she has been trying to follow this proposal and is very concerned with the cut through on Gateway to Food Lion. She stated she has heard other people say there is swampy area back there. She expressed concern about traffic and questioned where people will park since many cars park on Gateway. She stated taking over the park as a gift is concerning since it will cost the town a fortune.

The public hearing was continued until the next meeting.

b. TLOA 2016-0006, Nonconforming Structures Zoning Ordinance Text Amendments

The public hearing was opened at 8:37 p.m.

Brian Boucher gave a simple presentation on this proposal.

## Key Points:

- Housecleaning item.
- Nonconforming structures were legal when originally built, but zoning requirements changed.
- This provision will address what happens when the structure is destroyed.
- Prior provision allowed rebuilding in the same place.
- Crescent District regulations requires that rebuilding for any reason other than fire or act of God comply with current standards.
- This provision will change the Crescent District regulations to what is currently in effect in other areas of town.

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

The public hearing was closed at 8:43 p.m.

## Council Comments/Questions:

- Hammler: Questioned whether staff considered the original goals of the Crescent District. She questioned the frequency of this rule being applied. Boucher: Stated there needs to be a consistent rule. He stated that staff feels the longer existing rule is most protective of property rights. He stated that the original McDonald's had a lot of nonconformities but when rebuilding they took pains to decrease the level of nonconformity.

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

**ORDINANCE 2016-O-016**

*Amending Zoning Ordinance Section 7.10.2.I to Establish a Consistent Standard for the Treatment of Nonconforming Structures*

*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. Initiating Resolution to Comply with New Proffer Statute

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

**RESOLUTION 2016-086**

*Initiating Amendments to the Zoning Ordinance and the Comprehensive Plan to Comply with New Code of Virginia §15.2-2303.4 and Ending Applicant-Initiated Town Plan Amendments; Initiating the Repeal of all Current Proffer Guidelines;*

*Initiating Increased FRezoning Application Fees to Offset the Costs Necessary to Implement the New Proffer Law; and Implementing an Interim Policy to Prohibit the Acceptance of Proffers for Rezoning with a Residential Component until Amendments to the Zoning Ordinance have been Enacted and Application Fees have Increased*

Council Comments/Questions:

- Hammler: Questioned whether the fact that this only pertains to applications received after July 1 should be more explicitly stated in the resolution.  
Notar: Stated that the town has been clear that this is only applicable to residential applications received after July 1.
- Gemmill: Expressed concern that the increase in fees is open ended.
- Fox: Confirmed that there will be more information to Council.
- Hammler: Stated she appreciated Mr. Mitchel coming forward to express his support for amending or repealing the new statute.

*Mayor Butler requested a friendly amendment to add the words “on or after July 1, 2016”. The amendment was accepted as friendly.*

*The motion was approved by the following vote:*

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

*Nay: None*

*Vote: 7-0*

- b. Amendment to the Adopted Fiscal Year 2017 General Fund Budget – Journey Through Hallowed Ground Funding  
*On a motion by Council Member Dunn, seconded by Council Member Fox, the following was proposed:*

***RESOLUTION***

*Amending the Approved Fiscal Year 2017 General Fund Budget by Eliminating a \$5,150 Contribution to Support the Journey Through Hallowed Ground Program*

Council Comments/Questions:

- Dunn: Would rather allow citizens to make donations to private organizations as they see fit, not how Council choses.
- Fox: Questioned when the donation was started and how the amount was decided.  
Dentler: Stated the former Mayor initiated the discussion several years ago and the amount was increased at some point and has been approved by Council.
- Gemmill: Clarified that Transient Occupancy Tax money is what is contributed to Visit Loudoun. Further, he stated because Leesburg donates that tax money to Visit Loudoun, it receives ramped up marketing in exchange.

- Burk: Stated this was approved because it was a worthwhile endeavor as JTHG organizes tours and brings visitors to town.
- Hammler: Stated she would like the opportunity for the new head of the organization to address Council. She stated she agrees with many of the key points, but Leesburg is the epicenter of the Journey Through Hallowed Ground. She stated this draws tourists and increases quality of life for the town's residents.
- Butler: Stated the Journey Through Hallowed Ground provides the town with ancillary benefits such as tree planting and camps for kids. Further, he noted that the budget was passed a few months ago and should not be revisited unless there is an extraordinary reason or because new information becomes available.
- Dunn: Listed other organizations that no longer receive town donations. He stated the town has a policy not to make private donations with citizen money. He stated the Town receives the benefits of the Journey without having to pay for them.

*The motion failed by the following vote:*

*Aye: Dunn, Fox and Gemmill*

*Nay: Burk, Hammler, Martinez, and Mayor Butler*

*Vote: 3-4*

c. Business License Incentive Program

Council Member Gemmill stated he would like to see more economic growth for the town.

Key Points:

- Economic Development, Town Manager's office, and Town Attorney would have oversight.
- Would incentivize economic development for new businesses.

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

**RESOLUTION 2016-089**

*Initiate Town Council to Adopt by Ordinance a Business License Incentive Program to Exempt New Businesses from Business Taxes*

Council Comments/Questions:

- Dunn: This is a recruitment tool and hopefully the town would be able to make up for the small losses in BPOL by having more businesses. Further, the budget has enough fluff built in to take care of the debt capacity and undesignated fund balance.
- Hammler: Stated she appreciated the opportunity to review the initial facts relative to new businesses in town generating \$300,000 in BPOL and

other taxes. She questioned whether it is new businesses in general, or new businesses to Leesburg.

- Gemmill: Stated his intention is for new businesses to Leesburg. He stated the businesses would be qualified by the parameters that are set.
- Hammler: Stated it is a good time for Council to review the impact that the enabling legislation has had. She stated she looks forward to the important verification of the initial assumptions.
- Burk: Questioned how staff feels about this and what type of staff time would be needed.

Case: Stated staff is willing to support Council's desire to know more about the initiative. He stated staff would not support a change in the revenue budgeted for the upcoming fiscal year noting that FY 2018 is the peak of the debt cliff. He stated staff's recommendation that this go through the budget cycle for more study. Further, he stated there will be a lot of work involved in this.

- Burk: Noted that this could be done as part of the next budget discussion. She expressed concern over the impact to the resources in the Finance Department.
- Gemmill: Stated that there is always something that can be done better and if something isn't done to energize the town, it will die.
- Butler: Stated the town is not in any danger of dying. He stated the town is vibrant and already has an incentive system for the Arts and Cultural District. He stated this is an excellent subject for the Economic Development Commission to study.

*The motion was approved by the following vote:*

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

*Nay: None*

*Vote: 7-0*

## 12. ORDINANCES

- a. None.

## 13. UNFINISHED BUSINESS

- a. None.

## 14. NEW BUSINESS

- a. None.

## 15. COUNCIL COMMENTS

Council Member Dunn wished everyone a good Fourth of July. He stated former Mayor Umstadd got a donation to her political campaign from the former director of Journey Through Hallowed Ground. He stated that the council, by not seconding his motion on personnel policy changes, did not get to hear what other localities are doing and questioned what happens if an employee is arrested for a serious misdemeanor in another locality. Further, he stated that serious misdemeanor is very

subjective and should not be the decision of the Town Manager. He stated that Council should not be afraid to look at policies that need to be addressed.

Council Member Gemmill read Ronald Reagan's 1981 Fourth of July speech.

Vice Mayor Burk stated the Loudoun Bar Association every year has Law Camp. She stated she had the opportunity to participate this year in this great opportunity. She congratulated the employees who received their service awards. She noted it reflects well on an employer when so many employees are willing to stay so long. She congratulated SparkFire in Market Station. She congratulated Swim Kids for their Guinness World Record attempt. She noted that the number one killer of children under the age of five is drowning. She wished everyone a happy Fourth of July

Council Member Martinez: Stated he is looking forward to walking in the Fourth of July Parade. He congratulated the employees who got their Service Awards. He stated that July 4<sup>th</sup> has more significance for him after being abroad. He wished Ann Robinson well.

Council Member Hammler: Disclosed a conversation with Hobie Mitchel on June 24. She stated he verbally said he would support the amount needed for the study to remove the Greenway Extension. She asked for clarification on the process as discussions continue on the rezoning. She thanked Russell and Victoria Yergin and Sarah Richardson for spending so much time with Council members sharing their concerns on the Crescent Parke rezoning. She stated there is a lot of trash along the south side of Tuscarora Creek. She stated the downtown looks vibrant and energetic. She wished everyone a wonderful Fourth of July. She stated that Ann Robinson is in everyone's constant thoughts.

Council Member Fox Stated she had the privilege of attending the Employee Service Awards. She stated she attended the SparkFire ribbon cutting. She congratulated Mary Frye on her retirement. She wished everyone a happy Fourth of July.

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

Mayor Butler disclosed a telephone call with Hobie Mitchel. He stated he attended a vigil for Orlando. He noted the bombing in the Turkish airport. He stated he attended the Service Awards and congratulated the Town Manager on 20 years. He stated he attended Mark Davis' retirement from the Police Department. He stated Mary Frye's retirement is on Thursday and Council is invited. He stated that Acoustic on the Green with Don Chapman was great. He stated he opened the Bluemont Concert Series on Saturday and agreed that SparkFire Branding has the coolest office in Leesburg. He stated he toured some of the Crescent Place commercial areas which will be fabulous for Harrison Street. He noted that the statutes are in place for the Sculpture Trail ribbon cutting on Saturday. He stated he and his son did batting practice at Nats Park. He stated he attended a Hall of Fame exhibit that will be touring around all the baseball parks over the next four years.

**17. MANAGER’S COMMENTS**

Mr. Dentler reminded everyone about Mary’s retirement service after 32 years of service to the town. He wished everyone a safe and happy Fourth of July celebration.

**18. CLOSED SESSION**

a. None.

**19. ADJOURNMENT**

*On a motion by Council Member Fox, seconded by Council Member Dunn, the meeting was adjourned at 9:44 p.m.*

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David S. Butler, Mayor  
Town of Leesburg

ATTEST:

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Clerk of Council  
2016\_tcm0628