

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. Council Member Gemmill participated remotely.

**Staff Present:** Town Manager Kaj Dentler, Town Attorney Barbara Notar, Deputy Town Manager Keith Markel, Director of Parks and Recreation Rich Williams, Director of Public Works and Capital Projects Renee Lafollette, Interim Chief of Police Vanessa Grigsby, Director of Planning and Zoning Susan Berry Hill, Deputy Director of Planning and Zoning Brian Boucher, Senior Planner Michael Watkins, Senior Project Manager Eric Meske, Parks and Public Space Planner Bill Ference, Traffic Engineer Calvin Grow, and Clerk of Council Lee Ann Green.

## AGENDA

## ITEMS

### 1. CALL TO ORDER

2. INVOCATION was given by Council Member Dunn

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

### 4. ROLL CALL

a. Electronic Participation for Council Member Gemmill

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

#### ***MOTION 2016-014***

*I move to allow Council Member Gemmill to participate in the July 26, 2016 Council Meeting electronically due to travel*

*The motion was approved by the following vote:*

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

*Nay: None.*

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

b. Roll Call showing all members present.

### 5. MINUTES

a. Work Session Minutes of July 11, 2016.

*On a motion by Council Member Hammler, seconded by Council Member Dunn, the work session minutes of July 11, 2016 were approved by a vote of 7-0.*

### 6. ADOPTING THE MEETING AGENDA

*On a motion by Council Member Hammler, seconded by Council Member Fox, the meeting agenda was adopted after moving Items 12 and 14 to be Items 10 a and 10 b, respectively, by the following vote:*

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

*Nay: None*

*Vote: 7-0*

**7. PRESENTATIONS**

a. Proclamation – Billy Hurley, Jr.

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

# ***PROCLAMATION***

## **In Recognition of William (Billy) Hurley, III**

**WHEREAS**, William “Billy” Hurley, III, a Loudoun County native, a graduate of Loudoun County High School, and a graduate of the United States Naval Academy ; and

**WHEREAS**, Billy Hurley, III, began his professional golf career in 2011 after serving honorably in the United States Navy; and

**WHEREAS**, he is active in several charities and religious organizations including: Birdies for the Brave, a military outreach initiative sponsored by the PGA Tour; World Gospel Outreach, a children's camp in Honduras; Ark Children's House, an orphanage in Ecuador; and Adoption Advocates International, and

**WHEREAS**, he won the 2016 Quicken Loans Tournament at Congressional Country Club, his first PGA Tour win; and

**THEREFORE**, the Mayor and Town Council of the Town of Leesburg in Virginia hereby commend William “Billy” Hurley, III, on his accomplishments as a professional golfer and his representation of Leesburg and Loudoun County on the world sports stage.

**PROCLAIMED** this 26<sup>th</sup> day of July, 2016.

b. Tree Commission Presentation – Emerald Ash Borer

Earl Hower, Chair of the Tree Commission, gave a briefing on the highly destructive Emerald Ash Borer. He stated that 60 percent of all Ash trees in Pennsylvania are affected and the pest is spreading quickly. He noted several

diseased ash trees in Leesburg and discussed strategies for minimizing the spread of the insect.

## 8. PETITIONERS

The Petitioners section was opened at 8:02 p.m.

Walter Lewis, stated the NOAA Weather Radio is a lifesaving device. He stated he is a trained NOAA weather spotter volunteer. He stated the current noise ordinance does not address weather radios. He stated that Leesburg's plainly audible standard would include the sound from a weather radio but it should be excluded since it is a lifesaving device. He asked that the Council change the Code to reflect this fact.

Pam Lewis, 507 Sunset View Terrace, SE, stated she returned from a New York City visit. She stated she is a disabled veteran. She asked that Council consider that women have the right to equal pay as men. She stated that climate change, clean air and clean water are all concerns. Further, she stated that women have the right to choose their own health care and children should not go hungry. She stated that rather than build a wall of discrimination, the money should be spent to fix the infrastructure such as bridges, roads, trains, or anything else that needs to be repaired.

Russell Yergin, stated he is the president for the Virginia Knolls Community Association. He stated he would vote yes for Crescent Parke with conditions. He stated they ask for some things to be done such as the calming of traffic with a signal and stop signs. He stated they request the Council make sure that the proffer money is used for those reasons. He stated that there is a petition circulating; however, this group has not been involved since the beginning.

Victoria Yergin, stated that Crescent Parke is not a simple yes or no vote. She stated that the objective is to hold the Town Council, Town staff and the developer accountable. She stated that the Greenway extension is not on the County's transportation plan, yet the Council has taken no steps to remove it from the Town Plan. She stated that a yes vote means responsible and accountable behavior on the account of all parties concerned. She noted that this developer's community outreach has been impeccable.

Carolina Lucci, stated that Harrison Street has become beautiful with the improvements the developer has put in. She stated that Mr. Mitchel has always delivered what he says he will.

Mary Pellicano, 312 Oakcrest Manor Drive, requested that Council deny the Crescent Parke application. She stated the project is too dense for the location. She stated the buffer is insufficient to protect the sensitive wetlands on the property.

Ken Reid, former Leesburg District Supervisor, stated he is very sad about Ann Robinson passing away. He stated she was good working on bipartisan issues. He thanked everyone for supporting the funding for the bypass/Edwards Ferry Road

intersection. He stated that there needs to be support for an additional river crossing into Maryland to relieve traffic. He stated there is a push for downsized housing for people who are ready to downsize. He stated the Town should keep the right of way from Gateway to Catoctin Circle, if not for the Greenway, but for a connection.

Ralph Ferriaolo stated his support for Crescent Parke. He stated Crescent Place looks incredible. He stated the new residents of Crescent Place are moving into town for the quality of life. He stated they are eager to spend money in town and everyone can share in that.

Scott Billigmeier, 316 Oakcrest Manor Drive, presented a petition with 325 signatures supporting denial of Crescent Parke. He stated this is not about proffers – it is about a project that is too dense and too high and too close to the park. He stated that proffers cannot fix the situation. He urged the Council to vote no.

The Petitioners section was closed at 8:45 p.m.

## 9. APPROVAL OF THE CONSENT AGENDA

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

- a. *Agreement with Arcadia Communities, L.L.C.*

### **RESOLUTION 2016-094**

*Authorizing the Mayor to Execute an Agreement Between Arcadia Communities, L.L.C. and the Town of Leesburg, Virginia for an Agreement to Dedicate Right-of-Way and Easement for Evergreen Mill Road*

- b. *Performance Guarantee for Public Improvements at Crescent Place*

### **RESOLUTION 2016-095**

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

- c. *Appropriation of Donation to Community Outreach Program*

### **RESOLUTION 2016-096**

*Approving a Supplemental Appropriation of \$1,150.40 Resulting from a Donation to the Community Outreach Program from the Leesburg Presbyterian Church*

- d. *Request for Approval of Water and Sanitary Sewer Service Extension for Goose Creek Club Project*

### **RESOLUTION 2016-097**

*Approving Water and Sanitary Sewer Extension for Goose Creek Club Project*

- e. Request for Approval to Extend the Memorandum of Agreement with Saab Sensis and Virginia SATS Lab, Inc., regarding the Remote Control Tower Test Program

**RESOLUTION 2016-098**

*Authorizing the Town Manager to Execute an Amendment Extending the Memorandum of Agreement with Saab Sensis and Virginia SATS Lab, Inc.*

- f. Approval of Public Art Exhibit by Nahid Beijan Neff

**RESOLUTION 2016-093**

*Approval of a Public Art Exhibit at Town Hall by Beijan Neff*

*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. Amending Section 32-119 of the Town Code Pertaining to Certain Through Truck Traffic Prohibited on Hope Parkway

The public hearing was opened at 10:01 p.m.

Calvin Grow presented the proposed amendment to the Town Code.

Key Points:

- Based on traffic study and public comment, staff recommends adoption of an amendment to prohibit truck traffic on Hope Parkway from Sycolin Road to Miller Drive.
- Hope Parkway passes through a residential area.
- There are alternative routes to accommodate truck traffic.

Nick Konolov, 357 Ebaugh Drive, SE, stated the Stratford community is home to many children who are able to play in the street without the risk of being run over by speeding vehicles. He stated Leesburg's explosive growth needs to be evaluated for its effect on residential communities. He stated the temptation to speed on Hope Parkway exists and could become a short cut for truck traffic.

Council Comments/Questions:

- Martinez: Questioned the signage and whether Hope Parkway was designed to handle tractor trailers.  
Grow: Stated that no through truck signage would be erected so that trucks would be prohibited. Further, he stated that the road is constructed to handle the weight.
- Dunn: Clarified that a truck can use Hope Parkway as long as they have business somewhere along that route.

- Butler: Questioned whether truck traffic can just be prohibited in the residential section of Hope Parkway.  
Grow: Stated that will make it more difficult for enforcement.

The public hearing was closed at 10:19 p.m.

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

***ORDINANCE 2016-O-017***

*Amending Section 32-119 of the Town Code Pertaining to Certain Through Truck Traffic Prohibited*

*The motion was approved by the following vote:*

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

*Nay: None.*

*Vote: 7-0*

- b. Amending Section 32-119 of the Town Code Pertaining to Certain Through Truck Traffic Prohibited on Battlefield Parkway

The public hearing was opened at 10:20 p.m.

Calvin Grow presented the proposed amendment to the Town Code.

Key Points:

- Town Plan specifies Battlefield Parkway as an arterial roadway.
- Arterial roads were built to handle through truck traffic.
- The study was divided into sections:
  - Section 1 – from Rt. 15 Business to the Rt. 15 bypass. Comments from the public ask for through truck restrictions. There is commercial along this route. Through truck restriction can be enforced on this roadway; however, is not recommended by staff.
  - Section 2 – from Rt. 15 bypass to Edwards Ferry Road. Runs through residential property with no commercial property. Through truck restriction can be enforced on this roadway and is recommended by staff.
  - Section 3 – from Edwards Ferry Road to Rt. 7. Carries nearly 20,000 vehicles per day. This area is mostly commercial.
  - Section 4 – from Rt. 7 to Sycolin Road. Because of commercial uses at Lowe's, a through truck restriction is not recommended for this portion.
  - Section 5 – Sycolin Road to Evergreen Mill Road. This section was built to handle the traffic and will be extended to South King Street.

Kirk Cummins, 801 Woodfield Terrace, stated he lives on Battlefield Parkway between Edwards Ferry Road and Rt. 15. He stated he is concerned about 18-wheelers coming down that section of Battlefield Parkway. He cited noise and vibration from these large trucks as issues.

David Stratford, 907 Octorara, stated he lives off Section 2 and stated that Section 2 contains steep hills where the trucks accelerate going up and use engine brakes going down. Further, he noted that there are a large number of children crossing the road to go to the school and the community pool. He further suggested targeted speed enforcement in the area if truck traffic cannot be restricted.

Diana Stratford, 907 Octorara Place, stated the neighborhood is cut by Battlefield Parkway and they are woken during the night by engine braking. She stated children cross Battlefield to get to the school and the pool.

Sue Van Glen, 1635 Chickasaw Place, NE., stated that over the past two years since the portion was finished between Fort Evans to Edwards Ferry, traffic has increased three-fold. She stated 18-wheelers from Toys-R-U's clearly have no business in Leesburg. She stated safety for the children is paramount.

Gem Bingol, 1508 Shields Terrace, stated she supports the staff recommendation to restrict truck traffic on Sections 1 and 2.

The public hearing was closed at 10:42 p.m.

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

***ORDINANCE 2016-O-017***

*Amending Section 32-119 of the Town Code Pertaining to Certain Through Truck Traffic Prohibited*

Council Comments/Questions:

- Fox: Asked for clarification on the definition of “truck”.  
Grow: Stated the draft ordinance is written to include everything over 7500 gross weight which would include most panel trucks and some larger pick ups.
- Fox: Questioned whether the police department agrees with the enforceability of Sections 1 and 2.  
Grigsby: Confirmed that the police department is in agreement with staff's recommendation.
- Hammler: Stated she would support eliminating through trucks on Sections 1 and 2. She questioned whether there are ways to more proactively communicate to drivers than signage.  
Grow: Stated the signs will have flags to make them more noticeable.

- Hammler: Questioned whether the town could limit traffic to only local traffic and deliveries.  
Grigsby: Stated that would be nearly impossible to enforce.
- Martinez: Requested crosswalks for the pool as they give more of a perception of safety.
- Burk: Questioned what Captain Grigsby recommends.  
Grigsby: Stated she agrees with Mr. Grow’s recommendations. She stated they can enforce Sections 1 and 2, but the rest of Battlefield would be too difficult to enforce with current staff levels.
- Dunn: Stated that there are three schools, several churches and community pools, and a large childcare center along Battlefield. He noted the section from Kincaid to Sycolin Road should be no through traffic.
- Butler: Questioned ease of enforcement with different sections being no-through truck.  
Grow: Stated that there is no way to enforce it.  
Grigsby: Stated they can enforce Sections 1 and 2.

*Council Member Dunn offered a friendly amendment for Sections 1 and 2, only. The amendment was accepted as friendly.*

- Hammler: Stated that it is important to keep Section 4 open as it is a major way for trucks to get to Sycolin Road.

*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. None.

**12. ORDINANCES**

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

***ORDINANCE***

*Approving TLZM 2013-0006, Crescent Parke, Rezoning the Property from Crescent District-Commercial, Crescent District-Mixed Use Option and Crescent District-Open Space to Crescent District-Commercial, Crescent District-Mixed Use Option and Crescent District-Residential High Density*

Michael Watkins discussed the changes in proffers since the last presentation.

- Substantial conformance with the concept plan

- Define uses and density
- Phasing – 7500 square feet of non-residential uses prior to the issuance of the 214<sup>th</sup> residential occupancy permit
- Construction of Davis Avenue and Gateway Drive prior to any occupancy permits (residential or non-residential)
- 21 Year reservation for the Dulles Greenway extension
- Public notification signage requirement
- Open space and tree save area within the reservation area
- Cash contribution of \$75,000 for traffic study in association with the potential removal of the Dulles Greenway extension
- Two driver feedback signs on the opposite sides of Plaza Street from Gateway Drive
- Improvements to South King Street and Davis Avenue intersections
- Offsite transportation contribution of \$768,000
- Timing of construction for onsite open spaces
- Energy efficiency rating of either Star Version 3 or HERS rating of 90
- Stormwater management best management practice compliance with the DCSM/Commonwealth of Virginia regulations
- Requirement for 100 year detention or the 100 year analysis for the Tuscarora drainage shed
- Building elevations
- Cash contribution for Fire and Rescue in the amount of \$100 per dwelling unit and 10 cent per square foot for non-residential use
- Property owners association document for the Town Attorney's review
- Noise attenuation for the units closest to Rt. 7/15 bypass which includes a sound transmission code rated window
- Capital facilities contribution that allows for flexibility for schools and/or town capital facilities in the amount of \$3.8 million
- Restricted access for construction vehicles to Davis Avenue north of Tuscarora Creek

If the Izaak Walton Park property is included:

- Plat of dedication required for the 18.65 acres required within two years
- Boundary line adjustment for the 2.3 acres that will be rezoned to the CD-RH
- Park use will be preserved as part of the dedication process
- Reimbursement for any lease or tax payments beyond fiscal year 2018

If the Izaak Walton Park property is excluded:

- Council resolution is required
- Town will need to renegotiate the lease with the current property owner to subtract the 2.3 acres that is being rezoned
- \$1000 per dwelling unit capital contribution for capital improvements for park facilities

- Approximate \$1 million additional off site transportation contribution

Council Questions:

- Fox: Questioned whether the applicant will reimburse lease and real estate payments for FY 2017, if Council chooses to amend the budget.  
Mitchel: Stated that can be done.
- Burk: Questioned if the lease is assigned to Lansdowne Development or another entity, who pays for the insurance.  
Watkins: Stated that the lease would continue as originally signed with the town responsible for liability insurance.
- Burk: Questioned whether there will be any buildable area left on the park property. She noted that this will make the property less valuable and questioned whether a new assessment would be needed.  
Watkins: Stated that there is a small building envelope remaining. He stated he cannot speak to diminished value, but he believes the area has been assessed as open space and not developable land.  
Notar: Stated the assessed value of the park will be reduced because there is less square footage of property to be assessed.

Council Comments:

- Hammler: Stated she supports Crescent Parke after very careful consideration. She thanked the Planning Commission for their many months of hard work. Further, she stated this development with its proffers is a better choice for the town than a by-right development that will not mitigate its impacts. She noted that the project will provide tax revenue as well as feet on the street to support the goal of bringing customers downtown. She also stated the park donation will alleviate the town's lease payments and provide needed park land for the southeast sector of town.
- Dunn: Thanked the applicant and the Planning Commission for all their work as well as the surrounding neighbors. He thanked staff for diligently working on this project. He thanked Council for putting so much effort into it. He stated that one of his biggest concerns with the application is that so many citizens came out and talked about issues concerning this application such as traffic, stormwater management, tree preservation, lack of commercial development, but not many citizens talked about the park.
- Gemmill: Stated that the current zoning is reasonable and serves the goals of the Town Plan whereas the rezoning does not.
- Burk: Stated that the assumption that the property would be developed by right may not be accurate. She stated she cannot support this application despite the improvements. She stated the Council had a vision for the Crescent District as being pedestrian friendly and job oriented.
- Martinez: Stated that government makes decisions based what is good for the residents. He expressed concern over the phasing, height of buildings, and the Greenway extension. He stated the Greenway extension was

never an issue until this application, but now Council is taking steps to fix it. He expressed concern over an applicant coming to Council to negotiate proffers.

- Fox: Stated that two issues need to be considered when considering a rezoning – what is the benefit to the Town and what are the detrimental issues that will be incurred to the locality and its citizens and if the application does pose issues, does it address them in an efficient manner. She expressed concerns over stormwater management including the underground storage tanks and the potential impacts on the Town's Tuscarora Creek Flood Mitigation project. She stated she trusts the town's engineers and staff that the stormwater management issues will be tightly reviewed. She addressed schools, parking and traffic concerns. She stated she likes the Davis Avenue extension proffer and the possible revitalization of the businesses downtown. She stated that while this is not a perfect application, it presents considerable upside to the town above and beyond what the applicant would be able to develop by right. She stated she is a property rights proponent.
- Butler: Noted that VDOT does not need to approve removal of the Greenway extension from the Town Plan. He stated that they can be consulted, but if the Council wants to remove it, it can be removed without their approval. He noted that the park can be significantly decoupled from the application. He stated the town does not automatically get the park with the approval of this application. He stated the two main reasons to oppose this application is the impact to the surrounding communities and general opposition to growth. He stated that a rejection of this application may cause a by right application for this property that includes no transportation improvements, no stormwater management, and no vote by Council and by right does not conform to the Town Plan.
- Hammler: Stated she rarely votes for a rezoning that includes residential unless the proffers make a difference. She stated the proffered park provides a positive quality of life asset to the town.

*The motion failed by the following roll call vote:*

*Aye: Fox, Hammler, and Mayor Butler*

*Nay: Burk, Dunn, Gemmill, and Martinez*

*Vote: 3-4*

### 13. UNFINISHED BUSINESS

- a. None.

### 14. NEW BUSINESS

- a. Additions to Future Council Meetings

Council Member Fox requested an info memo on the Town's efforts to enforce the snow shoveling ordinance.

*There was consensus for an information memo.*

Council Member Hammler stated she would ask the Crescent Parke developer to support the \$75,000 fee for the study to initiate removal of the Dulles Greenway extension from the Town Plan. She stated she would like Council to initiate removal of the Greenway from the Town Plan and if the study is not needed, the funds could be reallocated to other transportation improvements in and around Crescent Parke.

*There was consensus to add this to the next meeting.*

Council Member Dunn asked for a follow up on the County's response as to why they need the fourth level on the Pennington Garage. He requested that the Council send a letter to the Board of Supervisors asking them to remove the fourth level.

*There was consensus to add this to a work session.*

Mayor Butler requested an initiation of a text amendment to allow previously commercial properties to return to residential uses without having to provide parking downtown. Further, he asked for information on whether there is any drawback for the Council to require a light at Sycolin and Gateway even if the warrants do not recommend it. It was also requested that traffic calming measures be requested from the Standing Residential Traffic Committee. He requested information on a crosswalk at Edwards Ferry Road and the bypass.

*There was consensus for information memos on a possible traffic signal at Sycolin and Gateway as well as a crosswalk at Edwards Ferry Road and the bypass.*

## **15. COUNCIL COMMENTS**

Council Member Fox disclosed a telephone call from Hobie Mitchel and stated she bumped into him at the county building last night.

Council Member Hammler offered her condolences to the family of Ann Robinson. She stated this is a deep loss for the community and noted that the service will be August 7 at 1 p.m. at the Unitarian Church.

Council Member Martinez stated he tried to work with Mr. Mitchel. He stated he talked to him twice. He thanked the Tree Commission and congratulated the new chief and deputy chief.

Vice Mayor Burk offered her condolences to the families of Ann Robinson and Joel Montano, Senator Kaine's aide.

Council Member Dunn offered his condolences to the family of Ann Robinson. He noted her community activism.

**16. MAYOR'S COMMENTS**

Mayor Butler disclosed multiple conversations and one meeting with Mr. Mitchel and Ms. Gleckner. He stated his sympathy goes out to the families of Ann Robinson and Joel Montano. He stated through many meetings the extra \$20 million for the intersection of Battlefield Parkway and Route 7; however, they still need \$25 million more.

**17. MANAGER'S COMMENTS**

Mr. Dentler announced the hiring of the new police chief, Captain Gregory Brown, of the Loudoun County Sheriff's Office, effective October 3. Further, he noted that Captain Vanessa Grigsby has been promoted to the rank of Major and will serve as Deputy Chief effective August 1.

**18. CLOSED SESSION**

None.

**19. ADJOURNMENT**

*On a motion by Council Member Dunn, seconded by Council Member Fox, the meeting was adjourned at 11:09 p.m.*

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David S. Butler, Mayor  
Town of Leesburg

ATTEST:

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Clerk of Council  
2016\_tcm0726

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, Senior Management Analyst Jason Cournoyer and Paralegal Carmen Smith.

## AGENDA

## ITEMS

### 1. **Items for Discussion**

#### a. Pennington Parking Garage

Council Member Dunn stated he has contacted the Loudoun County Board of Supervisors in relation to requesting that the County not construct the fourth level on the proposed parking garage on the Pennington Lot. He stated he has only heard back from Supervisor Volpe thus far and she was not supportive. He noted that the county used the two highest usage days, rather than the average, in their study.

#### Council Comments/Questions:

- Hammler: Stated she has not previously heard that the County government center will move out of the downtown in the future.
- Dunn: Stated that some uses have already moved, but this is possible for the 10-15 year time frame.
- Hammler: Stated that when Council voted on the Courthouse garage, there was good faith that the additional parking would benefit businesses and the public as well as meet the parking needs of the courts.
- Fox: Stated she does not understand why the County would use the fourth floor of the garage for fleet vehicles.
- Dunn: Stated he would be happy to come up with bullet points for a letter to the Board of Supervisors.

#### b. Lease of Courthouse Square Lot for Public Parking

Kaj Dentler presented this opportunity to provide parking in the downtown.

#### Key Points:

- Lot is at the corner of Loudoun and Church Streets, S.E.
- This area has a shortage of parking during the work week.
- County is amenable to the proposal.
- Identified 44 spaces as paid public parking.

- Identified 35 spaces for rental to the county.
- Town would have an agreement for the entire lot with Landmark Realty.
- Parkmobile will be utilized.
- 40% usage throughout the work day will neutralize revenue expense.

Council Comments:

- Fox: Questioned where the county staff will park their fleet vehicles if the town goes through with this lease.  
Dentler: Stated the county feels the 35 spaces will be adequate.
- Fox: Questioned whether the county will begin to charge for spaces in their garage.  
Dentler: Stated the county does not intend to charge for the county garage since those spaces are reserved for employees only.
- Fox: Questioned what would happen to the pay station equipment if the lease is terminated.  
Dentler: Stated there is only one station and it is leased.
- Hammler: Questioned the credit card service fee for ParkMobile.  
Cournoyer: Stated that the fee is \$0.25 flat fee regardless of how long you park.
- Hammler: Questioned the use of short term parking restrictions for this lot to keep office employees from using the lot all day.  
Markel: Stated there is an abundance of on street parallel parking, so this lot could have longer terms.
- Hammler: Questioned marketing efforts for the new lot.  
Markel: Stated that there will be signage and the asphalt will be repaired to make it more like other town facilities. Further, he noted it will be named and added to all the town's marketing.
- Martinez: Questioned how enforcement is handled with ParkMobile.  
Markel: Stated there will still be on street enforcement.
- Martinez: Questioned whether the town's parking garage will be updated to the electronic parking.  
Dentler: Stated that the town's parking garage equipment will be discussed during the budget cycle; however, if it fails prior to that, it may need to be replaced.
- Burk: Stated she supports this idea as that area has a need for additional public parking.
- Gemmill: Stated one of the biggest things the business owners complain about is lack of parking. He stated he is in full support of this proposal.
- Dunn: Expressed concern that the county parking garage is short 157 spaces and this lot is currently used for fleet parking. He stated there is nothing to stop county employees from using this lot. He stated he does not see this as being a benefit for shoppers or citizens, but creating a town sponsored parking lot for county employees and fleet vehicles.

- **Burk:** Questioned if county employees could be limited from parking in this lot.  
**Dentler:** Stated that the county administrator does not want them parking there either. He stated that if this lot becomes more popular, each year the number of spaces leased to the county can be decreased. The sublease to the county reduces the town's financial risk.
- **Dunn:** Questioned why the county doesn't lease the lot directly from the property owner. He questioned why the town is getting involved.

## **2. Additions to Future Council Meetings**

**Dunn:** Asked for an email regarding the disposition of a PRC mixed use text amendment. He asked about no U turn signs at Plaza and Fieldstone on Battlefield Parkway. Council Member Martinez requested a time limit for the no U turns.

*This item will be added to the first regular meeting in September.*

Asked for notice from the schools if a large political event is to be held at a school. Mr. Dentler stated there is always communication between the schools and Leesburg with regards to special events.

**Gemmill:** Asked for a follow-up on the BPOL taxes at the next meeting in September. It was noted that this is on the agenda for a future meeting. He questioned who he should contact about having the Diversity Commission look into an ESL program. Council Member Martinez stated that the Diversity Commission is working on ESL and he stated he would ask them to make a presentation on the subject.

**Burk:** Stated that the Country Club residents are delighted that the situation with the temporary portable storage unit has been resolved.

**Hammler:** Stated she would appreciate a memo about no through traffic on Sections 1 and 2 of Battlefield – only local traffic.

**Fox:** Stated the BAR has asked to start a conversation about the new intersection at Church and Market.

**Martinez:** Requested a “don't block the box” sign or demarcation at intersections in Exeter.

## **3. Adjournment**

*On a motion by Council Member Dunn, seconded by Council Member Gemmill, the meeting was adjourned at 8:39 p.m.*

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. Council Member Martinez arrived at 7:47 p.m.

**Staff Present:** Town Manager Kaj Dentler, Town Attorney Barbara Notar, Deputy Town Manager Keith Markel, Director of Economic Development Marantha Edwards, Interim Police Chief Vanessa Grigsby, Deputy Director of Planning and Zoning Brian Boucher, Business Development Manager Kindra Jackson and Clerk of Council Lee Ann Green.

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**AGENDA****ITEMS**

1. **CALL TO ORDER**
2. **INVOCATION** was given by Council Member Hammler
3. **SALUTE TO THE FLAG** was led by Council Member Gemmill.
4. **ROLL CALL**
  - a. Roll Call showing Council Member Martinez arriving at 7:47 p.m.
5. **MINUTES**
  - a. Regular Session Minutes of July 12, 2016.  
*On a motion by Council Member Gemmill, seconded by Council Member Hammler, the regular session minutes of July 12, 2016 were approved by a vote of 6-0-1 (Martinez absent).*
6. **ADOPTING THE MEETING AGENDA**  
*On a motion by Council Member Hammler, 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. Proclamation – 75<sup>th</sup> Anniversary of Douglass School  
*On a motion by Council Member Dunn, seconded by Council Member Hammler, the following was proclaimed:*

# ***PROCLAMATION***

*75<sup>th</sup> Anniversary of the Douglass School*

**WHEREAS**, in 1941 the black community of Loudoun County and Leesburg worked to raise money to purchase land and for a high school for their children; and

**WHEREAS**, the school, named for Frederick Douglass, was the first high school built in Northern Virginia for black students; and

**WHEREAS**, after segregation in 1969, the school building was used as an administrative building until 1971; and

**WHEREAS**, from 1971 until 1976, the building was used as Leesburg Middle School; and

**WHEREAS**, the name Douglass was restored to the school after the new middle school was built and has remained since that time; and

**WHEREAS**, on September 24, 1992, Douglass High School was placed on the National Register of Historic Places.

**THEREFORE, PROCLAIMED** by the Council of the Town of Leesburg, in Virginia, that the Loudoun-Douglass Alumni Association is congratulated on the 75<sup>th</sup> Anniversary of the construction and founding of the Douglass School.

**PROCLAIMED** this 9<sup>th</sup> day of August, 2016.

b. Proclamation – National Payroll Week

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

# ***PROCLAMATION***

## **National Payroll Week**

*September 5-9, 2016*

**WHEREAS**, the American Payroll Association and its more than 21,000 members have launched a nationwide public awareness campaign that pays tribute to the more than 156 million people who work in the United States and the payroll professionals who support the American system by paying wages, reporting worker earnings and withholding federal employment taxes; and

**WHEREAS**, payroll professionals in Leesburg, Virginia, play a key role in maintaining the economic health of [fill in City], carrying out such diverse tasks as paying into the unemployment insurance system, providing information for child support enforcement, and carrying out tax withholding, reporting and depositing; and

**WHEREAS**, payroll departments collectively spend more than \$15 billion annually complying with myriad federal and state wage and tax laws; and

**WHEREAS**, payroll professionals play an increasingly important role ensuring the economic security of American families by helping to identify noncustodial parents and making sure they comply with their child support mandates; and

**WHEREAS**, payroll professionals have become increasingly proactive in educating both the business community and the public at large about the payroll tax withholding systems; and

**WHEREAS**, payroll professionals meet regularly with federal and state tax officials to discuss both improving compliance with government procedures and how compliance can be achieved at less cost to both government and businesses; and

**THEREFORE, PROCLAIMED**, by the Council of the Town of Leesburg in Virginia, that September 5-9, 2016 is National Payroll Week in the Town of Leesburg.

**PROCLAIMED** this 9<sup>th</sup> day of August, 2016.

c. Certificate of Recognition – PHISHMe

A Certificate of Recognition was presented to Aaron Higbee and Sam Hahn of PHISHME in recognition of their receiving \$42.5 million in funding and being named one of Washington Business Journal’s Best Places to Work

d. Certificate of Appreciation – Child Safety Seat Program (Officers Travis Lotz, Stephan Winkler, and Michael Buracker

Certificates of Appreciation were presented to Officers Lotz, Winkler, and Buracker for development and implementation of the Child Safety Seat Inspection program.

e. Certificates of Appreciation – Keep Leesburg Beautiful (Daisy Troop 5917)

Certificates of Appreciation were presented to the following members of Daisy Troop 5917 for their demonstration of civic responsibility by participating in the Keep Leesburg Beautiful clean up event.

|                         |                  |
|-------------------------|------------------|
| Alicia Groncki (Leader) | Angelica Groncki |
| Jeff Box (Leader)       | Amy Diaz         |
| Paola Diaz              | Lily Box         |
| Cora Ridisill           |                  |

f. Certificates of Appreciation – Keep Leesburg Beautiful (Tuscarora High School Key Club)

Certificates of Appreciation were presented to the following members of the Tuscarora High School Key Club for their demonstration of civic responsibility by participating in the Keep Leesburg Beautiful clean up event.

|               |                      |
|---------------|----------------------|
| Sarah Howorth | Vivian Garcia        |
| Quinn Herbine | Anne Louise Seekford |

g. Certificates of Appreciation – Keep Leesburg Beautiful (Girl Scout Troop 5022)

Certificates of Appreciation were presented to the following members of Girl Scout Troop 5022 for their demonstration of civic responsibility by participating in the Keep Leesburg Beautiful clean up event.

|                     |                |
|---------------------|----------------|
| Amy Baugus (Leader) | Carissa Baugus |
| Avery Forester      | Emma Gentrup   |
| Emma Nylund         |                |

h. Certificates of Appreciation – Keep Leesburg Beautiful (Cub Scout Pack 998)

Certificates of Appreciation were presented to the following members of Cub Scout Pack 998 for their demonstration of civic responsibility by participating in the Keep Leesburg Beautiful clean up event.

|                     |                    |
|---------------------|--------------------|
| Dave Scott (Leader) | Braden Scott       |
| Kaitlyn Scott       | Manohar Nookala    |
| Neha Nookala        | Shannon Hunter     |
| Seth Phillips       | Magdalena Phillips |
| Sara Phillips       | Clayborne Phillips |
| Miles Hunter        |                    |

## 8. PETITIONERS

The Petitioners section was opened at 8:04 p.m.

Russell Yergin, expressed his dissatisfaction with the denial of Crescent Parke. He noted that by right development will be much more impactful to the neighbors than what was proposed. He stated the denial has lost the town proffers, tax dollars and a good neighbor.

Victoria Yergin, stated that by right development refers to projects that are permitted under the current zoning and do not require any legislative action. She noted some of the uses that would be allowed by right and with special exception on the Crescent Parke property. She noted many of the improvements that have been lost with the denial of the application.

Andrew Painter, stated he is a zoning attorney with Walsh Colucci and is speaking on behalf of Hobie Mitchel and the Lansdowne Development Group on the Crescent Parke rezoning. He stated there are a lot of different views about the application and there is a difference of opinion regarding whether final action has been taken on the application. He stated that since this is one of the last applications that the town can work with an applicant on, they would like the opportunity to do so.

Hobie Mitchel, stated that they tried very hard during the process and supports the idea of the Council having another public hearing.

Minu Beijan stated she would like to talk about the addition of fluoride to Leesburg water supply. She stated fluoride has not been researched completely about its effects. She stated that the fluoride added to municipal water supplies is not of pharmaceutical grade. Further, she noted that studies show that even moderate exposure to fluoride lowers IQ in the general public, specifically with children.

The Petitioners section was closed at 8:30 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, Sewer and Waterworks Extension Permit for Leesburg South Phase 1 (TLPF 2014-0003)*

### **RESOLUTION 2016-099**

*Authorizing an Agreement and Approving a Performance Guarantee, A Waterworks Extension Permit and a Sewer Extension Permit for Leesburg South, Phase 1 (TLPF 2014-0003)*

- b. *Awarding Continuing Services Contracts for Plan Review Services – Subdivision and Land Development Regulations*

### **RESOLUTION 2016-100**

*Awarding Continuing Services Contracts for Plan Review Services – Subdivision and Land Development Regulations*

- c. *Dulles Greenway Extension Removal from the Town Plan*

### **RESOLUTION 2016-101**

*Initiating an Amendment to the Town Plan's Roadway Network Policy Map to Remove the Dulles Greenway Extension*

- d. *Virginia Municipal League's Stairway to Success Program*

**RESOLUTION 2016-102**

*In Support of Early Childhood Education*

- e. *Letter to the County Board of Supervisors – Pennington Parking Garage*

**MOTION 2016-015**

*I move to authorize the Mayor to send a letter to the Loudoun County Board of Supervisors regarding the proposed Pennington Parking Garage*

*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. Leesburg Central Proffer Appeal

The public hearing was opened at 8:33 p.m.

Kevin Ash distributed materials to Council.

Key Points:

- MVB Financial Services is primarily a financial services advisor.
- Owned by Monongahela Valley Bank of West Virginia.
- Automatic Teller Machines are on many buildings that are not banks.
- Financial planning staff will be available by appointment.
- Would be willing to allow the town to use Leesburg Central's parking spaces after 5 p.m.

Council Comments/Questions:

- Gemmill: Questioned many of the bank functions.  
Ash: Stated other investment institutions are federally, but not state regulated.
- Gemmill: Stated this is technically a bank.
- Dunn: Confirmed that there will be a night deposit, but no drive through.
- Hammler: Questioned whether the proposed tenant is required to have FDIC. Further, she questioned whether the tenant is legally allowed to accept cash deposits.  
Ash: Stated they have cash because of the ATM.
- Hammler: Stated that this is an interpretation of whether this is a bank, not to be confused with parking.

Brian Boucher gave a brief staff presentation on the reasons for the Zoning Administrator's determination.

Key Points:

- Appeal of the interpretation of Proffer #7 of TLZM 2010-0001, Leesburg Central.
- Use proposed is a bank, per the zoning ordinance, and therefore not permitted due to use limitation in Proffer #7, which restricts the uses on the property to office only.
- Proffer #7 was originally included in the rezoning application to reduce the number of needed parking spaces.

Council Comments/Questions:

- Dunn: Questioned the definition of a bank. He noted that Walmart offers a large number of financial transactions. He questioned the use of the night depository.  
Ash: Stated it would most likely be used for deposits.  
Boucher: Stated that NVB has obtained a bank license from the Virginia State Corporation Commission to take deposits.
- Gemmill: Stated that this will be a financial service center similar to the branch in Reston. He stated that the branch in Reston is considered a bank.  
Ash: Stated that the primary use in Leesburg is financial services.
- Fox: Questioned why the appellant did not go through the proffer amendment process.  
Ash: Stated that the process is longer and the application fee, as well as paying the parking in lieu fee would cost \$16,000.

Dieter Meyer, 214 Andover Court, stated he lives two blocks from the proposed site and he was the original architect on the project. He stated he designed office space and this use can be reasonably interpreted as office space.

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

***MOTION to Affirm***

*I move that the Town Council affirm the Zoning Administrator's interpretation TLZC 2016-0014 about rezoning TLZM 2010-0001 proffer #7 Prohibited Uses and find he correctly identified the proposed use as a bank instead of an office for the reasons set forth in the staff report dated August 4, 2016.*

Council Comments:

- Hammler: Stated that this is an issue under the purview of the Zoning Administrator. She stated the proffer is restrictive and limiting and MVB has obtained a license to operate as a bank (receiving deposits). She noted

this is an issue of fairness and consistency as relates to interpretations of definitions.

- Gemmill: Stated his agreement with the arguments and the Zoning Administrator's interpretation.
- Fox: Stated that per the Zoning Ordinance, it is a bank and she agrees with the interpretation; however, she agrees that the interpretation could be changed and interpreted as office space. She stated her opinion that it is within the Council's purview to make that change.
- Martinez: Stated his agreement with the interpretation; however, he feels this is an opportunity to support a local business.
- Burk: Stated her agreement that the inside customer teller indicates that this is a bank and she understands why the Zoning Administrator ruled that way; however, in the same location there is a retail furniture store. She stated it can be called a "design center", but there is furniture being sold there so the precedent has been set that this proffer does not apply.
- Dunn: Stated he would not be supporting this motion as he would rather find a way to allow this use tonight.
- Hammler: Stated this use will offer traditional banking services and is thus a bank.

*The motion failed by the following vote:*

*Aye: Gemmill and Hammler*

*Nay: Burk, Dunn, Fox, Martinez and Mayor Butler*

*Vote: 2-5*

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

***MOTION to Deny/Modify***

*I move that the Town Council overturn the Zoning Administrator's interpretation TLZC 2016-0014 about rezoning TLZM 2010-0001 Proffer #7 Prohibited Uses and find that he incorrectly identified the proposed use as a bank instead of an office for the following reasons:*

*Mayor Butler offered a friendly amendment to add "The primary use at this location is financial services and bank use is ancillary to the main use".*

*The amendment was accepted as friendly.*

*The amended motion was approved by the following vote*

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

*Nay: Gemmill and Hammler*

*Vote: 5-2*

b. **Flex Industrial Text Amendment**

The public hearing was opened at 9:58 p.m.

Susan Berry Hill gave a brief presentation on the proposed amendment to the Zoning Ordinance.

Key Points:

- This amendment modernizes and updates the Zoning Ordinance to better address current business trends.
- Includes an umbrella special exception process that would consolidate into one special exception.
- Worked with members of the development community who are interested in future development in industrial areas.
- Staff examined other flex industrial parks and flex industrial park regulations.
- Amendment will add the term “Flex Industrial Business Park” which is a cohesive development comprised of one or more flexible space buildings with a compatible mixture of light industrial facilities and other principal or accessory commercial office, civic, or institutional uses.

Council Comments/Questions:

- Fox: Questioned why auto repair is not included as an allowed use.  
Berry Hill: Stated that vehicle and/or equipment service is a use with performance standards associated with them.
- Fox: Questioned why there are restrictions on the data center use.  
Berry Hill: Stated that use tends to be high consumer of space and they did not want the limited flex industrial areas to become data centers.
- Dunn: Stated that by setting artificial numbers, it limits what kinds of businesses will be able to come to town. He questioned where the 10% retail use limitation came from.  
Berry Hill: Stated that it was the recommendation of the Planning Commission.
- Hammler: Stated it is critical for the town to take a stand and really define and promote that we are seeking more light industrial uses. She asked for clarification as to whether the staff position achieves the town’s goals.  
Berry Hill: Stated the Planning Commission felt that the 10 percent cap on retail addressed that concern and the market could dictate what the mix is of the rest of the uses.
- Gemmill: Questioned what authority the town has to dictate the ratios to private owners.  
Berry Hill: Stated the town can provide this type of ratio.

Doris Kidder, stated she is a member of the Planning Commission and the only one that voted against this proposed ordinance change. She stated in Leesburg there are very few opportunities for industrial parks and they do not want an industrial park to end up looking like a shopping center.

Bob Sevila, stated he is one of the several people who approached staff in 2015 because a property on Sycolin Road has the possibility of Flex Industrial.

He stated that often developers find that many flex industrial uses are by special exception only. He stated that the limitation on data center use was suggested to prevent a complex from ever becoming just a data center.

Michael Vaughn, stated he is a representative for St. John properties. He thanked everyone for their work on this amendment. He stated they are looking for flexibility for potential tenants.

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

**ORDINANCE 2016-O-019**

*Amending Zoning Ordinance Sections 6, 7, 9.2, 9.8, and 18.1 to Add a New Definition “Flex Industrial/ Business Park”, Add Use Standards, Include Flex Industrial/ Business Park in Applicable Use Tables, and Include Terms and Definitions for Uses that are Acceptable in a Flex Industrial/ Business Park*

Council Comments:

- Hammler: Stated she is excited to be moving forward with this from an economic development perspective.
- Dunn: Clarified that the data center restriction would allow a data center in an entire building. He asked for further clarification that more than one building could be used by multiple data centers. He expressed that data centers are drivers of economic development. He stated he would rather see no limits on uses.
- Martinez: Stated he is supportive of the text amendment, but he cannot vote for the motion as made.
- Burk: Stated she agrees that the entire building should not be able to be a data center, as they do not create jobs and are very self-contained; however, she stated she would vote for it.
- Butler: Stated he urges Council Member Hammler to withdraw the change she made to the motion. He stated data centers do not provide much in the way of ancillary economic impact.

*Mayor Butler offered an amendment, seconded by Council Member Martinez to amend the motion back to the motion as provided in the packet.*

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

*Aye: Burk, Martinez, and Mayor Butler*

*Nay: Dunn, Fox, Gemmill and Hammler*

*Vote: 3-4*

*The original motion was approved by the following vote:*

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

*Nay: Martinez*

*Vote: 6-1*

**11. RESOLUTIONS AND MOTIONS****a. Initiation of Zoning Ordinance Text Amendment – Downtown Residential Parking**

Brian Boucher stated this should be included as part of a larger discussion on parking. He stated that if a developer does not have to provide parking when converting a commercial use to a residential use, the parking will need to be provided somehow.

*Council Member Hammler offered a motion to postpone this item until the next work session meeting. This was seconded by Vice Mayor Burk.*

*The motion to postpone was approved by the following vote:*

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

*Nay: None*

*Vote: 7-0*

**b. Courthouse Square Parking Lot Lease**

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

***RESOLUTION 2016-103***

*Authorizing the Town Manager to Execute a Six-Month Minimum Term Lease with Landmark Commercial Real Estate for the Courthouse Square Parking Lot Located at the Corner of Loudoun Street and Church Street to Provide Public Parking Beginning October 1, 2016 and Authorization to Amend the Fiscal Year 2017 General Fund Budget to Make a Supplemental Appropriation in the Amount of \$65,500*

**Council Comments:**

- Hammler: Stated this is the first of the opportunities to partner with the county on parking in the downtown.
- Dunn: Questioned what the county currently pays per space at this location.  
Dentler: Stated that the county is currently paying \$50/space, but the rate is going up to \$70/space, if the town does not make a deal with Landmark first.
- Dunn: Questioned whether the town has to lease all the spaces.  
Dentler: Stated that if the town only leases the 44, then we are locked into just 44. Leasing back to the county allows some room to increase the number of spaces for the public, if the lot becomes very popular.
- Dunn: Stated he does not like the idea of leasing to the county. He stated the per space cost is too high for surface parking.
- Hammler: Stated the main goal is to focus on short term parking downtown.

*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. Council Member Dunn questioned whether there needs to be a motion to deny the Crescent Parke rezoning.

Ms. Notar stated that the statute requires for an appeal to occur, the ordinance must not be approved. She stated that the Council can make a motion to deny; however, it would give the appellant an additional two weeks to file an appeal. She noted that the rules would need to be suspended in order to do so and a motion to suspend the rules must be unanimous.

*A motion to suspend the rules was offered by Council Member Dunn. The motion to suspend the rules was seconded by Vice Mayor Burk.*

*The motion to suspend the rules failed by the following vote:*

*Aye: Burk, Dunn, Fox, Hammler, and Mayor Butler*  
*Nay: Gemmill and Martinez*  
*Vote: 5-2*

- b. Council Member Dunn offered a motion to suspend the rules to amend the letter on the Pennington Parking Garage. The motion was seconded by Council Member Hammler.

*The motion to suspend the rules failed on the following vote:*

*Aye: Burk, Dunn, Fox, Hammler, and Martinez*  
*Nay: Mayor Butler*  
*Vote: 6-1*

**15. COUNCIL COMMENTS**

Council Member Gemmill: Disclosed a meeting with Hobie Mitchel and Gary Bowman on the rezoning application for Crescent Parke on May 5 and May 8 and multiple telephone calls from them during that time period. Further, he stated for the record that he found their professionalism to be extraordinary.

Vice Mayor Burk: Disclosed a meeting on August 3 with Kevin Ash. She disclosed a phone call on August 8 with Bob Sevilla.

8. Council Member Martinez: Disclosed a telephone call with Bob Sevila on August 8.

Council Member Hammler: Disclosed a telephone call from Hobie Mitchel this afternoon. She stated she also received a call on July 27. She stated she will not be participating in the closed session because it deals with Exeter and she is a resident of Exeter. She asked Council to take up Mr. Ash's kind offer to pursue after 5 p.m. parking in his parking lot. She stated it would be a good idea for the EDC to take a look at data centers to come up with policy recommendations for Council. She wished everyone a very restful remainder of August and rest of the summer.

Council Member Fox: Disclosed a meeting with Kevin Ash on August 8 and two conversations with Bob Sevila, one on August 8 and one on August 9.

Council Member Dunn: Disclosed a telephone conversation with Hobie Mitchel about Crescent Parke on July 26 and he congratulated his son for completing the Board of Review for Eagle Scout.

#### 16. MAYOR'S COMMENTS

Mayor Butler disclosed multiple conversations with Hobie Mitchel and one meeting. He reminded everyone of the Family Fun event on September 17 downtown. He stated that Virginia Municipal League is asking for a handcrafted ornament that represents the community. He congratulated the Leesburg Rangers and asked that they be invited to receive Certificates of Recognition next month.

#### 17. MANAGER'S COMMENTS

Mr. Dentler stated that installation of the new audio/visual system in the Council Chambers will begin tomorrow morning.

#### 18. CLOSED SESSION

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

##### **MOTION 2016-018**

*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. Pending Litigation: Exeter HOA vs. Town of Leesburg*

*The motion was approved by the following vote:*

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

*Nay: None*

*Vote: 4-0-2-1 (Hammler/Martinez recused, Gemmill absent)*

The Council convened in closed session at 11:40 p.m.

The Council reconvened in open session at 11:45 p.m.

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

**MOTION 2016-019**

*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.*

*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/Martinez recused)*

**19. ADJOURNMENT**

*On a motion by Council Member Dunn, seconded by Council Member Fox, the meeting was adjourned at 11:45 p.m.*

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David S. Butler, Mayor  
Town of Leesburg

ATTEST:

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Clerk of Council  
2016\_tcm0809