



MIDDLEBURG TOWN COUNCIL
Regular Monthly Meeting
Minutes



Thursday, January 8, 2015

PRESENT: Mayor Betsy A. Davis
Councilmember Kevin Hazard
Councilmember Trowbridge Littleton
Councilmember Catherine “Bundles” Murdock
Councilmember Erik J. Scheps
Councilmember Mark T. Snyder
Councilmember Kathy Jo Shea

STAFF: Martha Mason Semmes, Town Administrator
Angela K. Plowman, Town Attorney
Rhonda S. North, MMC, Town Clerk
William M. Moore, Town Planner
Cindy C. Pearson, Economic Development Coordinator
Debbie J. Wheeler, Town Treasurer
A. J. Panebianco, Chief of Police
Stuart Will, Inboden Environmental Services

ABSENT: Vice Mayor C. Darlene Kirk

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, January 8, 2015 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Mayor Davis led Council and those attending in the Pledge of Allegiance to the flag.

Public Comment

Dan Morrow, a partner with DeeDee Hubbard and publisher of the Middleburg Eccentric, thanked the Council and people of Middleburg for their support of Ms. Hubbard during this difficult period. He noted that she was touched by all that the community has done for her.

Councilmember Murdock reported that there would be a dinner at the Emmanuel Church on January 10th from 6:30-8:30 p.m. to benefit Ms. Hubbard.

Special Recognitions by Mayor and Council

Council Approval - Resolution of Appreciation – Christmas in Middleburg

Councilmember Murdock moved, seconded by Councilmember Hazard, that the Council adopt a Resolution of Appreciation for the volunteers, sponsors and donors associated with the 2014 Christmas in Middleburg event.

Councilmember Shea advised Council that she would like to verbally recognize some people this year and would like for them to be included in the resolution starting next year. She noted that the merchants were very much a part of the event and suggested the Town should recognize them.

Councilmember Murdock agreed and suggested they be acknowledged in the paragraph regarding the volunteers. She asked that the Salamander Resort & Spa also be added to the list of volunteers and noted that they provided parking for the event. Ms. Murdock reported that their manager indicated that while this did not cause too much havoc, they did need to rake and reseed the area.

Jim Herbert, Chairman of the Christmas in Middleburg Committee, reported that the Committee did rake and resurface the area and would reseed it in the spring. He noted that the use of Salamander's field enabled the Committee to generate revenue that was then used to cover the costs for the more expensive components of the event.

Councilmember Littleton moved, seconded by Councilmember Shea, to incorporate the changes as proposed.

Vote: Yes – Councilmembers Hazard, Littleton, Murdock, Scheps, Shea and Snyder

No – N/A

Abstain: N/A

Absent: Vice Mayor Kirk

(Mayor Davis did not vote as there was no tie to require her vote)

(As amended)

Mayor Davis thanked the members of the Committee for doing a fantastic job. She noted that while the weather made their work harder, the event went on without a hitch. Ms. Davis opined that the spirit of the day was amazing and noted that, despite the rain, everyone was happy and it was a great day. She thanked the Committee again for their hard work.

Mr. Herbert noted that it was an honor to be involved in the event. He expressed appreciation for Councilmember Shea's comments and noted that the volunteers did not create the experience, but rather the store owners and retailers on the front line did by opening their hearts and arms to give people an experience that made them say "they would not miss it even though it was raining".

Mayor Davis presented a signed copy of the resolution as originally proposed to Mr. Herbert. She noted that the Town would send him a revised version that incorporated the changes.

Mr. Herbert reported that ten percent of the event's audience came from other states and noted that they calculated this through a random check of license plates in the parking lots. He further noted that some people came from as many as four hundred miles away.

Approval of Minutes

Councilmember Snyder moved, seconded by Councilmember Scheps, that the Council approve the December 11, 2014 Regular Meeting Minutes as amended.

Vote: Yes – Councilmembers Hazard, Littleton, Murdock, Scheps, Shea and Snyder

No – N/A

Abstain: N/A

Absent: Vice Mayor Kirk

(Mayor Davis did not vote as there was no tie to require her vote)

Staff Reports

Councilmember Shea questioned whether the cold weather was complicating things for the utility system. **Stuart Will, of Inboden Environmental Services**, advised Council that the wastewater treatment plant enjoyed the cold weather as oxygen was more soluble in cold water. He further advised that where they were having difficulties was on the water side of the system and reported that he recently addressed a frozen water meter. Mr. Will advised that, other than that, the system was experiencing no problems.

Town Administrator Semmes reported that she spent the day participating in interviews for the new County Planning Director as a part of a seven member team and opined that it was nice that they included a town representative in the process. She noted that her written report included her final thoughts of 2014 and noted that, during this time, the Town faced some difficult challenges, including the journey of the Police Chief in the loss of his wife. Ms. Semmes opined that the heart of Middleburg was on full display for Chief Panebianco and opined that it was again for DeeDee Hubbard. She advised that she felt blessed to serve the community. Councilmember Murdock opined that Ms. Semmes sentiments were well written.

Councilmember Murdock inquired as to the opening date for the Trotter Perk Bistro. **Economic Development Coordinator Pearson** reported that it was unknown at this time.

Town Planner Moore reminded Council that during last month's meeting, they received Salamander's proffer amendment application. He reported that this application has been reviewed by the Planning Commission, who has scheduled a public hearing on it during their January 26th meeting. Mr. Moore further reported that input was now being gathered from the staff and the County Fire & Rescue Department on the application. He advised Council that the Commission did commit to the applicant to work through the application and to forward a recommendation to the Council this month. Mr. Moore opined that this matter would be before the Council for a public hearing in February. He advised that they would receive the Commission's report following their January meeting. Mr. Moore reminded Council that the applicant had asked for a joint hearing; however, he explained that the Planning Commission was not comfortable rushing the process. Mr. Moore reiterated that, given the limited scope of the application, they did commit to making a recommendation this month.

Councilmember Hazard reported that the Commission had a good discussion on this item during their December meeting, at which time they asked Salamander to return with some information. He opined that Salamander went a long way toward answering the Commission's questions, as well as some of those posed by the Council.

Councilmember Murdock advised Council that she would love to have Chief Panebianco offer his views on this matter and questioned when this could occur. Town Planner Moore noted that the Chief would address the issue of private versus public streets and reported that he has been invited to attend the January Planning Commission meeting. He further noted that Chief Panebianco would be present for Council's February meeting.

Councilmember Hazard advised Council that the Town Code required a developer to put language in their HOA documents that would allow the police to do traffic enforcement. Town Planner Moore reported that some issues have arisen as to the ability of the Police Department to enforce traffic regulations on a private street. He noted that the Town Attorney has researched this issue.

Councilmember Murdock opined that the Council needed to understand this before approving the proffer amendment.

Mayor Davis noted that the water/sewer revenues showed a huge increase and questioned why this occurred. **Town Treasurer Wheeler** opined that this may have been due to the correction of the billing issues related to meter sizes.

Town Administrator Semmes suggested to Council that it may be better if the monthly report included a comparison of total revenues to-date and opined that this would be more useful than a monthly snapshot. Councilmembers Snyder and Shea agreed.

Chief of Police Panebianco reported that the Department experienced a resisting arrest event and opined that Officer Tharpe did a good job of handling it without making the situation worse. He further opined that his staff did a good job of community policing. Chief Panebianco reminded Council that Councilmember Snyder asked him to provide a report on community policing during their work session this month; and, noted that he was prepared to do so.

Councilmember Scheps questioned whether the Department received any good applications for the Administrative Assistant position. Chief Panebianco confirmed that he received approximately twelve applications and reported that he would probably extend an offer of employment tomorrow. He advised Council that he asked the candidates if they knew how to use Excel and then put them on the computer to test their knowledge, which was often a deciding factor in whether to offer the job.

Councilmember Hazard questioned whether the Town was doing something about the problem of water in its gas. Chief Panebianco reported that there was no water in the gas and advised that the gas company tested it every time they filled the tank. He advised that the mechanic believed this to be an octane issue. Chief Panebianco noted that the problems being experienced were only occurring in the vehicles that contained a police package motor. He advised Council that those vehicles ran fine when filled with gas from the Exxon station that contained a higher octane. He reported that he would work with the Town Administrator to develop a solution to this problem.

Councilmember Snyder questioned whether the gas being used from the Exxon station was a higher octane. Chief Panebianco confirmed it was and noted that he has told the officers to use it for their vehicles. He reiterated that he would work with the Town Administrator on a solution to this problem.

Reports of Town Committees/Council Liaisons

Councilmember Shea reported that Go Green met last night. She advised that she was happy with the new co-chairs, who were pushing the Committee forward, and noted that they had some great ideas. Ms. Shea reported that they would be meeting with some students from the Fox Croft School about a project with which they were helping. She advised that they also planned to have periodic informational meetings. Ms. Shea reported that they had two guest speakers during their meeting.

Action Items (non-public hearing related)

Council Approval - Resolution Requesting Funding from County for Route 50 Traffic Calming Project

Councilmember Snyder moved, seconded by Councilmember Murdock, that the Council adopt a Resolution Requesting Additional County Funding Assistance for the Route 50 Crosswalk Project.

Mayor Davis reminded Council that once the project got going, the Town found it did not have enough money to finish the eastern portion of the town. She noted that VDOT suggested they just paint those crosswalks; however, she hated to do a nice job on part of the town and paint the rest. Ms. Davis suggested that in order to make the crosswalks uniform, the Town request money from the County to help finish the project.

Town Administrator Semmes reminded Council that the preliminary cost estimates were just that.

Councilmember Snyder questioned whether the County had any wiggle room in their budget to fund this request. Town Administrator Semmes advised that there was some question as to whether they did. She opined, however, that they would do their best to find the money. Ms. Semmes noted that because this was a multi-year project, the County did not need to provide all of the money up front, and could just provide a commitment. She advised that they could commit to putting part or all of it in their CIP, which would then allow the Town to move forward. Ms. Semmes noted that their capital budget was tight; however, she opined they would do their best to fund this request.

Mayor Davis opined that they were in favor of doing so. She noted that the resolution would formally put the request before the County.

Vote: Yes – Councilmembers Hazard, Littleton, Murdock, Scheps, Shea and Snyder

No – N/A

Abstain: N/A

Absent: Vice Mayor Kirk

(Mayor Davis did not vote as there was no tie to require her vote)

Council Approval – Release of Performance Bond & Acceptance of Maintenance Bond – Steeplechase Run Subdivision

Town Planner Moore advised Council that a month prior to his arrival, the developer for the Steeplechase Run Subdivision submitted his as-built drawings. He further advised that, at that time, the Town Engineer performed an inspection and identified some deficiencies. Mr. Moore reported that most of the deficiencies were minor; however, three required corrective action. He advised that over the last several months, the staff and Town Engineer have worked with the developer's engineer on solutions for the two remaining issues, which included a storm water retention area and a possible floodplain issue on one of the lots that contained a home with a walk-out basement. Mr. Moore advised that in working through those with the developer's engineer, they have now developed solutions and were recommending the final release of the existing performance agreement. He noted that this would release the approximately \$231,000 performance bond held by the Town.

Town Planner Moore reminded Council that developers of private streets were required, subsequent to the roads' completion, to provide a two-year maintenance bond. He noted that this bond was not intended to assist in repaving the roads, but rather was to correct any unseen defects that may arise during that period. Mr. Moore reported that the Town Engineer has completed a review of the cost estimate and recommended a bond in the amount of \$11,000 for the two-year period.

Town Planner Moore reported that he performed a final walk through with the Town Engineer, which was very thorough. He noted that he was not present during the subdivision's construction and advised that the Town Engineer pointed out items to him. Mr. Moore advised that he was comfortable supporting the Town Engineer's recommendation for the final release of the performance bond.

Councilmember Shea moved, seconded by Councilmember Littleton, that Council approve the full release of the performance bond held for the Steeplechase Run Subdivision. Councilmember Shea further moved, seconded by Councilmember Littleton, that Council adopt a Resolution Authorizing a Two-Year Latent Defect Indemnification Agreement and Acceptance of a Maintenance Bond for the Steeplechase Run Subdivision.

Vote: Yes – Councilmembers Hazard, Littleton, Murdock, Schepps, Shea and Snyder
No – N/A
Abstain: N/A
Absent: Vice Mayor Kirk
(Mayor Davis did not vote as there was no tie to require her vote)

Councilmember Hazard asked that the Planning Commission talk about private streets.

Discussion Items

Creation of an Economic Development Advisory Committee

Town Administrator Semmes reminded Council that they discussed this item last month, at which time, they asked the staff to develop more specific recommendations for a new committee that would make recommendations to them on the use of the Town’s discretionary economic development money. She advised that, in addition, the staff decided to present the idea that the committee may be of more use to the Council by also providing advice on matters related to economic development. Ms. Semmes recommended the committee be allowed to do both. She reported that the Economic Development Coordinator has developed a list of potential committee members who could be valuable to the Town and noted that those names would be reviewed in closed session. Ms. Semmes advised that the item currently before them, if they agreed, was the ordinance to establish the committee. She noted that the staff proposed a name for the committee; however, the Council could select another one.

Councilmember Snyder noted that most committees were required to meet a minimum number of times per year. He questioned whether this should be specified in the ordinance. Mayor Davis noted that it stated that the committee would meet twice a year for the review of funding applications.

Councilmember Shea expressed hope that the ordinance was not complete. She noted that economic development was her passion and advised that she was thrilled to see that an advisory committee has been proposed. Ms. Shea opined that the Council needed to go with the more complex goals; however, she opined that they needed to be broader. She noted that economic development included a viable and usable downtown area for the residents and suggested the need to look at the portions of the town that only have one kind of economic development. Ms. Shea suggested that economic development was broader than was outlined in the draft ordinance.

The Council held some discussion regarding the role of the committee versus that of the Planning Commission in economic development matters. It was noted that the proposed committee would not encroach on the responsibilities of the Commission or any other committee but rather would pursue businesses that were desired in order to have a viable downtown that met the needs of the residents, as well as those of the tourists.

Town Administrator Semmes requested clarification on what Councilmember Shea was asking. Councilmember Shea explained that she wanted to see the committee’s role expanded beyond simply recommending what the Town should financially support. She further explained that she wanted them to look at the economic viability of the town and suggested there were some things they could do that were not included in the draft ordinance. Ms. Shea further suggested that rather than using the term “tourism”, that the term “economic development” be used. She noted that tourism was an area of economic development, but was not necessarily the first area to pursue. Ms. Shea reminded Council that the town had a lot of tourism oriented activities already and suggested the need for more resident oriented ones in order to bring more residents downtown.

Town Administrator Semmes inquired as to the wording Councilmember Shea wished to incorporate into the ordinance. Councilmember Shea advised that she had some information on economic development and its components that she would provide to the staff.

Councilmember Hazard suggested the committee also advise the Council on future development and not just focus on the present. He opined that this was critical. Mr. Hazard noted that the Town already had things that it currently did; however, he suggested the need to focus ten to twenty years into the future.

Town Administrator Semmes opined that the Council was looking for “place making”, which implied that the residents’ needs were being met within the community. She noted that when people came in to talk to Kennedy Smith about economic development, she heard that the local residents did not shop in local stores. Ms. Semmes questioned where the disconnect lied.

Councilmember Shea explained that she was asking that the ordinance be expanded to say that there was a desire that local people use the downtown and that the committee should identify what services were needed to accomplish this. She opined that one public restroom was probably not enough. Ms. Shea suggested the committee needed to look at all of the issues that supported economic development, not just those that supported tourism.

Mayor Davis agreed with the need to expand the duties that were listed in the draft ordinance. She questioned whether the Council was agreeable to the remainder of the items in the ordinance, including the proposed name. The members agreed they were.

Mayor Davis noted that the other towns the staff spoke with used a similar version of the name. She opined that even though a committee may be all encompassing, sometimes people thought it was only about a certain item due to the name. Ms. Davis questioned whether there were any other things the Council wished to discuss regarding this item. Councilmember Snyder opined that the draft ordinance was a good starting point. Councilmember Murdock noted that she liked the proposal for staggered terms.

After some discussion, it was suggested that the staff revise the ordinance and bring it back to the Council for further consideration when it was ready.

Closed Session – (1) Appointments to an economic development advisory committee and (2) Legal Advice by Counsel

Councilmember Shea moved, seconded by Councilmember Murdock, that Council go into closed session as allowed under the Virginia Freedom of Information Act Section 2.2-3711(A)(1) pertaining to the discussion, consideration or interviews of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of the public body and 2.2-3711(A)(7) for consultation with legal counsel employed or retained by a public body regarding specific legal advice by such counsel. Councilmember Shea further moved, seconded by Councilmember Murdock, that these matters be limited to (1) a discussion of appointments to an economic development advisory committee and (2) options for making improvements to the Town’s utility system. Councilmember Shea further moved, seconded by Councilmember Murdock, that in addition to the Council, the following individuals be present during the closed session: Angela Plowman, Martha Semmes and Cindy Pearson for the first part and Angela Plowman and Martha Semmes for the second part. Councilmember Shea further moved, seconded by Councilmember Murdock, that the Council thereafter reconvene in open session for action as appropriate.

Vote: Yes – Councilmembers Hazard, Littleton, Murdock, Scheps, Shea and Snyder
No – N/A
Abstain: N/A
Absent: Vice Mayor Kirk
(Mayor Davis did not vote as there was no tie to require her vote)

Mayor Davis asked that Council certify that to the best of each member’s knowledge (i) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the closed meeting, which each member so did. She reminded those present for the closed session that any discussion that occurred within it should be treated as confidential.

Councilmember Snyder moved, seconded by Councilmember Murdock that Council adopt a resolution initiating a boundary line adjustment to incorporate within the Town limits the Town’s west end pump station property.

Vote: Yes – Councilmembers Hazard, Littleton, Murdock, Scheps, Shea and Snyder
No – N/A
Abstain: N/A
Absent: Vice Mayor Kirk
(Mayor Davis did not vote as there was no tie to require her vote)

Town Attorney Plowman noted that she recently ran into Delegate Randy Minchew, who asked if there was anything that Middleburg needed.

Town Administrator Semmes noted that the General Assembly would hold a short session this year. She reported that she and the staff have reviewed the VML legislative agenda and advised that there was nothing coming forward that they could foresee that the Town would have any control over, other than asking that the General Assembly not put anything more on the Town that would cost more money.

Councilmember Snyder suggested that the Council request Delegate Minchew’s assistance in addressing whatever was holding up the certification of Barbara Smith, the principal for the Middleburg Community Charter School. The remainder of Council agreed.

After some discussion, the Council agreed to invite Delegate Minchew to attend a meeting following the conclusion of the General Assembly session so he could brief them on it.

There being no further business, Mayor Davis declared the meeting adjourned at 7:10 p.m.

APPROVED:

Betsy A. Davis, MAYOR

ATTEST:

Rhonda S. North, MMC, Town Clerk