



MIDDLEBURG TOWN COUNCIL
Regular Monthly Meeting Minutes
Thursday, January 14, 2016



PRESENT: Mayor Betsy A. Davis
Vice Mayor C. Darlene Kirk
Councilmember Trowbridge Littleton
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
A. J. Panebianco, Chief of Police
Cindy C. Pearson, Economic Development Coordinator
William M. Moore, Town Planner
Ashley M. Bott, Town Treasurer

ABSENT: Councilmember Kevin Hazard
Councilmember Catherine "Bundles" Murdock
Councilmember Erik J. Scheps

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, January 14, 2016 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Boy Scouts Ben, Grant and Keith Strickland led Council and those attending in the Pledge of Allegiance to the flag.

Public Comment

Melanie Mathews, Executive Director of the National Sporting Library & Museum, extended their appreciation to the Council for supporting their *Open Late* concerts and advised that it made a difference. She reported that one thousand five hundred people attended the concerts throughout the summer, with a large number attending the concert the Town supported. Ms. Mathews advised that they would be holding concerts again this year and may ask the Town for more support.

Ms. Mathews reported that the National Sporting Library doubled their visitation this year, with five thousand nine hundred people having visited. She further reported that they offered seven exhibits. Ms. Mathews advised that they also had a blog that received over eleven thousand views and has been circulated to seventy-four countries. She opined that they have raised awareness of the National Sporting Library and Middleburg. Ms. Mathews distributed information that went out with their annual appeal, including information on their next exhibit.

Stephanie Knapp, Becky Hecker and Kim O'Donnell appeared before Council representing the Cherry Blossom Breast Cancer Foundation. Ms. Knapp thanked the Council for their recent donation and reported that the Foundation has given away everything it raised. She expressed appreciation for the Town's support. Ms. Knapp reported that they brought a mammography van into the town and advised that it was here for seven hours. She reiterated the Foundation's appreciation for the Town's support.

Approval of Minutes

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve the December 10, 2015 Regular Meeting Minutes as amended.

Vote: Yes – Councilmembers Kirk, Littleton, Shea and Snyder

No – N/A

Abstain: N/A

Absent: Councilmembers Hazard, Murdock and Scheps
(Mayor Davis only votes in the case of a tie)

Staff Reports

Councilmember Snyder reported that he would be meeting with IES and the Town Administrator next week for the monthly **utility** committee meeting.

Councilmember Littleton thanked Stuart Will, of IES, for the assistance he provided to those customers who did not have water. He noted that this has been a long-term problem.

Town Administrator Semmes noted that the Town hoped to have the problem resolved with the completion of the water line project. She advised Council that IES has been very responsive.

Councilmember Snyder noted that the Town Administrator’s report indicated the Town’s IT consultants were upgrading the Town’s system to Microsoft Exchange. He questioned whether the staff had anything in writing on the new system’s security requirements. **Town Administrator Semmes** reported that they were upgrading to the government version and advised that it met the same government security protocols as were in place for Network Solutions. She confirmed that she would get Councilmember Snyder a copy of the information on the new system.

Councilmember Snyder expressed concern about the security of the system.

Councilmember Snyder reported that the Town received the proposed update for the rate model from MSFG. He advised that he and the Town Administrator would be discussing it.

Town Administrator Semmes reported that the staff participated in the kick off meeting for the improvements to the Town’s SCADA system.

Vice Mayor Kirk questioned what was occurring with Christmas in Middleburg. **Economic Development Coordinator Pearson** reported that the Christmas in Middleburg Committee held a meeting after the event where it discussed a lot of items. She noted that the Chair, Jim Herbert, included the highlights from that meeting in his report. Ms. Pearson reported that the Committee has already started work on some things.

Vice Mayor Kirk expressed hope that they were not working on bringing the National Guard in to assist with the parade. Economic Development Coordinator Pearson confirmed they were not and noted that it was a suggestion that was offered if extra help was needed.

Councilmember Shea reported that she also had concerns about Christmas in Middleburg and asked whether it was time for the Council to discuss the Town’s role in it. Vice Mayor Kirk agreed and suggested the Town needed a more active role.

Councilmember Shea opined that the event was becoming more expensive for the Town and suggested the need for the Council to stay on top of it.

Town Administrator Semmes reminded Council that the Memorandum of Understanding between the Town and the Middleburg Business & Professional Association was narrowly focused on whether the event could be cancelled in the case of bad weather. She suggested that now that she and the Chief have been here for a few of the events, it would be a good time for the Council to revisit the Town's obligations, as well as other parties' obligations, under the agreement.

Vice Mayor Kirk noted that she had an entire page of notes on the event.

Councilmember Shea reiterated her suggestion that the Council discuss this item. Town Administrator Semmes suggested it be placed on the next work session agenda.

Councilmember Littleton suggested the need to get an indication of how much retail sales increased on that day. He suggested a survey be done.

Councilmember Shea suggested a zip code survey be performed. She noted that this was discussed by EDAC at one time. Town Administrator Semmes suggested a zip code survey be performed a couple of times a year. She opined that it would be good to know where people were coming from for events.

Town Administrator Semmes reported that the Town was invited to attend a meeting that was being organized by the Towns of Purcellville and Lovettsville. She noted that all of the towns in Western Loudoun County, as well as the economic development folks, were invited in order to come up with a strategy for marketing and increasing attendance at events in Western Loudoun. Ms. Semmes advised that she felt she needed to attend.

Councilmember Shea suggested the need to support some of the agriculture and farming industries. She opined that the town did not need to be promoted; however, the area did, including what was available other than shopping.

Town Administrator Semmes reported that some people have suggested using the term "Loudoun Valley". The Council agreed it was not interested in doing so.

Town Administrator Semmes noted that it was difficult enough to come to a consensus in one community, much less in multiple ones. She agreed, however, that it was a good idea to discuss this issue.

Councilmember Shea inquired as to the issues related to the sanitary sewer system for the Residences at Salamander. **Town Planner Moore** explained that the system that Salamander proposed in their construction plans did not meet the Town's specifications for water/sewer. He reported that Salamander proposed a system that would utilize individual grinder pumps for the twenty-one homes in the western section of their development. Mr. Moore further reported that they would have their own low pressure force main system that would gravity feed to the Town's wastewater treatment plant. He advised that for numerous reasons, those systems were problematic and explained that the Town's standards stated that unless it is not feasible to utilize a gravity system, the type of system proposed by Salamander could not be considered. Mr. Moore noted that the staff was working with Salamander to get through some challenges related to crossing a stream and connecting to the existing pump station. He explained that there were a couple of challenges to address, including the need to cross an odd appendage that lies within the conservation easement. Mr. Moore reported that he has been talking with the Potomac Conservancy about this issue and opined that it was possible that if the Town made the decision that a gravity system was feasible that Salamander may apply to the Council for a waiver to allow them to use the system they proposed.

Councilmember Snyder noted that the Town Planner presented this issue during the Utility Committee meeting in December, at which time it was discussed.

Mayor Davis welcomed Ashley Bott, the new Town Treasurer. **Town Treasurer Bott** reported that she has been working on the water bills and noted that they went out earlier in the day. She further reported that she was working on some issues related to some meters. Ms. Bott expressed hope to move onto something else next week.

Councilmember Snyder advised Ms. Bott that once she got a couple of billings under her belt, he would like to set up a meeting with the Utility Committee so she could discuss what reports were available through the Logics software system.

Chief of Police Panebianco reported that the Route 50 construction project was going well in terms of communications. He advised that it would not be long before the contractor started work on the next phase and opined that the Town needed to inform the public as it obtained more information.

Town Administrator Semmes suggested another public meeting be held the first week in February. She reported that the traffic management would be different as traffic signals would be used as opposed to flaggers. Ms. Semmes explained that this would require that the parking be removed within a two block area. She noted that the good news was that once that area was done, the work would be complete.

Councilmember Shea questioned whether any effort was being made to find alternative parking if it would be removed from both side of the street for two blocks. Town Administrator Semmes noted that the National Sporting Library offered the use of their parking lot.

Councilmember Shea asked that this be discussed during the next public meeting. She advised that the staff would be surprised at the number of people who have said “they did not know the project would last this long” and would ask where were they were supposed to park.

Mayor Davis noted that prior to starting the project, the Town included information on it in the newspapers and held public meetings. She inquired as to what else could be done to get the word out.

Town Administrator Semmes noted that she thought about obtaining additional prints of the plans in order to display them in the Middleburg Bank. Councilmember Shea suggested copies be displayed in all of the banks. Vice Mayor Kirk suggested it be displayed in the Post Office.

Chief Panebianco noted that the staff was working to keep as many people as informed as possible.

Town Administrator Semmes suggested the Council discuss alternative parking at the work session.

Chief Panebianco reported that he was honored to have been invited to read at the bookstore. He noted that there were a number of children present and advised that he enjoyed this opportunity.

Chief Panebianco reported that WTOP and an article in the *Washington Post* mentioned the Middleburg Police Department’s use of body cameras. He advised that fifty percent of the officers were currently wearing them and expressed hope that by the end of the month, the training for all of the officers would be complete so that one hundred percent of them would be using the cameras.

Chief Panebianco reported that Office Tharpe was doing as well as he could at this point and was now able to drive. He advised that there were still some unanswered questions; however, timelines were starting to emerge. Chief Panebianco noted that he was happy with his progress and advised that Officer Tharpe looked forward to getting back to Middleburg.

Reports of Town Committees/Council Liaisons

Vice Mayor Kirk reported that the Health Center Advisory Board met earlier in the week to review an application for service on the board. She reported that the applicant lived elsewhere and under their bylaws, members must be from the Middleburg area. Ms. Kirk advised that they identified a few individuals who would be good on the board and were pursuing them.

Councilmember Snyder agreed that since the committee identified where the Town’s charity money should go, it should consist of local people.

Councilmember Shea reported that Go Green was working to develop their goals for environmental and general health issues, which they would present to the Council in February. She advised that they were also discussing plastic sacks and Styrofoam and the fact that the committee could not do anything regarding them. Ms. Shea noted that plastic bags were an item on the VML’s legislative agenda and opined that Go Green would recommend the Council support that legislation.

Mayor Davis noted that EDAC attempted to meet; however, it did not have a quorum, so it could not vote. She reported that they discussed Christmas in Middleburg and offered some suggestions. Ms. Davis opined that they would have more information to provide after their next meeting.

Action Items (non-public hearing related)

Council Appointment – Town Treasurer

Vice Mayor Kirk moved, seconded by Councilmember Snyder, that Council appoint Ashley M. Bott as the Town Treasurer for the Town of Middleburg, effective January 7, 2016.

Vote: Yes – Councilmembers Kirk, Littleton, Shea and Snyder

No – N/A

Abstain: N/A

Absent: Councilmembers Hazard, Murdock and Scheps

(Mayor Davis only votes in the case of a tie)

Council Approval – Contract Award – Historic District Survey Update

Town Administrator Semmes advised Council that the staff completed the procurement for a consultant to update the Historic District Survey. She reminded them that the Town received a grant from the Virginia Department of Historic Resources in the amount of \$12,500 for this project, which would include the review of all one hundred fifty-five buildings within the Historic District to make sure the information included in the survey reflected the situation for each. Ms. Semmes noted that it would also include any new buildings in the District. She reported that she, the Town Planner and HDRC Chairman Bill Turnure reviewed the four proposals that were received and recommended the Town contract with Dutton & Associates. Ms. Semmes advised that the head of their firm worked with VDHR, they offered the Town a great price and they had the ability in-house to do the mapping associated with the project.

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council authorize the Town Administrator to execute a contract in the amount of \$11,285, with Change Order #1 for this project in the amount of \$2,350, with Dutton and Associates, LLC for the Middleburg Historic District Survey Update Project.

Vote: Yes – Councilmembers Kirk, Littleton, Shea and Snyder

No – N/A

Abstain: N/A

Absent: Councilmembers Hazard, Murdock and Scheps
(Mayor Davis only votes in the case of a tie)

Discussion Items

Draft Resolution Adopting Guidelines Pertaining to Tours Within the Town of Middleburg

Councilmember Shea noted that the Town Attorney recommended the inclusion of public buildings in the section that talked about not interfering with the entrance to any private building. She advised that she also had some concerns. Ms. Shea noted that the draft resolution exempted the Town from items B-H. She advised that she could see exempting it from items B-E; however, she opined that the Town should still have to submit their planned tour route to the Police Department and suggested it should not interfere with the use of public streets. Ms. Shea asked that this language be changed to only reference items B-E. The remainder of Council agreed.

Vice Mayor Kirk noted that under the draft resolution, an application would not be required. She further noted that the tour operator would be required to provide the Town with a copy of their insurance. Councilmember Shea noted that they must have a business license and file their proposed tour route with the Police Department.

Vice Mayor Kirk noted that under the draft resolution, anyone could offer a tour. She further noted that many people could do so. Ms. Kirk questioned whether there should be an application process and a means to revoke the permit should someone violate the terms of the resolution.

Councilmember Snyder opined that if someone violated the terms of the resolution, the Town could revoke their permit. Town Attorney Plowman and Town Clerk North reminded Council that they previously discussed the enforcement of these provisions and the Council indicated, at that time, that they only wanted guidelines.

Vice Mayor Kirk advised that she did not like this. Councilmember Snyder agreed that additional clauses needed to be added to the resolution.

After some discussion, the Council agreed they would like to have some type of application/registration process through the staff. They further agreed they would like a process that would allow the staff to revoke the permit if necessary, with the applicant having the ability to appeal to the Council.

Council discussed whether it was possible to regulate the number of permits issued; however, it agreed it was not. The Council also discussed whether it was possible to regulate what was said during a tour; however, they agreed this was not possible.

Town Clerk North advised Council that she would revise the draft resolution to include a registration process, as well as a process to revoke the permit.

Mold Remediation in Town Office

Town Administrator Semmes advised Council that the Town received a report last week that indicated there were high levels of mold in Town Office again. She noted that this was the second time this has occurred during her tenure. Ms. Semmes advised that the report also included a remediation plan. She noted that the company has been given approval to clean the mold and that this would occur on January 17th. Ms. Semmes thanked Aleco Bravo-Greenberg, the owner of the house at the corner of Pendleton/West Marshall Streets, who agreed to let the Town rent his space if needed. She noted that an agreement would be needed. Ms. Semmes reported that the phone company reviewed the building in case the staff needed to move. She advised that under the best case scenario, the mold would be limited to a small area and would not require that the entire building be torn up. Ms. Semmes reported that they would have to remove the carpeting, as well as a portion of the subfloor in the Treasurer's office. She noted that water was leaking in a corner of the building and advised that there was clear evidence of mold on the carpet and floor joists. Ms. Semmes advised that the staff would not know the full extent of the mold contamination until the remediation was complete. She opined that under the best case scenario, all that would have to be done was to repair the corner of the building and install new carpeting. Ms. Semmes suggested that under this option, the office would just have to be closed for a couple of days. She reiterated that the staff would not know what the options were until the mold remediation was complete. Ms. Semmes advised that the contractor would call her on January 17th to let know what they found and what they had to do. She reminded Council that this company would only remove the mold contamination from the building and treat the surfaces where mold was visible. Ms. Semmes reiterated that they would clean and encapsulate the mold and that it would then be up to the staff to do the reconstruction, including laying new carpet. She advised that if the mold was more extensive, it may require the removal of the walls and subfloor over the crawl space, in which case, the staff may need to relocate to Mr. Bravo-Greenberg's space.

Councilmember Snyder questioned whether there was a plan for addressing the prevention aspects, such as fixing the grading. He noted that this has been a recurring problem.

Councilmember Littleton noted that the Town tried to grade the land to push the water; however, there was no way to keep the water away from two corners of the building. He suggested sump pumps be installed in the basement so the water could be pumped elsewhere. Mr. Littleton noted that the building was sitting in a hole.

Mayor Davis questioned whether the drain was clogged. Town Administrator Semmes advised that it was fixed the last time the mold remediation was done. She noted, however, that the staff did not know where it deposited the water.

Councilmember Littleton reiterated his suggestion to install two sump pumps to remove the water from under the building.

Councilmember Snyder suggested the staff double check this plan with the structural engineer who was working on the Asbury Church.

Councilmember Shea suggested the Council consider making changes to the building if an extensive amount of work needed to be done. She further suggested the foundation be moved out so a kitchen could be installed and a proper inside stairwell could be constructed to the second floor.

Vice Mayor Kirk noted that the Council may find that there may not be much left to the building. She questioned whether the Council would want to expand or change the building if this occurred.

Councilmember Snyder advised that he did not want to keep addressing this situation.

Aleco Bravo-Greenberg advised Council that he was happy to help the Town in whatever capacity he could. He noted that he owned other properties on West Federal Street and suggested the Council consider, at some point, integrating the Town Hall and Police Department into one location. Mr. Bravo-Greenberg advised that if the Council was interested in his property for that purpose, he would not lease it with the exception of what was already leased.

Mayor Davis inquired as to the plan. Town Administrator Semmes advised Council that she would keep them informed. She questioned whether it was okay to move into Mr. Bravo-Greenberg's property if needed. She opined that it would make a wonderful office even though parking would be an issue. Ms. Semmes suggested the staff could continue to park at the Town Office.

Councilmember Littleton noted that the staff has ordered a couple of air purifiers.

Town Administrator Semmes suggested that, once remediated, the building be tested more often than once every five years. She further suggested it be tested prior to the staff experiencing health issues.

Councilmember Snyder summarized that the staff had the Council's consensus to do the mold clean up. He advised that the Council wanted to know how bad the damage was as soon as possible. Mr. Snyder further advised that the Council would work on arrangements with the staff as needed once the extent of the damage was determined.

Vice Mayor Kirk noted that the Council wanted the staff to be safe.

Councilmember Shea suggested a line item be included in the budget to have the Town Office checked on a regular basis if the staff moved back into it. Vice Mayor Kirk agreed a yearly check was needed.

VML Legislative Program & Request to Support Proposed Legislation to Regulate and Curtail Use of Retail Plastic Bags

Town Administrator Semmes advised Council that this item started with a request from VML's Environmental Lobbyist, who pointed out that one of VML's planks was to get legislation approved for towns, cities and counties that wanted to regulate retail plastic bags. She noted that this has been discussed by Go Green. Ms. Semmes advised that she did not know the chances that the General Assembly would approve this legislation. She suggested that since this was a part of the VML's Legislative Program that the Council look at that to see if it was something they wanted to endorse. Ms. Semmes reminded Council that the General Assembly started its session yesterday. She further reminded them that Randy Minchew and Jill Holtzman Vogel were the Town's representatives. Ms. Semmes advised that whatever the Council decided to support would be conveyed to them.

Town Administrator Semmes reported that another bill that was filed would require party identification of candidates in any local election. She noted that the Council had opposed this in the past. Ms. Semmes opined that the reason local governments worked well was that they did not have to worry about party affiliation and there was less conflict as councilmembers were just representing the community. She explained that under this bill, the General Assembly would force local governments to make people who were running for council say whether they were a Democrat or Republican. Ms. Semmes noted that there was also another bill related to elections that would require that they be held in November as opposed to May.

Town Attorney Plowman reported that there was another bill that related to reimbursement for primaries by the party. She reminded Council that all of the bills that have been proposed could die. Ms. Plowman noted that she only looked at what pertained to Middleburg. She advised that there was a bill that would require members to use their government email address.

Town Attorney Plowman reported that a bill has been proposed, which she believed would pass, that would be an amendment to the Town's weed/debris ordinance that would allow the ordinance to also apply to shrubs and trees that were overgrown. She opined that this was a non-issue.

Town Attorney Plowman reported that there was a proposal to change the real property tax assessment from April 15 to April 30 and noted that this just related to counties. She further reported that there was a proposal for meals tax exemptions for non-profit fraternal organizations. Ms. Plowman advised that there was a proposal that would make site plans a public record under FOIA. She opined that the Town would normally provide that information anyway. Ms. Plowman reported that there were several proposals for legislation regarding advertising for localities, one of which was specific to Loudoun County. She explained that under that proposal, if a locality did not have a newspaper of general circulation within its boundaries, it could publish its notices on the locality's website. Ms. Plowman advised that another bill, that would hopefully be relevant to the Town, would allow the attachment of a GIS map to a voluntary boundary adjustment agreement for Loudoun County. She noted that she was keeping an eye on those bills.

Town Attorney Plowman advised that as to the plastic bag legislation, she previously had a discussion with Councilmember Shea regarding Styrofoam and the inability to prohibit it. She suggested the Town could suggest it be added to this bill. Ms. Plowman advised that if the Council had a strong interest in any bills, she would be happy to follow them more closely. She opined that some would be gone next week and some may survive.

Town Administrator Semmes reported that during the recent TANV meeting, Haymarket's Town Attorney noted the section of the State Code that provided that no tax shall be imposed without a two-thirds vote only applied to towns, with cities and counties only having to have a majority vote to tax. She advised that he suggested a proposal to change this to a majority vote for towns as the State Code currently conflicted with the Constitution.

Councilmember Snyder moved, seconded by Councilmember Shea, that the Council support the 2016 VML Legislative Program and that this support be communicated to the Town's General Assembly representatives and VML.

Vote: Yes – Councilmembers Kirk, Littleton, Shea and Snyder

No – N/A

Abstain: N/A

Absent: Councilmembers Hazard, Murdock and Scheps

(Mayor Davis only votes in the case of a tie)

Draft Ordinance Pertaining to Streets and Sidewalks

Town Clerk North reminded Council that they reviewed this draft ordinance in November. She reported that following that review, the Town Attorney recommended the incorporation of some language from the State Code related to the collection of fees. Ms. North advised that she wanted to give the Council one more opportunity to review the draft ordinance, with these changes, before it was advertised for public hearing. The Council agreed the changes were fine as proposed. Town Clerk North reported that she would advertise the ordinance for a public hearing.

Mayor Davis noted that Section 91.10 prohibited the throwing of balls in the street. After some discussion, the Council agreed to strike this section as it was already illegal to throw balls at an occupied vehicle under the State Code and they were okay allowing children to throw a ball to each other while in the street.

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