



**MIDDLEBURG TOWN COUNCIL
REGULAR WORK SESSION
MINUTES**



Thursday, May 28, 2015

PENDING APPROVAL

PRESENT: Mayor Betsy A. Davis
Vice Mayor C. Darlene Kirk
Councilmember Kevin Hazard
Councilmember Trowbridge Littleton
Councilmember Catherine "Bundles" Murdock
Councilmember Erik J. Scheps
Councilmember Kathy Jo Shea
Councilmember Mark T. Snyder

STAFF: Martha Mason Semmes, Town Administrator
Rhonda S. North, MMC, Town Clerk
William M. Moore, Town Planner
Cindy C. Pearson, Economic Development Coordinator

The Town Council of the Town of Middleburg, Virginia held their regular monthly work session on Thursday, May 28, 2015 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Mayor Davis called the meeting to order at 6:00 p.m.

Public Hearing – Ordinance to Increase Sewer Rates

Town Administrator Semmes reported that the Town was following the schedule from the utility rate model, which called for a rate increase this year, with the increases to then start leveling off thereafter. She further reported that both Round Hill and Lovettsville were considering increases of over ten percent and Purcellville was proposing to increase their rate as well. Ms. Semmes opined that to only have an overall 2.42% rate increase, which was just slightly over the rate of inflation, showed that the Town was keeping its costs under control and operating the system as economically as possible.

No one spoke and the public hearing was closed.

Public Hearing – Request for Special Use Permit for Office Use on Street Level – Anne Geraghty –
8 East Federal Street

Town Planner Moore explained that because the property was located in the C-2 District, it required a special use permit for office uses on the first level. He opined that the intention of that Town Code provision was to protect the street level spaces in the main business district from being occupied by offices rather than retail or restaurant uses. Mr. Moore advised that this property was located outside of what was defined as the core business district and fit the criteria for a permit.

No one spoke and the public hearing was closed.

Annual Report – Middleburg Arts Council

Peter Wood, Chair of the Middleburg Arts Council, thanked the Mayor and Council for their continued support of the arts. He noted that a small number of committee members were present. Mr. Wood reviewed their membership list and advised that they were an active, dedicated group. He noted that some members were stepping off the committee due to time constraints and reported that they

would have another vacancy in June. Mr. Wood advised that he was excited to have a potential member present and noted that they wanted to add a literary artist or musician in order to have a diverse board. He reported that in addition, other individuals regularly attended their meetings. Mr. Wood opined that they have achieved a lot of success and support over the last couple of years and that the arts were doing well. He reported that some galleries have opened in town. Mr. Wood advised that they had a core going, with people feeling comfortable locating in Middleburg. He opined that this momentum would continue to build.

Mr. Wood displayed an *Art in the Burg* poster and noted that they have moved this event to June. He explained that the idea was to hold it in conjunction with the Western Loudoun Artists Studio Tour held on the same weekend. Mr. Wood suggested this event could serve as the anchor for this end of the County. He reminded Council of the discussion held last year regarding revenue and reported that they were charging a \$15 fee to participate in the event. Mr. Wood reported that thus far, fifteen artists have registered. He reiterated that they had a core, dedicated group of individuals who worked hard to make this event successful.

Mr. Wood reported that the Arts Council would continue coordinating *Art in the Pink Box*. He advised that they would offer music there, as well as at the *Art in the Burg* event.

Mayor Davis thanked the members for their work and noted that they have increased what the Council had hoped to get into the town. She noted that the Council wanted to incorporate all of the arts, not just the visual ones. Ms. Davis asked that the committee come to the Council if they needed any assistance.

Councilmember Shea noted that she spoke with Mr. Wood about joining the committee in the future to help them build the literary aspect of the arts.

Councilmember Shea questioned whether the fee revenue would go into the Arts Council's budget. Town Administrator Semmes confirmed it would not, as it would go into the budget as miscellaneous donations. She opined that it was a good idea for the committee to track an event's income and expenses so they could show the public that they were raising money, as well as spending it.

Council Approval – Ordinance to Increase Sewer Rates

Councilmember Snyder moved, seconded by Councilmember Shea, that Council adopt an ordinance to amend the "Schedule of Water and Wastewater Charges" to revise the sewer user charges.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Council Approval – Request for Special Use Permit for Office Use on Street Level & Site Plan Waiver – Anne Geraghty – 8 East Federal Street

Councilmember Scheps moved, seconded by Councilmember Murdock, that the Council approve SU 15-01 because the request is consistent with the Comprehensive Plan and with the criteria for granting a special use permit. Councilmember Scheps further moved, seconded by Councilmember Murdock, that Council approve a site plan waiver because the change of use or addition will not affect existing drainage, circulation, relationship of buildings to each other, landscaping, buffering, lighting and other site plan approval criteria and that the existing facilities generally do not require upgraded

or additional site improvements, except that the approval is subject to the following conditions: (1) Prior to issuance of a Zoning Occupancy Permit, the use must meet the applicable building code requirements, including all means of ingress and egress; and (2) Providing signage, subject to approval by the HDRC, directing visitors to the public parking lot on Liberty Street.

Councilmember Snyder advised Council that his goal was to eventually expand the C-2 District so it would primarily be retail and questioned whether this application would stop that. He advised that he had no issue allowing office use now; however, he wondered whether five or ten years from now, this could be an impediment to expanding the retail district. Mr. Snyder suggested it would be appropriate to emphasize retail and reduce office space more than was currently done. He reminded Council that he has been active in trying to incentivize retail and restaurants in the C-2 District and noted that the Council has made a number of changes, such as revising the parking regulations so a restaurant or retail would be grandfathered with regard to parking. Mr. Snyder expressed a desire to encourage more retail oriented use of space and advised that this was his only concern. Mayor Davis noted that this would be allowed by special exception, not by right.

Councilmember Snyder expressed concern about the ability to expand retail/restaurant uses in the C-2 District in the future. He agreed the Town was not ready to do so now. Mr. Snyder noted that the current regulations emphasized Washington Street as the retail area.

Town Planner Moore reminded Council that the Comprehensive Plan defined the central business district as Washington Street and the first block of North and South Madison Street.

Councilmember Snyder questioned whether having office space in this location would make it more difficult to expand the central business district in the future.

Mayor Davis questioned whether the use would revert back to retail if the tenant moved out. Town Planner Moore explained that once a special use permit was issued, it ran with the land.

Mayor Davis questioned whether the approval could specify that the permit would run with the business. Town Planner Moore noted that this was also a question of the Planning Commission. He reported that while he has received conflicting opinions from attorneys in the past, Town Attorney Plowman opined that the permit ran with the land; therefore, the Council could not specify the approval to this tenant or owner.

Vice Mayor Kirk noted that this meant that towns would be less likely to want to issue special use permits. She advised that she was not inclined to support this request.

Councilmember Hazard questioned whether the permit would run with the land or the building. Town Planner Moore confirmed that it was for the configuration as it currently existed. He advised that there was no chance to expand the building on the existing lot. Mr. Moore further advised that if the adjoining property became available so the two could be combined, the special use permit would not accommodate an expansion.

Vice Mayor Kirk questioned whether the special use permit would remain valid to only that half of the building if it was expanded.

Councilmember Shea noted the garden space beside the building and opined that an addition could be added to the side. She questioned whether the use would stay with the building if any expansion were to occur. Town Planner Moore confirmed it would require re-approval. He advised that the special use permit would apply to the existing configuration in terms of access and improvements. Mr. Moore explained that this would be the case as long as the building stayed the same and there was no expansion or change to the access.

Councilmember Hazard noted that the Commission looked at this and explained that the way the property was configured, it would not lend itself to a retail use. He opined that to make the property more palatable to retail would require a substantial change, which would void the special use permit. Mr. Hazard explained that this was part of the reason the Commission recommended approval.

Mayor Davis opined that this area was more difficult for retail and suggested that West Federal Street was more appropriate for that use. She reminded Council that when they first started discussing what should be located there, they agreed the back street was more appropriate for service oriented uses.

Councilmember Snyder reminded Council that they took action to protect retail in the C-2 District so it was friendly to small shops and restaurants. He expressed hope that this would not be lost.

Vice Mayor Kirk noted that she did not like that the permit was “forever”. Town Planner Moore advised Council that there was nothing to prevent the building from becoming a retail space, other than its size. He further advised that approving the special use permit would not prevent the use from converting back to retail.

Councilmember Snyder agreed. He further agreed that this area was more difficult and had challenges. Mr. Snyder advised that he was not saying this use was inappropriate; however, he cautioned the Council on expanding office space.

Councilmember Shea noted the restriction that the building must meet the Building Code. She opined that this may limit what could be done with the space.

Councilmember Snyder noted that he was not sure that putting that in the approval made a lot of difference as the owner was already required to comply with the Building Code.

Town Planner Moore confirmed the owner was required to do so whether it was listed as a condition or not. He explained that the Planning Commission felt strongly about mentioning it due to the condition of the front ingress/egress and noted that the steps were deteriorated.

Councilmember Shea questioned whether it was correct that the special use permit would no longer be in effect if the building did not meet the Building Code and substantial changes were needed. Town Planner Moore advised Council that the permit would not require re-approval unless substantive changes were done to the exterior.

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

No – Vice Mayor Kirk

Abstain: Councilmember Snyder

Absent: N/A

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

Council Approval – Appropriations Ordinance - FY '16 Budget

Mayor Davis asked that the Council consider including a \$10,000 line item in the budget for the Middleburg Museum. After some discussion, the Council agreed to include a line item, with the funds being restricted until the Council authorized their disbursement. The Council agreed they would like to receive a proposal from the Museum Committee on how they were doing and what they would propose to do with the Town’s money. It was noted that the Committee needed \$500,000 in order to open the museum.

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council amend the proposed FY 2015-16 General Fund Budget to add a line item under Economic Development-Organization Support in the amount of \$10,000, with funds in this amount to be transferred from the General Fund Contingency. Councilmember Snyder further moved, seconded by Vice Mayor Kirk, that those funds are restricted until the Council authorizes their disbursement

Vote: Yes – Councilmembers Kirk, Hazard, Littleton, Murdock, Scheps, Shea and Snyder
No – N/A
Abstain: N/A
Absent: N/A
(Mayor Davis only votes in the case of a tie.)

Councilmember Snyder moved, seconded by Councilmember Shea, that Council adopt an ordinance to Approve the Budget, Adopt Tax Rates and Make Appropriations for the Fiscal Year ending June 30, 2016.

Vote: Yes – Councilmembers Kirk, Hazard, Littleton, Murdock, Scheps, Shea and Snyder
No – N/A
Abstain: N/A
Absent: N/A
(Mayor Davis only votes in the case of a tie.)
(By roll call vote)

Council Approval – Lease Amendment – Cellular Antennas – T-Mobile

Town Administrator Semmes advised Council that Utility Services, the company that cared for the Town’s water towers, has reviewed the plans for the cellular antenna installation to make sure it would be safe for the tower. She further advised that the Town just received the results of that review and reported that they have recommended tweaks in the installation of both the antennas and the cable. Ms. Semmes explained that they wanted the cable to be installed differently on the tower’s legs. She reminded Council that the special use permit approval required this review and approval of the structural analysis. Ms. Semmes reported that while Exhibit D contained within the lease did not show the changes needed, she did not believe it was worth bringing this item back to the Council as she felt this could be handled at the staff level. She suggested the approval be subject to Exhibit D being revised to reflect the changes in the proposed installation in response to the structural analysis.

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve the T-Mobile lease as approved by the Town Attorney and authorize the Mayor to sign the lease on the Town’s behalf subject to Exhibit D being revised to reflect the changes in the proposed installation in response to the structural analysis.

Vote: Yes – Councilmembers Kirk, Hazard, Littleton, Murdock, Scheps, Shea and Snyder
No – N/A
Abstain: N/A
Absent: N/A
(Mayor Davis only votes in the case of a tie.)

Council Discussion – Renewal/Amendment to CDBG Cooperative Agreement-Loudoun County

Town Administrator Semmes advised Council that the towns in Loudoun County participated in this cooperative agreement, which allowed them to be eligible to receive a portion of the County’s entitlement funds. She noted that it was difficult to become an entitlement jurisdiction as small as the towns were as they would have to compete individually on a nation-wide basis. Ms. Semmes further noted that there were not a lot of CDBG funds available. She reported that she had not heard of any towns that were not going to renew the agreement.

Councilmember Shea reported that she served as the Town’s representative on the County committee for a while and advised that there was a push against the committee’s recommendation to go to a regional agreement. She noted that they have now returned to an individual one. Ms. Shea advised that the committee suggested keeping the grant money in Loudoun County; however, they were undermined by the Board of Supervisors. She opined that this was good.

Councilmember Murdock moved, seconded by Councilmember Shea, that Council agree to the renewal of the County-Town CDBG Cooperative Agreement and to the amendment as approved by the Loudoun County Board of Supervisors. Councilmember Murdock further moved, seconded by Councilmember Shea, that the Mayor be authorized to execute the amendment on behalf of the Town.

Vote: Yes – Councilmembers Kirk, Hazard, Littleton, Murdock, Scheps, Shea and Snyder
No – N/A
Abstain: N/A
Absent: N/A
(Mayor Davis only votes in the case of a tie.)

Council Discussion – End of the Year Budget Transfers

Town Administrator Semmes advised Council that they were being asked to authorize a public hearing on the budget transfers. She noted that possible hearing dates were June 11th or 25th; although, she would not be present for the June 11th meeting. The Council agreed to hold the hearing on June 25th.

Council Discussion – Street lighting in Ridgeview Subdivision

Councilmember Snyder advised Council that the streetlight near his house went out in the late winter/early spring. He further advised that it was sad when it was replaced as it was nice to see the night sky. Mr. Snyder reported that it looked like daylight at 4:00 a.m. as the streetlight distributed light everywhere. He reminded Council that the Town paid for the power for the lights. Mr. Snyder advised that he would like for the Town to ask Dominion Power for an alternative fixture. He opined that the Town could get a fixture that was more efficient, with the savings covering the upfront cost; however, it needed to know the cost.

After some discussion, the Council agreed it would like to ask Dominion Power to conduct a study of the lighting needs in the residential areas and to advise Council of what was available, the cost for new dark sky, energy efficient streetlights and the number needed.

Council Discussion – Parking during Route 50 Construction Project

Councilmember Shea advised Council that the gas line replacement project on Liberty Street has made her aware of what happened when work occurred in the streets. She noted that the sidewalks and parking have been blocked for two and a half weeks. Ms. Shea advised that this project made it clear to her that the Town needed to look at eliminating the parking lot charge if parking was being

eliminated in other places. She suggested Council needed to make a decision regarding on-street parking, including whether it would be suspended during construction and whether the Town would continue to charge for parking at any parking meter.

Councilmember Murdock questioned whether motorists could get into the Liberty Street Parking Lot. Councilmember Shea confirmed they could not earlier in the day. She noted that no information was being provided.

Mayor Davis noted that part of the issue was the lack of communication, as this project was being done by the gas company. She further noted that they simply showed up unannounced.

Mayor Davis advised Council that the Town Administrator has talked with VDOT about their project and noted that there would be "Pardon Our Dust" meetings. She advised that she has requested weekly updates that could be put out to the public. Ms. Davis expressed hope that the difference between the gas line project and the VDOT project was that there would be a lot of meetings as the project progressed.

Councilmember Shea noted that motorists could drive through the construction area on weekends; however, the crosswalks were blocked. Town Administrator Semmes noted that if a crosswalk was blocked, an alternative access must be offered to cross the street. She advised that it may be inconvenient; however, it would be this way at some intersections during the construction. Ms. Semmes reiterated that the staff was already brain storming ways to enhance communication with the public above what VDOT would offer. She advised that the Town Planner had some ideas based on what they did in Winchester. Ms. Semmes further advised that the Economic Development Coordinator was meeting with Leesburg's economic development staff to learn what they did for their project. She reported that she would keep Council apprised of their progress and give them a plan. Ms. Semmes advised that the staff did not plan to wait until the Pardon Our Dust meeting, which was scheduled for mid-September, to let the businesses know what was going on and would do so as soon as the Town had a tentative schedule. She reported that the project manager would give the Town the construction schedule as soon as possible, with the knowledge that it may change. Ms. Semmes noted that VDOT would not bring the contractor on until July or August and advised that he would have input into the means and method of construction, including where it would start. She noted the need to have meetings with the contractor.

Councilmember Snyder inquired as to how long the most disruptive part of the project would take. Town Administrator Semmes reported that the construction would occur over two construction seasons. She advised that they would start with the water line in the winter. Ms. Semmes noted that VDOT indicated that while they were not sure, they thought the contractor would not start on the crosswalks until March. She reminded Council that the contractor needed time to mobilize once the contract was awarded.

Councilmember Shea asked that the Council agree that if the staff thought a parking lot needed to be open for free for a period that they be allowed to do so and simply let the Council know it has occurred.

Town Administrator Semmes reported that the staff was also looking at alternative parking lots that could be leased.

Councilmember Murdock questioned what would happen to the permit holders for the Liberty Street Parking Lot. Town Administrator Semmes reported that this lot would still be open. Town Planner Moore noted that they would still have a reserved parking spot for their use.

Town Administrator Semmes reiterated that the staff was trying to find other spaces that could be used. She noted that the Town may need to spend money and do extra marketing for the businesses. Ms. Semmes suggested the need for a well thought out campaign with which the Town could help.

Councilmember Hazard inquired as to the amount of water line that would be replaced per day. Town Administrator Semmes opined that this would depend on the amount of rock that was encountered.

Councilmember Hazard inquired as to the number of connections that would need to be made for each section of water line. Town Administrator Semmes reported that the staff had the number of connections needed. She advised that she had the plans if the Council wanted to see them.

Town Council Reports

Mayor Davis reported that the Economic Development Advisory Committee's meeting was extremely productive. She advised that she was impressed with the members, their expertise, thoughts and comments. Ms. Davis reported that the biggest item that came out of the meeting was the need for a dramatically different and nice website for the town. She noted that they did not yet know the expense. Ms. Davis suggested it could be more than what was included in the budget; therefore, the Committee may come to the Council for a budget amendment. She reiterated that they wanted the website to look professional.

Councilmember Shea questioned whether the Committee was focusing on bringing more tourists into town. Mayor Davis reported that they were focusing on economic development for everyone. She advised that they wanted to make sure the website was functional for everyone, not just for tourists. Ms. Davis suggested the need to be impressed by the home page and that the website should be easy to navigate, with a section for each item, such as water bills. She advised that the Committee expressed a desire to have links to businesses and a calendar of events.

Councilmember Shea suggested this dovetailed with what the special events subcommittee was talking about for events. She further suggested the need for the two committees to work closely together. Ms. Shea advised that the special events subcommittee was talking about a master calendar that would not be the same as an events calendar.

Mayor Davis reiterated that the Economic Development Committee was talking about a website that would benefit everyone. She noted that a healthy town and businesses helped the citizens.

Councilmember Hazard reported that the Planning Commission held a work session prior to its regular meeting to discuss the draft wellhead protection ordinance. He advised that it would be discussed again at their next meeting and noted that the Commission has made it a priority. Mr. Hazard opined that they would take the intent of what the Wellhead Protection Advisory Committee was trying to do and dovetail it with the existing regulations so they would work together.

Councilmember Shea reported that Go Green met this week and was working on a sustainability plan for the town that would include a five year projection. She suggested that rather than developing a whole new plan, the Town Administrator attend a meeting to talk about what the various Town committees were already working on.

Councilmember Snyder reported that the Wellhead Protection Advisory Committee was losing two members – Dick Engberg and Lisa Patterson. Councilmember Littleton noted that he was aware of an individual who was well qualified and advised that he would talk to her about serving.

Councilmember Shea noted that Go Green was talking about targeting members from Piedmont Environmental and Goose Creek. She suggested they dovetail their efforts with the Wellhead Protection Committee.

Councilmember Snyder noted that the Wellhead Protection Committee would love to have people with expertise. He suggested it would be nice even if individuals came to the meetings just to start learning about wellhead protection.

Councilmember Littleton reiterated that the person he knew would be good due to her background. Town Clerk North advised Councilmember Littleton that she would send him a copy of the advertisement that was being run for the position so he could share it with her.

Councilmember Murdock reported that she would not be available to attend the regular Council meeting next month.

Mayor Davis wished Councilmember Littleton a happy birthday.

Discussion

FY '15 Audit

Town Administrator Semmes noted that a copy of the proposed contract with Mitchell & Company for the FY '15 audit was on Council's desks. She questioned whether it was okay to sign the contract and noted that it was almost the same as last year's. Council agreed the staff should sign the contract.

There being no further business, Mayor Davis declared the meeting adjourned at 7:03 p.m.

APPROVED:

Betsy A. Davis, Mayor

ATTEST:

Rhonda S. North, MMC, Town Clerk