



**MIDDLEBURG TOWN COUNCIL  
REGULAR WORK SESSION  
MINUTES**



**Thursday, July 28, 2016**

**PRESENT:** Mayor Betsy A. Davis  
Vice Mayor Darlene Kirk  
Councilmember J. Kevin Daly  
Councilmember Kevin Hazard  
Councilmember Trowbridge "Bridge" Littleton  
Councilmember Philip M. Miller  
Councilmember Kathy Jo Shea  
Councilmember Mark T. Snyder

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

The Town Council of the Town of Middleburg, Virginia held their regular monthly work session on Thursday, July 28, 2016 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Mayor Davis called the meeting to order at 6:00 p.m.

Mayor Davis welcomed Bridge Littleton to the Council.

**Council Approval** – Contract – Virginia Regional Transit Authority – Trolley Services

Town Administrator Semmes opined that there was some interest on the part of Council in obtaining trolley services and that they directed the Economic Development Coordinator, during the last meeting, to work on arranging a trolley to provide services downtown to help people get around on the weekends during the construction. She reported that she and the Town Attorney have been working on a contract for these services and have been working with VRTA's attorney on last minute changes. Ms. Semmes expressed hope that the Council would be comfortable approving the form of the contract and noted that it would be up to them to decide the provisions. She reminded Council that the trolley would operate from 11:00 a.m. to 7:00 p.m. on Fridays, Saturdays and Sundays at a cost of \$1,440 per weekend. Ms. Semmes advised that VRTA initially proposed a period of service through the end of December; however, either party could cancel with thirty days' notice. She reported that the contract had not been signed; therefore, this was subject to discussion. Ms. Semmes advised that if the Town contracted for the service through December, the cost would be \$32,000; however, if it only contracted through October, it would be \$19,000. She noted that she had hoped the Council could have seen the full contract; however, she expressed hope that they trusted the staff to make sure that what details should be in the contract would be included. Ms. Semmes confirmed that VRTA would cover things such as driver safety, hiring practices and providing a drug free workplace.

Councilmember Hazard questioned whether there would be one bus that would operate on a continuous loop.

Councilmember Shea clarified that the Council initially heard of this as an announcement that the staff was looking into it. She noted that the Council had not had a discussion of it. Mayor Davis agreed the Council knew it was possibility and wanted to see more information.

Economic Development Coordinator Pearson reported that a representative from VRTA came out and drove the route. She opined that they understood that it could be changed quickly and advised that they needed a day's notice to change the map and drop off locations.

Vice Mayor Kirk questioned where the route would begin. Economic Development Coordinator Pearson suggested it begin at the Pink Box. She reviewed the proposed route and noted that it was subject to change. Ms. Pearson suggested that if the residents in the Ridgeview Subdivision wanted to ride the trolley, it could go down another street. She noted that when a street opened in the construction area, such as Jay Street, the trolley could then be sent down it. Ms. Pearson suggested a stop could then be added at Chinn Lane. She expressed hope that this would help citizens as well as shoppers.

Councilmember Miller questioned how long the route would take to complete. Economic Development Coordinator Pearson noted that it had not been tested; however, they believed it would be thirty to forty minutes depending on the amount of ridership.

Councilmember Snyder inquired as to the location of the funding. Town Administrator Semmes noted the need to appropriate new funds. She reminded Council that there was money in the General Fund Contingency Reserves that could be used for this purpose.

Councilmember Miller questioned whether the Middleburg Business & Professional Association had seen the proposal. Economic Development Coordinator Pearson confirmed they had not. She noted that they had a meeting scheduled for next week.

Town Administrator Semmes advised Council that there was \$190,000 in the Contingency Reserve that could be moved for this purpose.

Councilmember Littleton requested an explanation of where this need arose. He questioned whether there was a ground swell of Town people, merchants or visitors who asked for this service. Mr. Littleton noted that \$31,000 was a lot of money. He suggested that if this was something that could become permanent that was great; however, he noted that the Council would have created an expectation that this service would be available on an ongoing basis. Mr. Littleton noted that the cost would be \$75,000/year.

Mayor Davis explained that this came about because so many people were claiming the Town was not doing enough to help the businesses during the construction. She opined that it had; however, there was a perception that it had not. Ms. Davis explained that the thought was that this was a way to address the parking issue, as it would allow people to park and then move around town. She noted that the cost would be \$18,720 for the service through October if the Council was willing to provide the service just through the construction. Ms. Davis explained that this was the primary purpose of the trolley. She noted that the holiday season would then be here and suggested that if people were using it, the Town could provide the service through the holidays, although it did not have to do so. Ms. Davis suggested that if the Council felt this would set a precedent, they may not want to do so. She opined that if the Council was willing to offer this through October, it would show that the Town was trying to do all that it could.

Councilmember Miller questioned when the trolley service would start. Economic Development Coordinator Pearson advised that it would start as soon as the contract was signed. She expressed hope that it would be signed by the time of the Sidewalk Sale.

Councilmember Hazard questioned whether the Town could review the services in a month. Economic Development Coordinator Pearson confirmed it could and noted that if only ten people rode it, the Town could try something else.

Councilmember Miller noted that August was not a month where a lot of people were moving around town, with the exception of the Sidewalk Sale.

Economic Development Coordinator Pearson suggested the Town may wish to partner with other organizations to extend the trolley service if it worked.

Councilmember Shea reminded Council that Go Green was working very hard to get people to walk. She opined that this was counter-productive to that goal.

*Councilmember Snyder moved, seconded by Councilmember Daly, that Council authorize the Town Administrator to execute a contract with Virginia Rides in a form approved by the Town Attorney for temporary trolley service on weekends through the end of October .*

Councilmember Snyder opined that October was an appropriate trial period. He suggested that if, at the end of October, the Town wanted to make it permanent, the Council could then make that decision.

Councilmember Hazard noted the need for a thirty day notice. He suggested that if the Council wanted to end the contract in October, they needed to make a decision by the end of September.

Councilmember Littleton suggested the Town let the contract expire on October 31 and enter into a new one starting in November. Councilmember Miller suggested the contract include an option to extend it.

Councilmember Miller questioned whether this would be an “old timey looking” trolley. Economic Development Coordinator Pearson confirmed it would be a small one.

Councilmember Miller questioned whether the trolley stops would take up any parking spaces. Economic Development Coordinator Pearson confirmed it would at the Pink Box and possibly in front of either the BB&T Bank or the Community Center. She noted, however, that if the Community Center had events, the parking space would not be available. Ms. Pearson opined that it would be easier to leave the stop in front of the BB&T Bank.

Councilmember Shea expressed concern about this location and noted that it was not near a crosswalk. She further noted that pedestrians would have to walk to the Community Center to cross the street.

Economic Development Coordinator Pearson advised Council that the other stops were located in loading zones. She noted that the stop near the intersection of Federal and Liberty Streets may need to be moved closer to the Middleburg Floral Gallery until the street opened.

Councilmember Shea suggested the trolley stop be located in the Liberty Street Parking Lot. Economic Development Coordinator Pearson confirmed it could not as the turnaround area was not large enough.

Councilmember Daly questioned whether the trolley was handicapped accessible. Town Administrator Semmes noted that this would require a specialized vehicle.

Councilmember Hazard questioned who would accept the liability for this service. Town Administrator Semmes confirmed that VRTA would accept all liability.

Councilmember Miller suggested the route start at one of the major parking areas. He noted that the goal was to get people to park and use the trolley and suggested that it made sense to have a parking lot as the starting point.

Vote: Yes – Councilmembers Kirk, Daly, Hazard, Littleton, Miller, and Snyder

No – Councilmember Shea

Abstain: N/A

Absent: N/A

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

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**Council Discussion** – Division of Commission for the Arts Grant Proceeds

Economic Development Coordinator Pearson reminded Council that in the past, the Town has had only one applicant for the arts grant funds, that being Bluemont Concert Series. She advised that last year, the Loudoun Times Mirror contained an ad that let people know how the Town of Leesburg split their arts grant funds, which started a conversation in Middleburg. Ms. Pearson advised that as a result, the National Sporting Library & Museum applied for part of the Town's grant. She noted that she completed the Town's grant application to the State and advised that in one section, she indicated that the funds would be equally split between the two organizations. Ms. Pearson noted that she should not have done so. She further noted that the application also indicated that the Council would make the decision on the grant awards, not the staff. Ms. Pearson opined that Bluemont counted on receiving the entire \$5,000 in their budget as they had always received it. She reiterated that the Sporting Library also applied for the funds.

Councilmember Snyder reported that Bluemont set its budget a couple of months ago. He noted that they operated on the same fiscal cycle as the Town. Mr. Snyder advised that he had two issues with the National Sporting Library's receipt of the funds, with the first being that they requested them so late. He noted that his second issue was related to the dealings between the Town and the Library related to the Pink Box. Mr. Snyder reminded Council that the Town had been trying to purchase the Pink Box building for over ten years and noted that the National Sporting Library owned it. He advised that the Town paid rent, covered maintenance costs and paid the real estate taxes so it could stay in the building. Mr. Snyder reminded Council that the Town also raised money to try to buy the building, with most of the donors not having requested a refund of their money. He advised that he had an unpleasant feeling with regard to how the National Sporting Library had dealt with the Town, especially over the Pink Box property. Mr. Snyder opined that the Library requested this funding late and advised that he would prefer to defer entertaining the idea of changing how the grant funds were allocated until next year.

Economic Development Coordinator Pearson confirmed that the National Sporting Library did not apply for the funding late. She advised that both organizations needed to apply to her by April 1 so she could complete the State grant application and noted that both applied in March.

Councilmember Snyder inquired as to what the National Sporting Library submitted. Economic Development Coordinator Pearson explained that they were required to comment on how they have worked with the Town and how much they were requesting. She read the information provided by the National Sporting Library in response to this request.

Councilmember Snyder noted that everything contained in the grant application was related to Bluemont, not the National Sporting Library. He opined that their request was poorly supported compared to Bluemont's. Mr. Snyder suggested the Council was suddenly being asked to change Bluemont's budget after the fiscal year was underway and advised that he was reluctant to approve this request. He reiterated that he was displeased with the way the National Sporting Library had treated the Town over the Pink Box.

Vice Mayor Kirk questioned whether Councilmember Snyder still had a role on Bluemont's Board of Directors. Councilmember Snyder confirmed he was on their board and served as their treasurer.

Councilmember Littleton questioned the Town's legal obligation with regard to the rules attached to the State's grant. He further questioned whether there were any rules that identified how the Council was to decide who received the grant funds. Mr. Littleton suggested they could not be arbitrary and capricious. He questioned whether the Council had evaluation factors that they must use or whether they could do whatever they wanted.

Mayor Davis noted that the organizations must be on the application. Councilmember Hazard reminded Council that the Town's grant application to the State identified the criteria the Council would use to evaluate the applicants.

Vice Mayor Kirk noted that both organizations were requesting more grant money than the Town would receive. Economic Development Coordinator Pearson explained that the Council must decide whether it wished to split the grant funds or give them all to one organization.

Councilmember Snyder noted that neither decision would affect the Town's budget. He reminded Council of the need to match the grant from the State.

Vice Mayor Kirk suggested the Town consider funding the request of the other organization.

Councilmember Hazard noted that Bluemont was an independent organization. He questioned the status of the National Sporting Library. Economic Development Coordinator Pearson confirmed they were a 501(C)3 organization.

Councilmember Daly noted that the Town had \$5,000 from the grant, plus \$5,000 for the match, for a total of \$10,000 to donate.

Councilmember Snyder reiterated that in years past, the Town has given the grant money to Bluemont. Economic Development Coordinator Pearson noted that the Town's donation to Bluemont in the past has been the match.

Town Administrator Semmes confirmed the Town had \$5,000 in grant monies, plus the \$5,000 match available.

Councilmember Littleton questioned whether the Council's goal was to decide how to split the grant money. Economic Development Coordinator Pearson confirmed that they needed to decide if they wanted to split the grant funds and, if so, how.

Town Administrator Semmes advised Council that the National Sporting Library also applied for and received funding through EDAC for special events funding, in amount of \$2,500. She advised that they were now asking for \$5,000. Economic Development Coordinator Pearson advised that the money given to the National Sporting Library was in a different budget year.

Councilmember Shea advised that she did not have any sense from the National Sporting Library of their budget and where the money came from. Economic Development Coordinator Pearson advised that in the last fiscal year, the Sporting Library applied for \$2,500 through EDAC. She noted that they have applied for that same amount again this year as the match to this grant.

Councilmember Littleton opined that Councilmember Shea's question was related to the National Sporting Library's operating budget and how much they needed the funds.

Councilmember Snyder reiterated that he was opposed to giving the Library part of the grant.

Vice Mayor Kirk opined that they needed money and noted that they had a lot of building issues. Councilmember Shea reminded Council that this money was not for the building.

Councilmember Shea suggested the Council must decide this matter based upon the merit of what the National Sporting Library was doing in terms of the arts, not on what other activities they had to address. She advised that it disturbed her that the Council did not have a sense of where the National Sporting Library was getting their other money for their arts-related activities.

Economic Development Coordinator Pearson noted that this was the first year someone else applied for the grant funds; therefore, she did not know what she was supposed to get from them. She advised that Bluemont knew what to do to apply for the funds. Ms. Pearson opined that next year, there may be other applicants for the grant funds.

Councilmember Shea advised that she was leaning toward letting the National Sporting Library know they were welcome to apply next year and this was what was required. She opined that the Council did not have the information to make a decision and noted that the Sporting Library may have received multiple arts grants. Ms. Shea further noted that they did not supply that information. Councilmember Miller reminded Council that they were not required to provide it.

Councilmember Snyder noted that the National Sporting Library answered the questions that the staff asked. He opined that they were not in the position of Bluemont to provide all of the information needed.

Councilmember Shea opined that anyone who applied for grants knew there were basics that were needed and noted that they were not here in this case.

Town Administrator Semmes suggested that, in the future, the process be moved back. She further suggested that it be incorporated into the special events funding process that EDAC used. Ms. Semmes reminded Council that EDAC had requirements for budgets and questioned how the activity would benefit the Town. She suggested it made sense to sync those together and would be fair to all of the organizations that wanted grant funding.

Economic Development Coordinator Pearson suggested the Town ask for this information by the end of December so the Town would know how many organizations were applying for the arts grant. She opined that this year was a learning curve year.

Vice Mayor Kirk suggested the Council not penalize the National Sporting Library due to the Pink Box.

Town Administrator Semmes suggested that EDAC could entertain funding the National Sporting Library through their process rather than their being a part of the grant.

Councilmember Shea suggested the Council consider having EDAC take responsibility for pulling together information on the arts grant requests in the same way they did the special events ones. She further suggested this grant be run through EDAC, with their recommendation coming to Council separately from the special event monies. Vice Mayor Kirk agreed.

Councilmember Snyder reiterated his suggestion that the arts grant be left as is this year and not be split. He further suggested the Council advise the staff to start moving this into the EDAC process for next year. Councilmember Shea agreed.

Councilmember Hazard noted that Bluemont was a strong part of the Town; however, he was leery of penalizing the National Sporting Library when they met the criteria. He reminded Council that the grant funds did not have to be split evenly and suggested they be split on a four-to-one basis. Mr. Hazard reminded Council that the Sporting Library had become more community oriented with the concerts.

Councilmember Miller noted that the Sporting Library did what they were asked to do.

Economic Development Coordinator Pearson reminded Council that they had funds in the Other Special Events line item that have not been designated. She noted that there was \$20,000 in the budget for 2016-17.

Councilmember Snyder reiterated his suggestion that the State grant funding be left as-is. He further suggested that the organizations be made whole out of the EDAC funds.

Mayor Davis questioned whether the Town gave the National Sporting Library money in the budget. Economic Development Coordinator Pearson confirmed they were not a line item in the budget. She noted that last year, they received \$2,500 through EDAC's special events line item.

Town Administrator Semmes suggested the Council not worry too much over where the money came from and noted that the decision was how much funding to give each organization. She advised that the staff could make the money work. Ms. Semmes noted that the Economic Development Coordinator would have to make sure the State understood who the Town was giving the grant money to and how much. She advised that the Town must notify them if this was different than what was in the grant application.

Councilmember Daly noted that there were two sources of money. He further noted that Councilmember Snyder suggested the grant funds continue to go to Bluemont but that money be designated for the National Sporting Library from the Town's budget.

Councilmember Snyder noted that he was only talking about this for this fiscal year. He suggested that next year, this could be looked at differently. Councilmember Daly opined that this sounded like a reasonable compromise.

Councilmember Shea noted that her concern was that the rules have changed, not of the Council's doing. She further noted that the National Sporting Library asked for the funds before the Council was prepared. Ms. Shea acknowledged that the Sporting Library did provide information; however, she noted that there was nothing in place to deal with the funds going anywhere but to the one organization.

Mayor Davis noted that Councilmember Daly was saying to give Bluemont the \$5,000 in grant monies and to use the special event funds to give the National Sporting Library \$2,500.

Councilmember Miller questioned whether this would require the National Sporting Library to go through EDAC. Economic Development Coordinator Pearson confirmed it would for the match. She noted that there would be no need for matching funds if they requested funding only through EDAC. Ms. Pearson reminded Council that a match was required only if it involved grant money.

Councilmember Miller questioned whether Bluemont had submitted a request through EDAC. Economic Development Coordinator Pearson confirmed it had not.

Councilmember Hazard questioned how the grant process worked. Economic Development Coordinator Pearson noted that she needed to let the State know what the Council did and show what was paid.

Councilmember Shea clarified that her objection was in rushing the process, not distributing the funds.

Councilmember Daly recommended the Council use the VCA funds to provide Bluemont with \$5,000, with the Town providing the match. He further suggested that EDAC funds be used for the National Sporting Library's request.

Town Administrator Semmes questioned the amount of funding to be provided to the National Sporting Library. Councilmember Shea suggested the Library needed to make a proposal. Economic Development Coordinator Pearson noted that they were asking for a total of \$5,000.

Councilmember Hazard opined that they were asking for \$7,500. Economic Development Coordinator Pearson noted that this was Bluemont. She explained that the National Sporting Library was asking for \$2,500 from the grant, with the \$2,500 match coming from EDAC funds.

Councilmember Littleton advised Council that he was uncomfortable saying the "money was all the same" as it was not. He noted that one source was for a specific purpose and the other was grant funding that came with rules and requirements. Mr. Littleton noted that the Council had the authority to decide who received it; however, he was uncomfortable with the appearance that the Council was saying "they applied for a grant but I don't like it in that bucket but will make it up here and all of it will wash out in the end". He opined that this would be saying to the community that the Town did not follow its own processes.

Councilmember Snyder noted that the National Sporting Library had come to the Town via EDAC, whereas Bluemont had not. He suggested that this existing arrangement continue but that the process be opened next year. Mr. Snyder advised that he was reluctant to make changes after the start of the fiscal year.

Councilmember Littleton reiterated that he was talking about the appearance of the process, which had nothing to do with the applicants. He opined that all applicants should be treated equally unless something kicked them out of the process. Mr. Littleton opined that it was up to the Town to get the information it needed. He reminded Council that the purpose of government was to be objective and was responsible for the public's trust. Mr. Littleton suggested the need to make a decision about the grant based on the merits of the grant independent of the other funding that may be available. He explained that he was not saying that applicants could not go through EDAC. Mr. Littleton suggested that if the Council felt that Bluemont was more deserving on the merits, then the decision was done and the National Sporting Library could make an application for the special events funding. He reiterated that he was uncomfortable with the discussion being that "the Council did not like the funding here and would make it up here". Mr. Littleton suggested the two not be connected. Councilmembers Miller and Kirk agreed.



Councilmember Snyder noted that in the past, the Council had not authorized EDAC to make splits. He further noted that this was the first time a split was being considered. Mr. Snyder explained that he was saying that it was inappropriate to make a new decision on the grant funds in the middle of a fiscal year.

Mayor Davis noted that this occurred in March. Councilmember Littleton noted that the applications were filed before the start of the fiscal year.

Town Administrator Semmes suggested that in the future, from a budget standpoint, the line item should not be thought of as “Bluemont Concert Series” but rather as grant money. She suggested the need to have a separate line item for the grant expenditures, including the Town’s match.

Councilmember Littleton suggested that if the Council was comfortable saying that “Bluemont was more important to the Town and should get all of the grant money”, this should be the reason for the decision. He further suggested that it should not be because they could make the Library whole elsewhere. Mr. Littleton reiterated that he was only talking the process. He noted that he was not knowledgeable enough about what Bluemont and the National Sporting Library concerts provided, other than his own personal take, in order to say which was more deserving.

Vice Mayor Kirk opined that Councilmember Littleton was raising questions that all of the members should be asking. She suggested the grant funds be split.

Councilmember Daly questioned whether Bluemont must then apply for the other funds. Town Administrator Semmes confirmed they would as this was how those funds were distributed.

Economic Development Coordinator Pearson reminded Council that the budget contained \$7,500 for Bluemont. Town Administrator Semmes noted that this money was thought of as the grant match. She suggested that moving forward, it be a line item entitled “grant expenditures” so it would be clear.

Councilmember Shea noted that she was suggesting this go through EDAC.

*Mayor Davis questioned whether the Council wished to split the Virginia Commission for the Arts grant funds in half between Bluemont and the National Sporting Library. Councilmembers Kirk, Daly, Hazard, Littleton and Miller agreed they did. Councilmembers Shea and Snyder indicated they did not.*

Councilmember Daly asked the staff to inform Bluemont that they could apply for EDAC funding for the difference. He noted that each organization would receive \$2,500 in grant funding, with the Town providing \$2,500 each in matching funds. Mr. Daly further noted that if they wanted any additional funds, they needed to go through EDAC.

Councilmember Shea questioned whether the National Sporting Library had already applied for \$2,500. Economic Development Coordinator Pearson confirmed they had. Councilmember Miller noted that they were fully funded if EDAC approved their request.

Councilmember Shea suggested Bluemont needed to apply.

Vice Mayor Kirk questioned who approved the EDAC recommendation. Economic Development Coordinator Pearson noted that the Committee made a recommendation, which then went to the Council for approval.

**Council Discussion** – Request to Connect to Town Utilities – 23381 Sam Fred Road

Scott Evans and Phyllis Brooks appeared before Council. Ms. Brooks advised Council that she inherited a house on Sam Fred Road, which she was in the process of trying to restore. She noted that it was an old house from the 1790s. Ms. Brooks advised that they have been meeting with the Virginia Department of Environmental Quality and the Loudoun County Health Department regarding water and septic. She explained that because the County indicated there was not enough room to repair the septic system, they would like to connect to the Town's sewer system.

Mr. Evans explained that he had an interest in renovating properties and looked into this one. He noted that it was a fixture on the entrance to Middleburg. Mr. Evans advised that it had gone into disrepair over the years. He reiterated that they have talked with the County about the septic system and advised that the property owner was in discussions with the Department of Environmental Quality due to an underground leak that affected the well. Mr. Evans explained that there was an issue of where the well could go in relation to the septic. He reported that there was no official septic system on the property; and, when inspected, was told there was no area where one could be safely put on the property.

Mr. Evans reminded Council that the Middleburg Animal Hospital, located to the west of this property, was approved for annexation and utility connections at their expense. He requested ideas from the Council in terms of an annexation. Mr. Evans noted that Loudoun County mentioned that there was property in between this one and the animal hospital that also appeared to have a failing septic system; therefore, there was a potential for problems on the entire corner. He presented a copy of an email from the County containing their recommendations and reiterated his request that, at some point in the future, should the utility line be completed that was approved for the animal hospital that they be allowed to connect to it at their expense.

Councilmember Shea requested clarification on whether the animal hospital connection had been approved. Town Administrator Semmes reported that she was the Town Planner when the boundary line adjustment occurred. She noted that the purpose of it was to permit them to connect to the Town's utilities at their own expense; however, this never happened. Ms. Semmes reported that the Health Department contacted her to indicate that they had been working with the animal hospital on the status of their septic system. She advised that she was unsure whether the former owners of the animal hospital ever designed a system; however, she heard that it was going to be very expensive to connect as it would require a pump.

Councilmember Hazard inquired as to who owned the property in question. Mr. Evans confirmed that Lisa Baltimore inherited it from her grandfather. He explained that the County did not want to condemn property; however, this was unsafe. Mr. Evans advised that in terms of proceeding, he would expect the line to be extended to the animal hospital, which would then provide him with the option to eventually get relief.

Councilmember Snyder opined that the Town needed to figure out the cost of extending the sewer line as the main did not approach any of the properties at this time. He noted that this request would require a boundary line adjustment as the Town did not provide wastewater services outside of the town limits. Mr. Snyder opined that the Town needed to understand the cost of extending the sewer line to be accessible to all three properties and suggested that all three would need to be annexed if the Town decided to proceed with this request.

Vice Mayor Kirk inquired as to who owned the middle property. Mr. Evans reported that it was Mr. Benison. He advised that he had had some preliminary discussions with him and he was aware of his appearance before the Council. Mr. Evans noted that Mr. Benison was dealing with Loudoun County regarding his septic system, which was also failing. He opined that the corner

was on the “knives edge” and that Loudoun County would continue to allow them to operate until the systems failed. Mr. Evans noted the proximity of these properties to the town; therefore, this was a health concern. He opined that in order to be proactive, something could be developed with the Town’s assistance.

Councilmember Snyder advised Mr. Evans that the Town would need to see interest by all three property owners. He further advised that they would be required to properly abandon their wells and connect to the Town’s water system. Mr. Snyder noted that all three would need to agree to being annexed and to connecting to water and sewer, as well as paying the availability fees, in addition to the cost to extend the lines. He opined that the Town would need to know the cost to put the utility lines in so they would be accessible to all three properties. Mr. Snyder suggested this was needed in order for the Council to agree to the request.

Mr. Evans reported that the property in question was under the DEQ’s underground seepage program. He advised that he would look into whether their funds could be used to make a connection to the Town’s water system. Mr. Evans confirmed he could gather information for the Council in terms of cost, come up with a plan for the three properties and get input from the Council as to what it would like to see.

Councilmember Snyder suggested he get an idea of the availability fees from the staff for both the water and wastewater connections.

Councilmember Shea suggested that before returning to the Council, the applicant needed to work with the Town staff to identify something that was workable as they were talking about possibilities, not facts.

Councilmember Snyder opined that Mr. Evans had enough information from the Council in order to work with the staff to see if this was a viable approach from the applicant’s point of view.

Councilmember Hazard inquired as to the County’s thoughts on a boundary line adjustment. Town Administrator Semmes opined that if the County had health concerns, they would be supportive of the provision of services and a boundary line adjustment. She further opined that they would not object. Ms. Semmes suggested the cost would be the major consideration for the applicants. Councilmember Hazard agreed and noted that the extension of the lines would be greater than the availability fees.

Councilmember Snyder reiterated that the Council needed to look at the cost to see if this would be worthwhile for the Town. Town Planner Moore reminded Council that the applicants would have to pay the availability fees, as well as the cost to extend the lines.

Councilmember Snyder questioned whether the boundary line adjustment had been completed for the animal hospital. Town Administrator Semmes confirmed it had. She noted that when the Health Department contacted her, she was surprised to learn that the animal hospital had not connected to the system.

Councilmember Snyder noted that the business moved and the property sat vacant for a couple of years before changing ownership. He opined that the new owner had not talked to the Town. Mr. Snyder further opined that they could eventually be required to connect. Town Administrator Semmes confirmed they could not be required to do so as the mains were not close enough to the property.

Mr. Evans opined that this could be done with DEQ involvement. He noted that this building and Mr. Benison's had historic value and were on the gateway to Middleburg. Mr. Evans opined that it was important that they be restored.

Mayor Davis asked Mr. Evans to work with the Town staff. Town Administrator Semmes asked that he speak with the Town Planner.

**Council Discussion** – Abolishment of Farmers Market Committee

Economic Development Coordinator Pearson requested the abolishment of the Farmers Market Committee. She explained that it was difficult to get the vendors to attend meetings and noted that the market was run by the staff. Ms. Pearson further noted that the vendors did have a meeting to offer recommendations; however, it was hard to have a committee. She asked that the staff be allowed to run the market.

*Councilmember Snyder moved, seconded by Vice Mayor Kirk, to abolish the Farmers Market Committee.*

Vote: Yes – Councilmembers Kirk, Daly, Hazard, Littleton, Miller, Shea and Snyder

No – N/A

Abstain: N/A

Absent: N/A

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

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**Council Discussion** – Signs & Other Items in the Pedestrian Bump-Outs

Councilmember Shea advised Council that she asked that this be put on the agenda as the Town had nice, new wide sidewalks. She opined that some people would want to fill them up. Ms. Shea explained that she wanted the Council to begin talks about what was and was not acceptable. She suggested the need to look at the sidewalk and sign ordinances in order to identify a much clearer designation. Ms. Shea displayed a photograph that was taken on her corner, which showed items on the sidewalk. She advised Council that one could not walk down the sidewalk as a result. Ms. Shea noted that she had witnessed signs all over town. She questioned who would be responsible for the new garden spaces.

Mayor Davis noted that those areas would contain trees and would be small enough for the Town staff to handle.

Town Administrator Semmes noted that there were two areas, both at the intersection of Washington and Madison Streets, which were added due to changes in the project design that would require landscaping.

Town Planner Moore reported that the Streetscape Committee was already talking about low plantings for those areas.

Councilmember Shea opined that there would be issues with signs and other items being placed on the sidewalks.

Mayor Davis noted that people were currently unhappy. She suggested this be addressed once the project was finished, unless items were being placed where people were walking.

Councilmember Snyder questioned where the Town stood with merchants putting things on the sidewalk. He further questioned whether this would be an enforcement problem when the new sidewalks were complete.

Town Planner Moore noted that this was speculative; however, he agreed there would be more room where things could be placed. He acknowledged that businesses could push sandwich board signs into them. Mr. Moore reminded Council that the Town typically allowed signs on the sidewalks, which was strange as the Town did not own them. He advised that the Town has said by policy that it would allow sandwich board signs. Mr. Moore noted that the Town enforced the placement if the signs disrupted pedestrian traffic and suggested it would be best to keep them from going too far out.

Councilmember Snyder suggested the Town Planner look at the current ordinance and regulations in order to give an opinion on changes the Council may want to consider.

Town Planner Moore suggested this would require consultation with the Town Attorney as far as the Town's ability to regulate use as the Town did not own the sidewalks. He advised that the Town's regulations were mostly silent on the use of the sidewalks and reiterated the need to determine whether the Town could regulate the use of them.

Mayor Davis noted that when the Council talked about this years ago, VDOT's regulations stated that items could not impede the flow of pedestrian movement. She further noted that the Council agreed to be business friendly and allow nice sandwich board signs that did not block movement if there was enough room.

Councilmember Shea advised that the one block where the Town could not do much to make them wider was the block that had the most items out on a consistent basis. She noted that there may be areas where there was room; however, she suggested the Council could not have regulations for one end of town only.

Mayor Davis suggested that if a sign or other item required pedestrians to walk around it, it should not be allowed.

Councilmember Snyder noted that the Town had limits on sandwich board signs, such as quantity and size. Town Planner Moore advised that it did and did not. He explained that while it was in the zoning ordinance, if he had to make a determination, he would say it did not apply to signs in the public right-of-way as the zoning ordinance could not regulate use of the public right-of-way.

Councilmember Hazard noted that the Planning Commission worked on this years ago and realized it had no jurisdiction as VDOT owned the sidewalks, not the Town. He advised that the Town basically put out a recommendation.

Councilmember Snyder suggested it would behoove the Council to get the Town Attorney's input.

Town Administrator Semmes reminded Council that VDOT did approve sign agreements with jurisdictions and suggested the need to see whether they have permitted others to regulate signs in the right-of-way. She suggested the need to have a conversation with VDOT. Ms. Semmes noted that she was working with them now for Town signs in the right-of-way.

Councilmember Miller questioned whether the signs required a COA. Councilmember Shea noted that the ordinance stated that the signs must be chalk boards and questioned who required their removal if they were white boards. She opined that it was ridiculous that they must be chalk board.

Mayor Davis noted that when the Council started this, they were addressing the issue raised by Councilmember Miller as to requirements related to the kind of sign and ended up staying with the chalk board sign. She advised that they decided the Town needed to allow other signs as long as they would pass the muster of appearance. Ms. Davis suggested the Council could discuss a review of the signs.

Councilmember Miller opined that the issue was more than signs. He suggested that if the Town had a recommendation on signage, it should also address things like flower pots. Vice Mayor Kirk suggested it also address clothing racks.

Councilmember Hazard noted the need to talk to VDOT first. Town Planner Moore agreed that the Town must find out what it could regulate. He advised that he was not comfortable trying to enforce something that he did not have the ability to enforce. Mr. Moore acknowledged that while this was done in the past, it was not a good way to conduct business.

Councilmember Littleton suggested the next step was to identify if there was a Town board that was responsible for street appearance. He recommended the Streetscape Committee look at whether the Town should go down the path of regulating this and what it needed to do to have the authority to do so. Mr. Littleton suggested the Town should not put out guidance if it did not have the authority to do so. He advised that he did not want to create the appearance of an authority the Town did not have.

Councilmember Snyder suggested the conversation start with the Town Attorney to determine what the Town had the authority to do. He noted that this was a staff function.

Councilmember Shea agreed this was a staff responsibility and suggested that once the Council knew what it wanted to do, it could then ask the Streetscape Committee to work with the merchants.

Mayor Davis suggested the Council wait for the staff's report before discussing this item further.

#### **Council Discussion** – Town Properties

Town Administrator Semmes reminded Council that in the past, they have periodically looked at the Town's properties to make sure it was making the best use of its resources. She noted that she forgot to include the Asbury Church on the list. Ms. Semmes advised Council that she prepared a map identifying the properties and suggested the new members of Council be brought up to speed. She further suggested that a sub-committee be appointed to work on Town government planning, including space planning, and noted that the Town Planner would head up that project.

Councilmember Shea questioned whether this would fall under the land use committee.

Vice Mayor Kirk reported that she and Councilmember Snyder would work with the Town Planner. Councilmember Daly noted that he would like to work with the committee in terms of the Police Department. He expressed a desire to consolidate the Town's personnel in one location.

Councilmember Snyder expressed concern about what the Town would do with the money if properties were sold. He suggested that if the old wastewater treatment plant was sold, the proceeds should go into the Utility Fund and if the Town Shop was sold, it should go into the General Fund.

Town Administrator Semmes advised Council that the Town could not sell the old wastewater treatment plant as it was too integrated into the new one. She further advised that the Utility Committee had talked about abandoning some of the old facilities and prepared a map that showed what should be abandoned. Ms. Semmes noted that this needed to be sent out for cost estimates and advised that the first one was over \$100,000. She reported that Inboden Environmental Services would give the Town prioritized recommendations as to what needed to be abandoned for operational reasons.

Town Administrator Semmes noted that the report showed that the value of some of the properties had declined since 2011. She advised the new members that the staff was looking into the government's space needs, as well as the Town's parking needs, including how to improve the public parking. Ms. Semmes suggested a committee follow that and recommended that she brief the new members on the information that was provided in the past. She suggested that if real estate was involved, the Council may need to discuss it in closed session.

Vice Mayor Kirk suggested the Council wait until it heard from the Town Planner on when he wanted to start the discussions.

Councilmember Shea questioned whether Mr. Moore had a clear direction. Town Planner Moore suggested the need to discuss this with the Town Administrator as he was only expecting to address space planning.

Town Administrator Semmes reported that the West End Pump Station was being programmed, with the engineers working on it as a part of the capital projects. She further reported that the access road would be upgraded as a part of that project.

Councilmember Shea opined that there were only a couple of properties that the Council was looking at selling.

Town Administrator Semmes suggested this was not about selling properties, but was about the Council understanding what the Town had and better utilizing it. She agreed the Town may want to sell some properties; however, she noted there was no need to do anything with them at this time. Ms. Semmes suggested that if the new members were interested in seeing any of the utility facilities that Mr. Will would be happy to give them a tour.

Councilmember Daly noted that he toured two of the sites, but not the wastewater treatment plant. Town Administrator Semmes noted that that plant was state-of-the-art and was the largest facility owned by the Town.

Councilmember Daly advised that it was interesting to find out what was Town property and noted that he had not thought about the Health Center belonging to the Town. He advised that he could not understand why the Community Center did not.

Councilmember Snyder explained that they were gifted in this manner.

Town Administrator Semmes reported that the staff was obtaining cost estimates on the roof repairs and advised that the Facilities Supervisor obtained a couple this week and expected another within the next week.

Town Administrator Semmes announced that there has been interest expressed in renting the old Police Department space and reported that the Council would have a closed session during its next meeting to discuss the leasing of public property.

**Council Discussion** – Amendment to Town Code Chapter 87 pertaining to Solid Waste

Town Clerk North advised Council that the changes they requested during their last meeting have been made to the ordinance.

Mayor Davis noted that the ordinance required trash to be set out no later than 5:00 a.m. She questioned whether there was a way to phrase it to say that it must be set out by 5:00 a.m. to guarantee pick-up. Ms. Davis advised that the trash trucks generally did not pick up in her area until around 8:00 a.m.; therefore, her husband did not put it out until 7:00 a.m. She suggested that people should not break a rule if they wanted to put their trash out later.

Councilmember Snyder questioned whether there was a time period in which items should be placed out for collection. Town Clerk North confirmed that they could be set out as early as 3:00 p.m. on Tuesday and must be set out by 5:00 a.m. on Wednesday. She noted that the Town would not police when people set out their garbage and advised that the only way the Town would go after someone was if it created a problem and the neighbors complained. She noted that there was not enough staff available to police when people set out their garbage.

Mayor Davis noted that the ordinance required yard waste to be placed in biodegradable paper bags. She further noted that she put hers out in boxes. The Council agreed to change this to “biodegradable containers”.

Councilmember Snyder questioned whether the Town provided contact information for the trash collector on the Town’s website so citizens could call regarding bulk collections. Town Clerk North confirmed it was on the website and that people called the Town Office for it.

Councilmember Snyder noted that Section 87-11 contained the phrase “ashes and refuse” and questioned whether it should just say “refuse”. Town Clerk North noted that this was existing language. After some discussion, the Council agreed to remove the term “ashes”.

Mayor Davis questioned whether the Council needed to vote on this item. Town Clerk North reminded Council that because this was such a major change, the staff was recommending the Council hold a public hearing in order to receive public input. The Council agreed to advertise the ordinance, as amended, for public hearing.

**Council Discussion** – Cancellation of August Work Session

After some discussion, the Council agreed to cancel the work session. It was noted that a meeting could be held should an item arise that required Council action.

Councilmember Snyder noted that the Mayor or any member of Council could call a special meeting if needed. Town Clerk North noted that one member of Council could not call a special meeting and opined that the Town Charter required three members to do so.

Mayor Davis noted that the Council had not had to call a special meeting since it started cancelling this meeting.



## **Council Review** – Town’s Financial Management Policies

Town Administrator Semmes advised Council that she recently discovered that the Town had financial management policies. She further advised that for the most part, the Town has been following them; although, some had not been as there was no money until recently to follow them. Ms. Semmes suggested the Council review the policies and decide in the future whether they wanted to amend them. She advised that the Town was staying within the policies in terms of debt, which were more restrictive than the State requirements.

Councilmember Snyder noted that he cringed whenever anyone talked about creating new parking and noted the cost of the Liberty Street Parking Lot. He opined that the Town paid in excess of \$50,000 per spot. Vice Mayor Kirk noted that it was closer to \$300,000 per spot. Councilmember Shea suggested the Council not let one past experience influence them.

Councilmember Snyder noted the need for the Council to resolve how to make sure the projects were managed and how funds were expended. He reminded the members that the Liberty Street Project went a long way before the Council knew of the dire financial shape the Town was in as it tried to complete the project. Mr. Snyder noted that that project almost ruined the Town’s finances for decades.

Mayor Davis noted that the budget control policy stated that the Town Administrator shall comply with the policy with regard to budget transfers. She suggested this should include the Town Council.

Town Administrator Semmes explained that she was only saying in the memo that she complied with the policy. She noted that it was up to the Council to decide if they liked the policies. Ms. Semmes reminded Council that the policy granted the Town Administrator the authority to make budget transfers and requires she then report them to the Council. She noted that she did so last month with the end-of-the-year fund transfers. Ms. Semmes further reminded them that a budget amendment was not needed as the transfers kept the Town within its budget.

Councilmember Shea noted that there was nothing in the policy to require the Town Treasurer to make regular reports to the Council. She suggested that given the Town’s past history, it was important that this be made clear. Councilmembers Snyder and Kirk agreed.

Vice Mayor Kirk suggested the policies should have further study. Town Administrator Semmes suggested a subcommittee could work on this or that the Council could work on it as a committee of the whole.

Councilmember Shea opined that Leesburg’s policy stated some things more clearly. She suggested a committee work on the policy and bring a recommendation back to the Council.

Vice Mayor Kirk agreed, as Chair of the Finance Committee, that the policies should be reviewed. Councilmembers Snyder and Shea agreed to assist Vice Mayor Kirk.

## **Town Council Reports**

Councilmember Shea reported that Go Green was looking at organizing a walk/run/ride event, with some other activities occurring around it, which would occur next spring. She advised that the committee would bring their proposal to the Council for approval.

Councilmember Daly reported that there was an incident at the Salamander Resort that involved the breaking of a gas line. He reminded the Council that National Night Out was scheduled for August 2.

Councilmember Daly advised Council that the VML training for newly elected officials was great and noted that he learned a lot. He opined that VML had great resources, as did the State. Mr. Daly offered to attend the VML Annual Conference in October.

Councilmember Snyder reminded Council that the Wellhead Protection Committee was looking at an ordinance related to the storage of hazardous materials. He reported that they would meet again before returning that item back to the Council. Mr. Snyder expressed confidence that they were very close to making a recommendation.

Councilmember Miller reported that EDAC met earlier in the week and agreed to issue a RFI to consulting companies in order to get an idea of what was possible and what could be done to recruit businesses into the vacant spaces around town.

### **Discussion**

Councilmember Snyder announced that Bluemont would hold a Fortieth Anniversary Gala in September in Warrenton. He advised that he would like to buy a table for Middleburg if the Council or staff was interested in attending. Mr. Snyder noted that the table would contain seating for ten, including himself. He advised that he would buy the table personally and invited the members to attend. Mr. Snyder opined that the event date was September 19<sup>th</sup>.

Mayor Davis reminded Council that Bluemont would hold a volunteer reception on July 30<sup>th</sup> before the concert.

After some discussion, the Council asked that Councilmember Snyder provide the details on the event to the Town Clerk so she could forward it to them so they could check their calendars for availability.

Councilmember Snyder agreed to do so and asked for a response soon as he needed to pay for the table.

Councilmember Shea noted the accident that occurred earlier in the week at the intersection of Madison/Pendleton Streets.

Councilmember Daly reported that the accident related to the Salamander gas leak was due to the cutting of a tree. He confirmed that the gas line was marked by Miss Utility.

Mayor Davis noted the bad accident at the intersection of Madison/Pendleton Streets. She reminded Council that the Town has been seeking to change that to a four-way stop intersection.

Councilmember Hazard reported that there have been problems at the intersection of Marshall/Pinkney Streets. He advised that his neighbors have approached him because people were flying around the corner. Mr. Hazard reported that two neighbors had to jump from the right-of-way to keep from being hit. He advised that they have asked for more police presence. Mr. Hazard opined that there was a lot of frustration in town, which had moved to the east end with the movement of the project.

Councilmember Miller noted that this was a dangerous area anyway and was now hazardous. He reminded Council that there was no sidewalk in this area; therefore, the residents must walk in the road. Mr. Miller reported that motorists were flying all day long, although it was worse during rush hour. He asked that the Town request that VDOT install a stop sign on Marshall Street headed east, at the bottom of the hill.

Councilmember Hazard noted the need for signage while the Town was waiting for the installation of a stop sign. Town Administrator Semmes reported that the Police Chief put up "Police Slow Down" signs.

Councilmember Snyder noted that the Council previously discussed that with the detours, this would be an optimum time to go back to VDOT to request a four-way stop sign. He questioned whether anything had been done on that.

Town Administrator Semmes confirmed it had not been revisited. She opined that now that there had been an accident, there was fuel to make another request.

Councilmember Snyder suggested the traffic count number would be different if it was made now. Town Administrator Semmes noted that VDOT would only say the numbers were temporary. She suggested it be revisited given the accident.

Mayor Davis asked that a meeting be scheduled with VDOT and advised that she would be happy to attend.

Councilmember Miller suggested that VDOT be brought to his house so they could watch people fly around the corner.

Town Administrator Semmes suggested the Town also mention the need for maintenance on the back streets, especially with the additional traffic. She noted that she was receiving additional complaints on the condition of the roads.

Councilmember Miller noted that they were getting worse daily. He suggested there had never been a better opportunity to discuss the need for sidewalks on Marshall Street. Mr. Miller noted the number of pedestrians in this area during the mornings and evenings. He opined that it was extremely dangerous and noted that there was nowhere to go when motorists were flying.

Mayor Davis asked that the Police Department be asked to be over indulgent with violators.

Councilmember Miller confirmed they had been. He reported an incident in which he and his family were walking just beyond Chinn Lane in which a motorist flipped him off when he asked him to slow down. He opined that he was doing 50 mph. Mr. Miller advised that he called the on-duty officer and noted that the officer indicated she saw the car at Jay Street; however, because the individual properly stop at the stop sign, she had no reason to stop him. He noted that by the time the officer reached the intersection where he was, the motorist was already at Salamander. Mr. Miller opined that once a motorist saw an officer, they figured there would not be another one. He noted that the officer did talk to the motorist in the parking lot.

Vice Mayor Kirk noted that the officers could always talk to Salamander's manager or their personnel manager about specific employees.

Economic Development Coordinator Pearson announced that the Middleburg Charter School would hold a back-to-school picnic on August 5 and had invited businesses and locals to attend. She opined that the parents would like to meet the Council.

**Closed Session** – Personnel

*Vice Mayor Kirk moved, seconded by Councilmember Hazard, that Council go into closed session as allowed under the Virginia Freedom of Information Act Section 2.2-3711(A)(1) for 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. Vice Mayor Kirk further moved, seconded by Councilmember Hazard, that these matters be limited to the compensation of the Town Clerk. Vice Mayor Kirk further moved, seconded by Councilmember Hazard, that in addition to the Council, the following individuals be present during the closed session: Martha Mason Semmes. Vice Mayor Kirk further moved, seconded by Councilmember Hazard, that the Council thereafter reconvene in open session for action as appropriate.*

Vote: Yes – Councilmembers Kirk, Daly, Hazard, Littleton, Miller, Shea and Snyder

No – N/A

Abstain: N/A

Absent: N/A

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

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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.

There being no further business, Mayor Davis declared the meeting adjourned at 8:09 p.m.

APPROVED:

\_\_\_\_\_  
Betsy A. Davis, Mayor

ATTEST:

\_\_\_\_\_  
Rhonda S. North, MMC, Town Clerk