



**MIDDLEBURG TOWN COUNCIL
REGULAR WORK SESSION
MINUTES**



July 25, 2013

PRESENT: Mayor Betsy A. Davis
Councilmember Kevin Hazard
Councilmember Trowbridge Littleton
Councilmember Catherine "Bundles" Murdock (left early)
Councilmember Kathy Jo Shea
Councilmember Mark T. Snyder
Councilmember David B. Stewart

STAFF: Martha Mason Semmes, Town Administrator
Rhonda S. North, MMC, Town Clerk
A.J. Panebianco, Police Chief

ABSENT: Vice Mayor C. Darlene Kirk

The Town Council of the Town of Middleburg, Virginia held their regular monthly work session on Thursday, July 25, 2013 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Mayor Davis called the meeting to order at 6:00 p.m.

Annual Report – Pink Box Advisory Committee

Linda Platt, Secretary of the Pink Box Advisory Committee, reported that the Committee met on July 19th, at which time they discussed some topics, the most important of which was renovating the Pink Box. She noted that it had been seven years since the Committee last met. Ms. Platt reported that they elected Mary Kay Garwood as their Chair, Mimi Stine as the Vice Chair and herself as the Secretary.

Ms. Platt reported that Bill Turnure, a local architect, attended the meeting so the members could provide him with their ideas for changing the building. She noted that the consensus was that they needed a built-in brochure rack and that the building needed to be painted. Ms. Platt noted that Mr. Turnure suggested the installation of track lighting. She reported that they also discussed the location of items such as a refrigerator and the copy machine. Ms. Platt noted that they were interested in making the space more organized. She advised that they also discussed improvements to the exterior of the building, as they were now using the yard for events such as artists' exhibits. Ms. Platt noted the need to do some landscaping.

Ms. Platt reported that Ms. Garwood requested that signage be installed indicating that dogs were not permitted in the Pink Box yard as they were destructive. She noted that five Boxwoods have had to be replaced due to dogs.

Mayor Davis advised the Committee that the Council would make sure their requests were addressed. She noted that the Council wanted to do the renovations to improve the building.

The Council held some discussion regarding the request to install signage prohibiting dogs. It was noted that Middleburg was an animal friendly community. It was suggested that a different option may be to plant American Boxwoods, which were hardier.

Councilmember Murdock questioned whether the proposed renovations have been discussed with the National Sporting Library. Ms. Platt confirmed they were.

Councilmember Shea reminded Council that the renovations were mostly to the interior; and, involved the construction of stands.

Councilmember Hazard questioned whether an identification sign was needed. It was noted that the existing sign was faded and should be replaced.

Councilmember Shea questioned whether the Committee discussed the Pink Box's hours of operation. Ms. Platt confirmed they did talk about the possibility of extending their hours; however, they did not vote on it.

Councilmember Murdock questioned whether there were enough volunteers. Ms. Platt suggested the need to recruit more. She advised that the docents were willing to extend their hours; however, they needed more people for the long term.

Councilmember Shea asked whether the Committee discussed extending the hours during special events, such as the Sidewalk Sale. Ms. Platt confirmed they did not. She noted that Ms. Garwood had always worked during those events if she could. Ms. Platt advised Council that she would take this request back to her.

Councilmember Shea noted that more events would be held in town, including the Shakespeare and Middleburg Film Festivals. She suggested the Committee find ways to coordinate with the Middleburg Business & Professional Association and the Middleburg Arts Council to see if it would be beneficial to have the Pink Box open during their activities.

Ms. Platt suggested the Committee meet with those organizations regarding their activities for the coming year so they could coordinate the Pink Box's hours.

Town Administrator Semmes noted that the Economic Development Coordinator already had the information regarding the special events.

Councilmember Shea asked whether the Committee discussed updating its information storage systems, such as replacing the computer. Ms. Platt confirmed they had not; however, she advised that they would do so. She noted that Mr. Turnure was willing to help the Committee develop a plan for making changes as needed.

Town Administrator Semmes asked that the Committee let the staff know what was happening so the Town could evaluate their requests. She noted that it was nice of Mr. Turnure to prepare the plan. Ms. Semmes advised that when she and the Economic Development Coordinator looked at the Pink Box, she found it difficult to find the Middleburg brochures among the other brochures. She noted that Visit Loudoun was no longer producing as many paper brochures as it had in the past; however, it had a great website. Ms. Semmes suggested the brochure rack focus on Middleburg, with a small computer station being located in the building so people could get information through the Visit Loudoun link and look up other visitor information electronically. She noted that this would also assist them in finding lodging. Ms. Semmes noted the need to look to the future and to provide a resource to connect people as print information became less available.

Ms. Platt reminded Council that the town would soon move from a thirty-five room locality to a two hundred room one.

Councilmember Murdock noted that a computer station would take some of the work load off the docents as it would allow visitors to find lodging on line.

Mayor Davis noted that the Town could not handle visitors without the Pink Box Advisory Committee. She thanked the members for their talent, time and efforts.

Councilmember Shea noted that the Pink Box Committee was as important as any Town committee.

Town Administrator Semmes noted that the docents at the Pink Box were often the first face of the Town.

Ms. Platt reported that she recently met a direct descendent of Levin Powell. She noted that she presented her with a copy of Audrey Bergner's book; and, advised that she planned to return with other family members.

Council Discussion – Fireworks Displays

Town Clerk North reminded Council that during their June work session, the issue of fireworks displays was raised. She further reminded them that several years ago, they adopted the Loudoun County Fire Prevention Code and appointed the Loudoun County Fire Marshall as the enforcing agent in Middleburg. Ms. North advised Council that Loudoun County required a permit for the private aerial display of fireworks. She noted that the permit application, including a \$600 application fee, must be submitted thirty days in advance of the event; and, advised that the applicant must provide the County with a certificate of liability insurance in the amount of five million dollars. Ms. North noted that the noise from the fireworks could not exceed 65 decibels, which generally limited their size to three inches or less. She reiterated that there was a process currently in place for the permitting of fireworks.

Town Clerk North advised Council that the State Code allowed municipalities to adopt regulations that were more stringent than the Fire Prevention Code. She noted that Loudoun County did so during the approval process for the Hound Stadium. Ms. North advised that they did so through proffers that required that they limit the number of permits to twenty per year; limit the days of display to Fridays, Saturdays, opening games and holidays; and limit the duration of an event to ten minutes. She noted that if the Council desired, they could adopt an amendment to the Town's existing Fire Prevention Ordinance to include such limits.

Town Clerk North advised that, based upon Council's request, she did provide some examples of fireworks ordinances that were used by other jurisdictions; however, she would not recommend them. She opined that Loudoun County's process was better and recommended it remain in place. Ms. North noted that this would leave the liability associated with such displays with the County. She advised that they reviewed the applications and made sure the fireworks would be put off by a certified pyrotechnician and confirmed that the fallout from the fireworks would not fall onto occupied buildings or cars and did not fall onto private property without the property owner's permission. She opined that the Fire Marshall was in a better position to monitor such activities.

Councilmember Snyder asked whether the Community Center was following this process.

Councilmember Murdock confirmed it was. She questioned the decibel level of the Fourth of July celebration. Chief Panebianco noted that it was approved by the Fire Marshall; therefore, he assumed it met their standards.

Councilmember Murdock advised that she had been given the impression that the Salamander Resort planned to set off fireworks more often than the Fourth of July; and, noted that it would be done as a part of their wedding packages. She reminded Council that she brought this to their attention as she was concerned that fireworks could be set off every Saturday night. Ms. Murdock expressed concern regarding the possible noise level.

The Council held considerable discussion regarding frequent aerial fireworks displays and the associated noise. They noted that Middleburg was an animal community and that fireworks sometimes scared horses and dogs. The Council further noted that the resort would have horses. They opined that the Salamander Resort was different than other five star resorts in that it was located in a town, whereas others tended to be on a coast line.

After some discussion, the Council agreed to continue with the permitting system in place; however, they wanted to implement some regulations, particularly on the number of displays allowed per year. The Council asked Councilmember Murdock to talk with Prem Devadas, of the Salamander Resort, to explain that the Council was not amenable to unlimited fireworks displays and that they planned to put limits in place. They further asked that she ask Mr. Devadas what the resort's plans were with regard to fireworks displays. The Council asked Councilmember Murdock to suggest to Mr. Devadas that there were alternatives to fireworks displays, such as light shows.

This matter will be placed on the next Council agenda for further discussion.

Council Discussion – Prohibiting of Large Truck Traffic on Residential Streets

Councilmember Murdock advised Council that she was tired of seeing large trucks going down residential streets. She asked that the Council consider prohibiting them when they were not making deliveries that were of a residential nature.

Chief Panebianco advised Council that as he understood the State Code, a town could ask that a primary road be designated as a truck route. He explained that they must do so by ordinance identifying the truck route, which was then forwarded to VDOT for their consideration. Chief Panebianco noted that VDOT then had nine months to make a decision. He suggested that the sooner the Council determined where they wanted the truck route and acted upon it, the sooner it could be done. Chief Panebianco recommended the staff contact Jim Bishoff, of J2 Engineering, to learn more about the process and to make sure the Town followed VDOT's regulations.

The Council held some discussion and agreed they would like to pursue this matter further. They asked the Town Administrator to contact Mr. Bishoff to learn more about the process and to get some guidance on where the designated truck route should be located.

Council Discussion – Amendment of Town Code pertaining to noise

Chief Panebianco advised Council that he, the Town Clerk and Town Attorney have continued to work on the draft ordinance. He reported that he has asked for a minor amendment to the penalties section to clarify that an individual could be charged with a criminal offense if the officers responded a second time within twenty-four hours to a noise complaint.

Town Clerk North reminded Council that when they last discussed this item, they requested several changes. She reported that a definition has now been included in the ordinance that would address the noise from any fowl. Ms. North further reported that the language has been changed to create different time limits during the week versus weekends. She noted that Councilmember Murdock asked that construction and lawn care activities not be allowed to commence as early as 7:00 a.m. on Sundays; and, advised that she included language that would prohibit it any sooner than 8:00 a.m. on Sundays. Ms. North explained that she set it at 8:00 a.m. as she was concerned about having citizens and/or contractors working outside during the hottest part of the day.

Town Clerk North noted that the staff has also proposed a total re-write of the penalties section since Council last saw it to include both civil and criminal violations. She asked whether the Council was okay with the civil penalty amounts as proposed. The Council agreed it was.

Councilmember Murdock left the meeting at 7:07 p.m.

After some discussion, the Council agreed it was okay with the ordinance, with the following changes: (1) amend Sections 63.2-6(4)(c) and (d) to allow construction and lawn care activities to occur no later than 9:00 p.m.; and (2) amend Section 63.2-6(4)(k) to state “Any designated person or company, as specifically permitted by the Town, contracted or engaged in work on behalf of the Town of Middleburg”.

Council asked that, once the ordinance was adopted, notification of it be sent to any affected businesses and organizations.

Town Clerk North advised Council that she would make the changes as discussed and would then advertise the ordinance for public hearing.

Council Discussion – Review of August Meeting Calendar

Town Clerk North reminded Council that some years they cancelled their August work session. She asked whether they wished to do so this year.

After some discussion, the Council agreed to move the August 8th Council Meeting to August 22nd in place of the work session. They further agreed to cancel the August 5th work session.

Town Council Reports

Mayor Davis advised that during the Route 50 Traffic Calming meeting it was reported that the temporary fix to the main traffic circle at Gilberts Corner to change it from two lanes to one would be a permanent change. She advised that this work would be done this Fall. Ms. Davis noted that the Committee still needed to work out what would occur with regard to the landscaping.

Town Administrator Semmes reported that with regard to the Middleburg Meandering Trail, the staff met with Turner Reuter to discuss the portion of the trail that would be located behind his property and the land that would be needed for the transportation enhancement project. She advised that other than a request to stake the trail to confirm the trees were in the right-of-way, he was on board with the request and liked what the Town proposed to do to the intersection. Ms. Semmes reported that the next step was to prepare the legal documents. She advised that this would address both the trail project and the transportation enhancement project.

Councilmember Shea reported that she heard members of the Pink Box Committee talking about doing something in the triangle. She suggested the need to clarify what they were proposing.

Councilmember Snyder suggested the Town advise them of its plans and let them know that if they wanted to do something there, they needed to coordinate with the Town Office.

Chief Panebianco reported that he had hired a part-time Administrative Assistant, Karen Kilday, who began work this week. He reminded Council that this was a twenty-three hour per week position; and, advised that she would either work five hours a day for four days and three hours on the fifth day or four and half hours per day five days per week. Chief Panebianco noted that her hours would allow for coverage when there was more foot traffic in the office.

Discussion

Councilmember Snyder noted that the Council received an invitation to the Bluemont Donor and Volunteer Reception to be held July 27th, beginning at 5:00 p.m., at the Middleburg Country Inn. He noted that the final concert of the season would be held later that evening.

Mayor Davis asked how things were going on Pendleton Street. Chief Panebianco reported that they were going well. He advised that he only had to speak with one motorist who parked in the no parking area and went to do errands. Chief Panebianco noted that he had been following citizen comments regarding the changes on Facebook; and, advised that while some people were opposed to the changes, the majority realized this was a better, safer option and recognized that more parking spaces were now available. He commended the Council for making the decision; and, opined that they succeeded in their effort to make the road safer.

Town Administrator Semmes noted that the Street Supervisor was working to get a welder in to raise the sign pole for the fifteen minute parking spaces.

Chief Panebianco reported that the officers were checking the fifteen minute parking spaces. He noted that he was told that one person had parked in one of the short-term spaces all day long; however, when he checked with the officer on duty, he found this was not the case. Chief Panebianco reiterated that the changes were working well.

Mayor Davis questioned the status of the warning signal for the Fire Department. Town Administrator Semmes reported that she and the Town Planner met on site to discuss this project earlier in the week. She reminded Council that the approved plans called for a solar reflector to be located across the street on Route 50; however, the contractor ran into rock at that location and asked to place the solar collector on the same side of the road as the signal, probably on top of the signal. Ms. Semmes advised that in order to do so, they must trim the branches of a tree so the sun could get to the collector. She reported that she could see no reason why they could not do so. Ms. Semmes opined that this was probably a better location. She reported that a new contractor had begun working on the Fire Department building.

Closed Session – Evaluation of Town Administrator

Councilmember Shea 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) pertaining to the discussion, consideration or interviews of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of the public body. Councilmember Shea further moved, seconded by Councilmember Hazard, that this matter be limited to the evaluation of the Town Administrator. Councilmember Shea further moved,

seconded by Councilmember Hazard, that in addition to the Council, the following individuals be present during the closed session: Martha Semmes. Councilmember Shea further moved, seconded by Councilmember Hazard, that the Council thereafter reconvene in open session for action as appropriate.

Vote: Yes – Councilmembers Hazard, Littleton, Shea, Snyder and Stewart

No – N/A

Abstain: N/A

Absent: Vice Mayor Kirk and Councilmember Murdock

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

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, a motion was made and voted upon to adjourn the meeting at 8:15 p.m.

APPROVED:

Betsy A. Davis, Mayor

ATTEST:

Rhonda S. North, MMC, Town Clerk