



**MIDDLEBURG TOWN COUNCIL  
REGULAR WORK SESSION  
MINUTES**



**September 26, 2013**

**PRESENT:** Mayor Betsy A. Davis  
Councilmember Kevin Hazard  
Councilmember Trowbridge Littleton  
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  
Cindy C. Pearson, Economic Development Coordinator

**ABSENT:** Vice Mayor C. Darlene Kirk  
Councilmember Catherine "Bundles" Murdock

The Town Council of the Town of Middleburg, Virginia held their regular monthly work session on Thursday, September 26, 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** – Main Street Middleburg Committee

Mayor Davis advised Council that there have been numerous versions of this Committee over the years. She reported that at some point, they became a sub-committee under Loudoun County's Main Street Committee. Ms. Davis advised that when that program went away, the Committee decided to continue even though it was not officially under the State's Main Street Program. She noted that what she liked about the group was that they talked about the local events. Ms. Davis advised that the people who participated were more involved and brain stormed ideas, which was very important. She expressed a desire for more people to attend the meetings. Ms. Davis opined that the attendees got more out of the Main Street Committee meetings than the Biz Buzz events as they had an exchange of ideas. She further opined that people did not attend these meetings because they believed they were the same as the Biz Buzz meetings.

Economic Development Pearson advised Council that the attendees usually involved someone from the Middleburg Bank, Fern Bratten, Genie Ford and Punkin Lee. She noted that they tried to get reports from Visit Loudoun, Bendure Communications, the Mosby Heritage Area Association and the Christmas in Middleburg Committee. Ms. Pearson advised that they did not usually have a lot of businesses represented at the meetings, particularly the restaurants. She stressed that they were an informative group, not a committee. Ms. Pearson noted that they looked at the events calendar and encouraged people to put items on it. She further noted that the Mayor usually announced Town events during the meetings.

Councilmember Snyder opined that they functioned better as a group than as a Council chartered committee.

Economic Development Coordinator Pearson confirmed they did. She noted that Fern Bratten recently had a wonderful idea for creating a marketing card for the Pink Box that could be placed at cash registers in stores to let people know what they did, including their hours of operation. Ms. Pearson reported that she was working to develop it.

Councilmember Snyder asked that the Pink Box's hours of operation be posted on the building. Economic Development Coordinator Pearson confirmed they were on the sign; however, they needed to be updated. She noted that they also needed to be added to the website. Ms. Pearson reiterated that the idea for the flyer came out of this group.

Councilmember Shea questioned, since they were not officially a committee, whether the Main Street Committee needed to give the Council an annual report. Mayor Davis opined they did not; and, noted that all of the items the Committee discussed were already included in the Economic Development Coordinator's monthly report. She suggested they be removed from the list.

Councilmember Shea suggested the Council extend an invitation for the Committee to come to a Council meeting if they have an idea they would like to present.

**Council Approval** – Resolution Adopting Guidelines Pertaining to Closure/Rental of Public Parking Spaces

Town Administrator Semmes advised Council that they have received a memorandum from the Middleburg United Methodist Church, who was using the incident that raised this issue to revise their policy and the information they distributed for weddings and funerals.

The Council discussed how often requests were made to bag parking meters for a wedding. They also discussed the number of public parking spaces located adjacent to the churches. The Council noted the effect of the closure of spaces for an entire day on the business community. They discussed whether there should be a charge for the bagging of meters for a wedding. It was noted that in the case of the Methodist Church, they have rented their parking lot to the Town for use as a public parking lot.

After considerable discussion, the Council asked that the draft resolution be changed to allow weddings to close up to five public parking spaces for their use for one day only at no charge, with three of the spaces to be located in front of the building and two in close proximity.

The Council discussed the circumstances under which an individual would be allowed to request approval to rent two spaces for a special event. They asked that the section regarding private events be changed to read "...may be rented by an established business for a special event if approved by the Town Council..."

The Council also held discussion regarding whether a limit should be placed on how far in advance an individual could make an application. It was agreed to allow the staff to handle this administratively; and, if it became a problem, the staff would seek an amendment to the policy to include a restriction on how far in advance an application would be accepted.

Economic Development Coordinator Pearson cited the example of the Fall Races who rented spaces for public safety purposes. She asked that the fee not be \$25 in those cases. The Council discussed the proposed fee and the number of spaces blocked when large vehicles were making turns at intersections. The Council also discussed when and how the bags were removed. They asked that the section on exceptions for public safety purposes be changed to allow the Chief to authorize the closure of any number of public parking spaces necessary to preserve the public safety, with the rental fee being \$10/space.

Councilmember Shea asked that the staff let people know the spaces would be blocked off. She noted that the individual business was being told; however, she asked that all of the businesses be told. Ms. Shea advised that this did not need to be included in the policy; however, she would like to let people know it was occurring if there was a way to do so.

Town Clerk North advised Council that she would prepare revisions to the draft resolution and place this item on the next Council agenda for further discussion.

**Council Approval** – Amendment to Town Code Pertaining to Stopping, Standing & Parking on Pendleton Street

Town Clerk North advised Council that this ordinance was being presented in response to the request made by Councilmember Murdock during the last meeting to change the eight hour parking meters on North Pendleton Street to two hour ones. She noted that the Town staff would provide a comprehensive parking recommendation for the town in the future.

Councilmember Snyder asked that the staff look for opportunities to create additional fifteen minute free parking spaces.

Chief Panebianco suggested temporary signage be installed at the parking meters on North Pendleton Street to alert people to the change. He noted that the Police Department would not immediately implement a strict enforcement of it.

Mayo Davis suggested that stickers be placed on the meters to identify them as two or eight hour meters. Chief Panebianco reported that the two hour meters contained such stickers; however, they have begun to peel off. He advised that he would discuss this with the Maintenance Supervisor.

*Councilmember Shea moved, seconded by Councilmember Snyder, that Council adopt an Ordinance to Amend Town Code Chapter 89 Pertaining to Stopping, Standing and Parking.*

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

No – N/A

Abstain: N/A

Absent: Councilmembers Kirk and Murdock

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

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**Council Discussion** – Development of an Automated Phone Alert System

Town Clerk North reminded Council that she found two companies that provide automated phone alert systems (robocalls) for local governments and small businesses that appeared to be easy to use and did not require a monthly minimum call commitment. She reported that based upon the Council's last discussion, she contacted both companies to determine the security of their system. Ms. North confirmed that neither sold the telephone numbers that would be entered into the system and that they had security systems in place to prevent them from being accessed. She advised that, as to Council's question as to how immediate the message would be sent, all of the numbers could be dialed simultaneously once the message was entered; and, noted that how quickly it could be dispatched would depend on how quickly the staff could do so.

Town Clerk North noted that both firms had different billing plans. She advised that she considered the costs based upon five hundred, thirty second calls in order to provide an apples-to-apples comparison. Ms. North reported that a robocall would cost \$36.50, including the rush fee, with Robodial.org. Ms. North further reported that the Town could purchase up to 5,000 credits with the second company, Dialmycalls.com, for \$250, which would allow it to send approximately ten separate messages. Ms. North noted that this company also offered an unlimited plan in the event the Town found it was using this service frequently. She advised Council that the staff was now awaiting direction from the Council as to whether it wanted to implement this program.

Council held some discussion regarding when the system would be used. Town Clerk North noted that during their previous discussion, the Council agreed to limit it to weather, utility and public safety related emergencies. The Council discussed whether it should be used for information purposes, such as notice of a private fireworks display.

The Council agreed they would like to implement an automated phone alert system. They expressed a desire to go with Dialmycalls.com, starting with the 5,000 credit purchase. The Council asked the Town Clerk to check their references.

The Council asked the Town Clerk to poll other jurisdictions to see if they had policies regarding the use of such systems. It was noted that in order to receive the alerts, citizens would have to sign up for the system. Town Administrator Semmes reminded Council that the Town was already a partner in Loudoun County's e-mail alert system, with the staff being able to send out alerts using that system.

Mayor Davis asked that this item be placed on the next meeting agenda for further discussion.

**Council Discussion** – Amendment of Town Code pertaining to repairs to service laterals

Town Clerk North reminded Council that their last discussion of this item centered mainly on whether they should implement this change in policy right away or wait until later when the Town was better able to handle the costs financially. She noted that she polled the towns in Loudoun County to determine how they handled lateral maintenance, with the results of the poll being included in the agenda packet. Ms. North reported that she also provided information on the water and sewer line repair and maintenance programs that were available to residents through Dominion Power.

The Council held some discussion regarding who was and who should be responsible for lateral maintenance and how often leaks occurred in the laterals between the mains and the meters/property lines. They also discussed the cost to the Town to maintain the laterals, particularly since it would have to contract for this work, including the work in the right-of-way. The Council discussed the lengths of the laterals it would be responsible for if it adopted a change in the policy. Town Administrator Semmes noted the need to map the water and sewer laterals, including their location and length. Town Clerk North noted that the draft policy would limit the Town's liability to thirty-five feet. She advised that she checked with Charlie Triplett, of Loudoun Water, who confirmed this would cover the majority of the laterals in the town.

The Council held some discussion about phasing in the acceptance of laterals, with all new and repaired laterals coming into the Town's maintenance system first. Town Clerk North noted that under the draft language, the water laterals would have to be installed to the Town's specifications; approval of the location would have to be given by the Town Administrator in advance of an installation if this involved a new installation; the meter must be in the right-of-way or within five feet of it; the length of the lateral between the main and the meter must not

exceed thirty-five feet; the lateral could not cross the property of a third party; the lateral must be in an acceptable condition; and, the meter must be located outside of the building. She further noted that similar conditions were recommended for the acceptance of a sewer lateral. Ms. North opined that enough conditions would be imposed that the Town would not accept bad laterals. She noted that in the case of a sewer lateral, if there was not an existing clean-out, one would have to be installed in order for the Town to accept the lateral for maintenance.

Councilmember Snyder recommended the elimination of the term “user” from the ordinances and the supplemental regulations, with the term “customer” being used in its place. He explained that the term “user” was taking on a new meaning because of the Internet. Town Clerk North explained that she used the term “customer” when referring to billing operations; however, she used the term “user” for anything of a regulatory nature. She further explained that she did so because “user” was an industry term that was used by the Virginia Department of Health and the Virginia Department of Environmental Quality and because a user was not always a Town customer. She opined that the Town needed to make sure the user understood that the regulations applied to him. Town Administrator Semmes noted that some users, such as restaurants, were not customers of the Town but were users of the system. She further noted that if they put something in the sewer system that they were not supposed to, the Town would want to take enforcement action against them. Ms. Semmes reminded Council that this was an ordinance and noted the need for it to be clear from an enforcement standpoint.

After some discussion, the Council asked the Town Clerk to send Councilmember Snyder an electronic copy of the draft ordinance so he could recommend some revised language for their consideration during a future meeting.

Town Administrator Semmes noted that, other than the issue of the “user/customer” terms, this was a matter of how the Council wanted to phase in the change in policy.

The Council held additional discussion regarding the location of the meter/clean-out and the length of the lateral that the Town would accept for maintenance. It was suggested that regardless of who was responsible for lateral maintenance, the Town did not want to have long lengths of laterals in the roads over which heavy trucks may be traveling. The Council discussed the need to identify the locations and lengths of the laterals.

Councilmember Shea opined that it was important to move forward with these items. She reported that the Middleburg Downs Subdivision was experiencing problems with their wells, including a lack of water. Ms. Shea noted that she was not sure of the extent of the problem. Councilmember Snyder noted that if a lot of the residents were having an issue, this was an indicator of a problem.

Mayor Davis asked that this item be scheduled for further discussion during a future meeting.

### **Town Council Reports**

Councilmember Snyder expressed concern regarding the construction, including possible blasting, at the Middleburg Professional Center given its proximity to Well 4. He further expressed concern regarding the potential impact on the Town’s well. Mr. Snyder noted that the Wellhead Protection Advisory Committee has not discussed this item; however, he would like to add it to their next agenda. He reiterated his concern about the possible impact of the excavation on the groundwater around the well.

Town Administrator Semmes advised Council that Jilann Brunett raised this concern to the staff. She further advised that the Town Clerk conducted some research on it.

Town Clerk North reported that she contacted the Loudoun County Health Department to determine whether they had any regulations regarding excavation on property adjacent to a municipal well; however, they did not. She advised that she then contacted the Virginia Department of Health to determine if they had any regulations in place that would address this situation; however, they did not either. Ms. North reported that they told her that their only requirement was that the well be on an individual lot and that nothing could take place on that lot. She reminded Council that Well 4 was on a lot owned by the Town; therefore, that regulation would not address this issue. Ms. North noted that the State representative advised her that the excavation could make the well's water quality and production levels worse or it could make them better; and, the Town would only know which once the excavation occurred.

Councilmember Snyder advised that he would like to discuss this with the Wellhead Protection Committee. He noted that they may have ideas that would work with the State Code or they may need to pursue revisions to the State Code.

Mayor Davis reported that the roundabout at Gilbert's Corner would be permanently corrected so there would just be one lane of traffic coming into the circle. She noted that there would also be a greater degree to the turns. Ms. Davis advised that while it would not be done right away, eventually the circle would be changed so motorists could not see through it.

Mayor Davis reported that VDOT was working on the crosswalk project in Middleburg; and, was coordinating the replacement of the Town's underground utilities as a part of this project. She noted that there would be no cost to the Town if the utilities were replaced with ones of the same size; however, if the Town requested a larger line, it would have to pay the difference in the price.

Town Administrator Semmes advised that while this would not cover a large area, it would allow the Town to get a portion of the utility replacement work done.

Mayor Davis reported that VDOT planned to begin construction on the crosswalks as soon as the weather allowed in 2015.

Town Administrator Semmes noted that this would give the Town time to find some money and suggested it may be good to do the streetscape improvements at the same time.

Councilmember Shea noted that the delay would also allow the project to be viewed as a Town one.

Mayor Davis advised that VDOT planned for the project to be completed by the Fall of 2015.

Town Administrator Semmes noted that this would also give the Town time to educate the residents and businesses about the project.

Town Administrator Semmes reported that during the recent TANV meeting, she learned that Leesburg was proposing, as a part of its legislative package, to seek some of the money being generated from the extra lodging tax that was being imposed in the Northern Virginia area. She explained that they planned to propose that the funding be distributed based on point of sale rather than by school age population. Ms. Semmes noted that the towns that maintained their own streets and were already receiving some of the funding would rather leave the existing formula in place. She noted that Supervisor Clarke attended the Route 50 Traffic Calming meetings and suggested that perhaps the County could come up with some money to help Middleburg with its transportation project.

## Discussion

Town Administrator Semmes advised Council that Vice Mayor Kirk asked her to raise an item related to the requests Salamander was receiving to allow guests to come to the resort via a helicopter. She noted that Ms. Kirk thought the Council discussed this as a part of the resort approval; however, the staff could not find it in the meeting minutes.

Councilmember Snyder opined that the Town did not put this prohibition in the MOU. Mayor Davis noted that she remembered that the Council specifically said it would not allow helipads.

Councilmember Snyder suggested the Council consider putting a restriction in the noise ordinance to restrict the hours a helicopter could land/take-off. He further suggested that another option would be to treat helicopters like the Town treated fireworks. Mr. Snyder opined that there was more than one way to look at this matter. He noted that it was an issue of noise and animals. Mr. Snyder asked whether the Council wanted to allow private use helicopters to access the resort or allow them to land for non-emergency purposes. He noted that there was the issue of whether the Town could legally restrict their routes. Mr. Snyder suggested it could restrict their hours of operation.

Councilmember Littleton advised that if the Council wanted to allow helicopter access to the resort, there was a way to get them in and out with minimal noise. He recommended they fly in by Middleburg Downs and land on the back of the resort property. Mr. Littleton further recommended that when they left, they go directly east. He noted that this would eliminate all of the noise in town. Mr. Littleton further noted that there were not a lot of horses along this route; and, advised that the helicopter would be high in the air in the areas where there were.

Councilmember Snyder noted that the Town may not be able to restrict the routes; however, he suggested it may be able to work out an arrangement with Salamander. He further suggested the Town should restrict the hours. Councilmember Littleton agreed there should be no night operations.

Councilmember Snyder reported that some people have expressed a desire to fly into the resort for a late evening meal and then leave. Councilmember Littleton noted that a restriction on night operations would address this concern.

Mayor Davis advised Council that Councilmember Littleton was a pilot who flew a helicopter for a Congressman. She noted that he kept the helicopter in his back yard and advised that at that time, she lived next to him. Ms. Davis advised that Councilmember Littleton flew the helicopter to Washington, DC most mornings and noted that it was not a problem. She advised that at times, she may have heard him start it up. Ms. Davis noted that the Town already had helicopters coming across Middleburg in their travels to Mount Weather. She reiterated that she lived close to a helicopter that was frequently used and did not find it to be a bad thing.

Town Administrator Semmes advised Council that the State adopted regulations in 2012 that would prevent a locality from imposing a total ban on departures and landings for personal use; however, they would allow a locality to require a special exception permit for repetitive helicopter landings on the same parcel of land. She noted that the permit could be subject to reasonable conditions. Ms. Semmes advised Council that the resort's manager asked her whether a private citizen could rent a helicopter so he could be flown here. She opined that in this case, the helicopter would be used for personal use, not as a business.

Mayor Davis suggested that if the Council set a time and specifications for helicopters, it could re-address them if it found they were becoming excessive. She opined that the helicopters may not be what people think.

Town Administrator Semmes explained that Vice Mayor Kirk was concerned as she had received approximately eight requests for helicopter landings.

Councilmember Littleton reiterated that eliminating night operations would reduce the number of flights in and out.

Town Administrator Semmes advised Council that Vice Mayor Kirk asked that this item be placed on a future agenda for discussion. She noted that she would distribute a copy of the State Code section at that time. Ms. Semmes advised that if the Council wished to pursue a zoning ordinance, it would require a public hearing. She suggested the Town would also need to talk to Salamander to find out how often they thought this would occur.

Councilmember Snyder opined that the Council could mitigate this relatively quickly. He advised that he thought the idea of limiting night operations was a good one. Mr. Snyder suggested the Council restrict the lighting around the helipad and only allow for a safety beacon. He opined that this could be a non-issue even if there were three flights a week.

Town Administrator Semmes reported that the Town Planner was researching what other communities did and what the Town could and could not regulate due to the FAA.

Councilmember Littleton recommended the pilot be required to be familiar with the landing site before landing. He noted that this would require that he first come here by car.

Councilmember Shea noted that at times, the emergency medical helicopter landed in Middleburg. She asked whether it would be a problem if two helicopters landed at the same time. Mayor Davis confirmed it would not as they would be in radio contact with the control tower.

Councilmember Hazard announced that A Place To Be would repeat their production of *In The Woods* again this weekend. He encouraged the members of Council to see it.

Town Administrators Semmes announced that there was no need for a closed session at this time. She explained that she wanted to discuss this matter further with the Town's insurance carrier.

There being no further business, a motion was made and voted upon to adjourn the meeting at 8:04 p.m.

APPROVED:

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Betsy A. Davis, Mayor

ATTEST:

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Rhonda S. North, MMC, Town Clerk