



**MIDDLEBURG TOWN COUNCIL
REGULAR WORK SESSION
MINUTES**

May 22, 2014

PENDING APPROVAL



PRESENT: Vice Mayor C. Darlene Kirk
Councilmember Kevin Hazard
Councilmember Trowbridge Littleton
Councilmember Catherine “Bundles” Murdock
Councilmember Kathy Jo Shea
Councilmember Mark T. Snyder
Councilmember David B. Stewart

STAFF: Martha Mason Semmes, Town Administrator
Rhonda S. North, MMC, Town Clerk
Cindy C. Pearson, Economic Development Coordinator
A.J. Panebianco, Chief of Police

ABSENT: Mayor Betsy A. Davis

The Town Council of the Town of Middleburg, Virginia held their regular monthly work session on Thursday, May 22, 2014 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Vice Mayor Kirk called the meeting to order at 6:00 p.m.

Public Hearing – Increase in Real Estate Tax Rate

No one spoke and the public hearing was closed.

Public Hearing – FY '15 Budget

No one spoke and the public hearing was closed.

Annual Report – Middleburg Arts Council

Peter Wood, Chairman of the Middleburg Arts Council, thanked the Council for their support. He introduced the Committee members who were present including: Punkin Lee, Nicole Stribling and Wendy Roseberry; and, noted that Suzi Molak and Amanda Scheps also served on the Committee. Mr. Wood further noted that they also had a “Friends of the Arts Council” who assisted them. He reported that the Committee recently did the *Art in the Burg* event, which went well. He noted that they organized it differently than the previous year in that they set up tents for the artists. Mr. Wood advised that they surveyed the artists who participated in this year’s event to get their feedback and found that they felt the event was too spread out; therefore, the Committee has discussed consolidating it at the Community Center, National Sporting Library, Pink Box and on Washington Street, with more activities occurring at each location.

Mr. Wood reported that the Committee supported *Shakespeare in the Burg* by coordinating a logo contest. He further reported that they also planned to offer *Art at the Farmers Market*, which would consist of a booth manned by a different artist each week. Mr. Wood advised that the artist would be allowed to display a couple of items and would be asked to talk about arts events in the town.

Mr. Wood reported that the Committee would hold an *Art in the Pink Box Park* event every Saturday in July in order to get people into town in the afternoons before the Bluemont Concerts. He noted that they would also hold them on the third Saturday in August, September and October.

Mr. Wood reported that they sponsored artists at the Fall Races last year and would do so again this year. He noted their *Cabin Fever Exhibit*, which brought one hundred people into town on a Saturday in February. Mr. Wood advised Council that the Committee was discussing expanding that event into a winter festival to include poetry and music. He reported that they would continue to support *Shakespeare in the Burg* and offer the *Art in the Burg* events again next year. Mr. Wood displayed examples of the posters and postcards they used to communicate information on their events.

Councilmember Shea opined that the Committee was doing a great job. She questioned whether the artists who sold art in town secured a business license. Mr. Wood confirmed they have not addressed this as they did not think about it. He noted that the Committee has discussed charging a fee next year and suggested they charge a \$35 fee, with \$10 being for the daily business license.

Councilmember Snyder advised Mr. Wood that Bluemont Concerts would be happy to put a sign on their admissions table to advertise the Art Council's events.

Vice Mayor Kirk expressed appreciation for what the Committee did. She noted that their events brought a lot of people into town. Councilmember Hazard opined that they have done a lot in a short period of time.

Mr. Wood opined that the Committee consisted of a good group of volunteers. He noted that the business community was supportive as well.

Council Approval – Parking Lot Lease Agreement – United Methodist Church

Town Administrator Semmes reported that the Town Attorney would like confirmation that the Chair of the Finance Committee should sign the lease and advised that she would work with Mr. Dawson on this issue. She noted that the lease has been executed in this manner for years. Ms. Semmes opined that the Town may need to obtain a trustee's signature or have them confirm that Mr. Dawson could bind the church to a lease. She noted that the lease also referenced the Mercer Magisterial District, which no longer existed; therefore, it needed to be removed.

Town Administrator Semmes advised Council that the Mayor mentioned to her that a while back, the Town paid more in rent; however, it was reduced because it was more than what the Town was collecting in meter revenue. She reported that the Mayor would like for the Police Department to conduct an informal utilization study of the lot to determine who was parking there and for how long. Ms. Semmes questioned whether the users were feeding the meters. She reported that she would discuss this with the Police Chief.

Vice Mayor Kirk noted that she has observed trucks selling items from the parking lot. Chief Panebianco reported that a company was selling food on the internet but delivering it in the parking lot. He advised that he has made them remove their tables and signs from the lot and was making sure they fed the meter. Chief Panebianco noted that he discussed this issue with the former Zoning Administrator, who said the Town could not stop this operation because the company was not selling here – they were only delivering the food. He advised that he checked on them when they were in town, which was usually one or two days a week. Chief Panebianco reiterated that they were setting up a display table even though they said they were not selling food on the site. He opined that they probably were. Chief Panebianco advised Council that he made them follow the rules to the extent he could.

Councilmember Shea noted that the lease called for the Town to be responsible for cleaning up the parking lot. She advised Council that she picked up trash around town this year, including in this lot, and noted that there were hundreds of cigarette butts there. Ms. Shea suggested the lease be amended to relieve the Town of the burden of picking up trash around the Seven Loaves space and that Seven Loaves be responsible for doing so. She further suggested that the patrons be required to pick up the trash while waiting to collect their food.

The Council noted that the patrons sometimes came early and waited for Seven Loaves to open.

Councilmember Stewart questioned whether this could be made a “no smoking” area. Councilmember Shea noted that when children were present, Seven Loaves personnel made such announcements; however, she advised that some of the patrons came early and smoked.

Chief Panebianco noted that he did not police the meters often due to the situation of the patrons. He advised that when an officer rode through the lot, the patrons could be seen feeding the meters. Chief Panebianco noted that they were supposed to feed them starting at 9:00 a.m.

The Council held some discussion regarding the amount of time it took for the patrons to obtain their food. It was suggested that Seven Loaves be asked to remind their patrons that they needed to clean up after themselves.

Councilmember Snyder moved, seconded by Councilmember Murdock, that Council authorize the Town Administrator to sign an agreement with the Middleburg United Methodist Church for a one-year lease of their parking lot located at the intersection of Pendleton and Federal Streets.

Vote: Yes – Councilmembers Kirk, Hazard, Littleton, Murdock, Shea, Snyder and Stewart
No – N/A
Abstain: N/A
Absent: Mayor Davis

Council Discussion – Draft FY ’15 Budget

Town Administrator Semmes advised Council that she assembled a list of potential cuts that could be made to the budget in response to Councilmember Snyder’s request during the last meeting. She noted that she also had comments from the Mayor on this item. Ms. Semmes reminded Council that a real estate tax rate of nineteen cents would equate to an increase of \$71 for an average single-family residential home and \$91 for an average townhouse. She further reminded them that the County was not increasing its real estate tax rate. Ms. Semmes advised that if the Council was interested in equalizing the tax rate, it would require a reduction in expenditures of \$45,000. She reported that the Mayor suggested the rate be reduced by one cent to make it eighteen cents.

After some discussion, the Council agreed to go with an eighteen cent tax rate. They further agreed to reduce the line item for Professional Services under the Planning/Zoning Department by \$20,000 and to eliminate the new phone system for the Town Office in order to achieve the reduction needed to support an eighteen tax rate. It was noted that the Council could consider increasing the funding available for consultant services in the middle of the budget year once the Planning Commission and HDRC were better able to articulate their needs for such services.

Town Administrator Semmes reminded Council that they now had a balanced Utility Fund Budget; and, noted that a public hearing was scheduled for the June 12th meeting on increasing the sewer rate by five percent. She further noted that this would result in an overall utility bill increase of 2.4%. Ms. Semmes reminded Council that the Town was still in a transition and was unsure of the level of expenditures needed in this Fund. She noted that the Town still did not know about the revenues from the Salamander Resort.

Councilmember Snyder noted that he and the Town Administrator have talked about the improvements needed to the utility system and the possibility of accelerating them. He advised that they have been put into the rate model. Mr. Snyder noted that they have discussed coming to the Council in the fall with a proposal for a bond issuance, with the proceeds to be used to enhance the water system by accelerating projects.

Town Administrator Semmes advised Council that she was comfortable that the Town could operate the utility system in the black with the budget as proposed.

Councilmember Snyder noted that the proposed budget would pay for the current improvements with cash.

Councilmember Shea questioned whether the Town was seeing a drastic improvement in the way the utility system was being operated. Town Administrator Semmes opined that IES' staff was wonderful. She noted that they have hired an operator for Middleburg, who would start on June 2nd. Ms. Semmes reported that he was from Berryville, where he operated the same type of plant as Middleburg's. She advised that in terms of operations, IES has tweaked the chemicals in Wells 2 and 3 to reduce the amount of iron and manganese in the water. Ms. Semmes advised that they had a meeting scheduled next week with the engineer to discuss a screen for the back wash system at Well 4 to keep it from getting clogged. She noted that once this work was done, IES would flush the lines. Ms. Semmes reported that the staff would give the residents and businesses a warning of the flushing; however, it must be done. She reminded Council that the last time that Well 4 was started, the lines were clogged.

Councilmember Snyder noted the need to schedule a Public Works Committee meeting.

Town Administrator Semmes reported that the system was operating better. She noted that Mr. Inboden said he "loved" the way the wastewater treatment plant was operating, particularly the way it was designed. Ms. Semmes reported that Mr. Inboden has noticed that the Town has a huge I&I problem and noted that it almost overflowed the Town's treatment system. She further noted that there were things the Committee needed to work on aside from developing a capital item recommendation, including improving the SCADA system which was not reliable. Ms. Semmes suggested the Town may need to hire a different vendor. She reminded Council of the plans to expand the SCADA system to include Well 4.

Councilmember Snyder agreed with the need to make the SCADA system utilitarian. He noted that he also wanted to address the internet security issues so the system could not be hacked.

Chief Panebianco noted that he could put a message on the Police Department's sign board to alert residents of the flushing on June 2nd. Town Administrator Semmes noted that the flushing would occur in the middle of the night. She suggested the staff send an automated phone alert message to the residents and businesses on May 30th and a second one after the flushing was completed on June 2nd.

Council Discussion – Collection of business license taxes from itinerant vendors

Councilmember Shea explained that she wanted the Council to look at this. She advised that she would also like for the Council to look at the \$10/day/event rate as she believed it was too low.

Town Clerk North reminded Council that the \$10 fee was only for vendors associated with “limited church and community events”. She explained that the problem was that there was no definition of what was considered to be a “limited church or community event”.

Councilmember Shea noted that she talked to the Town Clerk about whether it was possible to hold a non-profit organization responsible for making sure their event’s vendors obtained the required license.

Town Clerk North advised Council that the Town could not hold a third party responsible for the failure of a business to secure their license. She reminded them that she was working to draft an amendment to the Special Event Permit Ordinance so it would be applicable to special events on private property, as well as those on public property. Ms. North noted that that ordinance had a peddlers/itinerant vendor section and advised that after talking with the Town Attorney, they were recommending the Council consider adding language to that ordinance that would require the event organizer to provide the Town with a list of the names and addresses of any vendors associated with their event at least two weeks prior to the event so the Town Treasurer could send those businesses a letter reminding them of the need to secure a temporary business license. She advised that this would not address all of the instances of itinerant vendors coming into town; however, it would go a long way toward alerting the staff to many of them.

Councilmember Shea noted that she liked the idea of tying this issue to the permitting requirement and advised that it would allow the staff to know what activities were going on in the town. She further noted that the amendment would also allow the Police Chief to know where his workforce may be needed. Ms. Shea suggested there did not have to be a major cost associated with this change. She encouraged the Council to allow these two items to be put in place together.

Councilmember Murdock opined that the \$10 fee was fine for charities. She cited the example of the Christmas Shop, which donated fifteen percent of their sales to the church’s charities.

Town Clerk North reiterated the need to identify what events qualified as a “limited church or community event”. She questioned whether an event would qualify if an individual rented the Community Center and then rented space to vendors so they could sell their wares.

Councilmember Murdock opined that the proceeds from the event should have to go to a 501(C)(3) organization in the Middleburg area for the event to qualify for the \$10 fee.

Councilmember Shea agreed that if the fundraiser was for the Community Center itself that was one thing; however, it was another if someone was simply using that space for an event.

After some discussion, the Council asked the Town Clerk to craft a definition for the term “limited church or community event”.

Town Clerk North questioned whether the Council wished for the temporary business license fee for peddlers and itinerant vendors to continue to be \$500. She noted that under the State Code, it could be a maximum of \$500; therefore, the fee could be lowered. Ms. North further noted that the State Code defined the terms “peddler” and “itinerant vendor”.

The Council agreed this item should be partnered with the amendments to the Special Event Ordinance. Town Clerk North noted that the exceptions section of that ordinance would need to be expanded considerably so private events, such as a birthday party, would not be required to obtain a permit from the Town. She advised that while the exceptions would be expanded considerably, there should not be so many that no event was ever required to obtain a permit.

Vice Mayor Kirk inquired as to when this item would return to the Council. Town Clerk North expressed hope to have something for Council's review during the June 12th meeting.

Town Administrator Semmes advised Council that the Mayor suggested the Council consider increasing the minimum business license fee to \$30. Town Clerk North explained that the State Code allowed this fee to be as much as \$30; however, the Town currently charged \$20. After some discussion, the Council agreed with the need to increase the fee.

Town Clerk North noted that this would require a public hearing. She advised that she would draft the necessary ordinance for Council's consideration.

Council Discussion – Proposed Ordinance Amendment – Diapering Apparatus for Animal Drawn Vehicles

Councilmember Murdock questioned why there could not be a differentiation between commercial businesses and other horse-drawn vehicles. Town Clerk North advised Council that she initially drafted the ordinance to include an exception for the Town so the regulations would not apply to an event such as Christmas in Middleburg; however, the Town Attorney asked her to remove it because of a recent court case that challenged such exemptions in other jurisdictions. She explained that if the Town was saying the basis of this ordinance was to protect public safety as it was dangerous to have horse manure on a town street, this public safety concern would exist regardless of whether the source of the horse manure was a vehicle that was operated by a commercial business or a private citizen.

After some discussion, the Council agreed to remove this item from its plate. It was noted that should this become a problem in the future, the Council could ask that it be brought forward again for further consideration.

Council Discussion – Proposed Solid Waste Ordinance Amendments

Councilmember Shea proposed that this amendment be tabled and explained that there were items that needed to be worked out with CSI before the ordinance could be fine-tuned. She noted that a representative from CSI met with the Town Administrator and Maintenance Supervisor earlier in the day and would meet with Go Green next month. Ms. Shea reiterated the need to work out the issues.

Town Administrator Semmes suggested the properties be reviewed on a case-by-case basis. She noted the need to determine if there would be a greater cost to the Town for dumpsters. Ms. Semmes reminded Council that if the businesses recycled more, it would result in more money for CSI; therefore, there should not be an additional cost to the Town.

Councilmember Shea reported that CSI has agreed to supply the blue recycling bins.

Town Council Reports

Councilmember Murdock reported that, in her capacity as President of the Board of Directors for the Community Center, she has told their personnel that they must recycle at the Center. She noted that she was also requiring that the need to recycle be written into every catering contract.

Councilmember Murdock reported that she recently observed a traffic issue due to a tractor trailer that could not make the turn onto Foxcroft Road. She further reported that the Police Department responded immediately to her call for assistance.

There being no further business, a motion was made and voted upon to adjourn the meeting at 6:56 p.m.

APPROVED:

Darlene Kirk, Vice Mayor

ATTEST:

Rhonda S. North, MMC, Town Clerk