



MIDDLEBURG TOWN COUNCIL
Regular Monthly Meeting Minutes
December 13, 2012



PENDING APPROVAL

PRESENT: Mayor Betsy A. Davis
Vice Mayor C. Darlene Kirk
Councilmember Kevin Hazard
Councilmember Trowbridge Littleton
Councilmember Catherine "Bundles" Murdock
Councilmember Mark T. Snyder
Councilmember David B. Stewart

STAFF: Martha Mason Semmes, Town Administrator
Rhonda S. North, MMC, Town Clerk
Angela K. Plowman, Town Attorney
Cindy C. Pearson, Economic Development Coordinator
David M. Beniamino, Town Planner
Mike Prince, Senior Police Officer

ABSENT: Councilmember Kathy Jo Shea

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, December 13, 2012 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Mayor Davis led Council and those attending in the Pledge of Allegiance to the flag.

Public Comment

Eura H. Lewis, Chairman of the Middleburg Museum Committee, appeared before Council to thank them for electing her to Chair the Museum Committee. She also thanked Vice Mayor Kirk and Councilmember Shea for helping the Committee. Ms. Lewis announced that they now had everything in place to establish the foundation. She thanked the Council for their help and support in getting the museum started.

Robert Brown, the attorney for the Museum Committee, expressed his appreciation for Councilmember Shea's service as a liaison to the Committee. He reported that they received their 501(C)3 status in October, which was effective back to the date of their incorporation, which was August of 2011. Mr. Brown advised that they could now accept donations. He thanked the Council for helping to make this possible.

Rev. Travis Moger, the new pastor for the Middleburg Baptist Church, introduced himself to the Council.

Special Recognitions by Mayor and Council

Mayor Davis congratulated everyone associated with the Christmas in Middleburg event, especially Jim Herbert, the Committee and Councilmember Hazard. She noted that it was a wonderful day, with a large crowd of between twelve and fifteen thousand people. Ms. Davis advised that visitors and locals alike enjoyed the event.

Mayor Davis noted that the Middleburg Business and Professional Association presented their annual awards earlier in the week. She advised that some wonderful, deserving people won the awards. Ms. Davis congratulated the following: Peter Wood of Middleburg Arts Council – Marketing & Events Promotion – Marketing Campaign of the Year; Vince Perricone of Middleburg Printers – Outstanding Customer Service by a Professional Service Business; Eric Bowers of French Hound – Outstanding Customer Service by a Hospitality Business; Fern Bratten – Outstanding Customer Service by a Retail Business; Dwayne and Cindy Ellis of Middleburg Common Ground – Entrepreneur of the Year; Kristina Naramore of Union First Bank – Social and Online Media for the MBA Facebook page; A. J. Panebianco, the Middleburg Police Department and Councilmember Murdock of National Night Out – Event of the Year; Mary Kay Garwood – Levin Powell Founders Award; and, Christmas in Middleburg - Lifetime Achievement Award. She advised that she was very proud of everyone; and, opined that they were well deserving of the awards as they have done a lot for the community.

Approval of Minutes

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that the Council approve the November 8, 2012 Regular Meeting Minutes as amended.

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

Staff Reports

Mayor Davis thanked the Police Department for their work during the Christmas in Middleburg event.

Councilmember Murdock noted that the National Night Out Award was dedicated to Chief Panebianco; however, she advised that the officers worked together 1,001% on the event. Senior Police Officer Prince agreed it was a team event. Mayor Davis opined that it was well done for a first event. Senior Police Officer Prince advised that they hoped to make the second one even better.

Town Planner Beniamino reported that most of the work the Planning Commission and HDRC were doing was related to the Comprehensive Plan and Historic District Guideline updates. He advised that items from that work would be coming to the Council in the coming year.

Town Attorney Plowman reported that the contract for online collections would be done by the end of December.

Action Items (non-public hearing related)

Council Approval – Health Center Fund Donations

Vice Mayor Kirk moved, seconded by Councilmember Snyder, that the Council approve the recommendation of the Health Center Advisory Board for the donation of \$20,000 in Health Center Funds as follows: Seven Loaves Services, Inc. - \$7,500; Middleburg Volunteer Fire Department - \$3,000; Windy Hill Tutoring Program - \$1,400; Cherry Blossom Breast Cancer Fund - \$400; Middleburg Library Advisory Board - \$1,900; Middleburg FISH - \$2,100; Loudoun Abused Women’s Shelter - \$500; Middleburg Community Center - \$2,700; and, A Place To Be - \$500.

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

Council Approval – Resolution requesting traffic calming measure – Marshall & Madison Streets

Town Administrator Semmes reminded Council that this was recommended by the Town’s transportation consultants. She reported that the Town was requesting the addition of a stop sign headed southbound on Foxcroft Road. Ms. Semmes noted that the addition of this sign would provide for a three-way stop at this intersection. She reminded Council that there was nowhere to stop on other the corner. Ms. Semmes advised that this resolution was required before VDOT could install the sign.

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve a Resolution Requesting Traffic Calming Measure at the Intersection of Marshall and Madison Streets in the Town of Middleburg, Virginia.

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

Councilmember Murdock questioned the purpose of the survey work that was being done in town. Town Administrator Semmes advised Council that this was related to the crosswalks. She noted that the survey work was being performed in the entire corridor, which was great for the Town as it would be able to use the product as its base map for the Washington Street Streetscape Project.

Council Approval – Resolution initiating Zoning Text Amendments Related to R-2 Residential District

Town Planner Beniamino reminded Council that this resolution would allow the R-2 District changes to be initiated by the Planning Commission, who would hold a public hearing and send a recommendation to the Council.

Councilmember Snyder moved, seconded by Councilmember Littleton, that the Council approve a Resolution Initiating Amendments to the Middleburg Zoning Ordinance Pertaining to R-2 District Zoning Height and Lot Coverage Restrictions.

Councilmember Murdock asked when this item would be discussed. Town Planner Beniamino noted that the Council discussed it last month. He reminded Council that it was based upon the changes the Council discussed last year, which the Commission has been discussing for several months. Mr. Beniamino reminded Council that these changes would limit the potential for McMansions in the R-2 District by limiting height and lot coverage.

Councilmember Murdock advised that she was in favor of changing the regulations regarding building height; however, she expressed concern about the changes to the lot coverage restrictions.

Town Planner Beniamino advised Council that most of the houses in the Ridgeview Subdivision did not cover thirty percent (30%) of the lot. He reminded them that the existing development was grandfathered.

Councilmember Murdock noted that property owners would not be allowed to do so again. She advised that she did not see a problem with thirty percent (30%) lot coverage.

Town Planner Beniamino reminded Council that this was part of the discussion of what would happen when Salamander opened. He further reminded them that people could tear down the existing small homes in the Ridgeview Subdivision in order to build to the maximum limits. Mr. Beniamino noted that the Planning Commission tried to secure a historic district overlay in the Ridgeview Subdivision, which no one wanted. He further reminded them that the Town secured permission from the General Assembly for an architectural control district, which would limit development. Mr. Beniamino advised that this was just another tool.

Councilmember Snyder opined that this was a necessary first step as it would limit what could be put on a given lot.

Councilmember Murdock noted the Paul Reimers' project that had not yet been built. She asked whether these amendments would apply to that project; and, if so, whether the lot would be large enough to construct a house.

Town Administrator Semmes recommended the Council schedule a work session discussion on this item; and, suggested the staff provide examples of what could fit on the various sized lots. She reminded Council that this resolution would simply start the process by moving it to the Planning Commission.

Councilmember Murdock noted that she could vote against the amendment when it returned to the Council.

Vice Mayor Kirk asked Councilmember Murdock whether she wanted everyone to build houses like hers. Councilmember Murdock noted that she liked everything about her house.

Councilmember Hazard reminded Council that they looked at potential lot coverage scenarios a couple of years ago. He reported that they had models that provided a comparison for various lots.

Councilmember Snyder opined that the Town needed some limits. He suggested the Council could look at the very small lots in the R-2 District; and, cut those property owners some slack.

Councilmember Murdock advised that she was okay with that. She opined that if someone had a very small lot, there may not be much leeway under these amendments.

Mayor Davis noted the house being constructed on "the corner". Town Planner Beniamino reported that the house could cover a maximum of thirty-five percent (35%) of the lot. He advised that under this amendment, it would only be allowed to cover thirty percent (30%) of the lot; therefore, the house would not be quite as large.

Mayor Davis asked whether a property owner could seek a special exception if the amendments were adopted. Town Planner Beniamino confirmed they could not. He noted that this amendment would take away five percent (5%) of the current buildable area.

Councilmember Snyder suggested the Council look at where it wanted to allow for greater lot coverage; and, increase the lot coverage limit back up to thirty-five percent (35%) for those areas.

Town Planner Beniamino advised Council that he could go through all of the lots in town and show what the reduction would do to them. He noted that for the larger lots, such as those owned by the Mayor and Kathy Ribaldo, the five percent reduction would equate to almost an entire house worth of building footprint. Mr. Beniamino noted that this change was intended to address large lots or the combining of two seven thousand five hundred square foot lots. He reminded Council that this was just the first step of an involved process; and, expressed hope that the Town would put an architectural control district in place so houses would not be built that would dwarf those next door. Mr. Beniamino noted that zoning alone could not address this issue, unless the Town wanted to look at performance zoning.

Councilmember Snyder advised that these amendments would block the most obvious things that people could do to build a McMansion on a lot.

Councilmember Hazard advised that a two-story house on a seven thousand square foot lot would provide for four thousand two hundred (4,200) square feet of living space at thirty percent lot coverage. He noted that this was a good size house.

Town Planner Beniamino reminded Council that a lot of the houses in the Ridgeview Subdivision were one-story. He advised that zoning could not stop large houses from being constructed.

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

No – N/A

Abstain: N/A

Absent: Councilmember Shea

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

Council Approval - Source Water Protection Brochure – Wellhead Protection Advisory Committee

Councilmember Snyder advised Council that the Wellhead Protection Advisory Committee met numerous times, edited and made a lot of contributions to the brochure. He reported that it contained common sense items for protecting the Town's ground water; and, opined that it was an important brochure. Mr. Snyder advised Council that the product before them was the Committee's final recommendation. He noted that he was very proud of the Committee and their work thus far.

Councilmember Snyder reported that the Committee was now focusing on updating the Wellhead Protection Plan. He advised that the plan would contain action items for the Town. Mr. Snyder noted that the plan would be brought to the Council so they could review the action items; and, once approved, the plan would be provided to the Planning Commission so they would have the data for the Comprehensive Plan. He explained that the Commission would want to take into account the need to protect the wellhead protection areas as they were looking at zoning.

Councilmember Murdock asked how the brochure would be distributed. Town Clerk North advised Council that it would be mailed to the residents within the 20117 and 20118 zip codes. She reported that the State needed to first approve the brochure as technically it would be their brochure as they were providing the grant for its development. Ms. North expressed hope to secure the State's approval in December, with the brochure being printed and mailed in January. She noted that once the project reached that point, it would move very quickly.

Councilmember Hazard questioned whether the action items in the plan would be related to the items in the brochure. Councilmember Snyder confirmed they would not. He explained that the action items would be ones the Town needed to take. Mr. Snyder reiterated that the Planning Commission would look at them and see what applied to zoning.

Councilmember Hazard noted that the brochure recommended items such as the use of native plantings for landscaping. He asked whether the plan would say that for this area, these were the types of plants that were appropriate. Mr. Hazard asked whether there would be action items that would back up the brochure.

Mayor Davis noted that the brochure contained website links. She suggested that people be referred to these for more detailed information.

Councilmember Snyder suggested this be in the next brochure. He asked Councilmember Hazard to send him an email. Mr. Snyder advised that he would be happy to raise this with the Wellhead Protection Advisory Committee. He noted that they may put something on the website or they may put an action item in the plan. He reported that the plan would be a stand-alone document.

Vice Mayor Kirk suggested the brochure be placed on the Town's website. Town Clerk North confirmed it would; and, noted that the staff ensured the grant contract allowed the Town to use the brochure for marketing purposes.

Councilmember Snyder moved, seconded by Councilmember Murdock, that the Council approve the Source Water Protection Brochure as recommended by the Wellhead Protection Advisory Board. Councilmember Snyder further moved, seconded by Councilmember Murdock, that this brochure be printed and distributed, under the terms of the Drinking Water Grant, once the review of the brochure is approved by the Virginia Department of Health/DEQ.

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

No – N/A

Abstain: N/A

Absent: Councilmember Shea

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

Councilmember Murdock noted that the brochure was well done.

Councilmember Snyder advised that he was proud of it. He opined that it was better than the previous version.

Council Approval – Town of Middleburg's Legislation Program – 2013 General Assembly Session

Town Administrator Semmes reminded Council that these items were discussed during the work session. She further reminded them that they were General Assembly session items. Ms. Semmes noted that the Virginia Municipal League was pressing localities to get involved on a national level with regard to the tax exemptions for municipal bonds; and, suggested this was something the Town would want to address in the new year. She advised that changes to the tax exempt status was something that both the Republicans and Democrats have expressed an interested in pursuing. Ms. Semmes explained that if the exemption was eliminated, the Town would have to pay higher interest rates, which would increase the cost for the Town to do a construction improvement project.

Councilmember Littleton moved, seconded by Councilmember Snyder, that Council approve the Town of Middleburg Legislation Program – 2013 General Assembly Session as proposed.

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

Mayor Davis asked whether a copy of the legislation program would be forwarded to Randy Minchew and Jill Vogel. Town Administrator Semmes confirmed it would.

Discussion Items

Draft Sewer Ordinance Amendments

Town Clerk North explained that the intention of this agenda item was to introduce proposed amendments to the sewer ordinance to the Council so they could review them over the next month. She advised that this item was scheduled for discussion during the January work session. Ms. North explained that the main changes involved an expansion of the grease, grit and oil program section and would bring the sewer ordinance in line with the recent revisions to the water ordinance. She advised that some other minors changes involved things like changing the term “sewer treatment plant” to “wastewater treatment plant”, which was the modern term, and changing the references to the “Superintendent” to the “Town Administrator”.

Councilmember Snyder noted that Section 83.1-71 proposed the use of a sewer meter; and, advised that he was not sure a sewer meter was the answer to the question of someone who was on public sewer but not public water. He advised that this was his only comment. Mr. Snyder requested that when the Council discussed this item in the work session that they talk about whether they anticipated providing sewer service to someone who was not also a water customer. He suggested this was a policy discussion.

Councilmember Murdock suggested the property should be required to connect to both public water and sewer. Councilmember Littleton opined that to do one without the other would upset the calculations. Councilmember Snyder reiterated that this was a policy issue.

Town Administrator Semmes noted that changes were also proposed to the billing section so the staff would not be mandated to bill quarterly. Town Clerk North advised that this language mirrored the language in the water ordinance.

Draft Flag Installation Policy

Town Planner Beniamino reminded Council that during their last meeting, they discussed the fact that the Town did not have a policy regarding flags. He further reminded them that the Spring Races put up flags; and, advised that the Fall Races wanted to do so as well. Mr. Beniamino advised that he provided a draft policy that was based upon the way the Town currently allowed signs to be put on the Town’s entrance signs. He noted that there was no fee for hanging a sign; however, this was because it was done by the Street Superintendent. Mr. Beniamino advised that with flags, the Town must bring in a contractor, at a cost of between \$75-85. He reported that he has proposed a fee of \$100 for hanging flags. Mr. Beniamino advised that the Town could accommodate up to fourteen flags; and, advised that the flags and poles must be provided by the applicant.

Councilmember Snyder suggested the application refer to the flags by length and width, as opposed to length and height.

Councilmember Murdock asked whether the \$100 fee was listed on the application/policy. Town Planner Beniamino confirmed it was not; and, suggested it be listed on the Town's fee schedule.

Town Administrator Semmes recommended the storage fee also be removed from the application; and, suggested it be placed on the fee schedule.

Town Planner Beniamino noted that a storage fee was recommended as the Town had no place to store the flags.

Vice Mayor Kirk asked whether an applicant could put up fewer than fourteen flags. Town Planner Beniamino confirmed they could; however, the fee would not change.

Vice Mayor Kirk asked who would decide where the flags would be placed if there were less than fourteen. Town Planner Beniamino recommended the Street Superintendent do so.

Vice Mayor Kirk expressed concern that an applicant could ask for the flags to hang at specific locations. She noted that she wanted to make this process as easy as possible for the Street Superintendent.

Town Planner Beniamino advised that the Town has not experienced such a situation with regard to the entrance signs.

Councilmember Murdock asked how this would affect the Christmas in Middleburg decorations. Town Administrator Semmes noted that they were Town signs.

Town Planner Beniamino advised Council that this policy would only apply to public, non-profit events. He opined that the Town would not have a lot of requests for the placement of flags on the poles. Mr. Beniamino reiterated that the flags must advertise an event.

Councilmember Hazard asked whether the Middleburg Races were operated by a non-profit organization. Town Planner Beniamino confirmed they were.

Councilmember Hazard asked whether this should be limited to non-profit organizations. Town Planner Beniamino opined that it would be difficult to allow them for for-profit organizations. He advised that he tried to mimic the events that were already allowed on the Town's entrance signs. Mr. Beniamino noted that signs were allowed to be hung for private events; however, because they were the last one on the list, no one ever did so. He opined that there would be fewer requests to hang flags. Mr. Beniamino recommended this be limited to public events as the Town did not want a lot of competition for this space.

Councilmember Snyder suggested that if the flags were on Town poles, the event they were promoting should be Middleburg related. Town Planner Beniamino noted that the draft policy limited the event to being within five miles of Middleburg. He advised that as such, events in Delaplane and Upperville would not be allowed to put up flags.

Vice Mayor Kirk expressed concern that organizations may want to use this opportunity. She asked what would occur if an organization wished to put up flags that the Town did not want to allow.

Economic Development Coordinator Pearson expressed concern that there could be a problem with the way a flag looked. She noted that there has been discussion of hanging handmade flags for Arbor Day. Ms. Pearson suggested the Town should have a say in how they looked. She further suggested they should not be hand sewn.

Vice Mayor Kirk agreed. She questioned who would approve the design on a flag. Councilmember Snyder suggested the HDRC do so.

Town Planner Beniamino noted that this would require a two month lead time.

Councilmember Hazard asked why this would be bad. Town Planner Beniamino opined that it would not; however, he noted that if someone did not get their application in on time, they may complain.

Mayor Davis suggested this review made sense for a new group. She further suggested that once the flag design was approved, the applicant should not need to secure re-approval.

Councilmember Hazard opined that if it took six months to secure an approval the first time, this was fine. He suggested the applicant should not be allowed to put up only a few flags. Mr. Hazard further suggested they be required to hang a minimum number of flags.

Town Planner Beniamino advised Council that he would schedule this for the HDRC's January agenda in order to get their advice on what should be on the flags and the materials. Councilmember Hazard suggested they also address how the flags should be hung.

Councilmember Murdock noted that it may be good if the process was cumbersome, otherwise the Town may receive frequent requests for flags.

Vice Mayor Kirk reiterated her concerns that an outside organization may request permission to hang flags that the Town would not want hung on its poles.

Town Planner Beniamino noted that, under the draft policy, the flag's message must be limited to the event and could not include more than the event's name and logo. He opined that if a 501(C)3 organization held an event in Middleburg, the draft policy would not allow the Town to deny the permit.

Vice Mayor Kirk asked what would happen if someone had an event at the Salamander Resort that the Town did not want to promote on its poles. She suggested the need to think about this some more. Ms. Kirk noted the need to protect the Town.

Mayor Davis noted that events must support the Town. Town Planner Beniamino noted that the draft policy did not specifically require that. He suggested he take the draft policy to the HDRC; and, bring it back to the Council in January.

Information Items

Economic Development Coordinator Pearson reminded Council of the Middleburg Arts Council exhibit at Sona Bank on December 14th on the second floor.

There being no further business, a motion was made to adjourn the meeting at 6:42 p.m.

APPROVED:

Betsy A. Davis, MAYOR

ATTEST:

Rhonda S. North, MMC, Town Clerk