



**MIDDLEBURG TOWN COUNCIL  
Regular Monthly Meeting Minutes**



**Thursday, May 14, 2015**

**PENDING APPROVAL**

**PRESENT:** Mayor Betsy A. Davis  
Councilmember Kevin Hazard  
Councilmember Catherine “Bundles” Murdock  
Councilmember Mark T. Snyder  
Councilmember Kathy Jo Shea

**STAFF:** Martha Mason Semmes, Town Administrator  
Angela K. Plowman, Town Attorney  
Rhonda S. North, MMC, Town Clerk  
William M. Moore, Town Planner  
Debbie J. Wheeler, Town Treasurer  
A. J. Panebianco, Chief of Police

**ABSENT:** Vice Mayor C. Darlene Kirk  
Councilmember Trowbridge Littleton  
Councilmember Erik J. Scheps

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, May 14, 2015 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.

**Addition of Items to the Agenda**

*Councilmember Snyder moved, seconded by Councilmember Murdock, that Council add items XI(C) and XI(D) to the agenda (Council Approval – Resolution of Support – Rural Loudoun School Preservation Study and Council Approval – Resolution of Support – CLG Grant Application for Middleburg Historic District Survey Update).*

Vote: Yes – Councilmembers Hazard, Murdock, Shea and Snyder

No – N/A

Abstain: N/A

Absent: Councilmembers Kirk, Littleton and Scheps

(Mayor Davis did not vote as there was no tie to require her vote)

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Mayor Davis noted that Dave Quanbeck was in attendance in order to provide an update on the Middleburg Community Charter School. She suggested that if it was agreeable with the Council, he provide it under Public Presentations in the event the Council had questions, to which the Council agreed.

**Public Hearings**

Zoning Map Amendment 15-01 - Ordinance to rezone 0.14 acres of land from R-3 Residential to C-1 Restricted Commercial - 109 West Marshall Street

Town Planner Moore advised Council that there have been no updates to this agenda item since they last discussed it. He reminded them that the property was located at the corner of Pickering and Marshall Streets. Mr. Moore advised that the request was to rezone it to C-1 Commercial, which was consistent with the Comprehensive Plan recommendation.

No one spoke and the public hearing was closed.

Special Use Permit 15-02 - Upgrade existing telecommunications facility – T-Mobile - 10 E. Marshall St.

Town Planner Moore reported that there have been no changes to this agenda item since the Council received last month’s report. He noted that the Town had not yet received the Town Engineer’s review of the structural analysis that was submitted; therefore, he recommended keeping that as a condition of the approval. Mr. Moore advised Council that the lease was getting closer to an approval. He further advised that he was recommending keeping all of the conditions the Commission recommended as some items were not fully resolved.

Justin Blanset appeared before Council representing the application. He reported that T-Mobile was prepared to comply with the conditions.

No one else spoke and the public hearing was closed.

FY '16 Proposed Budget

No one spoke and the public hearing was closed.

**Action Items related to Public Hearings**

Zoning Map Amendment 15-01 - Ordinance to rezone 0.14 acres of land from R-3 Residential to C-1 Restricted Commercial - 109 West Marshall Street

*Councilmember Snyder moved, seconded by Councilmember Shea, that the Council adopt an ordinance to rezone 0.14 acres of land at 109 West Marshall Street (PIN# 538-27-5100) from R-3 Residential to C-1 Restricted Commercial District.*

Vote: Yes – Councilmembers Hazard, Murdock, Shea and Snyder

No – N/A

Abstain: N/A

Absent: Councilmembers Kirk, Littleton and Scheps

(Mayor Davis did not vote as there was no tie to require her vote)

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Special Use Permit 15-02 - Upgrade existing telecommunications facility – T-Mobile – 10 E. Marshall St.

*Councilmember Hazard moved, seconded by Councilmember Snyder, that the Council approve a request from T-Mobile for a special use permit (SUP 15-02) to upgrade their existing telecommunications facilities at 10 East Marshall Street as this request is consistent with the Comprehensive Plan and with the criteria for granting a special use permit. Councilmember Hazard further moved, seconded by Councilmember Snyder, that this approval be conditioned upon the following: (1) conformance with the*

*submitted plans (Site Number: 7WAN205A) with a revision date of January 16, 2015; (2) prior to the issuance of a zoning permit for the project, the applicant shall submit a structural analysis for review and approval by the Town Engineer; and (3) prior to the issuance of a zoning permit for this project, an updated lease will be required to be approved by and executed with the Town.*

Vote: Yes – Councilmembers Hazard, Murdock, Shea and Snyder

No – N/A

Abstain: N/A

Absent: Councilmembers Kirk, Littleton and Scheps

(Mayor Davis did not vote as there was no tie to require her vote)

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### **Special Recognitions by Mayor and Council**

Mayor Davis reminded Council that Visit Loudoun recently held their annual awards ceremony. She noted that Gemma Brown, Director of Rooms for the Salamander Resort, was in the audience. Ms. Davis announced that Ms. Brown won the Tourism Front-Line Employee of the Year Award. She further announced that Genie Ford won the Tourism Volunteer of the Year Award as co-founder of Shakespeare in the Burg; the Middleburg Film Festival won the Tourism Marketing Promotion/Campaign Award; and Childs Burden won the Judy Patterson Tourism Award. Ms. Davis noted that the Town was nominated for the Humanitarian Award; however, it did not win.

### **Public Presentations**

Dave Quanbeck, of the Middleburg Community Charter School, introduced Mariam Hughey-Guy, the current principal. He noted that she was the creator of the daVinci curriculum that was being used in the school. Mr. Quanbeck advised Council that Dr. Smith submitted her resignation, after she experienced a problem with her visa, for the good of the school. He opined that she had gotten the school off to a good start. Mr. Quanbeck advised that Ms. Hughey-Guy stepped in and filled the void. He reminded Council that she had been serving as an advisor throughout the year. Mr. Quanbeck reported that her transition was smooth and opined that they were very lucky to have her.

Councilmember Snyder inquired as to how the parents have received the change. Mr. Quanbeck noted that they already knew Ms. Hughey-Guy and advised that they were okay with the change once the communication occurred. He noted that the school was having a meeting this evening. Mr. Quanbeck advised Council that Ms. Hughey-Guy did not want to be a full-time principal; therefore, the school was advertising for one. He noted that they would interview candidates in the next couple of weeks with the hope to have a new principal in place by July 1. Mr. Quanbeck advised Council that the school would open the first Monday in August. He noted that Ms. Hughey-Guy agreed to help with the transition to the new principal.

Ms. Hughey-Guy advised Council that Middleburg was the sweetest school and noted that if she lived closer, it would not have to search for a new principal. She opined that it was a great school for the children. Ms. Hughey-Guy noted that the reason the transition was smooth was that Dr. Smith had assembled an instructional team and followed the curriculum. She opined that the Charter School was a great place to learn and work. Ms. Hughey-Guy advised that she was fortunate to be a part of it and was glad the parents accepted the decision to bring her on board. She reported that she was in the process of hiring staff and working with the board to hire the new principal. Ms. Hughey-Guy opined that the school was in a better place this year than last year. She advised that Dr. Smith had great vision that moved the school forward. Ms. Hughey-Guy noted that she was proud of where it was today.

Mayor Davis advised Ms. Hughey-Guy that the Town was thankful to have her and noted that she was a huge part of the formation of the school. Ms. Hughey-Guy advised that she was committed to its success as she wanted it to grow and be a model for others.

Councilmember Hazard inquired as to how the school was doing with the retention of students. Mr. Quanbeck reported that almost all of the students were returning. He reminded Council that the school had a large kindergarten class this year and advised that none were leaving the school. Mr. Quanbeck opined that this spoke volumes as to the success of the school.

### **Approval of Minutes**

*Councilmember Snyder moved, seconded by Councilmember Murdock, that Council approve the April 9, 2015 Regular Meeting and April 23, 2015 Work Session Minutes as amended.*

Vote: Yes – Councilmembers Hazard, Murdock, Shea and Snyder

No – N/A

Abstain: N/A

Absent: Councilmembers Kirk, Littleton and Scheps

(Mayor Davis did not vote as there was no tie to require her vote)

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### **Staff Reports**

Councilmember Murdock noted that the utilities report indicated the Fire Marshall inspected the facilities and was interested in the chemical storage facility. **Stuart Will, of IES**, reported that everything was in order.

Councilmember Shea noted the mixer failure and questioned whether it needed repair. Mr. Will expressed hope to get the unit rebuilt. He noted that the mixer had internal temperature and moisture sensors and reported that the moisture sensor failed. Mr. Will opined that it was simply worn out from constant usage.

**Town Administrator Semmes** reported that she working on a CLG grant.

Councilmember Murdock noted that the construction at the intersection of Marshall/Madison Streets was finished. She questioned whether there has been a discussion of the parking spaces in this area. Ms. Murdock further questioned whether the meter covers would be coming off soon.

Town Planner Moore reminded Council that there were previously six metered spaces on one side of the street that were large. He reported that they were reduced to a standard size, which was planned; however, they no longer aligned with the parking meters. Mr. Moore noted that there were now eight spaces as opposed to six. He explained that the sub-contractor put in small spaces, which had to be corrected. Mr. Moore advised that one could see the space markings that were eradicated; however, he noted that the new markings were down. He noted that the staff would determine what to do with the meters so the parking could be re-opened.

Councilmember Hazard questioned whether the Town had a preliminary schedule for bidding the water line improvement project on the east end of town. Town Administrator Semmes reported that the plans have been submitted to VDOT for final approval. She further reported that she and the Town Attorney were reviewing the bid documents. Ms. Semmes advised Council that she spoke with the Utility Engineer about finalizing the bid documents; however, it would be June or July before the project was put out to bid. She noted that she asked the Utility Engineer if it mattered whether this project was done before or after the other project; however, he indicated it should work either way. Ms. Semmes advised

that the Town did not know which end the Washington Street Project would start on; however, it could still do this one regardless. She explained that once VDOT approved the plans, the Town could get a permit, which would allow it to move forward with the project. Ms. Semmes noted that some trees on the east end of Washington Street would be removed as they were in the path of the water line.

Councilmember Hazard noted the need to talk to VDOT about the Route 50 Project as it related to Christmas in Middleburg. Town Administrator Semmes noted that VDOT was aware of it from the early discussions on the project. She further noted that the staff has also discussed other events with them that would be happening in the area.

Councilmember Hazard noted the need for any steel plates to be asphalted so the horses and dogs could walk on them. He asked whether VDOT would make that a part of the bid documents. Mr. Hazard noted that this could be a big issue if it was not addressed. Town Administrator Semmes opined that there was a provision that VDOT must put the project to bid to accommodate the Christmas in Middleburg event; however, she advised that she would double check this. Councilmember Snyder noted that it would be wise to check on it.

Councilmember Shea advised Council that she felt the Town needed “an eye in the sky” to tell people how to navigate. She noted that Liberty Street kept being closed and advised that there was a sign on Federal Street that stated that it was closed to public access; therefore, people thought they could not come down the street. She opined that when those signs were moved to other places, the Town would hear from other business owners.

Town Administrator Semmes noted that she has not seen the traffic control plans for the project; however, she opined that the signs should say “open to local traffic only”. She noted that this was a VDOT project; therefore, they must have signage.

Councilmember Shea noted that there was nothing on Washington Street to tell people what was going on, just a sign that said “sidewalk closed”. She suggested it would be helpful if there was a way to alert the residents as to what was occurring. Town Administrator Semmes advised Council that once the project began, there would be notifications, including a meeting to review the project with the public. She further advised that the Economic Development Coordinator was meeting with officials from Leesburg to learn about their public outreach efforts to minimize the impacts of their projects. Ms. Semmes noted that the Town would have a plan in place before the project began.

Councilmember Murdock encouraged the Council to attend the David Stewart Benefit on May 16<sup>th</sup>. She opined that it was sad that Hammer Down BBQ would no longer be a part of the Farmers Market and noted that they would be located at the distillery.

Councilmember Shea questioned whether there were recycling containers at the Farmers Market and asked that the **Economic Development Coordinator** address this. Councilmember Murdock noted the need for more at the Community Center. She expressed a desire for a large, permanent container. Councilmember Shea noted that Go Green arranged for those and advised that she would find out more about them.

Town Administrator Semmes inquired as to who would pick up the recycling and noted that this was on private property. Councilmember Shea opined that the recycling truck would pick up recycling almost anywhere. Town Administrator Semmes advised that she would check on this with the Facilities & Maintenance Supervisor.

**Town Planner Moore** reported that a zoning text amendment was taken to the Planning Commission regarding the floodplain ordinance. He explained that it was being mandated as the result of new flood mapping. Mr. Moore further explained that at the same time, FEMA required new minimum ordinance

regulations. He advised that when he took this to the Commission, he thought the Town was under a time crunch; however, between when he put the item on the agenda and the meeting, he was informed that the adoption of the mapping would be delayed until the next calendar year. Mr. Moore advised that the Town was no longer in a rush; therefore, the Council would not see the text amendment as soon as was anticipated. He noted that it was based on a model ordinance and advised that the Town must adopt the minimum requirements. Mr. Moore advised that it could adopt more stringent ones.

Councilmember Murdock noted that during the previous meeting, the Council discussed parking in residential areas. She questioned whether Council specifically discussed the issue of VDOT right-of-way versus private property. Ms. Murdock explained that a different issue has arisen and advised that an individual took land that did not belong to her and used it to construct her own private parking area. She opined that at some point, the Town must say “this is VDOT land and you cannot seize other people’s property”. Ms. Murdock explained that the individual put gravel on both the right-of-way and someone else’s property because she needed parking; and, advised that this occurred on the Mayor’s land. She opined that the public needed to understand the difference between the right-of-way and private property.

Councilmember Snyder suggested the Council resolve these issues on a case-by-case basis. He noted that the width of the right-of-way would vary by street.

Town Administrator Semmes reported that the right-of-way was forty feet for all of the streets, except Stonewall Avenue, which was sixty feet. She noted, however, that the location of the right-of-way was a question.

Councilmember Snyder expressed concern about placing this issue on the Town Planner. Town Planner Moore advised Council that he had no enforcement ability with regard to someone putting something in VDOT’s right-of-way. He further advised that it was a civil issue if it occurred on private property. Mr. Moore suggested he could help facilitate a discussion.

Councilmember Murdock suggested the need for education. Mayor Davis suggested something be put in the newsletter. Town Administrator Semmes noted that this was related to the issue of people putting items in the right-of-way, which was dangerous.

Councilmember Snyder noted that the reason the right-of-way was wider than the street was to allow for sidewalks. He advised that the Town has gone back and forth over the years on the need for sidewalks and noted that when that desire bubbled, people would say “they did not want them in front of their house”.

Councilmember Shea noted the need to look at the drainage issue, as some people were filling in the drainage ditches and changing the drainage flow. Councilmember Snyder noted that this was a VDOT issue. Town Administrator Semmes confirmed it was and noted that she has talked to VDOT about it. She opined that it may take continuing pressure, including political pressure, to get them to address it.

Councilmember Murdock questioned whether the large pothole that she saw during the winter had been addressed. Councilmember Hazard confirmed it had with the construction of the new sidewalk.

Mayor Davis asked that something be put in the newsletter regarding the right-of-way. Town Administrator Semmes noted that she would also follow-up with VDOT.

Councilmember Shea noted that the business license revenue appeared to be low. She questioned whether all of the businesses have paid for their license. **Town Treasurer Wheeler** reported that some businesses’ licenses were still outstanding.

Councilmember Murdock questioned how the Town could ensure that everyone had a license. Town Treasurer Wheeler reported that she was working on ones that she knew did not have a license; however, some businesses came into town that she did not know about.

Town Attorney Plowman questioned whether the business owners got a card when they came in for a permit from the Town Planner. Town Planner Moore opined that the staff did a good job when someone came in for a business license of referring them to zoning and vice versa.

Mayor Davis questioned whether a business coming into a building, such as the Courtyard at Middleburg, would necessarily have to come to the Town Office for a zoning permit. Town Administrator Semmes confirmed they would need an occupancy permit. She reminded Council that there were two levels of occupancy permit – one for the shell of the building and one for the individual spaces.

Councilmember Snyder questioned whether the staff asked about the business license when a business applied for a COA. Town Planner Moore opined that the Town Clerk did a good job of checking on that. Town Clerk North confirmed that when she saw a business on the HDRC agenda that she knew did not have a business license, she would alert the Town Treasurer.

Councilmember Shea noted that at one time, the former Town Planner was working on a guide of what a business was expected to do. Mayor Davis noted that the Town already had a New Business Packet. Town Clerk North noted that the problem was not so much the businesses that came into the Town Office to get an item, but rather was the businesses that did not come in at all.

Councilmember Hazard questioned how the Town could enforce the need for a business license. Town Treasurer Wheeler noted that she sent out letters asking them to get a license but some did not. Town Attorney Plowman suggested this needed further discussion. She advised that she has spoken with the Town Administrator about how the Town wanted to address the collection of fees from the unlicensed businesses and advised that the Town could do so civilly or criminally. She suggested she and the Town Administrator talk about this further and then bring a recommendation to the Council. Ms. Plowman noted that there were agencies that handled collection enforcement for localities. She suggested the need to get a handle on who was unlicensed and how much they owed the Town. Town Administrator Semmes noted that this issue was not just whether they had a license but also whether they were paying what they should.

Mayor Davis questioned whether there was a deadline for a new business to get their license. Town Treasurer Wheeler noted that there were new businesses coming into town of which the staff was unaware. She advised that if she did not know of them, they would not get a letter from her.

Town Administrator Semmes reiterated that the issue was a two prong one – whether they were getting a license and once they did, whether they were paying the correct amount. She opined that there were a number of tools available to the Town to check a business' gross receipts, including tax returns.

Mayor Davis noted that the Council talked several years ago about the need to randomly perform an audit. She further noted that the Town's collections were only as good as what the individual was reporting. Town Attorney Plowman confirmed the Town had a lot of power to enforce the need for a business license, including liens, and advised that it was a matter of how far the Council wanted to go. She noted the need for direction from the Council.

Councilmember Murdock questioned whether a business was required to provide their social security number when they applied for a business license. She further questioned whether the tax obligation attached to the individual or the business. Town Treasurer Wheeler confirmed they must either provide their FEIN or social security number. Councilmember Shea confirmed the obligation attached to the business.

Town Attorney Plowman advised Council that the Town could access tax return information from the County to verify income. Mayor Davis reiterated the need to perform audits. Town Administrator Semmes advised that this was a goal of the Town Treasurer; however, it was a matter of time given her other duties. Mayor Davis suggested this be handled by an intern. Town Administrator Semmes expressed concern about having an intern work with someone's federal tax return. She suggested there may be other things the intern could do, such as gathering information.

Councilmember Hazard noted that General Fund revenues were at 110%, with two months left in the fiscal year. He further noted that the expenditures were at 65%. Mr. Hazard questioned whether there were any large expenses to come in the last two months or whether the General Fund was simply in good shape. Town Treasurer Wheeler confirmed it was in good shape. Mayor Davis reminded Council that when they prepared the budget, they were conservative in estimating the revenues.

Councilmember Shea questioned how the issue of business license collections would be resolved. She questioned whether the staff would work on something and bring it back to the Council. Town Attorney Plowman reported that she would work with the Town Treasurer to identify how many accounts were outstanding and the total amount due. She advised that she would talk with the Town Administrator about the entity that provided collection assistance to localities. Ms. Plowman reminded Council that the Town could tack 20% onto the tax bill and suggested this could go to the collection agency in the form of payment so there would be no out-of-pocket expense for the Town. She confirmed she would return with a recommendation.

Councilmember Hazard suggested she also identify how other localities located businesses. He suggested the Town use the Middleburg Business & Professional Association's records.

Councilmember Shea suggested the HDRC applications be monitored. Town Administrator Semmes confirmed the staff was already doing so.

**Chief of Police Panebianco** reported that starting later in the day, the parking meters would be bagged for "free parking". He advised that there would be no enforcement this weekend and noted that they would begin chalking tires on Monday. Chief Panebianco reported that the white bags contained the message "free parking – 2 hour limit". He advised that he put a notice about this on Facebook. Chief Panebianco reported that he also asked the business owners and their staff to park in the metered areas or lots.

Councilmember Snyder questioned whether the bags clearly stated that there was a two hour parking limit. Chief Panebianco confirmed they did in large lettering. He noted that the information was also on the various Middleburg Facebook pages. Town Administrator Semmes reported that the Town would put a message on its website and the Economic Development Coordinator would put a message in her Friday E-Mail Blast.

Councilmember Snyder opined that this was a great idea; however, he suggested it would not work if the Town did not tell people about it. Chief Panebianco noted that he considered putting the sign message board on each end of town; however, given all the construction signs, he thought it would only add to the clutter for something that was self-explanatory. He reiterated that he had already talked to most of the businesses to let them know what was happening and advised that most people were positive about the change. Chief Panebianco reiterated that they would try to get the meters bagged during the night.

Chief Panebianco noted that, in the past, Councilmember Snyder raised the issue of community policing. He reported that he held another meeting with his staff recently and discussed several things, including the use of force and de-escalation. Chief Panebianco advised Council that in Virginia, the focus in police academy training was the sanctity and preservation of life and to take a guardian standpoint as opposed to



a warrior one. He further advised that he felt secure that police officers in Virginia had the training to make sure these types of events did not occur. Chief Panebianco noted that he reiterated the need for the staff to pay attention to the details of their training.

Councilmember Snyder opined that the community policing approach was key. Chief Panebianco noted that he told people that the Police Department was not policing the community but rather was the police for the community. Councilmember Snyder agreed they were not controlling the population but rather were protecting it. He opined that things would be fine as long as everyone kept this in mind.

Councilmember Shea questioned whether the part-time officers were involved in the staff meetings. Chief Panebianco noted that they received the same training. He advised that they were not at the staff meetings; however, he talked to them independently.

Chief Panebianco reported that this was the culmination of Police Week, which would include a Police Memorial. He commended his staff and noted that he was proud of them. Mayor Davis thanked the officers for their hard work. She noted that she was proud of what they did and how well they took care of the community.

### **Reports of Town Committees/Council Liaisons**

Councilmember Shea noted that the Go Green Committee now had two resignations; however, it has received no applications. She further noted that the vacancy announcement did not include a statement that applicants did not have to be a resident and asked that this be added.

Mayor Davis questioned where the advertisements were placed. Town Clerk North reported that ads were placed in the Loudoun Times Mirror and on the Town's website. She advised that if there was a requirement that the member be a town resident, then the ad stated that, otherwise the ad stated that "Anyone who was interested...."

Town Administrator Semmes noted that she recently spoke with the Emmanuel Episcopal Church about what was going on in the town, including how many volunteers worked in Middleburg. She advised that they were appreciative of the opportunities for the community to participate.

Mayor Davis questioned whether the positions were being advertised and whether the ad could be changed. Town Clerk North reminded Council that she ran an advertisement once. She reported that no applications were received by the deadline so she extended it and advertised the positions again. Ms. North noted that the advertisement had already been sent to the paper; however, she would check to see if it was too late to change it.

Councilmember Shea noted that Go Green would meet again on May 26<sup>th</sup> and would take steps to ask people to apply.

### **Action Items** (non-public hearing related)

#### **Council Appointments** – Asbury Church Ad-Hoc Committee

Councilmember Shea expressed concern regarding one of the proposed appointments and asked that this item not be discussed publicly. She requested that Council hold a closed session, to which the Council agreed.

Council Approval – Proclamation – Business Appreciation Month

*Councilmember Murdock moved, seconded by Councilmember Hazard, that the Council adopt a proclamation declaring the month of May 2015 as “Business Appreciation Month” in the Town of Middleburg.*

Vote: Yes – Councilmembers Hazard, Murdock, Shea and Snyder

No – N/A

Abstain: N/A

Absent: Councilmembers Kirk, Littleton and Scheps

(Mayor Davis did not vote as there was no tie to require her vote)

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Town Administrator Semmes reported that both Loudoun County and the Town of Middleburg were Certified Local Governments (CLG), which was a federal and state historic preservation program. She further reported that there was approximately \$89,000 in grant funds available for special projects, which was available state-wide to the thirty-three CLGs. Ms. Semmes noted that the grant process would be very competitive. She advised that the Town received a request earlier in the day from the County to endorse their grant application, which reminded the staff of the need to prepare its grant application. Ms. Semmes reported that the Town application would be for a grant to update the Historic District Survey. She advised Council that the Town Planner took the issue to the HDRC to ask them their highest priority among the eligible activities. Ms. Semmes reported that the HDRC endorsed updating the survey as it was fifteen years old and was based on outdated technology. She noted that when the survey was updated in 2000, the period of significance was not updated. Ms. Semmes explained that the period of significance was important as anything built before that period (fifty years before the survey) was determined to be historic. She advised that the original study was done in 1981 when the National Register nomination was approved; therefore, the period of significance was 1931. Ms. Semmes reported that the Town had a building come in that was constructed in 1940; however, because it was older than the period of significance, it was not eligible for tax credits. She advised that the buildings in town could become historic over time. Ms. Semmes reiterated that this update would allow the Town to update its period of significance. She advised Council that the Town was alerted to this problem by the Department of Historic Resources.

Councilmember Hazard questioned whether the date would always go back to 1981. Town Administrator Semmes explained that this was something that must be included in the survey; however, the last update did not include it as an official change. She further explained that if the Town updated the survey, it would change the date. Ms. Semmes reported that the Town would be asking for a matching grant, with the Town to spend \$12,500 of its own money, some of which would be in the form of in-kind contributions through the use of staff time. Town Planner Moore noted that his budget contemplated the project by including funding in the consulting budget.

Town Administrator Semmes reported that the County’s grant application was for the schools. Mayor Davis advised that this project was being implemented by the Western Loudoun County Community School Foundation. Town Administrator Semmes noted that they were trying to preserve schools, which was important. She advised that the staff’s recommendation was to support both applications.

Council Approval – Resolution of Support – Loudoun County CLG Grant Application – Rural Loudoun School Preservation Study

*Councilmember Snyder moved, seconded by Councilmember Murdock, that the Council adopt a Resolution Supporting Loudoun County’s CLG Grant Application for a Rural Loudoun School Preservation Study.*

Vote: Yes – Councilmembers Hazard, Murdock, Shea and Snyder  
No – N/A  
Abstain: N/A  
Absent: Councilmembers Kirk, Littleton and Scheps  
(Mayor Davis did not vote as there was no tie to require her vote)

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Council Approval – Resolution of Support – CLG Grant Application – Middleburg Historic District Survey Update

*Councilmember Snyder moved, seconded by Councilmember Shea, that Council adopt a Resolution Supporting the Middleburg Historic District Survey Update.*

Vote: Yes – Councilmembers Hazard, Murdock, Shea and Snyder  
No – N/A  
Abstain: N/A  
Absent: Councilmembers Kirk, Littleton and Scheps  
(Mayor Davis did not vote as there was no tie to require her vote)

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**Discussion Items**

Request to initiate Zoning Text Amendment pertaining to Wellhead Protection Overlay District

Councilmember Snyder reported that the Wellhead Protection Advisory Committee has been discussing a zoning text amendment to create a Wellhead Protection Overlay District. He noted that the Planning Commission had an issue with the size of the zones – one thousand feet and one mile - and advised that those were the standards. Mr. Snyder reported that the Committee would like to start moving forward with the creation of the zones so they could make progress on protecting the Town’s wells. He noted that the last page of the agenda materials was the map that showed the two zones. Mr. Snyder advised Council that Zone 1 was the smaller of the two and noted that Zone 2 extended beyond the Town’s corporate limits. He explained that once approved, the next step would be to work with Loudoun and Fauquier Counties to ask for their support so there would be no danger of polluting the Town’s wells. Mr. Snyder noted that the wells served the people and businesses in town and advised that if the water was lost, the town would be lost.

Mayor Davis questioned what was being asked with regard to Zone 1. Councilmember Hazard noted that this was what the Planning Commission raised. He advised that it was not that they did not think it was a good idea, but rather they suggested the need to carefully look at what was being asked.

Councilmember Snyder noted that Zone 1 consisted of a thousand foot radius, which was approximately a block in each direction, around each well.

Town Clerk North reminded Council that Zone 1 was intended to protect the wells against contamination, whereas Zone 2 was intended to protect the recharge area. She explained that Zone 1 would be the more restrictive area as the Town did not want what could occur at Well 3 to occur elsewhere, in that a spill from a nearby property now posed a risk of contamination to the well.

Councilmember Snyder explained that as the Town pumped water from a well, the well pulled water from the surrounding areas. He further explained that the biggest area of vulnerability was in Zone 1. Mr. Snyder opined that the Town did not want people putting things into the ground that were a high risk to the Town’s drinking water.

Councilmember Hazard opined that the ordinance was good in that Zone 1 was specific to new facilities. He noted that there was an existing gas station in Zone 1; however, he opined that it would be grandfathered. Councilmember Snyder confirmed it would and noted that the station was also being monitored. He explained that this was risk mitigation and suggested the Town should not continue to allow high risks that could impact the Town's water to the point where the Town would have to spend a lot of money to mitigate a problem. Mr. Snyder noted that mitigating the risk was cheaper than addressing water pollution problems. He reminded Council of the recent situation in West Virginia where the water supply was shut off suddenly due to pollution. Councilmember Shea noted that the Town had already lost a well due to dry cleaning contamination. Councilmember Snyder reminded Council that the Town's water was inspected and noted that if it contained unacceptably high levels of a contaminant, DEQ would issue the Town an order, which the Town could either address or it could shut down the well. He agreed the ordinance was not perfect; however, he advised that this was an important enough issue that the Town needed to act.

Councilmember Hazard noted that certain uses would be prohibited in Zone 1. He questioned the standards for Zone 2. Town Planner Moore confirmed there were no prohibited uses in Zone 2. He explained that Zone 2 was part of the overall Wellhead Protection Area and noted that the entire town would be in a Wellhead Protection Area. Mr. Moore further explained that any provision in the ordinance that was specific to the Wellhead Protection Area as a whole, such as maximum site coverage, would apply regardless of whether property was located within Zone 1 or 2. He explained that under the draft ordinance, no more than fifty percent of a lot could be rendered impervious. Town Administrator Semmes noted that this would conflict with the downtown district.

Town Planner Moore suggested that if the Council wanted to initiate the zoning text amendment, there could be discussion of whether there should be a waiver in the C-2 District.

Councilmember Hazard opined that the draft ordinance was "95% there". He suggested the need to tweak it so it would not set one regulation up against another. Mr. Hazard recommended it be approved with conditions.

Councilmember Snyder noted the need to tweak it for a historic town; however, he requested that the Town do what it could now. He further noted that the Council could always return to it and address any discrepancies.

Councilmember Shea questioned what Councilmember Snyder meant by "doing what it could now". Councilmember Snyder noted that he heard Councilmember Hazard opine that the ordinance was 95% there. He suggested the Council go with the 95% and worry about the other 5% later. Mr. Snyder cited the fifty percent lot coverage as an example and suggested that existing business areas may have to be grandfathered or granted an exemption for a specific commercial zone.

Councilmember Shea advised that she could support the ordinance as long as it was not in conflict with what existed. She further advised that she would like to give the Planning Commission and staff time to look at what this meant to the town and to inform the Council.

Councilmember Snyder explained that the Wellhead Protection Committee asked to send the draft to the Council, with a request to get action from the Planning Commission. He noted that they knew the Commission cared about the issue; however, they were not seeing any action.

Town Planner Moore noted that procedurally, the ordinance would have to go to the Planning Commission as a zoning text amendment. He explained that the Commission must hold a public hearing on the ordinance and make a recommendation to the Council. Mr. Moore opined that the Commission would do its due diligence.

Councilmember Snyder advised Council that the Committee welcomed the Town Planner and Planning Commission's efforts. He further advised that he wanted to start seeing results.

Town Administrator Semmes noted the need to get input from others, including regulatory agencies. She cited the prohibition on snow removal and underground storage tanks. Ms. Semmes suggested the underground storage tanks may contain water, which would not be hazardous. She questioned whether the Town had the authority to regulate these activities. Councilmember Hazard suggested the ordinance be subject to state or federal regulations.

Councilmember Snyder noted the Town Administrator's point regarding the dumping of snow. He opined that there were some things the Planning Commission should address.

Councilmember Shea inquired as to what was meant by the "dumping of snow carried from off-site". Town Planner Moore explained that it was meant to prohibit it. He noted that often times, in an urban area, there was no place to push snow; therefore, it was carried someplace else. Mr. Moore suggested the wording may need to be tweaked and explained that the idea was that snow could not be brought into Zone 1 or moved from one location to another within Zone 1. Councilmember Snyder opined that it could not be dumped in Zone 1; however, it could be removed and taken to a different area. He explained that the intent was to not concentrate pollutants on top of a wellhead. Mr. Snyder agreed with the need to make sure there were no conflicts between this ordinance and the zoning ordinance. Town Planner Moore advised Council that the Town did not put its snow within Zone 1 and noted that the ordinance only prohibited placing it within Zone 1. He noted that he did work with the Wellhead Protection Advisory Board, through the Town Clerk, to get the ordinance to this point. He advised that he was comfortable that there was enabling legislation.

Mayor Davis asked that the Commission work on the ordinance and bring it back to the Council when it was ready.

#### Request for Special Use Permit – Professional Office Use on Street Level – 8 E. Federal Street – Anne Geraghty

Town Planner Moore reminded Council that this dwelling was converted to a commercial use at some point and contained seven hundred fifty square feet between the first and second floors. He explained that the request was for a special use permit to allow for professional office use on the first level. Mr. Moore reminded Council that the C-2 District contained a provision to protect the main commercial spaces and opined that it was intended to address the spaces on Washington Street and in the first blocks of North and South Madison Street. He noted, however, that the regulation applied to the entire zoning district. Mr. Moore noted that while most of the C-2 District was concentrated on Washington Street, there were some C-2 zoned properties on Federal Street and in other areas. He explained that because of this, in order to have offices on a first level, the property owner was required to receive a special use permit.

Town Planner Moore advised Council that this particular application was delayed because the Planning Commission meeting was cancelled due to snow. He noted that it also had to be tabled as the applicant was not present during the meeting. Mr. Moore reported that the Commission looked at a number of things when reviewing the application. He noted that in addition to the special use permit, a site plan waiver was being sought. Mr. Moore advised Council that there was no space on the property to provide for improved parking to bring it up to standards, although there was room for two or three vehicles, which was what was required for this use. He reported that the Planning Commission was more concerned with whether there was an opportunity to get frontage improvements and noted that this was typically when localities were able to get sidewalk, curb and gutter. He cited the Clites application as an example of an opportunity to secure sidewalk, curb and gutter on Pickering Street. Mr. Moore advised Council that the Planning Commission alerted him to the J2 concept plan for the redevelopment of Federal Street and asked him to look at it to see if it called for frontage improvements and whether they could be

implemented. He confirmed that it did show frontage improvements; however, it also reduced Federal Street to one lane through the use of chicanes. Mr. Moore opined that it was an intriguing plan that would allow for needed pedestrian facilities as Federal Street was not a safe street for walking; however, he advised that it was just a concept plan. He noted that Jim Bishoff, of J2 Engineers, said nothing could be implemented based on the plan as more engineering was needed. Mr. Moore advised that the Town did not want to do something that assumed the road would be reduced to one lane and then find out that it could not be done. He noted that there was also an existing drainage problem and advised that the Town Engineer made some recommendations for discussions with VDOT to resolve it. Mr. Moore explained that there was a pipe that discharged to the east along Federal Street, west of the property, which shot storm water across the property. He noted that the porch also encroached into the right-of-way. Mr. Moore reported that shortly after he arrived, Councilmember Shea pointed out that the then-tenant put in gravel and the rain washed it out. He opined that any kind of frontage improvement would be in conflict with the water. Mr. Moore advised that the Commission listened to the staff's recommendations and eventually recommended the issuance of the permit without any frontage improvement conditions.

Town Planner Moore reported that the Commission forwarded the application with a recommendation for approval with conditions. He advised that the first condition was related to the steps to the front porch, which were not in good condition; and, noted that the Commission wanted to make sure the building met the Building Code requirements for ingress/egress. Mr. Moore further advised that the second condition was to provide signage, subject to HDRC approval, to direct visitors to the public parking lot. He noted that while the tenant would be a low traffic generator, this condition would apply to the change of use as long as the building was used as an office. Mr. Moore reminded Council that Federal Street was not a good location for on-street parking and explained that the Commission wanted to make it clear that if a customer pulled in front of the building that he would know there was a public lot down the street. He advised that the Commission held some discussion about limiting the special use permit to this one tenant; however, they believed the size of the building was limiting and that the likelihood of getting a high traffic tenant was very low. Mr. Moore noted that this application had been with the Town for a while and requested that the Council schedule a public hearing for their May 28<sup>th</sup> work session.

Councilmember Shea questioned whether a building inspector would look at the building code issues prior to the hearing. Town Planner Moore noted the need to open a line of communication with the building official. He advised that generally when there was a change of use, under the Building Code a change of use inspection was required. Mr. Moore noted that he was not sure at what point this building converted from a dwelling to a commercial use and explained that sometimes when this occurred, it occurred prior to the current Building Code requirements. He noted that in those cases, the types of uses were allowed to perpetuate. Mr. Moore confirmed this building did not meet the Building Code with regard to accessibility and advised that he was interested in the Building Official's opinion on whether it was grandfathered. He suggested there could be a surprise waiting for the property owner. Mr. Moore explained that just because a use was allowed in a zoning district, he could not grant occupancy without considering Building Code requirements.

Councilmember Hazard inquired as to the type of building permit that was needed. Town Planner Moore noted that the owner must have a zoning occupancy permit from him. He advised that since this was a converted dwelling unit, he would make sure the Building Official was okay with it. Mr. Moore questioned whether the Council was willing to hold a public hearing during its May work session, to which the Council agreed.

#### Closed Session - Appointments to Ashbury Church Technical Advisory Committee

*Councilmember Shea moved, seconded by Councilmember Murdock, 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 Murdock, that these matters be limited to a discussion of appointments to the Asbury Church Technical Advisory Committee. Councilmember Shea further moved, seconded by Councilmember Murdock, that in addition to the Council, the following individuals be present during the closed session: Martha Semmes. Councilmembers Shea further moved, seconded by Councilmember Murdock, that the Council thereafter reconvene in open session for action as appropriate.*

Vote: Yes – Councilmembers Hazard, Murdock and Shea

No – Councilmember Snyder

Abstain: N/A

Absent: Councilmembers Kirk, Littleton and Scheps

(Mayor Davis did not vote as there was no tie to require her vote)

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Mayor Davis asked that Council certify that to the best of each member’s knowledge (i) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the closed meeting, which each member did. She reminded those present for the closed session that any discussion that occurred within it should be treated as confidential.

*Councilmember Snyder moved, seconded by Councilmember Murdock, that Council appoint the following members to the ad-hoc Asbury Church Technical Advisory Committee: Jane Covington, Bill Turnure, Wayne Hughes, Steve Plescow, Coe Eldredge and Kevin Hazard. Councilmember Snyder further moved, seconded by Councilmember Murdock, that the Committee members serve until the completion of the Asbury Church Restoration Project.*

Vote: Yes – Councilmembers Hazard, Murdock and Snyder

No – Councilmember Shea

Abstain: N/A

Absent: Councilmembers Kirk, Littleton and Scheps

(Mayor Davis did not vote as there was no tie to require her vote)

There being no further business, Mayor Davis declared the meeting adjourned at 7:42 p.m.

APPROVED:

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Betsy A. Davis, MAYOR

ATTEST:

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Rhonda S. North, MMC, Town Clerk