



**MIDDLEBURG TOWN COUNCIL
Regular Monthly Meeting Minutes**



August 22, 2013

PRESENT: Mayor Betsy A. Davis
Vice Mayor C. Darlene Kirk
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
Angela K. Plowman, Town Attorney
Rhonda S. North, MMC, Town Clerk
Cindy C. Pearson, Economic Development Coordinator
David M. Beniamino, AICP, Town Planner
A.J. Panebianco, Police Chief

ABSENT: Councilmember Kevin Hazard

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on August 22, 2013 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

David Greenhill and Isabelle Truchon, the owners of Greenhill Winery & Vineyard, advised Council that they have done extensive renovations to the property so it would be a first class winery and vineyard. Mr. Greenhill noted that they looked forward to working with the Town to help their business be a success and to promote Middleburg. Ms. Truchon advised that they were all about helping the community and asked that the Council let her know what they could do. She noted that they wanted to promote the experience of being in authentic Virginia wine country and authentic Middleburg. They invited the Mayor and members of Council to their opening on August 29th, which was exclusively for the residents of Middleburg.

(Councilmember Murdock left the meeting at 6:03 p.m.)

Addition of Item to Agenda

Councilmember Snyder moved, seconded by Councilmember Shea, that Council add item XI(F) (Council Approval – Request for Temporary Directional Signage – Salamander Resort) to the agenda.

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

(Councilmember Murdock returned to the meeting at 6:04 p.m.)

Public Hearings

Special Use Permit 13-01 – Professional Office Space on Street Level in C-2 District -
110 West Washington Street – Chinn’s Crossing, LLC

No one spoke and the public hearing was closed.

Ordinance to repeal Chapter 63.1 and Adopt in its stead Chapter 63.2 pertaining to Noise

No one spoke and the public hearing was closed.

Action Items related to Public Hearings

Special Use Permit 13-01 – Professional Office Space on Street Level in C-2 District -
110 West Washington Street – Chinn’s Crossing, LLC

Town Planner Beniamino advised Council that this building was located behind the new buildings on Washington Street and was essentially located in the parking lot. He confirmed it had no street frontage. Mr. Beniamino reminded Council of the Town Code requirement that excluded professional offices on the street level; and, noted that this was adopted in order to avoid the creation of dead spots in the retail fabric of a street. He opined that this a perfect example of a location where a professional office should be allowed as the building had limited visibility from any street. Mr. Beniamino reported that no conditions were recommended for the approval.

Councilmember Snyder moved, seconded by Councilmember Shea, that Council adopt an ordinance approving Special Use Permit 13-01 regarding professional office space in the C-2 District at 110 West Washington Street.

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

Ordinance to repeal Chapter 63.1 and Adopt in its stead Chapter 63.2 pertaining to Noise

Councilmember Shea moved, seconded by Councilmember Littleton, that Council adopt an ordinance to repeal Town Code Chapter 63.1 and to adopt Town Code Chapter 63.2 in its stead entitled “Noise”.

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

Approval of Minutes

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve the July 11, 2013 Regular Meeting and July 25, 2013 Work Session Meeting Minutes as amended.

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

No – N/A

Abstain: N/A

Absent: Councilmember Hazard

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

Staff Reports

Chief of Police Panebianco reported that the Town experienced a successful Fourth of July. He opined that the turnout for National Night Out was good considering the weather. Chief Panebianco advised that he understood that people from Leesburg attended the event. He thanked those who did.

Chief Panebianco reported that the officers were touring the Salamander Resort to familiarize themselves with its footprint. He advised that they also met with their security company so they could plan what the Police Department would handle and what their personnel would handle. Chief Panebianco noted that they already had a working relationship as this was the same company that was working the Middleburg Film Festival.

Chief Panebianco reported that the planning for the Middleburg Film Festival was continuing and advised that he met with the organizers earlier in the day. He noted that there were a lot of events coming up that would put a lot of people in the town and would increase the Department’s work load.

Chief Panebianco reported that Karen Kilday, the secretary for the department, broke both of her arms.

Chief Panebianco reported that gates have been installed at the Morgan Oil property and opined that they looked nice.

Vice Mayor Kirk asked whether the Chief had talked to anyone at the Salamander Resort about the speeding problem at the Pendleton/Marshall Street intersection. Chief Panebianco confirmed he had mentioned the problem to the construction company’s supervisor. He reported that the officers have started do traffic enforcement in this area. Chief Panebianco noted that they probably would not write tickets, but would warn motorists to slow down. He advised that they were also doing enforcement of the stop sign.

Councilmember Murdock reported that she was almost hit by a motorist coming up Pendleton Street. Town Administrator Semmes suggested a stop bar be painted on the pavement at this location.

Vice Mayor Kirk questioned the policing of the new parking space in front of Salamander Touch. Chief Panebianco confirmed it was going well; and, noted that the officers have written some tickets. He opined that motorists were not seeing the fifteen minute parking sign as it was short and in weeds; and, advised that the space would be re-signed. Town Administrator Semmes reported that a new sign would be installed in the curb by the parking space.

Councilmember Shea reported that twice in the past two weeks she was ready to pull into the post office and had cars pass her on the left side. She noted that if she had stopped for a pedestrian crossing the road, he would have been hit. Chief Panebianco advised that he would assign an officer to watch this location.

Councilmember Stewart reported that trucks were coming straight through the intersection at Marshall/Madison Streets and were not making the turn. Chief Panebianco reported that he received a complaint of this earlier in the day.

Councilmember Murdock expressed concern that as the opening of the resort got closer, there would be more traffic confusion in this area. She noted that she recently encountered a truck that was lost in a residential area and advised that the driver was not told to use the Foxcroft Road entrance.

Town Administrator Semmes reported that Salamander's personnel were working to have the barn address given to delivery companies as that would take the drivers to Foxcroft Road.

Chief Panebianco noted that there would be growing pains during the first month as people tried to find their way to the resort. He reported that the officers were prepared to help motorists. Chief Panebianco noted that they would have the same conversation with Salamander's delivery trucks as they have with those in the downtown area.

Councilmember Murdock questioned whether the Chief provided a letter to Safeway regarding parking. Chief Panebianco confirmed he had. He noted that he experienced the same problem; and, noted that he was almost hit in a marked police car. Chief Panebianco advised Council that his letter stated that this was a safety concern. He opined that most of the accidents have occurred when motorists were backing-up.

Mayor Davis thanked the Chief for organizing the National Night Out. Chief Panebianco noted that he had a great staff and lots of volunteers, including the Mayor's daughter.

Public Presentations

Marissa Jones, of the Healthy Eating/Active Living Campaign (HEAL), appeared before Council. She reported that the campaign was a joint initiative of the Institute for Public Health Innovation and the Virginia Municipal League. Ms. Jones advised that in 1990, Virginia had an obesity rate of less than 10%; however, in 2010, it climbed to 26%. She noted that it was projected that it could reach nearly 50% by 2030. Ms. Jones explained that the Healthy Eating/Active Living Campaign rejected the idea that it would continue to rise and believed that local elected officials were uniquely poised to stop it.

Ms. Jones noted that often people would ask "how did we get here". She advised that the equation of weight gain had not changed, yet the obesity rate was rising. Ms. Jones opined that what had changed was the availability of fast food and a decrease in the number of children who walked or biked to school. She advised that under the HEAL Campaign, the belief was that individual choices were made within the context of one's environment. Ms. Jones opined that the Council could make public policies that could shape the environment. She noted that Middleburg already had great local businesses in a walkable community and reported that statistics have shown that people who lived in a walkable neighborhood were twice as active as those who did not.

Ms. Jones noted that people believed these ideas sounded good, but were hard to accomplish. She advised that the HEAL Campaign provided localities with free training, technical assistance and sample policies that they could adopt in order to shape the environment so people could make easy, healthy choices. Ms. Jones advised that their priority issues were to provide healthy food access, a built environment and workplace & community wellness. She noted that the HEAL Campaign asked localities to adopt a resolution, a draft of which has been prepared for Middleburg that would then qualify it to become a HEAL town. Ms. Jones advised that the Town would receive recognition at VML events and would receive national recognition through the Lets Move Campaign.

Ms. Jones advised that the premise was that people wanted to be healthy but needed the environment to support them in making healthy decisions. She explained that the idea was to include a complete streets policy in the Comprehensive Plan, which would encourage the development of streets that were usable for bicycles, pedestrians and motorists. Ms. Jones further explained that the Comp Plan could also encourage the use of joint use agreements to make existing resources work twice as hard. She suggested there were opportunities for the development of recreational space when new developers came into town.

Ms. Jones reviewed what Middleburg was already doing, such as the provision of walking trails; and, opined that good work was already being done. She reported that the Metropolitan Washington Council on Government adopted a resolution encouraging municipalities to adopt a complete street program and noted that she would help Middleburg adopt one. Ms. Jones advised that she wanted to support the work the Council wanted to do in town and could provide sample policy language.

Ms. Jones advised that a good place to start working on the Community & Workplace Wellness category was in the Town Hall. She suggested the Council could encourage breaks during long meetings, promote water consumption and brain storm ways to use local policies to support the farm-to-table program. Ms. Jones advised that the Council could think of ways to make this program sustainable through policies. She suggested the Council could adopt nutrition standards for town sponsored events to make sure healthy options were available for those who wanted a healthier choice.

Ms. Jones advised that the Council could adopt policies in the Town's Comprehensive Plan that would help provide affordable foods. She suggested that incentives be used to increase access to them. She further suggested the Town develop a MOU with the Community Center to ensure the farmer's market would remain there. Ms. Jones noted that a future Council may not be as into these programs; therefore, they could go away without these policies. She suggested the Council send a message to the residents that it cared about their ability to walk in town.

Ms. Jones advised Council that the next step would be to adopt a resolution, get sample policies and technical support from HEAL and get recognition for the Town's work at the upcoming VML conference. She noted that currently five jurisdictions were participating in the program. Ms. Jones opined that by participating, the Council would have the satisfaction of shaping Middleburg to be a place that would continue to make healthy choices.

Councilmember Murdock asked whether Ms. Jones assisted in developing the proposed resolution. Ms. Jones confirmed she did. She noted that she sent the Town Administrator and Councilmember Shea a sample. Town Administrator Semmes advised Council that she and Councilmember Shea looked at those items in the sample that made the most sense for Middleburg. She reported that they added a couple of items and removed those that were not applicable, such as encouraging vending machines to offer healthy choices. Ms. Semmes noted that the Council could encourage those who had vending machines in town to offer healthy options in them.

Councilmember Shea noted that there was a drink machine in the Community Center. She further noted that the water was located at the top of the machine where children could not see it.

Ms. Jones noted that this type of phenomenon could also be seen in places like grocery stores, where the sugary cereals were placed on the bottom of the shelf, with the healthy choices being placed on the top where children could not see them.

Councilmembers Snyder and Littleton expressed a preference to discuss this program in a work session.

Councilmember Murdock noted that she could arrange for the vending machine at the Community Center to be changed.

Town Administrator Semmes opined that there was already a healthy eating/active living presence in town. Councilmember Shea agreed.

Economic Development Coordinator Pearson reported that the Town has been holding a Celebrate the Harvest event for years.

Councilmember Shea opined that some things were missing, such as how to move low income families into healthier thinking regarding foods. Town Administrator Semmes noted the need to encourage this in the schools as well.

Ms. Jones questioned whether the farmer's market accepted SNAP cards and advised that she could help the Town set that up. She noted that a lot of farmer's markets have adopted a double value program. Ms. Jones suggested the need to incentivize the purchase of healthy foods and opined that if someone could get more food at a farmer's market for the same price, they would shop there.

Staff Reports (continued)

Town Administrator Semmes reported that the Town received the 75% plans for the Marshall/Madison Intersection Project. She further reported that the environmental review was also submitted; and, noted that it usually took thirty days for it to be complete. Ms. Semmes advised that even after adding the stop bar, some motorists were not stopping when coming westbound on Marshall Street. She opined that the proposed improvements would slow them down and would make the intersection safer for pedestrians.

Town Administrator Semmes noted that she had hoped that the Well 4 water treatment plant would be fixed at this point; however, the Town has found that it needed to make sure it understood the best way to do so. She reported that the plate that was supposed to be welded back into place was bowed. Ms. Semmes advised that Loudoun Water conducted tests earlier in the day on it. She noted that she would brief Councilmembers Snyder and Hazard on what was occurring next week after she heard from the consultants and the contractor. Ms. Semmes advised Council that the Town has received a recommendation from the tank manufacturer on how to straighten and reinforce the plate. She noted that the Town did not previously know about the bowing; therefore, there may be additional costs to make the repairs. Ms. Semmes reported that she would compare the cost of removing the wall at the plant in order to install a new tank against the cost of repairing the existing one.

Town Administrator Semmes reported that she, the Town Attorney and Councilmember Snyder have made progress on the utility services RFP. She expressed hope to have it out in September.

Councilmember Snyder advised that it tentatively contained a due date of September, which he hoped the Town could stick with. He noted, however, that he did want to get some bids.

Councilmember Shea noted that the Town Administrator's report talked about improvements to the Pink Box. She asked whether the Pink Box Advisory Committee's suggestions would come back to the Council. Town Administrator Semmes advised that they would only come back if more money was needed. She noted that the budget contained funding for some improvements.

Councilmember Snyder reminded Council that the budget anticipated some improvements that had been agreed upon. He suggested this item should not come to the Council if the cost was close to the budgeted amount.

Councilmember Shea advised that she would like for the Council to see what the Committee decided. She noted that the Council may say “do this”. Town Administrator Semmes reported that the Committee had not yet seen the plans.

Councilmember Snyder advised that he was fine reviewing the plans; however, he did not want to micro manage the project.

Councilmember Shea explained that she wanted to look at the Town’s investment. She noted that the Pink Box would be a major component of welcoming people to Middleburg.

Economic Development Coordinator Pearson reported that she had spoken with Mary Kay Garwood about extending the hours of the Pink Box. She further reported that starting in September, they would be open from 10:00a.m.-5:00 p.m. Ms. Pearson advised that the docents would note the times when visitors came in so they could be reviewed in the future. She noted that she has asked Ms. Garwood to let her know if she could not line up the docents so she could help if needed.

Vice Mayor Kirk noted that the drawing for the improvements to the Pink Box was labeled “Middleburg Museum”. Economic Development Coordinator Pearson advised that this was an error.

Councilmember Shea opined that it made no sense to construct an addition onto a building the Town did not own. She suggested that consideration be given to installing a solid door between the Pink Box and the restrooms so the bathrooms would be accessible.

Town Administrator Semmes reminded Council that the Town entered into a contract with Troy & Banks to look at the Town’s utility billings. She reported that they found the Town some savings with its Dominion Power bills as some of the facilities were listed in the wrong category. Ms. Semmes advised that the Town received a net refund of \$3,250. She noted that Troy & Banks’ was paid a fee of 29%, which left the Town with a credit of \$2,305. She reported that part of this credit would go into the Utility Fund and part in the General Fund.

Mayor Davis noted that the receipts on the parking meters were double what they normally were. She questioned the reason. **Chief Panebianco** noted that he was not sure. He reported that the Street Superintendent did replace the batteries, which resulted in a reduced number of malfunction reports. Chief Panebianco reminded Council that a number of factors affected the meters, including weather.

Councilmember Murdock suggested the meters be eliminated. Town Administrator Semmes suggested the Council evaluate whether it was worth having them. After some discussion, the Council agreed to discuss this matter prior to next year’s budget preparation, either in October or November.

Councilmember Snyder noted the need to secure training on the utility rate model.

Councilmember Murdock questioned the filling of the pools at the Salamander Resort. Town Clerk North reported that payment for filling the pools was received earlier in the day.

Action Items (non-public hearing related)

Council Appointments – Middleburg Community Farmers Market Committee

Vice Mayor Kirk moved, seconded by Councilmember Snyder, that Council appoint Justin Carroasco, Judith Plescow and Ken Matich to two-year terms on the Middleburg Community Farmer’s Market Committee, said terms to expire August 31, 2015. Vice Mayor Kirk further moved, seconded by Councilmember Snyder, that Council appoint Rod Thomas and Lily Bowen to one-year terms on the Middleburg Community Farmer’s Market Committee, said terms to expire August 31, 2014.

Mayor Davis asked, other than Judith Plescow, whether the other members were vendors at the farmer's market. Economic Development Coordinator Pearson confirmed they were.

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

No – N/A

Abstain: N/A

Absent: Councilmember Hazard

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

Council Approval – Resolution – Day of Service

Vice Mayor Kirk moved, seconded by Councilmember Littleton, that Council adopt a resolution encouraging Town residents and organizations to participate in a Day of Service between September 15-29, 2013.

Councilmember Shea announced that a Volunteer Fair would be held during this period at the Emmanuel Episcopal Church.

Mayor Davis asked that this information be distributed to the public. Economic Development Coordinator Pearson advised that she would put it in her electronic newsletter.

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

No – N/A

Abstain: N/A

Absent: Councilmember Hazard

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

Council Approval – Resolution of Appreciation – Expansion of Middleburg Library

Vice Mayor Kirk moved, seconded by Councilmember Snyder, that Council adopt a Resolution of Appreciation recognizing and expressing appreciation to the Middleburg Library Advisory Board for their work to expand the Middleburg Library.

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

No – N/A

Abstain: N/A

Absent: Councilmember Hazard

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

Mayor Davis noted that she would read the proclamation during the Library's Grand Opening Ceremony on September 7.

Council Approval – Proclamation – Red Ribbon Week – Col. Wesley Fox Young Marines

Vice Mayor Kirk moved, seconded by Councilmember Stewart, that Council adopt a proclamation declaring the week of October 23-31, 2013 as "Red Ribbon Week" in the Town of Middleburg.

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

Council Approval – Request for Reimbursement – Middleburg Library Advisory Board

Councilmember Snyder moved, seconded by Councilmember Murdock, that Council approve a request from the Middleburg Library Advisory Board for the reimbursement of \$400 in zoning permit fees related to the expansion of the Middleburg Library.

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

Council Approval – Request for Temporary Directional Signage – Salamander Resort

Town Planner Beniamino advised Council that Salamander was planning on using the Virginia LOGOS Program, which consisted of blue directional signs; however, due to an aluminum shortage in the country, those signs would not be available for some time. He further advised that, as a result, Salamander was seeking permission to install temporary directional signage in the Town’s rights-of-way to direct people off Washington Street onto Pendleton Street and through the Marshall Street intersection. He reviewed the conditions as recommended by the staff.

Councilmember Murdock questioned when the State’s signs would be available. Town Planner Beniamino opined that they would be available in September.

Councilmember Snyder moved, seconded by Councilmember Murdock, that Council approve a request from Salamander Hotels & Resorts to place temporary directional signs in the Town’s rights-of-way conditioned upon the following: (1) that there be no more than two directional signs– one on the corner of Washington/Pendleton Streets and one at the intersection of Marshall/Pendleton Streets, with approval of the locations to be determined by the Zoning Administrator; (2) that each sign shall not be larger than 18” x 24” and housed within an aluminum frame; (3) that each sign must be oriented so as not to block sight distances, be placed on the sidewalk and impede pedestrian accessibility; and (4) the signs must be removed within thirty days of approval or upon the installation of the Virginia LOGOS signs, whichever occurs first.

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

Discussion Items

Amendments to Zoning Ordinance pertaining to Inactive Applications

Town Planner Beniamino reminded Council that the Planning Commission could initiate zoning text amendments on their own; however, over the last several years, he has brought them to the Council in order to get their initial reaction before advertising them for a public hearing. He reported that the Commission has gotten tired of seeing applications tabled by the applicant with no movement for extended periods of time and asked the staff to prepare language to prevent this from occurring in the future. Mr. Beniamino advised that it was determined that this was best done by defining an “active” and “inactive” application. He explained that, as proposed, an application would be determined to be inactive once it sat for more than six months and would have to be resubmitted so it would not continue to be placed on the Commission’s agenda month after month. Mr. Beniamino noted that this also affected the Council as some applications that came to them would fall under this section. He advised that based upon the advice of the Town Attorney, it was better to amend both the zoning and the subdivision ordinances.

Councilmember Snyder asked whether the staff was seeking Council approval to allow the Planning Commission to move forward with the amendments. Town Planner Beniamino explained that he wanted to make sure the Council did not have a problem with it before sending it to the Commission. Council agreed to send the item forward.

Amendment of Town Code pertaining to repairs to service laterals

Councilmember Snyder advised Council that the only comment he had was that in the documents, there were references to “users” and noted that it was in the definitions. He reported that he asked the Town Clerk to look at this and consider the use of the term “customer” or “applicant”.

Town Clerk North noted that while she had identified the sections that used the term “user”, she had not had a chance to discuss this with the Town Attorney to determine whether there was a legal preference to use one term or the other.

Town Clerk North advised Council that the meat of this agenda item was the proposed policy contained in the supplemental regulations. She explained that this item was being presented to the Council to determine if they found the staff’s proposal acceptable. Ms. North further explained that the proposed policy was designed to allow the Town to accept maintenance of the service laterals between the main and the meter/clean-out while at the same time limiting the Town’s potential financial liability. She noted that the Town Administrator could speak to the budget concerns; however, she advised that in some instances the main may be on the opposite side of the street from the meter, which would mean the Town could have to cut and repair a street in order to repair a service lateral, which would be expensive.

Councilmember Snyder opined that the Town has repaired laterals in the past between the main and the meter. He suggested that while this change would limit the liability, it would not increase it as the Town has always maintained the laterals up to the meter. Mr. Snyder opined that this was not a big cost risk for the Town.

Mayor Davis asked whether the Town has been maintaining laterals up to the main. Town Clerk North confirmed that as the ordinances were currently written, the property owner was responsible for the entire service lateral up to the main.

Councilmember Snyder advised that prior to Loudoun Water’s operation of the system, the Town’s personnel replaced laterals between the main and the meter as they replaced meters.

Town Clerk North advised Council that under the proposed policy, anything past the meter would be the responsibility of the property owner. She explained that under the proposed regulations regarding water laterals, in order for the Town to accept maintenance responsibility for the portion up to the meter, the meter must be on the property line or within five feet of it; the length of the lateral between the main and the meter could be no more than thirty-five feet; the lateral could not cross a third parties property; the lateral must be in an acceptable condition; and, the meter must not be located in a building. Ms. North further explained that on the sewer side, the proposed regulations were essentially the same; however, instead of to the meter, the maintenance responsibility would be to the clean-out, which must be on the property line. She advised that in addition, language was proposed to require that the property owner be responsible for repairs/maintenance, including to the portion of the lateral accepted by the Town for maintenance, if the stoppage/damage was caused by negligence of the property owner. Ms. North advised that this change in policy was the driving force behind the three documents before the Council.

Councilmember Snyder agreed that as proposed, the language would give the Town some legal protections that have not been considered in the past. He advised that he did not have any issues with the substance of what was being proposed.

Councilmember Shea questioned the status of this item. She asked whether it would return to the Council. Town Clerk North confirmed a public hearing was needed for the ordinance changes.

Town Administrator Semmes opined that there was no rush to adopt these changes. She expressed concern that the Utility Fund had a way to go before it would have a cushion. Ms. Semmes noted that what the Council was discussing was taking responsibility for the portion of the lateral that tended to lie under the street, which was the most expensive portion. She further noted that this also required securing permits from VDOT. Ms. Semmes opined that the Town did not have the money to take on this responsibility at this time. She suggested it would be a good goal for the future.

Councilmember Snyder opined that if the Town did not maintain the water laterals between the main and the meter, it would lose money in the event of a line break. He suggested there was no savings in not maintaining that portion of the line.

Town Administrator Semmes reminded Council that the Town would not know of a leak in that location any more than the property owner. She noted that currently, the property owner was required to fix the leak. Ms. Semmes advised Council that it was more difficult to find those as the water was not passing through the meter.

Councilmember Snyder opined that the customers would not call the Town and fix the line between the meter and the main unless they were experiencing a loss in water pressure.

Town Administrator Semmes advised that currently, the Town could require them to fix a leak if one was found. She noted that if not, the Town could repair it and charge the property owner.

Councilmember Littleton noted that another issue was the location of a leak and whose responsibility it was to repair it. He opined that once the leak was at the meter, it was clear who was responsible.

Town Administrator Semmes opined that this was not an easy issue. She recommended the Council not jump into it as it could involve a lot of money. Vice Mayor Kirk agreed.

Mayor Davis suggested the members of Council review the proposed changes and that this matter be placed on the September work session agenda.

Town Administrator Semmes opined that some people would have to update their laterals in order to get the Town to accept them. She noted that she and the Town Clerk have talked about requiring that they place tracer tape on the sewer lateral so it could easily be found in the future.

Regulation of Aerial Fireworks Displays

Town Clerk North advised Council that based upon Councilmember Murdock's discussions with Salamander, a draft ordinance was prepared. She noted that an amendment to the draft was placed on Council's desk and explained that the amendments were proposed following her discussions with Loudoun County's Chief Fire Marshall. Ms. North reviewed the changes, which included the use of the term "fireworks and/or pyrotechnic displays" as opposed to "aerial fireworks displays"; changed the Town's reviewing agent to the Zoning Administrator as the County requires a zoning approval before it will issue a fireworks display; the insertion of a definition for the term "principal property address"; the insertion of language regarding electrical ignition devices; and, insertion of the term "scheduled" in the requirement that the display last no more than twenty minutes. She explained that this was needed to address any firework that malfunctioned that may need to be discharged after the twenty minute period has expired. Ms. North advised that the numbers that were proposed in the ordinance were up to the Council. She asked whether the Council was comfortable with the proposal to limit the number of private fireworks displays to four per year.

Councilmember Murdock reported that during her meeting with Prem Devadas, he asked for five fireworks displays per year. She reminded Council that they needed to consider all fireworks displays in town, not just those for Salamander. Ms. Murdock noted the need to think about the effect on anyone in town. She reminded Council that the Community Center held a fireworks display; and, noted that she was only referencing the frequency of the noise people would hear. Ms. Murdock advised Council that she spoke with Mr. Devadas about the fact that this was horse country and that horses and fireworks did not mix. She further advised that she spoke with Punkin Lee who indicated that her horses became extremely upset when the Community Center's fireworks were set off. Ms. Murdock noted that if Salamander set off four displays and the Community Center did one, this would mean there would be a minimum of five fireworks displays in town per year. She opined that no one else would want to set off fireworks at this time. Ms. Murdock noted the need to think about whether this was too many displays for the residents and animals to bear. She advised that Mr. Devadas suggested that fireworks be prohibited after 10:00 p.m. and asked that this be inserted into the ordinance.

There was some discussion as to whether fireworks would be covered by the noise ordinance. Town Clerk North confirmed they were exempt under the ordinance. After some discussion, Council agreed that a time limit of 10:00 p.m. needed to be inserted into the ordinance.

Councilmember Snyder noted the language suggested by the Chief Fire Marshall regarding electronic ignitions. He asked that the language be changed to simply require that approval be required for the firing system by the County Fire Marshall. The remainder of Council agreed.

Mayor Davis asked whether the Council should allow special exceptions to the ordinance in the event someone wanted to hold a fireworks display during the middle of the week. The Council agreed it did not. Councilmember Shea noted that the applicant could always ask the Town to be a co-sponsor, which would then exempt them from the ordinance.

Council noted that many of the town's residents got up early in the morning to go to work. They also noted the effect of the noise on animals. Council asked that the ordinance be reviewed again in six months to determine if any changes were needed. They directed the Town Clerk to set up a tickler for this review.

Councilmember Snyder moved, seconded by Councilmember Littleton, that Council adopt an ordinance to amend Town Code Section 46.2-9 pertaining to fireworks or pyrotechnic displays as amended.

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

No – N/A

Abstain: N/A

Absent: Councilmember Hazard

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

Retreat Follow-Up

Town Administrator Semmes advised Council that this item was placed on the agenda not to discuss the retreat, but as a follow-up.

Councilmember Shea noted the Town Administrator’s question as to whether she or Ms. St. Clair should facilitate the follow-up session. She opined that the facilitator should not be a part of the process in forming goals but rather should clarify and track what was being said. Ms. Shea opined that the Town Administrator could add to the formation of the goals by being a part of the process; therefore, she would rather the Town Administrator participate than serve as the facilitator.

The remainder of Council agreed. They further agreed to bring Ms. St. Clair back to facilitate the follow-up session. It was noted that this would not be a day long process.

Town Administrator Semmes advised Council that she would contact Ms. St. Clair to determine the cost and her availability dates. She noted that she would also try to get an idea of the amount of time needed for the session.

Information Items

Mayor Davis reminded the citizenry that the Town had a leash law that it did enforce. She noted that the Town has recently received complaints about dogs that were not on leashes and that have bitten people or have attempted to bite other dogs. Ms. Davis advised that they were also defecating in other people’s yards. She reiterated that there was a leash law as well as a waste clean-up law.

Councilmember Shea noted that this was not just occurring in neighborhoods but was also happening in the downtown areas.

Mayor Davis asked that the Police Department be more aggressive in their enforcement. She noted that information on these laws has been advertised on the Town’s website and electronic newsletter. Ms. Davis asked that it also be placed in the next bi-monthly newsletter.

Council discussed whether more dog waste bag dispensers were needed. They asked that the Street Superintendent identify the problem areas where more were needed.

Councilmember Murdock asked why she experienced brown water issues earlier this week. She advised that she went to her neighbors, neither of whom had brown water.

Town Administrator Semmes noted that Loudoun Water was supposed to have gotten in touch with Ms. Murdock. She advised that typically brown water occurred if the fire department connected to a hydrant that was in the vicinity. Ms. Semmes noted that the Town has designated hydrants the department was supposed to use.

Councilmember Snyder noted that the Town did not charge the fire department for water. He suggested the Council put some teeth into this permission by say “you won’t pay as long as you meet the Town’s conditions”. Mr. Snyder recommended the lack of billing be subject to the fire department’s cooperation.

Mayor Davis asked the staff to remind them of the need to use the designated hydrants.

Councilmember Snyder reiterated that if the fire department was causing brown water, he wanted to discuss the conditions under which the non-billing policy would continue.

Councilmember Shea asked that the staff research whether the Town could deny the fire department water. Town Administrator Semmes opined that Councilmember Snyder was not suggesting the Town deny them access to the water but rather was suggesting it bill them for it.

Mayor Davis noted that her water pressure was low some mornings. Town Administrator Semmes suggested that Loudoun Water check the pressure in this area.

There being no further business, a motion was made and approved to adjourn the meeting at 7:43 p.m.

APPROVED:

Betsy A. Davis, MAYOR

ATTEST:

Rhonda S. North, MMC, Town Clerk