



**MIDDLEBURG TOWN COUNCIL
Regular Monthly Meeting Minutes**



Thursday, April 13, 2017

PRESENT: Mayor Betsy A. Davis
Vice Mayor Darlene Kirk
Councilmember J. Kevin Daly
Councilmember Kevin Hazard
Councilmember Peter Leonard-Morgan
Councilmember Trowbridge "Bridge" Littleton
Councilmember Philip Miller
Councilmember Mark T. Snyder

STAFF: Martha Mason Semmes, Town Administrator
Martin R. Crim, Town Attorney
Rhonda S. North, MMC, Town Clerk
Ashley M. Bott, Town Treasurer
A.J. Panebianco, Chief of Police
William M. Moore, Town Planner

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, April 13, 2017 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Mayor Davis led Council and those attending in the Pledge of Allegiance.

Mayor Davis noted the passing of Kathi Ribaud, who served on Middleburg's Planning Commission and Board of Zoning Appeals. She advised that she was a good citizen to the town and would be missed.

Mayor Davis noted that Officer Mark Putnam was recently involved in a tragic incident. She extended the Town's thoughts and prayers to him and his family.

Mayor Davis announced that the Virginia Rural Water Association awarded the Town of Middleburg its "Water System of the Year" Award. She thanked Stuart Will, Inboden Environmental Services, Councilmember Snyder, Town Administrator Semmes and Facilities & Maintenance Supervisor Simms for their work. Ms. Davis noted that Town Administrator Semmes and Councilmember Snyder would attend a luncheon to accept the award.

Approval of Minutes

Councilmember Snyder moved, seconded by Councilmember Daly, that the Council approve the March 9, 2017 Regular Meeting, March 23, 2017 Work Session and March 27, 2017 Council/Middleburg Futures Group Meeting minutes as amended.

Vote: Yes – Councilmembers Kirk, Daly, Hazard, Leonard-Morgan, Littleton, Miller and Snyder
No – N/A
Abstain: N/A
Absent: N/A
(Mayor Davis only votes in the case of a tie.)

Staff Reports

Stuart Will, of IES, noted that he was fortunate to work in Middleburg and advised that the Council was forward thinking and had nice utilities. He noted that he had worked in communities where the councils did not want to spend money on their utilities and went years without doing so, and advised that they eventually got to the point of being under DEQ consent orders. Mr. Will advised that Middleburg was doing things right and opined that he was fortunate to work here.

Councilmember Snyder noted that Middleburg was like that twenty years ago. Mayor Davis noted that the Town was fortunate to have Mr. Will working here and thanked him for all he did to keep the system well maintained.

Mr. Will announced that a water flushing would occur nightly during the week of April 24th. He noted that signs would be installed in the immediate area to alert people of this work.

Councilmember Snyder asked that this be included as a part of Mr. Will's monthly report. He suggested there should be a formal process of doing them a certain number of times per year. Mr. Snyder asked that the Council also be made aware of the flushing schedule. Mr. Will reminded Council that the flushing occurred in April and October of each year.

Mayor Davis questioned whether the Town sent out a phone alert on the water flushing. Town Clerk North confirmed the Town did not do a phone alert; however, she noted that the Economic Development Coordinator did include a notice in her Friday E-Mail Blast.

Town Administrator Semmes opined that having the signs in the neighborhood was the best alert. She reminded Council that the flushing was done during a time when most people were not using the water. Ms. Semmes confirmed the staff did give them a heads up. She suggested the staff could put a message on the Town's message boards.

Chief Panebianco confirmed he would attempt to do so; however, he noted that he had been having trouble with the message boards. He advised that they would not work for the 5K.

Mayor Davis questioned whether Mr. Will did the flushing on a schedule. Mr. Will confirmed he had a set procedure where he would start the flushing at the west end tower and would work outward in the Ridgeview neighborhood. He further reported that on the second night, he would flush on the north side of Route 50 and would do the south side on the third and fourth nights.

Town Administrator Semmes asked that Mr. Will send out an email of the schedule. She further asked that he alert them of any changes in the schedule.

Mr. Will confirmed he would do so. He reminded Council that the goal was to improve the water quality in town and noted that this was a high goal. Mr. Will advised that he would also flush the individual blow-offs that were located in a number of neighborhoods, including those that were privately owned. He opined that most people did not know how to blow-off the line properly and reiterated that once the main lines were flushed, he would flush the individual blow-offs.

Councilmember Daly reported that the Jay Street parking lot where one such blow-off was located was in a public easement.

Councilmember Miller questioned whether there was a reason the Town would not use the phone alert system to let residents know of the flushing. He further questioned whether it was a cost issue. Town Clerk North noted that the cost was minimal and advised that it was generally five cents per call. She

explained that when the Town developed the system, it told the participants that it would only be used for emergency purposes, such as water line breaks. Ms. North noted that since this was a scheduled event, the Town could give the residents advance notice using another method.

Councilmember Snyder noted that the Town had not used the phone alerts in the past for the water line flushing. He opined, however, that it had done a better job of notifying the residents in advance of them.

Vice Mayor Kirk opined that the message boards worked well in alerting residents of the flushing. Chief Panebianco advised that he would try to get them working again. He noted that they worked the night before the 5K, but would not work the day of it. Chief Panebianco advised that Officer Putnam normally handled the message boards and noted that he would check with him.

Town Administrator Semmes reported that an interview had been scheduled for the Business & Economic Development Director position this week and another for next week.

Councilmember Hazard inquired as to the location for the sidewalks that would be installed under the County's CIP funding. Town Administrator Semmes reported that the sidewalk would be extended on the north side of East Marshall Street, from the existing landing at the Town's water tower to the sidewalk in front of Mosby's Square. She noted that a crosswalk would also be painted to the new path behind the Red Fox Tavern. Ms. Semmes reported that another piece would be installed on Stonewall Avenue, from Pickering Street west to the existing sidewalk behind the Community Center. She noted that this involved approximately seventy-five feet of missing sidewalk. Ms. Semmes reminded Council that she obtained a sealed cost estimate from J2 Engineers in order to provide it to the County.

Councilmember Snyder opined that the last piece was a safety hazard.

Town Clerk North reported that the Council had the latest version of the action tracker on their desks. She noted that at the request of Councilmember Littleton, a column was added to identify each item's priority. Mayor Davis requested that, in the future, the tracker be sorted based upon the expected completion date. Town Administrator Semmes confirmed the staff would do so.

Town Administrator Semmes announced that the King Street Oyster Bar leased the former location of the Home Farm, a Thai restaurant was opening in the former Federal Street Café location; and, Mystique Jewelers was opening at 112 West Washington Street, in the former Stitch location.

Town Planner Moore noted that the HDRC recently approved a window mullion change for Mystique Jewelers. He advised that they were shooting for a May 1 opening; however, they had not yet received their occupancy permit.

Councilmember Hazard questioned whether Mystique Jewelers was located in Middleburg in the past. Town Administrator Semmes confirmed they were. Councilmember Miller noted that this would be a second location for them.

Mayor Davis expressed concern regarding the Town's new website after reviewing the Economic Development Coordinator's list of items the company could not do. Town Administrator Semmes reported that the Town Attorney was reviewing the contract and noted that the staff was dealing with it. She advised that the staff would return to the Council with a report.

Councilmember Miller advised Council that EDAC has been discussing this and felt that the contractor was not only dragging their feet but had missed their deadlines. He noted that they were now saying they could not do some of the items that were critical for the Town. Mr. Miller agreed with the need to review the contract and opined that this may not be the right way for the Town to go.

Councilmember Littleton questioned whether the Town had paid the contractor yet. Town Administrator Semmes reported that it had been paid the first of four payments.

Councilmember Littleton questioned whether the contractor was the only one to bid on this project. Town Administrator Semmes reminded Council that multiple bids were received and noted that this contractor gave a good presentation.

Councilmember Miller opined that the company was not backing up their response to the RFP.

Councilmember Leonard-Morgan questioned whether the vacancies in the Health Center were a problem. Town Administrator Semmes opined that the apartment would rent right away; however, the lower level spaces would be a challenge. She noted that the former tenant put a lot of money into one of those spaces; however, it may not suit everyone's needs as he built it out to suit his own. Ms. Semmes advised that it was much more updated than the remainder of the building. She noted that the former Police Department space had always been a challenge.

Councilmember Littleton inquired as to what the property manager was doing to get tenants. Town Administrator Semmes reported that the Economic Development Coordinator was working with them and was trying to arrange a walk-thru of the soon to be vacated space. She further reported that they had brought potential tenants in to look at the other space.

Vice Mayor Kirk asked that a meeting be scheduled within the next two weeks between Cowgill and the Health Center Advisory Board. Councilmember Miller advised that he wanted the Board to understand Cowgill's report, do a walk-thru, make a plan for the vacant spaces and understand any additional issues that there may be.

Councilmember Leonard-Morgan questioned whether there were problems with trash. Town Administrator Semmes reported that she recently met with Mr. Carroll, the owner of the property where Julien's was located, and told him that he needed to make arrangements for a dumpster. Several members of Council noted that the Town had asked Mr. Carroll to do this previously. Ms. Semmes reminded Council that the Town now had an ordinance to enforce this requirement.

Councilmember Hazard questioned whether there was cure language in the ordinance to require the issue be addressed within a certain period of time. Town Administrator Semmes confirmed there was not and advised that she would discuss this with the Town Attorney. She explained that it said that she could require them to use a dumpster. Ms. Semmes reminded Council that the Town had not enforced this ordinance yet and advised that she did not know what the penalties were.

Mayor Davis questioned the issue. She opined that part of it was that because it was a restaurant, they had food related trash. Ms. Davis opined that they did not have a location for a dumpster. Town Administrator Semmes confirmed that in this instance, the tenant did not have a location available to him for a dumpster; however, the property owner did. Ms. Semmes noted that the tenant would have to take the trash outside to the dumpster. She reiterated that the staff was dealing with it.

Town Treasurer Bott reported that the new financial software would go live the week of May 23rd. She further reported that Southern Software would be in Middleburg the week before to train the staff and would have a representative present when the system went live.

Councilmember Snyder noted that he managed some of the software for Northrup Grumman. He offered to review the implementation schedule if needed.

Chief of Police Panebianco reported that Officer Putnam was doing well. He noted that he had conveyed the Town's thoughts and prayers to his wife, who then shared them with him; and, noted that they thanked the Town. Chief Panebianco advised that he was very sick and would have a long recovery ahead of him. He noted that he planned to visit him over the weekend.

Councilmember Snyder questioned how the Police Department was filling the gap. Chief Panebianco reported that as long as there were no major investigations, Lieutenant Prince would fill Officer Putnam's shift this month; therefore, there would not be a lot of extra work to cover it. He opined that there would be minimal impact on the budget. Chief Panebianco noted that next month, Lieutenant Prince would return to the day shift doing investigations.

Councilmember Snyder asked the Chief to let the Council know of any additional costs to retain coverage for the Town.

Vice Mayor Kirk questioned whether this would result in Lieutenant Prince being paid overtime. Chief Panebianco opined that he would stay within eighty-four hours for most pay periods; therefore, he would not be into overtime. He further opined that in the end, most officers would have an extra four hours per pay period. Chief Panebianco advised that he would adjust this where possible. He reminded Council of the events that were coming up, such as the Fourth of July, which would require additional hours anyway.

Vice Mayor Kirk questioned whether the Town was able to use the two part-time police officers. Chief Panebianco confirmed he was using one; however, the other could not help at this point. He advised that if anything else occurred, he had a plan to use some other people if needed. Chief Panebianco noted that all of the officers volunteered to help cover the shifts.

Chief Panebianco reported that the Police Department was developing programs to work with autistic children and adults. He explained that it was more of a recognition program and noted that often people with autism did not look any different, they just responded differently. Chief Panebianco noted the need to make sure the officers recognized this and did not misread a situation. He advised that this was for the safety of the officers and the individual. Chief Panebianco described a recent incident in which Officer Putnam used his training to recognize someone who was having a medical sugar emergency and noted that his actions saved her life.

Chief Panebianco reported that he was gearing up for the annual Drug Take Back Day (April 29th) at the Town Office and invited the public to bring their unused medication. He noted that Go Green would also be collecting used batteries that same day. Chief Panebianco advised that the battery collections were successful last year.

Mayor Davis questioned whether pet medicine would be accepted. Chief Panebianco suggested that people bring it, as opposed to flushing it, and advised that he did not ask what was in the medicine. He reported that they would not accept iodine and needles and explained that iodine could explode in the furnace and they did not want anyone to get stuck by a needle. Chief Panebianco advised that as long as the individual said it was "medicine", he would take it.

Chief Panebianco reported that the HEAL 5K went well. He noted that there were some lessons learned and advised that they would be ordering directional signs for the future. Chief Panebianco noted that the first runner went too far; however, he still won. He opined that the 5K appeared to be safe and fun. Chief Panebianco noted that the Kids Run also went well. He opined that these would become annual events.

Chief Panebianco reported that the Town received the new speed sign and noted that it would capture data. He suggested that when there was an issue, the data would be captured and reported to VDOT. Chief Panebianco advised that he would like to obtain more speed limit signage on Marshall Street and asked for the assistance of anyone with a vested interest who wanted to make a call to VDOT. He noted the need for additional poles to mount to. Chief Panebianco suggested that capturing the data would help in figuring out where the issues were so they could then deal with them.

Councilmember Miller advised that it would be ideal to have a stop sign at the bottom of the hill near where he lived and suggested it would not hurt to ask VDOT. He noted that he would be happy to make that call. Mr. Miller advised that he could hear tires squealing in his area and reminded Council that there were no sidewalks there. He noted that people walked their dogs in this location and opined that this was an accident waiting to happen.

Chief Panebianco thanked the Council for their thoughts related to Officer Putnam. He also thanked Town Administrator Semmes for taking the lead in handling items here and for getting the word out.

Councilmember Snyder asked the Chief to let Officer Putnam know of the support coming from the Council. He further asked that he let the Council know if the Department needed something from them.

Chief Panebianco advised that he would do his best to make things work in the budget. He opined that it should as long as another issue did not arise.

Town Attorney Crim reported that the Governor proposed amendments to the small cell infrastructure bill, most of which were accepted by the General Assembly. He advised Council that when the law took effect on July 1st, the Town would need to have processes for applications to put a small cell unit on an existing pole or on private property. Mr. Crim reiterated the need for an administrative process in order to deal with them. He advised that these would be units that would be more like a 5G unit and explained that they were now required for greater cell phone coverage and the data usage that was expected with the new generation of cell phones. Mr. Crim noted that the legislation included a definition of a “small cell facility” and advised that it was defined in terms of size. He opined that they would be the industry standard across the country. Mr. Crim noted the need for the Town to brace for that and to have protections in place, particularly for historic structures and the Historic District so the Town would not have a bunch of units hanging on poles or wires. He advised that in order to deal with them, the HDRC would need to look at how it wanted them screened or otherwise handled. Mr. Crim asked that the Council look at its response as well. He noted that he had briefly discussed this with the Town Administrator and opined that it would be brought to Council during their June meeting for action. He confirmed it would require amendments to the ordinances.

Councilmember Littleton questioned whether the Town could deny a request. Town Attorney Crim confirmed it could; however, it must be for a specified reason that was listed in the statute and advised that the Town could not have an ordinance that added additional reasons. He noted that the State statute included very specific reasons. Mr. Crim advised that the Town could deny a location for interference with an existing communication facility, for public safety or other critical public service needs. He noted that if it was on publicly owned property, it could be denied due to aesthetic impacts or because it conflicted with the Historic District Overlay Ordinance. Mr. Crim reiterated the need to bring something forward to deal with the Historic District. He advised that without knowing how these would work in the real world, he did not know what kind of public safety issues would be raised.

Town Attorney Crim reported that he had a discussion with the Town Planner on how to move forward regarding the short-term rental legislation. He reminded Council that the Town already had a zoning ordinance in place. Mr. Crim noted that Senate Bill 1578 provided for a registry and advised

that the staff would have further discussion of whether that would give the Town anything that it did not already have through the special use permit process. He noted that the Town Planner would bring a recommendation to the Council after they had time to digest the new statute.

Town Attorney Crim reported that he had drafts of the Employee Handbook sections that his associate reviewed. He advised that he expected to review those and provide the staff with his final draft by the end of next week. Mr. Crim expressed an understanding that the amendments would be presented to the Council three chapters at a time. He expressed hope to have the first few ready for Council's review at their May meeting. Mr. Crim noted that the discipline and grievance sections were complete and advised that he was still working on the issues with the leave section. He reported that the staff was scheduled to discuss the latter item next week.

Town Attorney Crim reported that the tarp had been replaced on the Asbury Church. He noted that there was a procurement issue with regard to that; however, that was straightened out. Mr. Crim advised that he was working on a stabilization contract and noted that he had the elements of the RFP done. He explained that there were still some issues with regard to the estimated bid quantities that needed to be addressed and explained that he did not have the quantities. Mr. Crim noted that it would be difficult for contractors to submit a bid and suggested the need for more details before the RFP was ready to be put on the street.

Councilmember Littleton suggested this be handled by telling the contractor what the Town wanted and having him tell the Town what was needed to accomplish it.

Councilmember Hazard disagreed and suggested a better way was to say xxx was needed, with a time and materials price being given for the rest. He explained that otherwise, someone would say xxx was needed and another would say it was only half that. Mr. Hazard suggested the need for a base line bid, with a time and materials price. He noted that this would allow the Town to do a comparison and analysis of the bids.

Councilmember Littleton suggested the contractor be asked to write a proposal explaining what and how they intended to do the work.

Councilmember Hazard reiterated the need to establish a baseline for the work.

Town Planner Moore reminded Council that a structural engineer had identified what needed to be done. He suggested that certain quantities would not be known until they started to do the work. Mr. Moore opined that the Town would not want a contractor coming in with a totally different proposal that may or may not meet the building's structural needs.

Town Administrator Semmes advised Council that the staff was using a historic rehabilitation project that was done by Loudoun County as an example. She noted that this was the process they used and agreed it was a good way to do it.

Town Attorney Crim reported that this was the standard way to do such a project so the Town could compare the vendors. He advised that the contractors would not have to go through a formal qualification process; however, they would be required to have done similar work at a minimum.

Town Administrator Semmes expressed hope to have the RFP done by the end of the month.

Town Attorney Crim reported that a parking ordinance amendment would be coming to Council and advised that he, the Town Clerk and Chief of Police had a productive meeting earlier in the day. He further reported that he finalized the contract with United Public Safety for the electronic parking ticket system.

Town Attorney Crim reported that he received an order of non-suit for Charter Technologies, which he signed and returned so it could be entered by the court. He explained that the case would be going away without prejudice. Mr. Crim noted that it could be refiled before the statute of limitations expired or within six months of the nonsuit, whichever was longer; however, he did not expect it would be.

Councilmember Littleton noted that the current Employee Handbook had references to doing evaluations for the staff; however, there was nothing in it about creating career tracks, including defining the process of how that happened, or for merit based incentives. He questioned the options available to a local government. Mr. Littleton questioned the options that were available for merit based performance incentives.

Town Attorney Crim reported that the Town could adopt a personnel system, which could include anything that Councilmember Littleton spoke of, including training and career development. He noted that the Town could offer tuition reimbursement. Mr. Crim advised that these would be policy decisions.

Councilmember Littleton asked that the Town Attorney provide a bullet list of the top ten things that have been done well related to employee retention, promotion and incentives that similar sized localities have offered for the Council's review.

Town Administrator Semmes advised Council that the Town Attorney's bill for this past month was really high. She noted that he had done a lot of work on the Employee Handbook. Ms. Semmes expressed hope that once that was through, barring a lawsuit, the bill would settle down to where the Town expected it to be.

Councilmember Miller opined that this was expected given the work that was assigned to him when he first came on board.

Councilmember Snyder noted that it would be good to see light at the end of the tunnel from a budget perspective.

Mayor Davis expressed appreciation to the Town Administrator for letting the Council know of this; however, she agreed they expected the bill to be higher in the beginning.

Town Attorney Crim noted that he was addressing the bill related to small cell facilities for all of his municipal clients and advised that all of them would face that. He explained that he was keeping track of the time spent on this as one block and was then spreading that time out; therefore, the Town was getting the benefit of sharing those costs with four other jurisdictions.

Reports of Town Committees/Council Liaisons

Councilmember Leonard-Morgan reported that the HEAL Expo/5k went well and opined that people enjoyed it. He asked that the members of Council share any suggestions they may have for future events.

Councilmember Leonard-Morgan reported that Go Green would be collecting used batteries on April 29th and announced that Sona Bank was contributing toward the cost of doing so.

Councilmember Leonard-Morgan reported that the Spring Clean-Up occurred last weekend and noted that the Boy Scouts picked up tons of trash. He thanked them for their service.

Councilmember Leonard-Morgan requested Council's input on Go Green's proposal to initiate a cigarette butt recycling program. He opined that the units were not expensive; however, they could present a practical recycling and optical issue.

Councilmember Snyder opined that the optics would be critical and noted the need to put some thought into where they would be placed. He agreed it was a great idea.

Councilmember Miller noted that, based on the photo, they were not attractive.

Councilmember Snyder reminded Council that only smokers would be seeking them. He suggested that most of those creating the cigarette debris were not tourists, but rather would most be local, rural residents. Mr. Snyder advised that he would like to make the locations as convenient to them as possible, while keeping them out of the way of tourists.

Councilmember Miller questioned whether there were areas in town where this was more of a problem. Councilmember Leonard-Morgan opined that it was more of a problem in front of the Safeway and the library.

Councilmember Snyder noted that the gallery beside the church had planters out and advised that they contained a lot of cigarette butts.

Vice Mayor Kirk suggested the need for one in front of the Middleburg Bank.

Councilmember Miller suggested that if Go Green wanted to explore this that they develop a proposal for Council's consideration, which would include the proposed location of the units, how they would look and a budget.

Vice Mayor Kirk announced that effective July 1st, the Salamander Resort was going smoke free, including on the grounds.

Mayor Davis noted that she used an old fashioned flower pot, with sand in it, in front of her store. She further noted the need to clean it on a regular basis. Ms. Davis advised that it worked, other than the fact that people also used it as a trash can. She suggested this was a thought and reiterated the need to keep them clean.

Councilmember Leonard-Morgan announced that Rick Allison of the King Street Oyster Bar told him that the oyster shells generated by his business would go to an oyster recovery nonprofit to be reinserted into the bay so they would become a habitat for baby oysters.

Councilmember Hazard reported that wellhead protection was taken back to the Planning Commission. He further reported that they scheduled a public hearing on an ordinance to address dry cleaning businesses. Mr. Hazard noted that the Town Planner would meet with the Wellhead Protection Committee and advised that the Commission would do anything it could to help with wellhead protection. He asked that the Wellhead Protection Committee give them things piece mill so this would not be a huge object to address.

Councilmember Snyder expressed hope that after hearing from the Town Planner, WPAC would revise their request.

Action Items (non-public hearing related)

Council Appointments – EDAC and Go Green

Councilmember Miller moved, seconded by Vice Mayor Kirk, that Council re-appoint Sean Martin and Daniel Leger to the Economic Development Advisory Committee for two-years, said terms to expire April 1, 2019. Councilmember Miller further moved, seconded by Vice Mayor Kirk, that Council re-appoint Rebecca Poston, Lynne Kaye and Mary Woodruff to Go Green for two year terms, said terms to expire May 12, 2019.

Vote: Yes – Councilmembers Kirk, Daly, Hazard, Leonard-Morgan, Littleton, Miller and Snyder

No – N/A

Abstain: N/A

Absent: N/A

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

Town Clerk North advised Council that there was one other individual on the Economic Development Advisory Committee whose term was about to expire. She reported that he was contemplating whether to seek re-appointment.

Councilmember Littleton questioned whether the Town had any rules on attendance. He opined that if they missed three consecutive meetings, they were to be removed from the committee.

Town Clerk North reported that while some jurisdictions did have rules of that nature, Middleburg did not. Town Administrator Semmes noted that planning commissions sometimes put those rules in their by-laws.

Councilmember Littleton advised that he was not thinking of the Planning Commission, but rather was thinking of EDAC. He opined that some of those members never attended the meetings. Councilmember Miller confirmed that some members rarely attended.

Mayor Davis suggested this be discussed with the committees.

Councilmember Miller suggested this would require adjustments to the committees' by-laws.

Mayor Davis suggested that if this was a problem, the committee could discuss it with the individual(s) and nicely thank them for their service.

Town Attorney Crim suggested the Council consider a rule that if an individual missed three meetings in a row or more than half of the meetings in a year, the individual would be removed from the board. He noted that this would take the pressure off the chairs. Mr. Crim suggested that having a hard and fast rule would make it very clear as to what needed to occur.

Councilmember Hazard questioned whether the rule would be that the individual could or would be removed. Town Attorney Crim recommended it be a shall; and, advised that it was up to the Council to determine how they wished to do so. He suggested the committee bring a recommendation to the Council, as the appointing body, so they could decide whether to replace that individual.

Councilmember Snyder suggested the need to define “non-compliance” and suggested that if the committee chose to take advantage of the rule and bring an issue to the Council, they would have grounds to make a change.

Mayor Davis suggested this only apply to unexcused absences. She noted that they may be absent for a legitimate reason.

Councilmember Littleton asked the staff to prepare language for the Council's consideration. He questioned whether the Council was okay with addressing this at the next meeting, to which the members agreed they were.

Councilmember Snyder asked that some discretion be left. Mayor Davis noted that this was why it needed to apply to unexcused absences.

Councilmember Hazard opined that if it was discretionary, the Council might as well not have a rule. He suggested that if it was fully discretionary, the Council would be right back to where it was.

Councilmember Snyder opined that it was a way to nudge someone who was not sure if they wanted to return and who missed a lot of meetings.

Councilmember Miller questioned whether there was a downside to adopting a policy. Town Attorney Crim confirmed there was not and noted that if the policy did not work, the Council could always tighten it.

Councilmember Miller opined that the Council should consider adopting a policy and use it as needed.

Councilmember Littleton reiterated his request that the staff provide Council with the options.

Council Approval – Acceptance of Water Easements – 103-107 Reed Street

Councilmember Snyder questioned whether the applicant had paid the availability fees for the three connections. Town Planner Moore reported that he had paid for the lot under construction. He explained that the item before Council would allow for the acceptance of the easements for the two additional lots. Mr. Moore noted that the connection fees for those would be paid as the lots were developed.

Councilmember Hazard inquired as to the Town's maintenance responsibilities. Town Planner Moore noted that the sewer main was located in Reed Street. He explained that this action would give the applicant the opportunity to request that the Town take over the maintenance of the laterals from the main to the meters, in accordance with the Town's requirements. Mr. Moore reminded Council that the Town did not automatically do that and explained that under the ordinance, if a meter was located on private property but within five feet of the property line, the Town would accept maintenance of the lateral from the meter to the main, provided it was within an easement.

Councilmember Snyder advised Council that the Utility Committee had discussed this and reported that it was their goal was get everyone to conform so the Town could accept responsibility for the lateral up to the meter, after which it would be the customer's responsibility. He opined that they have not concluded their discussion yet.

Town Administrator Semmes noted that there was an ordinance in place for people who wanted to upgrade their laterals. She further noted that in this case, these were new laterals that would be inspected by the Town's utility people to ensure they met the Town's standards for utility connection so they could request that they be accepted for maintenance by the Town from the meter to the main.

Town Planner Moore reminded Council that, otherwise, the property owner was responsible for the lateral from the main to the house.

Councilmember Snyder moved, seconded by Councilmember Daly, that Council authorize the Mayor to sign a Deed of Easement between the Town, University Communities, LLC and associated Trustees for the acceptance of water meter easements at 103, 105 and 107 Reed Street.

Councilmember Hazard questioned whether the Town Attorney had looked at the easement. He further questioned whether this was the contract the Town was going to use. Town Attorney Crim confirmed he had not looked at the easement.

Town Planner Moore advised Council that this was a form that the Town used.

Vote: Yes – Councilmembers Kirk, Daly, Hazard, Leonard-Morgan, Littleton, Miller and Snyder

No – N/A

Abstain: N/A

Absent: N/A

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

Discussion Items

Council Discussion – Parking Policy for Town Parking Lots

Town Administrator Semmes advised Council that as the staff was installing the parking signs, the issue arose as to what to do with the parking lots. She further advised that at the same time, Reggie Dawson, of the Middleburg United Methodist Church, presented ideas that the church would like to explore with the Town that would allow them additional use of the parking lot. Ms. Semmes noted that she asked Mr. Dawson to put the request in writing. She reminded Council that in terms of policy, the Town had three or eight hour parking limits. Ms. Semmes asked for a sense from the Council as to their preference with regard to parking limits for the church and Liberty Street parking lots. She reminded Council that the Liberty Street lot contained thirty-two parking spaces, ten of which were permit spaces. Ms. Semmes noted that the Town had no problem selling permits. She advised that the remainder have been eight hour spaces in the past. Ms. Semmes reported that when the Town had parking meters, the Methodist Church lot was eight hour parking. Chief Panebianco noted that the back row was eight hour parking, with the remainder being three hours. Ms. Semmes noted that this lot contained twenty-six parking spaces.

Councilmember Miller inquired as to the usage of the lots. He questioned whether it was more three or eight hour related. Chief Panebianco advised that it was a combination in the Methodist Church lot. He further advised that people who worked in the area, parked on the street and on the back row of the church lot. Chief Panebianco noted that he and the Facilities & Maintenance Supervisor walked this area and decided that if there were two parking designations, there would be signage issues that would need to be worked out by the Council. He reminded Council of the goal to have signage that was not confusing. Chief Panebianco noted that there was only one way in/out of the lot.

Town Administrator Semmes opined that it would be better if there was only one parking limit designation.

Councilmember Miller questioned whether it was possible to paint the parking limit on the spaces.

Chief Panebianco confirmed there were multiple ways to do this; however, if the Council wished to keep the designations as they currently were, there would need to be a sign at the first parking space of the last row, with an arrow pointing down and language stating “eight hour parking only” and signage at the entrance to the lot saying “three hour parking unless signed”.

Town Planner Moore noted that the staff could work out the details. He explained that they just needed to know whether the Council wanted a single designation or a combination.

Councilmember Littleton noted that the Council had no clue. He further noted that the staff was asking the Council for guidance on something the staff had walked and dealt with. Mr. Littleton suggested the staff bring the Council a plan that it thought was best that the Council could then review. He opined that the staff would not get a good resolution by having the Council debate the issue for an hour. Mr. Littleton noted that the staff had the time and expertise, had dealt with this before, and were the point of contact for people who wanted to talk about their parking concerns. He asked that they propose their best plan.

Councilmember Miller suggested the staff go to the surrounding businesses to ask how many people parked in that location and whether they needed more three or eight hour spaces. He further suggested the staff do an assessment and return with a plan for the Council's consideration.

Councilmember Snyder asked that the staff bear in mind that the Town would be pushing people out of parking in the three hour spaces on Washington Street and noted the need to have eight hour spaces to push them to.

Councilmember Miller reminded Council that during their visioning session, they agreed with the need to do another parking study in order to assess the parking needs.

Town Administrator Semmes noted that the signage could always be changed after the parking study if it was found that it should be different. She advised that the staff would return with a proposal.

Councilmember Hazard agreed with Councilmember Snyder. He acknowledged the guidance the staff was seeking and reminded them that when the Council agreed to remove the parking meters, it wanted the parking on the street to be three hour and that in the lots to be eight hour. Mr. Hazard advised that personally, he wanted them all to be eight. He reiterated that the removal of the parking meters was the genesis for the idea of keeping the parking in the back areas as eight hour parking.

Council Discussion – Proposed FY '18 General Fund Budget

Town Administrator Semmes reminded Council that if desired, they could schedule special budget work sessions. She noted that they had the second draft of the proposed FY '18 General Fund budget and advised that not much had changed other than that it contained updated year-to-date figures.

Town Administrator Semmes reported that she met last week with EDAC's Chair and Council representative and came up with an alternative economic development budget that was based on the Council's discussions from their last meeting about re-aligning the budget, as well as from feedback from the EDAC representatives.

Town Administrator Semmes advised Council that she was looking for their general feelings on the budget options contained on page two of her memorandum, which included the new personnel items and Vice Mayor Kirk's proposal to include \$30,000 for charitable contributions in the General Fund budget as no money was included in the Health Center Fund budget for this coming year. She also asked for Council's feeling on the real estate tax rate. Ms. Semmes reminded them that if they left the tax rate the same or increased it, it would be considered a tax increase as the equalized tax rate was slightly less than the current one; therefore, it would require a public hearing. She further reminded them that they could always reduce the tax rate below what was advertised; however, they could not increase it without re-advertising. Ms. Semmes noted that for many localities, real estate taxes were a significant part of their revenues; however, for Middleburg, the bulk was from business taxes.

Councilmember Snyder advised that he would love to get the tax rate back to ten cents, which was where it was when he and Mayor Davis joined the Council. He noted, however, that he did not want to do this so much that he wanted to tear apart the budget to do so. Mr. Snyder advised that he was comfortable keeping it at \$.165 per \$100 assessed value.

Councilmember Leonard-Morgan asked whether this was really an increase since it was the same as the existing rate. Councilmember Snyder explained that while it was the same rate, it was an increase because of the change in the assessments.

Councilmember Hazard questioned whether the Town would have to advertise a tax rate increase if it set the rate at \$.163. Town Treasurer Bott confirmed it would not. Councilmember Snyder noted that that would be the equalized tax rate. He reiterated that he was comfortable advertising a tax rate of \$.165, as this would give the Council flexibility.

Councilmember Leonard-Morgan questioned the impact of \$.002. Town Administrator Semmes reported that it was \$6,900.

Councilmember Snyder advised that this was \$.002 cents per \$100 of assessed value and noted that it would be a small increase in the tax bill.

Councilmember Leonard-Morgan opined that it was not a big deal. Councilmember Littleton opined that it was not a budget mover.

Councilmember Hazard agreed with Councilmember Snyder that the Council should advertise the higher rate and hold the public hearing to see if the Council received any input. He noted that it would be nice to get input from the residents. Mr. Hazard noted that the Council could always reduce the rate if needed.

Councilmember Leonard-Morgan noted the need to explain this to the citizens who may ask. Councilmember Snyder noted that it was only a few dollars. He opined that this was a very small amount.

Mayor Davis questioned whether the Council was comfortable advertising the tax rate at \$.165, with the understanding that it could always be reduced. The members agreed they were.

Town Administrator Semmes reminded Council that under the proposed budget schedule, the Council would hold the public hearings on May 25th. She further reminded them that they scheduled a follow-up retreat session for that same date. Ms. Semmes suggested that, depending on how much time the Council needed for the retreat, they could still hold the budget public hearings that evening. She noted that they could advertise the public hearing for earlier; however, she suggested it not be too early for those who worked out of town. Ms. Semmes reminded Council that during the retreat, they agreed it would be okay to have a couple of items on the May 25th agenda if it could not be cleared completely for the retreat follow-up.

Councilmember Snyder noted that the public hearing on tax rate changes tended to be poorly attended. He opined that this was not a large change; therefore, he did not expect any input from Town residents. Mr. Snyder noted that there may be some comments on the utility rate increase; however, he opined that there would be none on the tax rate increase.

Councilmember Snyder questioned the economic development budget and noted that he had asked that the Virginia Commission for the Arts grant be taken out of it. He further noted that he asked that arts issues be funded outside of that budget as the two were clearly separate.

Councilmember Miller advised that this was discussed and reported that what they proposed was to create a new area in the economic development budget for community development, which meant that the event did not necessarily have to have an economic development impact.

Councilmember Snyder reiterated that the VCA grant program was still under the economic development program budget. He advised that he would like to have a separate arts category that was outside of economic development so people would not be deciding Town funding for the arts based on whether it did or did not positively impact economic development. Mr. Snyder opined that parts of the arts contribution was giving back to the community and suggested it should stay that way.

Councilmember Miller explained that this was the intent of the community development section of the budget. Councilmember Snyder suggested that if it was all under economic development, the decisions would be based on “bean counting”. Councilmember Miller reiterated that this was not the intention.

Councilmember Hazard noted that he had also circled that item. He suggested this not be discussed during this meeting and requested ten or fifteen minutes during the work session. Mr. Hazard further suggested it needed to be discussed separately and opined that it was very important. He reminded Council that a couple of years ago, there was a discussion of what arts meant to the community. Mr. Hazard advised that he wanted to find that discussion and bring it back to the Council so they could discuss the philosophy and try to come to an agreement. He noted that things needed to be looked at with a hard eye to determine whether they did things for the town. Mr. Hazard advised, however, that there were some events that did not and suggested the need to look at this separate from the budget.

Councilmember Snyder agreed that there were some items that should be in the economic development budget, such as economic development organization support and the Farmers Market.

Councilmember Littleton questioned whether the Middleburg Film Festival should be under the economic development budget. Councilmember Snyder opined that it should not as it was arts related. Councilmember Littleton opined that it was both and noted that it brought thousands of people to town who spent money.

Councilmember Hazard reiterated his suggestion to separate this conversation from the budget and to talk about the philosophy. He advised that he would prepare a list of everything the Town funded. Mr. Hazard noted that he did not want the discussion to be so sharply focused that it was just about the arts. He reminded Council that arts were important for a community.

Councilmember Snyder inquired as to the timeframe for holding this discussion. Councilmember Hazard advised that it would be done at the next work session.

Councilmember Miller advised that it was important to him, and should be important to all of Council, that individual items not be cited that the Council was planning to fund. He suggested it was important that this be done blindly. Mr. Miller agreed the Council could use past expenditures to understand what different line items needed to be; however, he opined that it was important that the discussion be held without discussing funding specific events.

Councilmember Snyder noted that he purposefully did not raise dollar amounts in his discussion and only talked about categories.

Mayor Davis noted that she had more to say about why some of the items were line items that some of the members may not be aware of. She suggested this needed to be discussed and noted that there was a purpose for having the budget as it was.

Councilmember Hazard asked that this item be placed on the work session agenda and noted that he would do the preparation work for the discussion.

Councilmember Littleton questioned whether Councilmember Hazard was talking about a holistic approach and noted that that made perfect sense.

Town Administrator Semmes suggested the staff may have some information on the arts that could be helpful.

Councilmember Littleton questioned how the vacancies in the Health Center would affect the revenues in the coming year; and, opined that it would take six months to fill the spaces. Town Treasurer Bott reported that the proposed revenues included two vacancies for the first quarter. She noted, however, that the staff was not aware of the third one (apartment) when the budget was prepared.

Town Administrator Semmes advised Council that the staff assumed the vacancies would exist during the first quarter of the budget.

Councilmember Hazard noted that the other vacancy was the apartment and suggested it would fill quickly.

Councilmember Snyder agreed with Councilmember Littleton that the units would probably be vacant for five or six months.

Councilmember Littleton suggested the staff plan that the vacancies would be a little longer.

Councilmember Littleton noted that the health insurance line item for the Police Department budget (Page 9) showed no change; however, it stated in the notes that there would be a 4.8% increase in the premiums. He opined that the increase would be approximately \$4,000.

Town Administrator Semmes reminded Council that the Police Department budget included funding for new IBR (Incident Based Reporting) software. Chief Panebianco explained that this was required in order to do reporting to the State. He reminded Council that the company who they had been using went defunct and the company that bought them would only maintain the current system through 2019. Chief Panebianco advised that he had looked at some vendors who he thought the Town would be happy with and earmarked \$35,000 in the budget for the software acquisition. He opined that they would likely select Southern Software as the vendor and reported that because the Town already had them under contract for its financial software, he was able to negotiate a discount on the IBR software. Chief Panebianco further reported that by pulling together another four or five agencies that also needed to purchase new software, he was able to get an additional discount. He opined that the Town's cost would ultimately be \$25,000; however, he noted that he did not know what the computer requirements would be.

Chief Panebianco advised Council that it was not worth the cost to convert the old IBR system over to the new one, as Southern Software could not guarantee it would all convert. He suggested that he maintain the ability to draw from the old system for older reports by keeping that computer alive for a few years, with the new system being used by the officers. Chief Panebianco advised that the data from the old system would eventually be transferred to a hard drive so it could be accessed when needed. He opined that they would not need to go back that far that often. Chief Panebianco reiterated that he believed the new system would cost \$25,000.

Chief Panebianco reminded Council that the proposed budget included \$5,000 for the purchase of the radar sign; however, that was purchased during the current fiscal year and was removed from the proposed budget.

Chief Panebianco noted that there would be annual maintenance/update costs for the IBR software and estimated those to be \$3,100. He reminded Council that the Town must provide reports to the State Police, who in turn reported them to the FBI. Chief Panebianco noted that the 599 money was tied to the reporting and advised that if it did not report, the Town would not get that money. He reminded Council that the General Assembly did not cut the 599 funding this year.

Councilmember Littleton noted that the Police Department line item for salaries indicated there would be a 3% adjustment; however, the amount of the adjustment was 6.2%. Town Treasurer Bott explained that 3% was for the adjustment to current staff salaries and the remainder was to make the Administrative Assistant's position full-time.

Vice Mayor Kirk suggested that further discussion of the budget be done at the work session. Councilmember Snyder advised that he had already raised the items that popped out at him. He opined that the remainder of the Council had as well.

Town Administrator Semmes questioned whether the Council was okay with the personnel items, as well as Vice Mayor Kirk's suggestion for the inclusion of money for charitable funding.

Councilmember Hazard suggested the charitable donation issue be added to the work session discussion.

Councilmember Littleton noted that the staff items included upgrading the position of economic development, bringing someone in as an administrative assistant for the staff/front office person and converting the Administrative Assistant in the Police Department to full-time.

Town Administrator Semmes noted that it also included adding another part-time police officer to the pool. She advised that this would not cost the Town more as there would still only be one twelve hour shift per month; however, the Town would have to pay for workers compensation coverage for that individual, which would cost \$500.

Councilmember Daly reminded Council that they previously discussed and approved those items. Town Treasurer Bott confirmed they did; however, she explained that the staff wanted to confirm this since it was late when they were last discussed.

Council agreed it was okay with the personnel changes as presented.

Information Items

Mayor Davis announced that a Loudoun County Equine Business Forum would be held on April 24th from 7:00-9:00 p.m., at the Carriage House in Morven Park, to discuss the future development and needs of the industry, the request for facilities and the importance of trail systems. She opined that Tony Buffington and Gary Higgins were putting this together. Ms. Davis advised that Bob Fanner and Rob Leonard would be on the panel.

Town Administrator Semmes reported that she forwarded the information on this event to Punkin Lee, with a request that she share it.

Closed Session – (1) Appointment to Planning Commission, (2) Property Acquisition, (3) Actual Litigation and (4) Personnel

Councilmember Daly moved, seconded by Councilmember Leonard-Morgan, that Council go into closed session as allowed under the Virginia Freedom of Information Act Section 2.2-3711(A)(1)(3) and (7) 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; the discussion or consideration of the acquisition of real property for a public purpose; and consultation with legal counsel and briefings by staff members pertaining to actual litigation, where such consultation in open meeting would adversely affect the negotiating or litigating posture of the public body. Councilmember Daly further moved, seconded by Councilmember Leonard-Morgan, that these matters be limited to (1) an appointment to the Planning Commission; (2) potential property acquisition within the Town limits; (3) actual litigation involving Charter Technologies vs. the Town of Middleburg and (4) a Town Administrator personnel matter. Councilmember Daly further moved, seconded by Councilmember Leonard-Morgan, that in addition to the Council, the following individuals be present during the closed session: Martha Mason Semmes, Martin Crim, Rhonda North and Will Moore for the first part and Martha Mason Semmes and Martin Crim for the second and third parts. Councilmember Daly further moved, seconded by Councilmember Leonard-Morgan, that the Council thereafter reconvene in open session for action as appropriate.

Vote: Yes – Councilmembers Kirk, Daly, Hazard, Leonard-Morgan, Littleton, Miller and Snyder

No – N/A

Abstain: N/A

Absent: N/A

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

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 so did. She reminded those present for the closed session that any discussion that occurred within it should be treated as confidential.

Councilmember Hazard moved, seconded by Councilmember Snyder, that the Council appoint Edward Fleischman to the Middleburg Planning Commission for a four-year term, said term to expire December 31, 2020.

Vote: Yes – Councilmembers Kirk, Daly, Hazard, Leonard-Morgan, Littleton, Miller and Snyder

No – N/A

Abstain: N/A

Absent: N/A

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

There being no further business, Mayor Davis declared the meeting adjourned at 9:32 p.m.

APPROVED:

Betsy A. Davis, MAYOR

ATTEST:

Rhonda S. North, MMC, Town Clerk