



## MIDDLEBURG TOWN COUNCIL Regular Monthly Meeting Minutes



Thursday, October 9, 2014

PRESENT: Mayor Betsy A. Davis  
Vice Mayor C. Darlene Kirk  
Councilmember Kevin Hazard  
Councilmember Trowbridge Littleton  
Councilmember Catherine "Bundles" Murdock  
Councilmember Erik J. Scheps  
Councilmember Kathy Jo Shea  
Councilmember Mark T. Snyder (left early)

STAFF: Martha Mason Semmes, Town Administrator  
Angela K. Plowman, Town Attorney  
Rhonda S. North, MMC, Town Clerk  
William M. Moore, Town Planner  
A.J. Panebianco, Chief of Police  
Cindy C. Pearson, Economic Development Coordinator  
Terry Inboden, Inboden Environmental Services

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, October 9, 2014 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

Genie Ford, of the Shakespeare in the Burg Festival, advised Council that the festival, which was scheduled to be held March 27-29, 2015, would hold its kick-off at The Hill School, with the movie being *Westside Story*. She further advised that she was working on filling the workshops with students from the local schools. Ms. Ford noted that she was also working on building an audience for the winning one-act play's performance and advised that the Crooked Angels would open for the play. She reported that the performances would include *Hamlet* and *Much Ado about Nothing*. Ms. Ford reminded Council that last year's event sold two hundred tickets and reported that her goal for this year was three hundred fifty tickets.

Ms. Ford announced that there would be a cast party this year after the Saturday play performance for sponsors above a certain level. She advised that Councilmember Hazard has talked to the Middleburg Charter School to get more participation in the workshops and opined that they were a great way to learn about Shakespeare. Ms. Ford reported that they have revised their website. She noted that she has already done one round of sponsorship mailings and would soon do another.

Ms. Ford reported that she has applied for a Marketing Leverage Grant from Visit Loudoun. She advised that while she was optimistic, she was not sure she would get all for which she applied. Ms. Ford noted that she has not yet heard a response. She advised that she was also working on a kick starter campaign, which was about to go live.

Ms. Ford announced that Michael Kahn, Artistic Director of the Shakespeare Theatre, has agreed to be involved in the festival in some way. She reported that the festival would raise money through ad sales in its program and the Middleburg Eccentric. Ms. Ford noted that she would start doing PR work soon. She reported that they were working on getting their 501(C)3 designation, which the arts grants required. Ms. Ford noted that she would be asking for the Town's help in the future.

Mayor Davis closed the public comment period.

Councilmember Murdock expressed hope that Michael Kahn could participate and noted that she would push him to do so. Ms. Ford expressed hope that she could convince him to be the festival's honorary chair.

### **Public Presentations**

#### **Marshall/Madison Pedestrian Improvement Project**

Town Planner Moore reminded Council that they awarded the contract to the low bidder, FUOG/Interbuild. He advised that he wanted to give them a briefing on what to expect in the coming weeks. Mr. Moore reported that he could not give Council a definite start date as the contractor was still going through the land use permitting process with VDOT; however, he expressed hope that work would begin within a couple of weeks. He displayed a graphic representation of the project. Mr. Moore reported that the bulk of the work would occur during Phase 1 of the project. He advised that during that time, the north/south traffic movements to Foxcroft Road would be restricted. Mr. Moore further advised that during that time, Madison Street would be open for traffic in both directions. He explained that traffic headed north to Foxcroft Road or coming from the south would have to divert around Liberty Street. Mr. Moore advised that the tall, overgrown evergreens would also be removed during the first phase so the intersection's site distance would be opened. He noted that FUOG was working to develop a preliminary schedule and advised that the construction of this phase would take approximately seventeen working days.

Councilmember Hazard inquired as to what would be done to assure pedestrian access during this phase. Jim Bishoff, of J2 Engineers, reported that they would keep the pedestrians to the north side of Madison Street. He noted, however, that a lot depended on the phasing. Mr. Bishoff further noted that there would be traffic calming bands that would need to be installed across the intersection up to the pavement at the old Mosby's Tavern. He advised Council that they would look at keeping some type of pedestrian access open.

The Council stressed the need to plan for getting the children to and from school, as well as to and from the library. Mr. Bishoff noted that something that was put on paper often looked different in the field. He advised that this needed to be addressed as part of the project's staging.

Town Planner Moore advised Council that the staff would hold a separate meeting with the Charter School's personnel and noted that Chief Panebianco would be invited to attend. He advised that accommodations would be made for pedestrian traffic; however, he noted that safety was important.

Chief Panebianco questioned whether the project schedule took Christmas in Middleburg into account. Councilmember Murdock noted that FUOG has been told they must be finished by that time. Mayor Davis noted that if they were not, the project would be stopped. Town Administrator Semmes noted that the staff would let the contractor know that horses would go through the intersection; therefore, they could not use a small plate. Town Planner Moore confirmed they would button up the site.

Councilmember Shea noted the increased traffic on Liberty Street. She further noted that the trees would be removed on the west side. Ms. Shea questioned whether the site clearance would also be increased on the other side of the road and opined that there were some boxwoods that were in the way. Mr. Bishoff advised Council that he asked FUOG to limb up some of the bushes. He noted that the corner past the entrance to the Red Fox Inn must be addressed.

Councilmember Murdock suggested the property owners be made aware of this and given the option of trimming the bushes themselves. She noted that there was a way to trim boxwoods. Town Administrator Semmes noted that the staff has held a separate meeting with Reuter Turner, who helped amend the landscape plans. She advised that they did not talk about the plantings on the other side of the street; however, he was aware that the evergreens would be removed and approved the new plantings. Town Planner Moore advised that regardless of their location, the staff would talk to the property owner first.

Town Planner Moore displayed the exhibit for Phase 2 of the project. He noted that the portion of Marshall Street between Liberty and Madison Streets would be closed during this phase; however, there would be free traffic movement through the intersection. Mr. Moore advised that the other phases were less involved regarding the maintenance of traffic.

Mr. Bishoff advised Council that the first and second phases of the project would involve road closures; however, the remaining phases would allow for full traffic movements. He noted that they may involve a flagman.

Vice Mayor Kirk inquired as to the total number of phases. Mr. Bishoff reported that it was designed to have five; however, it would probably be reduced to three or four.

Town Planner Moore advised Council that he would put the plans on the Town's website. He further advised that as soon as the schedule was available, it would be put on the website as well. Mr. Moore noted that a meeting was held with the immediate property owners. He advised that he had their contact information so he could reach out to them.

Town Administrator Semmes advised Council that a week before work began, the message trailers would be put out. She noted that there would also be detour and warning signs for the project. Ms. Semmes advised that the staff would also use the Town's phone alert system and the Alert Loudoun system to send out messages regarding the project.

Vice Mayor Kirk questioned whether representatives from Salamander have been briefed on the project and noted that they used the intersection for their deliveries. Town Planner Moore reported that they were invited to the meeting; however, no one attended. He noted that he would be meeting with Stephen Plescow and Prem Devadas in the morning and would mention it at that time. Vice Mayor Kirk suggested Mr. Moore also reach out to the new manager and Vijay Singh.

Vice Mayor Kirk questioned whether the Police Chief felt good about the project. Chief Panebianco confirmed he did at this point.

### **Approval of Minutes**

*Councilmember Snyder moved, seconded by Vice Mayor Kirk, that the Council approve the September 11, 2014 Regular Meeting Minutes and September 24, 2014 Work Session Meeting Minutes as amended.*

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

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### **Staff Reports**

Vice Mayor Kirk inquired as to the status of the Asbury Church. **Town Administrator Semmes** reported that a draft RFQ has been developed. She further reported that she has asked but has not received an updated survey of the property. Ms. Semmes advised that nothing could be done until the survey was completed.

Councilmember Hazard reported that the RFQ was very minimal and involved asking structural engineers what needed to be done to stabilize the building and make it weather tight to minimize further structural damage, including their estimated cost of the stabilization.

Councilmember Scheps thanked the Town Administrator for providing the debt service information and noted that it was very helpful.

**Economic Development Coordinator Pearson** reported that the Loudoun County Chamber of Commerce announced the thirty-five finalists for their small business awards, which included the Fun Shop and Tack Box in the retail category and Windy Hill Foundation in the non-profit category. She noted that the winners would be announced on November 7<sup>th</sup>. Ms. Pearson further reported that *Travel and Leisure Magazine* included a report that Middleburg was one of the most romantic fall get aways.

Councilmember Shea opined that the Economic Development Coordinator's written report regarding the Middleburg Business and Professional Association was confusing. It was noted that the information for the November meeting was left out. Economic Development Coordinator Pearson reported that the November meeting would be held at the Middleburg Bank. She noted that the date had to be changed as it fell on a holiday.

Mayor Davis reminded Council that ballots for the Chamber of Commerce awards were attached to the monthly report so people could complete and submit them. Economic Development Coordinator Pearson advised that they could be given to her or Punkin Lee or mailed to the Chamber.

**Town Planner Moore** reported that the Planning Commission received a rezoning application that would be considered during their October meeting. He noted that it consisted of two lots, although the lot line was split by an existing house. Mr. Moore advised that he anticipated a consolidation of the property in the future. He noted that this was an isolated lot that was zoned residential that has been requested to be rezoned to C-1 Commercial. Mr. Moore advised Council that the Planning Commission discussed the application and had no immediate concerns. He noted that the public hearing was scheduled for their October meeting and opined that it would be before the Council in December.

Town Planner Moore reported that he and the Town Attorney were reviewing the deed and easement plat for the Middleburg Professional Center. He reminded Council that in October of 2013, they granted approval of a deed and easement subject to the approval of the form by the Town Attorney. Mr. Moore advised that there were easements missing from the plat and the staff felt that it was different to the point that the Council needed to act again. He further advised that they were working with the applicant's attorney to ensure the needed easements were shown. Mr. Moore opined that this item would come to the Council next month.

Town Administrator Semmes reported that the Town's **audit** was well underway.

**Chief of Police Panebianco** reported that he recently worked with the Capital Police on Speaker Boehner's visit. He further reported that Officer Hollins recently completed the Firearms Instructor School. Chief Panebianco advised that he must go through a probationary period before he could instruct classes on his own. He reported that the Police Department recently conducted emergency drills with the Middleburg Charter School and he spoke with parents regarding safety concerns.

Councilmember Murdock reported that the Community Center has agreed to be designated as an evacuation site for the school if needed.

Chief Panebianco reported that the preparation work for the Film Festival was going well and noted that the Department was working with the security firm for the resort and festival.

Councilmember Murdock questioned whether the Police Department was ready for Halloween. Chief Panebianco confirmed they were, although he noted that they were trying to find more officers. He noted that the Film Festival would not be holding an event during the hours for trick-or-treating and advised that while it was their opening night, they would keep the participants occupied during that period. Chief Panebianco reported that there would be a children's parade that evening and advised that he has been informed that the Middleburg Young Professionals Association have set up a foot parade on the sidewalks for the children. He advised that a police officer would be stationed at every street the children must cross.

The Council held some discussion regarding this event. It was noted that the Town's Special Event Ordinance would apply; therefore, the Middleburg Young Professionals Association needed to apply for a special events permit. Economic Development Coordinator Pearson agreed to work with them on the filing of an application. She noted that the parade would only be held from 5:00-5:30 p.m. and advised that the businesses would be encouraged to stay open to accept trick-or-treaters.

Chief Panebianco introduced the two new part-time police officers – Jason Davis and Charlie Proffitt. He noted that Officer Davis worked at the Safeway in Middleburg for seven years. Chief Panebianco advised that he paid his own way through the police academy and currently was a full-time officer for the Town of Haymarket. He noted Officer Davis' knowledge of the community. Chief Panebianco advised Council that Officer Proffitt started his career in Arlington County as a deputy sheriff and was currently working as a part-time police chief for the Town of Remington, as well as working full-time as the Vice President of Business Ventures. Com. He noted that Remington was a small town and that Officer Proffitt had a lot of experience in small towns. Chief Panebianco opined that he could not have gotten better candidates that had a feel for Middleburg.

Chief Panebianco administered the Oath of Integrity and Honor to each officer. He reminded Council that while they were required to take an Oath of Office through the Clerk of the Court, the Town also required them to take an oath of integrity and honor before the Mayor, Council and citizens so they would know they were being held accountable for their actions. Chief Panebianco noted that the officers would fill the holes in the schedule and help relief the need to pay overtime as they would be paid at straight time.

**Terry Inboden, of IES**, reported that they have replaced the permanganate feed line at the Stonewall Treatment Plant and explained that permanganate was needed to remove iron and manganese from the water. He further reported that the lead and copper tests have been done and were determined to be in compliance. Mr. Inboden advised Council that IES has been trying to find ways to save the Town money. He noted that Mr. Will has found some ways and advised that while it was not a lot, they were trying to add value to what they did for the Town.

Town Administrator Semmes noted that IES has recommended the Town switch the type of permanganate it was using. She advised that while it would cost a little to switch it over, in the long run it would be more economical.

Mayor Davis questioned whether the change would clear up the pink water. Mr. Will advised Council that the iron and manganese concentrates in the raw water varied from day to day. He explained that when the iron level increased, he had to increase the permanganate to get rid of it. Mr. Will further explained that the next day it may go down, resulting in an excess of permanganate in the system, thus causing the pink water. He noted that it was harmless, but was not aesthetically pleasing.

Town Administrator Semmes noted that the Council has also raised the issue of white water in the past. She advised that the staff discussed this with Bob Krallinger, who provided Mr. Will with some ideas that he would explore.

**Addition of Item to the Agenda**

*Vice Mayor Kirk moved, seconded by Councilmember Murdock, that Council add item XIV to the agenda (Closed Session – Legal Advice by Counsel).*

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

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**Reports of Town Committees**

Councilmember Shea reported that the Go Green meeting for November would be held the end of October.

Vice Mayor Kirk reported that the Health Center Advisory Board met last month. She reminded Council that they were scheduled to give their annual report this month; however, none of the members could attend so it was moved to March. Ms. Kirk reported that the Committee sent out the same donation application forms that Margaret New used in the past, along with a letter asking what the organizations would do with the money.

Town Administrator Semmes noted that the application also asked who they served, including the geographic area, so the Board could give recommendations to the Council based on need. She advised that the Council would get copies of the applications. Ms. Semmes reported that one has been received to date and she has received a call regarding another. She noted that the deadline for submission of the applications was the end of the month.

Councilmember Shea reminded Council of the question of putting the interest into the budget and asked whether this change has been made. Town Administrator Semmes confirmed it had.

Councilmember Hazard reported that the rezoning request, from R-3 Residential to C-1 Commercial, that was before the Planning Commission was for two lots on East Federal Street. He opined that it seemed to be fine with the Planning Commission and noted that the Comprehensive Plan recommended the area be zoned commercial. Mr. Hazard advised that it was an aberration that it was zoned residential and opined that this was not a big change.

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

**Council Approval - Bid – Well 2 Fence Project**

*Councilmember Snyder moved, seconded by Councilmember Shea, that Council approve the acceptance of the bid offered by Long Fence in the amount of \$21,750 to install three hundred forty-eight lineal feet of six foot tall fence, plus the associated slide gates with controllers, at Well 2 located on Landmark School Road. Councilmember Snyder further moved, seconded by Councilmember Shea, that the staff be authorized to procure the grading and electrical services work necessary to complete the installation at a cost not to exceed \$7,250, for a total projected cost not to exceed \$29,000.*

The Council held some discussion regarding the proposed project. It was suggested that the building on the property be secured by some alternative means. Councilmember Snyder explained that the purpose behind the fence was to protect the Town's well from contamination, not to protect the building from criminal activity.

Town Clerk North reminded Council that this was a recommendation contained within the Wellhead Protection Plan. She further reminded them that the Town applied for and received a Source Water Protection Grant, which the Council authorized, to construct a chain link fence to protect the well from contamination. She advised that if the Town did not construct the fence, it would be unlikely that the Town would receive another wellhead protection grant in the future. Ms. North confirmed the grant could not be used to secure the building and explained that the source water protection grant was intended to protect the well.

Councilmember Murdock expressed concern regarding the appearance of a chain link fence given that the well was located in the country. She suggested the building be protected. Councilmember Shea noted that this was being proposed to protect the Town's source water. She further noted that most of the Town was within a wellhead protection area.

Mike Morency, the adjoining property owner on the opposite side of the street, expressed concern regarding the visual impact of the fence. He asked that Council postpone action so it could see the proposed project area.

Councilmember Snyder reiterated that this was a project that was being funded through grant money in order to protect the Town's ground water.

Councilmember Hazard questioned whether there was a specific period of time to complete the project. Town Clerk North confirmed the bids were only good for a certain period of time. She advised Council that the grant document also included a schedule that called for the work to be completed by the end of the year. She noted that the grant itself was a one year grant; therefore, she felt she could ask for additional time. Ms. North reiterated that the bids were only good for a certain period of time.

Councilmember Hazard questioned whether it was possible to use another fencing material. Town Administrator Semmes advised that she was also concerned about the appearance, which was why it was proposed as a black vinyl coated chain link fence. She opined that this would help it to "disappear". Town Clerk North advised Council that the grant application was very specific regarding the fence materials. She further advised that the RFQ was drafted based upon the grant application.

Councilmember Hazard questioned whether the grant would be negated if the Council did not install a chain link fence. Town Administrator Semmes suggested it may be possible to install privacy slats in the chain link fence. Councilmember Snyder noted that the privacy slats would get torn.

Councilmember Littleton questioned whether the fence needed to be the size that was proposed. Town Administrator Semmes explained that the opening had to be large enough for utility trucks to traverse the area as there was a utility easement in this area. Town Clerk North explained that the utility easement was the reason three gates were proposed in the fence. She further explained that the front gate was proposed for the staff's access, with the two side gates being proposed so that Dominion Power could maintain the electric line that traversed the property.

Mr. Inboden advised Council that the proposed fence would not encompass the stone structure. Town Administrator Semmes advised Council that the stone building and stream would not be impacted by the fence.

Mr. Morency inquired as to the extent of the tree removal. Town Clerk North reported that one, and possibly two, trees would need to be removed at the property's entrance. She explained that the remainder of the removal was for trees that have already fallen.

Councilmember Murdock opined that the driveway would no longer be accessible to the public. Town Administrator Semmes noted that the driveway was for a Town well property and should not be accessible to the public.

After some discussion, the Council suggested the award of the bid be tabled in order to give them time to look at the property. They asked the staff to identify the proposed location of the fence and to contact the State to determine whether it was possible to use another fencing material.

Town Administrator Semmes suggested it may be possible to screen the fence with tree plantings.

Councilmember Murdock expressed concern about blocking access to the entrance. Town Administrator Semmes noted that this was a private Town entrance; therefore, the public should not be entering the property. She reminded Council that the Town was responsible to the State's regulators.

Mayor Davis asked that the Council be provided with a map or some type of graphic representation of the fence's proposed location, as well as the building's location. Mr. Inboden suggested the proposed location be staked for the Council's viewing. Town Administrator Semmes suggested the planting of a screen would be easier than changing the materials.

The Council discussed what was meant by the term "alternative materials". It was agreed that the Town Clerk should check with the State first to determine whether it was possible to make a change before making a decision on the materials. The Council reiterated its request that the proposed location be staked for their viewing.

Councilmember Shea suggested the Streetscape Committee be consulted regarding proposed landscaping materials should a chain link fence be installed.

Councilmember Snyder noted that there was a motion on the floor and suggested it be tabled. He further suggested that this item return no later than the December meeting. Town Administrator Semmes advised Council that this item would be placed on the October 23<sup>rd</sup> work session agenda for further consideration.

Mr. Morency advised Council that he had no problem with the fence material; however, he wanted to see the proposed location.



## **Discussion Items**

### **General Obligation Bonds – Utility System Improvements**

Town Administrator Semmes reminded Council that this was just a discussion item and noted that they were scheduled to take action during their next meeting. She reported that she has sent out the additional information the Council requested on the debt service, including the existing bonds. Ms. Semmes noted the 2010 bond refunding and advised that those principal payments would increase starting in 2023. She further noted the 2013 bond refunding, which would be paid off the year before the large payments occurred. Ms. Semmes advised Council that the debt service payments would stay pretty steady. She reported that she was reluctant to recommend a \$1.5 million bond. Ms. Semmes expressed an understanding of how useful the money would be in terms of getting improvements done. She advised that even though the Town had a small staff, it could hire construction help to be on the job sites if a lot of contractors were here at once.

Councilmember Littleton questioned whether the Town could draw the money as needed. Town Administrator Semmes confirmed it could not. She noted that the expectation was that the projects would be substantially complete in three years. Ms. Semmes reminded Council that the project administration for the Washington Street water line replacement would not be on the Town as the overall project was being administered by VDOT. She advised that to borrow \$1.5 million would involve adding one project to the list. Ms. Semmes suggested the Town could do as much of the Ridgeview water line replacements as it felt could be done.

Councilmember Littleton inquired as to how long the bank would allow the Town to draw the money. Councilmember Snyder reminded Council that the Town would get all of the money at once. Town Administrator Semmes opined that the Town would be fine in terms of getting the projects done, if they were substantially complete but had to go into a fourth year. She reminded them that the IRS was concerned about the amount of time required to spend the money as these were tax exempt bonds. Ms. Semmes noted that the Town must show that the money was spent for the purpose for which it was borrowed. She further noted that the money must be used for capital improvements. Ms. Semmes advised that it could be invested until needed or it could be used to prepay the debt without penalty.

Councilmember Snyder noted that he was nervous about increasing the amount of the bond by fifty percent above what the Council originally discussed. He expressed concern that if the Salamander Resort had a downturn for whatever reason, the Town would still be paying interest and principal on the bond. Mr. Snyder noted that this would fall on the rate payers as it did when the Town was waiting for the resort to open. He reminded Council of the two or three years that were scary financially when the bills had to be paid by the existing rate base. Mr. Snyder explained that this made him pause on borrowing more. Vice Mayor Kirk agreed.

Councilmember Littleton questioned whether there would be a penalty at the end of the three years if the Town had \$500,000 left in the investment fund that was not used. Town Administrator Semmes advised that this was a question for the bond counsel, Chris Kulp.

Councilmember Hazard opined that Councilmember Snyder made an excellent point. He noted, however, that the Town would owe 91% of the money if it borrowed \$1 million regardless of whether it took a \$1.5 million bond. Mr. Hazard reviewed the proposed debt service schedule.

The Council held considerable discussion regarding the advantages and disadvantages of borrowing \$1.5 million versus \$1 million. Town Administrator Semmes advised Council that she would talk with Mr. Kulp to determine whether there would be a penalty if the Town did not use all of the money. She reminded them of the penalty incurred due to the 2013 refunding as it was too soon after the 2010 refunding.

The Council continued their discussion of the advantages and disadvantages of borrowing \$1.5 million versus \$1 million.

Councilmember Scheps inquired as to what the additional money would be used for. Councilmember Hazard advised that it would be used to replace the water lines in the Ridgeview Subdivision and noted that the CIP identified this as the next most important project. He reminded Council that the estimated cost for that project was \$675,000.

Councilmember Snyder noted that the Town would be stretched if it borrowed \$1 million to replace the Windy Hill Pumping Station. He further noted that the Town was constantly working to avoid DEQ violations at this location. Mr. Snyder advised that borrowing \$1.5 million would make it easier to do that project, with there being some reserves for the Ridgeview water line replacement project. He noted that this was the argument for borrowing more money.

The Council continued their discussion of the proposed bond issuance. It was noted that the argument against borrowing \$1.5 million was the risk.

Town Administrator Semmes noted that the existing lines were mostly two-inch galvanized lines that were beyond their useful life. She reported that they would be replaced with a minimum of a six inch line. Ms. Semmes noted that this would provide more water pressure and better water quality.

#### Backyard Chicken Ordinance

Vice Mayor Kirk advised Council that she was not opposed to chickens and noted that people have been complaining to her about them. She advised that she wanted the Council to look at farm animals in general, not just chickens. Ms. Kirk noted that her other concern was a house that had rodent problems.

Town Planner Moore noted the table in the agenda packet that summarized how some municipalities' regulated chickens. He opined that the Towns of Vinton or Dayton were the closest in population to Middleburg. Mr. Moore advised that a lot of localities that had more specific regulations were urban areas. He noted that Dayton did not have specific regulations regarding farm animals and advised that their ordinance talked mostly about dogs, while Vinton had specific requirements.

The Council held some discussion regarding the desire to regulate chickens and/or farm animals. They also discussed the options for regulating them, including regulating the feed, and who would enforce such regulations. It was noted that without any regulations, chickens were currently allowed in the Town limits. The Council directed the staff to prepare a draft ordinance for their consideration that would allow residents to keep a "few" chickens but would not allow for the keeping of other farm animals.

Town Planner Moore noted that it may not be possible to prohibit farm animals on agriculturally zoned land.

#### Amendments to Town Code Chapter 55 pertaining to licenses (vehicle stickers)

Town Clerk North advised Council that the proposed ordinance would bring the Town Code in line with the State Code; and, noted that it was based on the guidance the Council provided during their last work session. The Council agreed they were okay with the proposed ordinance as drafted.

## Review of Liberty Street Parking Lot Parking Pass Program

Town Clerk North reminded Council of the Liberty Street Parking Lot Parking Pass Program that they approved last year. She further reminded them that they approved the issuance of up to ten (10) passes and reported that all ten have now been purchased. Ms. North advised that she has begun a waiting list of individuals who were interested in purchasing a pass; and, noted that she had one name on the list and one individual who was considering whether she wanted to get on the list.

Councilmember Hazard inquired as to how much use the parking lot received. Councilmember Shea reported that it depended on the day of the week and what events were occurring. She advised that there were times when it was full and others when it was not.

Councilmember Hazard reminded Council that it implemented the program to keep motorists off Washington Street and to improve the use of the parking lot.

Councilmember Snyder noted that the demand may be exceeding the supply. He inquired as to the length of time for which the passes were good. Town Clerk North reported that the passes were one year passes. She advised that ten parking spaces have been marked for permit holders use only and while they were not guaranteed a certain space, they were guaranteed that one of the ten spaces would be available for their use.

Councilmember Snyder suggested the rate be increased next year but that the number of passes be left at ten. The Council held some discussion as to the number of passes that should be sold. It was suggested that no more than ten be made available. The Council also discussed the fee.

Vice Mayor Kirk noted that another issue that was raised by the Town Clerk was whether the parking passes should apply only during the week days. Town Administrator Semmes noted that it was currently sold to be used for any time the permit holder wanted to use it.

Town Clerk North reported that of the ten parking passes, only four were held by individuals whose business was open Monday through Friday only, with the majority being held by individuals whose businesses were open on the weekends as well.

The Council discussed the reasons it implemented the program and the rate structure. It was agreed that the members did not want to expand the number of parking passes that were available for purchase. They directed the Town Clerk to bring this item back in February so they could discuss a possible rate increase or whether they wanted to impose two different rates – one for those wishing to use the spaces seven days a week and one for those who wanted to use it weekdays only.

### **Closed Session** – Legal Advice by Counsel

*Vice Mayor Kirk moved, seconded by Councilmember Shea, that Council go into closed session as allowed under the Virginia Freedom of Information Act Section 2.2-3711(A)(7) for consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the Town; and, for consultation with legal counsel employed or retained by the public body regarding specific legal matters requiring the provision of legal advice by such counsel. Vice Mayor Kirk further moved, seconded by Councilmember Shea, that this matter be limited to legal advice regarding pending litigation with Richard Colandrea. Vice Mayor Kirk further moved, seconded by Councilmember Shea, that in addition to the Council, the following individuals be present during the closed session: Angela K. Plowman, Martha Mason Semmes and Will Moore. Vice Mayor Kirk further moved, seconded by Councilmember Shea, that the Council thereafter reconvene in open session for action as appropriate.*

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

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

(Councilmember Snyder left the meeting at 8:07 p.m.)

Councilmember Murdock questioned whether the staff had measured Mr. Colandrea’s wall. Town Planner Moore confirmed he had not and explained that he was trying to work with him in a cooperative manner.

Councilmember Murdock questioned whether Mr. Colandrea still owned the property. Town Planner Moore confirmed he did.

Councilmember Murdock questioned whether the Town Planner knew that the fence was built on a berm. Town Planner Moore advised Council that in his most recent conversation with Mr. Colandrea, he recognized that what has been installed to date was too tall and noted that he was going to come in to talk to him about lowering it. He explained that he did not tell Mr. Colandrea that he must do so as he wanted to start out on a good footing with him. Mr. Moore acknowledged that the land was being built up and reiterated that he may possibly meet with Mr. Colandrea in the morning.

Councilmember Murdock asked the Town Planner to also let Mr. Colandrea know that he needed to keep his dog on a leash.

Councilmember Shea announced that Felix Francis, a mystery writer and son of Dick Francis, was coming to town to do book signings. She advised that he would be at the library on October 15.

There being no further business, a motion was made and approved to adjourn the meeting at 8:10 p.m.

APPROVED:

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Betsy A. Davis, MAYOR

ATTEST:

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Rhonda S. North, MMC, Town Clerk