



**MIDDLEBURG TOWN COUNCIL**  
**Regular Monthly Meeting Minutes**  
**October 10, 2013**



**PENDING APPROVAL**

**PRESENT:** Mayor Betsy A. Davis  
Vice Mayor C. Darlene Kirk  
Councilmember Kevin Hazard  
Councilmember Trowbridge Littleton  
Councilmember Catherine "Bundles" Murdock (arrived late)  
Councilmember Kathy Jo Shea  
Councilmember Mark T. Snyder  
Councilmember David B. Stewart

**STAFF:** Martha Mason Semmes, Town Administrator  
Angela K. Plowman, Town Attorney  
Rhonda S. North, MMC, Town Clerk  
David M. Beniamino, AICP, Town Planner  
A.J. Panebianco, Police Chief  
Cindy C. Pearson, Economic Development Coordinator

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on October 10, 2013 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Mayor Davis led Council and those attending in the Pledge of Allegiance to the flag.

**Public Comment**

Martha Cotter, a member of the Middleburg Charter School Committee, reported that they filed an application in August so the Middleburg Elementary School could become a charter school. She noted the recent change in the State Code that stated that an application did not need to go to Richmond if it was initiated by a school board. Ms. Cotter reported that the Loudoun County School Board initiated the application in September. She advised Council that the School Board also appointed a sub-committee to work with the Charter School Committee and noted that a board was being formed. Ms. Cotter advised that they would file an application to become an incorporated charter school and would apply to the IRS for 501(C)3 status. She noted that they planned to distribute a flyer soon. Ms. Cotter reported that the Charter School Committee was meeting with the School Board's sub-committee to discuss transportation and the key components of their application. She advised that while there were a lot of negotiations that needed to occur, the School Board was in favor of this approach.

Tyler Gore, of Royston Funeral Home, appeared before Council to discuss the proposed parking guidelines. He advised Council that earlier this week, he was required to file a parking application for a funeral and was given five free spaces. Mr. Gore noted, however, that he needed nine. He suggested that by only allowing for five spaces, there were not enough for everyone. Mr. Gore noted that funeral services usually only lasted twenty to twenty-five minutes. He advised that there were only two churches that were affected; and, opined that there was no reason for stringent rules. Mr. Gore expressed an understanding of the genesis of the parking guidelines; however, he noted that this has only occurred once. He opined that no other municipality imposed restrictions on parking. Mr. Gore suggested these issues would work themselves out if they were not too heavily restricted and asked that the Council reconsider the policy.

Town Administrator Semmes read a letter written by Billie Van Pay thanking the Council and staff for the Town's recent statements regarding animal control, which helped to resolve a long-standing dog problem in her neighborhood.

**Approval of Minutes**

*Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve the September 12, 2013 Regular Meeting Minutes and the September 26, 2013 Work Session Meeting Minutes.*

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

No – N/A

Abstain: N/A

Absent: Councilmember Murdock

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

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**Staff Reports**

**Town Administrator Semmes** reported that the contractor for the Well 4 repairs was able to repair and rebuild some of the valves the Town thought it would have to replace. She further reported that they have filled the system with water and pressurized it. Ms. Semmes advised that they were testing the welds and have found they were holding. She reported that they were waiting for the media to come so the filters could be re-bedded. Ms. Semmes advised that the next step would be to re-chlorinate and test the system; and, if it was good, they would put the plant back on line.

Councilmember Snyder asked whether the gauges were corrected. Town Administrator Semmes advised that she was unsure. She reported that VML Insurance would cover the claim. Ms. Semmes advised that she spoke with their inspector when he was here earlier in the week, at which time, he noted that he planned to have a conversation with Bob Krallinger, the Town's engineer on this project.

Town Administrator Semmes reported that the RFP for Utility Management Services was let earlier in the day. She noted that proposals were due on November 7<sup>th</sup>.

Vice Mayor Kirk questioned the stop bar that was painted on Pendleton Street, at the intersection with Marshall Street. Town Administrator Semmes confirmed the Town painted a stop bar; however, she opined that it was not working that well. She reported that the staff would continue to investigate solutions to this problem. Ms. Semmes noted that VDOT recommended the use of a larger stop sign, which the staff was looking into.

Mayor Davis recommended the word "stop" be painted on the pavement. Town Administrator Semmes confirmed she would check to see if the Town could do so.

Vice Mayor Kirk noted that the Council approved the placement of signs for the Salamander Resort on Route 50; however, they were gone. Town Planner Beniamino noted that they were only temporary signs until the VDOT signs were installed.

**Chief of Police Panebianco** displayed a coloring book the Police Department created for distribution to children.

Chief Panebianco reported that he met with officials from VDOT regarding the Pendleton Street intersection. He noted the newly painted stop bar and advised that he would look into painting "stop" on the pavement. Chief Panebianco advised Council that a police officer was assigned to this intersection daily to determine how many violations were occurring. He noted that they have observed

motorists speeding coming from the resort; however, he opined that there was not as much speeding as there was a perception of speeding. Chief Panebianco advised Council that he requested a meeting with the manager of the Salamander Resort so he could offer some educational items for their guests and staff in order to prevent the Department from writing tickets.

Chief Panebianco reported that there would be a lot of events in October, which would keep the Police Department busy. He noted that he had all of the information he needed from a safety perspective regarding the Middleburg Film Festival. Chief Panebianco reported that they anticipated having one thousand participants per day, excluding those who were coming to town but were not attending the festival. He noted that the next big event would be Christmas in Middleburg and advised that he was working to get ready for those events.

Vice Mayor Kirk noted that Halloween was coming up. Chief Panebianco confirmed that all of the officers were scheduled to work that day.

Chief Panebianco recognized Officer Jay Hollins who volunteered to be the instructor for a first aid class for the Department. He noted that the Purcellville Police Department would also participate in the training. Chief Panebianco advised that this was a tactical first aid course. He noted that the officers were scheduled to receive CPR training in the future. Chief Panebianco reported that the Department recently replaced the batteries for the defibrillator units in town.

Chief Panebianco reported that he received notification that the vest grant was approved; however, he could not get the money due to the federal government shut down nor was he aware of the amount of the grant. He expressed hope that it was the full amount of his application, which was \$2,400. Chief Panebianco reported that the vests have been received.

Chief Panebianco reported that the Council would consider a request in November to declare the old police vehicle as surplus property so it could be sold.

Chief Panebianco advised that the Breaking Bread Program was going well and noted that he was reaching out to pre-school students at the Community Center as well as students at the Hill School.

Vice Mayor Kirk noted that Pendleton Street was totally blocked by delivery trucks earlier in the day. Chief Panebianco opined that the street was working better than it was. He noted that they have reached a safety perspective; and, explained that they would allow one vehicle, if it could not fit into a parking space, to double park. Chief Panebianco noted that the drivers have been told that if they did this, they must have someone from the store direct traffic around them. He further noted that they have made trucks move when there was an issue. Chief Panebianco reiterated that the situation was safer than it was previously.

Mayor Davis asked whether the Town could require a driver to call ahead and ask the Police Department for traffic assistance. Chief Panebianco noted that directing traffic for a delivery truck was not part of what an officer should do. He advised that if they were creating a safety issue, he would tell them to move. Chief Panebianco opined that most of the drivers were trying to find a spot and if one was not available, they were not parking on the corner.

**Economic Development Coordinator Pearson** reported that Channel 9 interviewed Mr. Allen regarding his new book and noted that a link to that interview was posted on the Town's Facebook page. She further reported that there was a visitor in the Pink Box who brought in a copy of the Sunday Telegraph, which contained an article on Middleburg. (Councilmember Murdock arrived at the meeting at 6:25 p.m.) Ms. Pearson noted that the Middleburg Business & Professional Association's award nomination forms went out today. She advised that people did not have to be a member of the Association in order to submit a nomination.

Councilmember Hazard noted the new map of the downtown area; however, he opined that it was hard to read. He asked that it be enlarged to an 11 x 17 inch document.

Councilmember Shea asked that the restroom symbol at the Liberty Street Parking Lot be moved away from the bookstore; and, explained that people believed the restrooms were located in the bookstore.

Town Administrator Semmes advised that during the recent Biz Buzz, Steve Heines reported that he was conducting tours of Middleburg for the Salamander Resort. She further advised that he reported that people were buying items at the shops, with one lady having purchased so much that she had to go home in a cab.

Councilmember Murdock thanked Chief Panebianco for making his vehicle available for the Seven Loaves Food Drive that was held in conjunction with the Biz Buzz.

**Town Planner Beniamino** reported that the HDRC did not meet this month; however, he was trying to schedule another meeting.

Councilmember Hazard noted that the **Town Treasurer's** monthly report indicated that the difference in the water and sewer revenues was related to the change to bi-monthly billing. Town Administrator Semmes confirmed a comparison could not be done of this year's numbers to last year's due to the change in billing. Councilmember Snyder noted that the Council would have to wait several months before it could see a pattern.

Town Administrator Semmes opined that a month-to-month comparison may not be valuable. She suggested it was more valuable to look at how far along revenues were this year compared to last.

Councilmember Hazard opined that the sales and meals tax revenues should be comparable. He noted that the sales tax revenue was down even though the Salamander Resort was open. Town Administrator Semmes reminded Council that the Salamander Resort would not affect the Town's sales tax revenue as it was based upon the number of school age children in town. She recommended that when the Council talked about its legislative agenda that it consider requesting a change in the formula. She noted that the General Assembly has talked doing away with the BPOL tax, which would hurt towns.

Vice Mayor Kirk noted that the Fire Department received \$17,000. Town Administrator Semmes reported that the grant amount increased this year. She reminded Council that this was a State grant that the Town simply passed through to the Fire Department.

Vice Mayor Kirk noted that some of the expense line items were already at 100%. Town Administrator Semmes noted that some of those line items were for things that were paid once a year, such as the insurance and parking lot rent.

Vice Mayor Kirk expressed concern regarding the special events line item for the Police Department. Chief Panebianco reminded Council that this line item was only for the National Night Out event held in August. He noted that the expenditures did not reflect the donations that were received for the event costs.

Vice Mayor Kirk suggested that if the Department needed more money, this be addressed in the mid-year budget transfers.

Councilmember Shea noted that the subscriptions/publications line item for the Police Department was over 300%. She suggested that line item needed to be increased. Chief Panebianco advised that he would check to determine what expenses were submitted under that line item.

Vice Mayor Kirk noted that the Department was doing things with children. She encouraged the Chief to seek an increase if needed.

Town Administrator Semmes noted that some of those expenses could be funded out of the supplies line item as well.

Mayor Davis agreed that some line items needed to be increased.

Town Administrator Semmes reported that Charlie Triplett gave her the **utilities** information; however, she did not have time to compile it. She further reported that she spoke with Kenny Reynolds, of the Virginia Rural Water Association, who indicated he would try to return to Middleburg in late October or early November to finish the leak detection check. Ms. Semmes noted that she also spoke with him regarding training opportunities for the Maintenance Supervisor and noted that they were holding a three-day class in Richmond that would only cost the Town \$79. She advised that she planned to check on Mr. Simms' availability and noted that it would be good if he could attend.

**Reports of Town Committees/Council Liaisons**

Councilmember Shea reported that Go Green met and did some restructuring of its meetings. She further reported that the Town Planner joined the meeting and they discussed the staff's responsibilities to the Committee. Ms. Shea advised Council that they were moving forward with the drug recycling program and were currently investigating the State Code requirements. She noted that they were also continuing to work with businesses on the energy and recycling program.

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

**Council Appointment** – Middleburg Community Farmers Market Committee

*Vice Mayor Kirk moved, seconded by Councilmember Littleton, that Council appoint Lacy Warner to fill the unexpired term of Lily Bowen on the Middleburg Community Farmer's Market Committee, said term to expire August 31, 2014.*

Councilmember Shea questioned whether the Committee was at capacity. She further questioned whether Ms. Bowen wanted to remain on it. Town Clerk North confirmed the Committee was at capacity. Economic Development Coordinator Pearson confirmed that Ms. Bowen did not wish to remain on the Committee.

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

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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**Addition of Items to the Agenda**

*Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council add items XI(C) and XI(D) to the agenda.*

Vote: Yes – Councilmembers Kirk, Hazard, Littleton, Murdock, Shea, Snyder and Stewart  
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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**Action Items** (non-public hearing related) (Continued)

**Council Approval** – Site Plan Waiver (SP 13-01) – 15 West Federal Street - Virginia Lux

Town Planner Beniamino advised Council that the building at 15 West Federal Street has housed a number of retail uses over the years; however, because it has been vacant for more than two years, it was now non-conforming. He reported that the owner has requested a waiver of the site plan so she could put a private investigator's office, which was a professional office, in the space. Mr. Beniamino noted that the building contained two floors, with the ground floor being proposed for office use and the second floor as an apartment. He recommended approval of the request as presented due to the language in the Town Code that stated that if the applicant was not adding to the building or increasing its square footage that a site plan waiver would be granted.

Councilmember Hazard noted that the parking requirement would change from one space per four hundred square feet to one per three hundred. He questioned whether there was enough parking available to accommodate the increase. Town Planner Beniamino reported that there was an existing parking lot behind the building. He noted, however, that he did not perform a calculation of what existed and advised that the spaces were not striped.

Virginia Lux, the applicant, advised Council that four cars could be parked in the lot.

Town Planner Beniamino advised Council that the Town could not require the applicant to put in stop bars without a site plan. He reiterated that the staff did not determine whether the available parking met the required standards.

Councilmember Hazard noted the need to look at the parking requirements when a change of use was proposed. He opined that this should have been addressed prior to bringing the site plan waiver request before the Council.

Town Administrator Semmes suggested the Council could condition the waiver on the assurance that the property contained the required parking.

Councilmember Hazard advised that he had no problem with the waiver as long as the staff checked the statutes prior to the approval.

The Council held considerable discussion regarding the waiver of the site plan, the parking requirements and the other deficiencies that may exist on the site such as ingress/egress. They discussed what would be waived through the waiver of the site plan. The Council noted that if they did not approve the waiver, the site would not be able to be used unless the applicant provided one additional parking space or paid the in-lieu-of-parking fee and did a site plan to bring the property into compliance with the ordinance.

It was suggested that while a full site plan may not be necessary in instances such as this, another option, such as a minor site plan, may be in order. It was noted that the existing process did not allow for alternative options. The Council discussed the Historic District, the small buildings/properties located within it and some of their possible constraints. They discussed the existing in-lieu-of-parking fee and the Town's parking requirements. The Council expressed a desire to address situations such as this and suggested the Planning Commission look at it.

It was noted that the only action before the Council was a request for a site plan waiver. The Council and staff discussed the existing parking and the site's constraints. Town Planner Beniamino expressed concern that he could not simply look at parking, without looking at any of the other zoning ordinance requirements. He recommended the Council approve the request before them.

Councilmember Hazard asked whether it was possible to waive the site plan, with the stipulation that the applicant meet certain requirements. Town Attorney Plowman questioned whether these would be zoning ordinance requirements. Town Administrator Semmes suggested that it be that she provide whatever parking could be provided. She asked whether the applicant could provide gravel parking. Town Planner Beniamino confirmed she could; however, it would require a site plan. Town Administrator Semmes suggested she be required to provide the gravel parking without a site plan.

Town Attorney Plowman advised that the difficulty was that regardless of what the site plan waiver ordinance hoped to address, it referenced other site plan criteria. She agreed this was probably a situation that the ordinance intended to address.

Council held some discussion as to why the site plan waiver ordinance was put in place. Councilmember Hazard opined that it was imposed to not create a hardship on someone who was not changing a use. He noted that this case involved a change of use. Mr. Hazard advised that while it was probably not a big deal in this case, he questioned where the waivers would stop.

Town Attorney Plowman suggested the resolution was to address parking in this district given that it contained small lots and there was public parking in the vicinity.

Councilmember Snyder suggested the waiver be limited based upon size. He further suggested that if the request involved ten parking spaces, it should not be eligible for a waiver as it was too large a project.

Town Administrator Semmes suggested it be limited to properties that could not come into conformance with the zoning ordinance and that were in close proximity to public parking. She reminded Council that they have zoned the properties commercial, regardless of whether they were used as restaurants, retail or office uses. Ms. Semmes reiterated the need for properties to be used commercially regardless of their use. She agreed with Councilmember Snyder that this should be considered from a size standpoint.

Councilmember Shea noted that there were a lot of small spaces in town; and, opined that if everyone sought a waiver, there could be an issue. She suggested that this request be handled as the ordinance currently existed, with the Planning Commission then looking at the properties. Ms. Shea noted that the issue needed to be addressed and that the Council did not want to prevent businesses from locating in Middleburg.

Councilmember Hazard suggested the request be tabled for a month, with the staff reviewing the request and checking the zoning ordinance requirements. He further suggested that they find a middle ground if there was a way to do so legally.

Councilmember Shea noted that the property has been empty for two years, which was not the Town's doing. She further noted that the Council must now make a decision. Ms. Shea expressed an understanding of the applicant's desire to use the property; however, she noted that the Council could not forget that the property has been empty for two years.

*Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve a waiver for Site Plan 13-01, as allowed under Article 5, Section 5.1.2(B) of the Middleburg Subdivision & Site Plan Ordinance, associated with the change of use of the property located at 15 West Federal Street to professional office use.*

Vote: Yes – Councilmembers Littleton, Murdock, and Snyder

No – Councilmember Hazard

Abstain: Councilmembers Shea, Kirk and Stewart

Absent: N/A

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

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The Council agreed the staff needed to look into these provisions further.

Councilmember Shea noted that this was a larger issue than properties that did not conform to the Town Code. She suggested the Council obtain recommendations from the staff and Planning Commission and work on the overall issue.

Town Planner Beniamino advised Council that he would put this item on the Planning Commission's agenda for discussion.

Councilmember Shea advised that she would like for the Planning Commission discussion to happen soon. She further advised that she would like for them to stay in touch with the Council.

Town Administrator Semmes suggested it would be nice for the Commission to have some direction from the Council. She recommended the staff provide the Council with recommendations that could then be sent to the Planning Commission.

Councilmember Hazard suggested it would be better for the Commission to bring items back to the Council for their consideration. He noted that they could then develop recommendations. Councilmembers Kirk and Shea agreed.

Town Administrator Semmes noted that if the Council followed the existing ordinance, practically no one would get a waiver, which was not the intent. She asked whether the Council wanted to revisit the parking waiver fee. Ms. Semmes further asked whether the Town would use the revenue from it.

Ms. Lux opined that this was related to a discussion of what the Town wanted to do with Federal Street. She noted that there were telephone poles in the parking spaces and water that could not be controlled. Ms. Lux opined that there were a lot of issues that needed to be considered.

Council Approval - Transportation Project Enhancement Resolution – Route 50/Washington Street Pedestrian Improvement Project

Town Administrator Semmes advised Council that, if approved, the resolution would commit the Town to a twenty percent match. She noted that it would be in the form of cash or in-kind contributions. Ms. Semmes opined that part of this money could come from the money the Beautification Committee has saved for street lights and noted that they hoped to raise \$100,000. She advised Council that the Town had a last minute opportunity to get into this year's funding cycle. Ms.

Semmes noted that the money would not be available until 2015, which was when the cross walk project would be done. She suggested that rather than tearing up the street multiple times, the Town should attempt to do this as one project. Ms. Semmes noted that if the Town did so, it would be more likely to get the grant.

Vice Mayor Kirk inquired as to how much money the Town was talking about at twenty percent. Town Administrator Semmes reported that the staff intended to seek the maximum grant amount of \$1 million; however, she opined that the Town would not receive the maximum amount. She reiterated that the match did not have to be in the form of cash.

Vice Mayor Kirk expressed concern about spending this much money. Mayor Davis noted that the Town would receive \$1 million for its \$200,000 match. Councilmember Littleton noted that the Council could always decline the grant if it was received.

*Councilmember Snyder moved, seconded by Councilmember Shea, that Council adopt a Transportation Alternatives Project Endorsement Resolution for the Route 50/Washington Street Pedestrian Improvement Project.*

Vote: Yes – Councilmembers Kirk, Hazard, Littleton, Murdock, Shea, Snyder and Stewart  
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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Council Approval – Acceptance of Access, Utility & Storm Water Easements – Middleburg Professional Center

Town Planner Beniamino reminded Council that the Middleburg Professional Center’s site plan was approved in 2008. He noted that the applicant needed to record easements, which the Council needed to accept; however, this was not done. Mr. Beniamino explained that he was asking the Council to approve the concept of an easement and allow the Town Attorney to work with the developer’s attorney to develop the final language. He reminded Council that the zoning proffer talked about the Town’s desire to have a shared ingress/egress with its Well 4 property. Mr. Beniamino advised that the Town needed to accept easements related to access, utilities and storm water. He noted that this would not change the site plan and reported that they were already shown on it. Mr. Beniamino explained that because this involved Town property, the Council must approve the easements.

Councilmember Snyder reminded Council that they decided they would prefer a single access for the Town’s property and this property as they believed two entrances would be cumbersome.

*Councilmember Littleton moved, seconded by Councilmember Snyder, that Council approve the acceptance of the Access, Utility and Storm Water Easements and Deed of Maintenance Responsibilities for the Middleburg Professional Center, located at 115 The Plains Road, in a form that is acceptable to the Town Attorney.*

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

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## Discussion Items

### Resolution Adopting Guidelines for Closure/Rental of Public Parking Spaces

Town Clerk North advised Council that the changes they requested during their last meeting have been incorporated into the draft resolution.

Mayor Davis noted the comments offered by Mr. Gore related to funerals. After some discussion, the Council agreed to let the staff administratively handle any issues related to the need for more than five parking spaces for funerals under special conditions. It was noted that there have been times when cars that were parked for a funeral were parked facing the wrong direction. The Council asked the Police Chief to address this situation.

Town Clerk North reminded Council that because the fee for parking was increasing from \$10 to \$25 per day per space, the fee increase would need to be advertised for a public hearing. The Council held some discussion regarding the proposed fee. They asked that the last sentence in Section D (1) be deleted from the draft policy. The Council agreed to advertise a public hearing for the increase in the fee as proposed.

Councilmember Shea noted that the policy did not include a definition for the term “day”. Chief Panebianco noted that the meter times for that day were listed on the meter itself. He further noted that the bags were pulled at 3:00 p.m. each day. After some discussion, the Council asked that the resolution be amended to include the phrase “as listed in the application” in order to reference the day/hour to which the bagging of the meter(s) would apply.

The Council asked the staff to explore whether it was possible to use different bags/signage that would identify the hours the parking restrictions would apply.

Council discussed whether the policy could possibly be abused by someone seeking to close a parking space on a long-term basis. They agreed to see how it worked and if needed, would discuss it again in the future.

### Landing of Helicopters in Town Limits

Vice Mayor Kirk advised Council that she raised this issue because she referred two requests and other employees have referred other parties who wished to land helicopters at the Salamander Resort to their manager. She reminded them that when they discussed the resort, they agreed they did not want to allow for the landing of helicopters. Ms. Kirk agreed this would not be a problem if it only occurred four times a year; however, she was aware of seven inquiries that have been received.

Town Planner Beniamino advised Council that the State Code prohibited localities from regulating helicopter landings unless they were repetitive. He suggested they instruct the staff to place an item on the Planning Commission’s agenda to start a zoning text amendment that would require a special use permit if landings on a single site were repetitive. Mr. Beniamino noted that it would be his call to make as to what was determined to be “repetitive”. He advised that when an applicant sought a special use permit, the Town could place conditions on the permit; however, the Town could not impose blanket regulations regarding helicopter landings.

Councilmember Hazard asked that when the staff took this item to the Planning Commission, they determine whether other jurisdictions have identified a number when defining the term “repetitive”.

Town Planner Beniamino reiterated that this would be the Zoning Administrator's call. He noted that it had to do with frequency, timing and when the landings occurred. Mr. Beniamino opined that if there were three landings in a week but no more for eight months, he would not be comfortable saying that was repetitive.

Councilmember Hazard noted that he was not saying a definition should be put in the ordinance; however, he would like for the staff to do research before the item was presented to the Planning Commission. He asked that they also see if there was any case law.

Town Attorney Plowman advised Council that this was the Zoning Administrator's determination. She advised that if he sent a property owner a letter stating that he must seek a special use permit, the owner could object by filing an application with the BZA.

Council asked that the staff determine whether any other jurisdiction, particularly small jurisdictions, had regulations related to helicopter landings.

There was some discussion regarding whether it would be dangerous if a helicopter flew over an event, such as the ones held at the Glenn Wood Park. Town Planner Beniamino noted that the helicopters must meet FAA regulations. (Councilmember Murdock left the meeting at 7:53 p.m.)

The Council agreed to send this item to the Planning Commission for their recommendation.

#### Virginia Local Disability Program (VLDP)

Town Administrator Semmes advised Council that the Town must make a choice tonight. She noted that the General Assembly had placed another requirement on local governments that they did not fund, this being the Virginia Local Disability Program (VLDP). Ms. Semmes explained that municipalities were required to participate in the VLDP administered by the Virginia Retirement System (VRS) unless they opted out by November 1. She noted that this election was irrevocable in either direction. Ms. Semmes reported that practically all localities were opting out. She asked whether the Town wanted to be stuck with one insurance provider forever or whether it would like to have the ability to shop around. Ms. Semmes advised that both VML and VACO have developed plans; and, noted that everyone seemed to be going with the VACO plan as it was easy and there was no cost to the Town until it had an employee in the hybrid retirement system. She explained that the Council did not need to decide on an insurance company at this time as it had until January 1 to make the insurance available. Ms. Semmes reiterated that the Council needed to decide if it wanted to go with VRS or opt out and advised that the staff was recommending the Town opt out due to the cost.

*Councilmember Hazard moved, seconded by Vice Mayor Kirk, that Council adopt the Resolution approving an Irrevocable Election Not to Participate in the Virginia Local Disability Program.*

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

No – N/A

Abstain: N/A

Absent: Councilmember Murdock

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

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#### Town Council Meeting Schedule

Town Clerk North reminded Council that traditionally they have cancelled the November and December work sessions due to the holidays, with the understanding that one would be scheduled on the third Thursday of the month if a need arose. She further reminded them that the Council

rescheduled their October work session to October 22<sup>nd</sup>. Ms. North noted that a question arose during the polling of Council as to whether this work session should also be cancelled; however, the staff discouraged it as the auditors were supposed to offer their annual audit report during that meeting. She advised that the auditors have requested that their report be changed to the November 14<sup>th</sup> regular meeting. Ms. North further advised that the staff had only one item for the October work session agenda at this time and asked whether the Council was interested in cancelling the work session, particularly given that they were scheduled to hold their retreat follow-up the following week.

The majority of the Council agreed to cancel the October, November and December work sessions. They noted that a work session could be scheduled if needed.

**Information Items**

Councilmember Shea announced that there would be a moving sale at 115 The Plains Road the weekend of October 19<sup>th</sup>.

Councilmember Snyder announced that the Hunt Country Classic Car Show would be held on October 13th. He noted that he would present an award on behalf of the Mayor.

Councilmember Shea announced that Mark Leepson would be at the Middleburg Common Grounds on October 13th to talk about his books.

Mayor Davis noted that her father's book signing would also be held on October 13<sup>th</sup> at the National Sporting Library.

There being no further business, a motion was made and approved to adjourn the meeting at 8:02 p.m.

APPROVED:

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Betsy A. Davis, MAYOR

ATTEST:

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Rhonda S. North, MMC, Town Clerk