



**MIDDLEBURG TOWN COUNCIL
REGULAR WORK SESSION
MINUTES**



Thursday, March 26, 2015

PENDING APPROVAL

- PRESENT:** Vice Mayor C. Darlene Kirk
Councilmember Kevin Hazard
Councilmember Catherine “Bundles” Murdock
Councilmember Erik J. Scheps
Councilmember Kathy Jo Shea
Councilmember Mark T. Snyder
- STAFF:** Martha Mason Semmes, Town Administrator
Rhonda S. North, MMC, Town Clerk
A.J. Panebianco, Chief of Police
Cindy C. Pearson, Economic Development Coordinator
William M. Moore, Town Planner
- ABSENT:** Mayor Betsy A. Davis
Councilmember Trowbridge Littleton

The Town Council of the Town of Middleburg, Virginia held their regular monthly work session on Thursday, March 26, 2015 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Vice Mayor Kirk called the meeting to order at 6:00 p.m.

General Assembly Report – Delegate Randy Minchew

Delegate Minchew noted that this was his fourth year in the Virginia General Assembly and opined that this year was the most civil, productive session that has occurred in fifteen or twenty years. He reported that for the first time in sixteen years, the Assembly sent a budget to the Governor that he signed without a single line item veto. Delegate Minchew credited Governor McAuliffe with being a good governor with regard to economic development and in the generation of investments. He advised that the Assembly encourage him to use his gifts and agreed to provide more funding for the Governor’s Economic Development Opportunity Fund so he could do some job creation. Delegate Minchew reported that the Assembly ended its session a day early, saving the taxpayers \$58,000.

Delegate Minchew reported that the last bill they worked on was one on which he was the lead, that being the Omnibus Ethics Reform Bill. He noted that he was asked to Chair the Ethics Committee this year and advised that the Committee decided the process would be bi-partisan and cordial. Delegate Minchew reported that the bill cleared the House unanimously, with a slightly different version clearing the Senate. He advised that they were able to harmonize the two and reach a compromise.

Delegate Minchew reminded Council that the Assembly adopted a budget during the even numbered years; and, during the odd numbered years, after taking the pulse of the economy, did what it had to do. He reported that in December, the State expected more sales revenue; however, the economic news showed a contraction in incomes. Delegate Minchew further reported that in January, they received the good news that the fourth quarter estimated tax revenues were up; therefore, the State had more money with which to work. He cited this as the reason that

Loudoun County had a new circuit court judge. Delegate Minchew reported that some litigants would wait up to eight months to get court time and advised that there would be a fourth circuit court judge effective July 1st. He advised that the budget was balanced and included \$1 million less in spending due to the elimination of some fees, a 1.5% teacher salary increase and the funding of the key elements of government.

Delegate Minchew noted a land preservation tax bill that was introduced in December that worried him and explained that the Governor's budget trimmed monies for that tax credit program. He reported that in the end, the tax credit funding was trimmed but the program was left intact. Delegate Minchew opined that this program was crucial to Middleburg as it contained and was surrounded by scenic areas.

Councilmember Murdock noted that there were rumors that there would be a change in the program so the conservation easements would only be in effect for ten or fifteen years. Delegate Minchew reported that that particular bill died in committee. He noted that a property rights advocate was in Richmond seeking the ability to force third party arbitration when the holder of an easement disagreed with the landowner's desired interest, which he believed would create unnecessary litigation.

Delegate Minchew reported that he spent a lot of time working on transportation and reminded Council that this was the third installment of the transportation bill that was adopted in 2012. He noted that that bill reworked how transportation was financed and created a Northern Virginia Special Taxing District. Delegate Minchew reported that last year, the Assembly directed that the purpose for the funds in this area would be for congestion relief. He reported that this year, Governor McAuliffe filed a bill that reworked where the funding went and advised that there would now be more local control and involvement than occurred in the Commonwealth Transportation Board (CTB). Delegate Minchew reported that he was impressed with VDOT's crews, in particular at the St. Louis office. He noted that last year, he carried a bill that created a special law for Loudoun County with regard to the maintenance of gravel roads. Delegate Minchew reminded Council of the many rural roads that have not changed since the Civil War and advised that he wanted to protect them in their historical context. He reported that he filed a bill that slightly tweaked the programs by allowing some of the paving money to be used for other kinds of improvements. Delegate Minchew explained that VDOT was using a mix of aggregate and cement, which they could use as a base, with gravel then being placed on top of it so it would look like a gravel road. He noted that this allowed a road that got a "pounding" to maintain its gravel status.

Delegate Minchew reported that other issues that were addressed in this session included pay raises for the State's employees, investing in higher education and creating additional slots for in-state tuition students in Virginia's public colleges. He explained that universities were taking a larger percentage of out-of-state students as they paid more money and advised that they must now have a higher percentage of in-state students. Delegate Minchew reported that they put \$132.9 million into health care services for those in the coverage gap. He noted that they did not expand Medicaid as there was no support for it. Delegate Minchew advised that the money would fund things like the Loudoun County Clinic. He reminded Council that the Supreme Court had a case before it regarding the Affordable Care Act, and explained that the question was whether an individual was entitled to subsidies if there was no state exchange. Delegate Minchew reported that the Governor had until 5:00 p.m. on March 29th to sign or veto the bills and opined that he may look at the Omnibus Ethics Reform Bill. He noted that the bill created an Ethics Council to issue advisory opinions and opined that the Governor would like to have more seats on that Council. Delegate Minchew advised that if the Governor offered that proposal, the Assembly would work with him on it. He thanked the Council for the opportunity to serve Middleburg.

Vice Mayor Kirk noted that they were pleased with what has been accomplished. Councilmember Snyder noted that he was pleased that the session was relatively calm.

Delegate Minchew noted that the General Assembly had an interesting discussion regarding the State song and opined that the current one was inappropriate. He reported that they ultimately agreed there would be two State songs – a traditional one and a contemporary one.

Councilmember Murdock advised Delegate Minchew that an issue recently came before the Council that had to do with the Dillon Rule and the inability of the Town to prevent a franchise store from coming into town. Town Administrator Semmes noted that it was also a constitutional issue as the Town would be picking a company based on its ownership.

Councilmember Murdock questioned whether it was possible for small towns in Virginia, with a population of 2,000 or less, to have some jurisdiction over how large a business franchise could come to their locality. Delegate Minchew advised Council that the Dillon Rule was an applied rule of constitutional law and noted that he would support loosening it to a certain degree. He noted, however, that he did not want to go to purely Home Rule. Delegate Minchew noted that Middleburg, which was an historic district, had as much control as it deemed to use over issues such as massing, architecture and signage. He suggested that keeping a national chain from coming in would require a carefully written statute. Delegate Minchew cited the State of Vermont who adopted such a law, which was challenged by Walmart on constitutional grounds. He noted that Walmart was now in Vermont. Delegate Minchew suggested the Town use the powers it already had over massing, architecture, etc. He advised that he would research this matter; however, as a lawyer, he did not believe the Town could adopt a local ordinance prohibiting national chains because it only wanted local retailers.

Councilmember Snyder noted that the Planning Commission discussed this years ago, including the tools it had to shape businesses. He opined that it already had quite a bit.

Councilmember Murdock noted that she was trying to protect the small businesses. Councilmember Shea suggested this was also an economic development issue. She suggested the need to look at the powers of local governments in developing economic development plans and the enforcement of those plans.

Delegate Minchew noted that Leesburg had an anti-big box ordinance that worked within the realm of zoning by saying “no structure could be larger than xxx square feet”. He explained that this was legal. Town Administrator Semmes reported that Middleburg had small parcels; therefore, there was not a lot of room for chains. She noted, however, that some franchises were now going to a smaller footprint. Ms. Semmes opined that the Town could also address them from a signage standpoint.

Councilmember Snyder noted that Middleburg liked the character of the town and its businesses and advised that it wanted to keep the local businesses. He further noted that the Town has looked at things to make it less appealing to chains; and opined that just being small made it less appealing.

Delegate Minchew suggested the Town may wish to consider a Charter amendment as that would be specific to Middleburg. He advised that he would get together with Town Attorney Plowman to see what could be done in that regard. Delegate Minchew agreed that what Middleburg had was special and agreed it had the right to protect what was special.

Town Administrator Semmes noted that she received something from the Virginia Municipal League that talked about the new allocation for transportation funding that would emphasize urban development areas (UDA). She further noted that Middleburg did not have areas for growth and suggested that if the new rules allowed extra points based upon growth in an UDA, this would be problematic for the Town. Ms. Semmes inquired as to what funding was included in that fund. She advised that the Town has only been able to apply for transportation enhancement funds and noted that the CTB made those decisions. Ms. Semmes questioned whether those funds would be included in the new rules and whether the Town must create an UDA. Delegate Minchew opined that it would not. He reminded Council that former Delegate Clay Athey came up with the idea of mandatory UDAs and opined that this made no sense and was an unfunded mandate. Delegate Minchew noted that this was changed so it was optional. He advised that he would check to see if there were bonus points for creating an UDA.

Delegate Minchew reported that the Northern Virginia Transportation Authority had a number of projects in their two-year plan, most of which were for areas that were heavily congested in Eastern Loudoun County. He noted that the projects included two grade separated interchanges in Leesburg. There was some discussion regarding area road projects.

Delegate Minchew thanked the Council for its invitation and noted that he would research the national chain issue with the Town Attorney. Town Administrator Semmes noted that Ms. Plowman has researched the case law on this matter.

Delegate Minchew advised Council that he would return in the future and suggested he do so prior to the next session of the General Assembly, in the event there was something on which the Council wanted him to work, such as a charter amendment. He recommended he get together with the Council in November, as legislation was introduced in early December. Delegate Minchew noted that he could only file fifteen bills this past year; however, there were no restrictions in even numbered years.

Council Appointments – Economic Development Advisory Committee

Councilmember Hazard moved, seconded by Councilmember Snyder, that the Council appoint Prem Devadas, Ann Hallmark and Duane Ellis to one-year terms on the Economic Development Advisory Committee, said terms to expire April 1, 2016. Councilmember Hazard further moved, seconded by Councilmember Snyder, that the Council appoint Sean Martin, Mark Metzger and Daniel Leger to EDAC for two-year terms, said terms to expire April 1, 2017.

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

No – N/A

Abstain: N/A

Absent: Mayor Davis and Councilmember Littleton

Council Approval – Amendments to Town Code Chapter 97 pertaining to taxes

Councilmember Snyder moved, seconded by Councilmember Shea, that Council adopt an ordinance to amend Town Code Section 97-8 pertaining to real property and business personal property taxes; to rescind Town Code Section 97-8.1 pertaining to the proration of taxes on motor vehicles; and, to amend Article V pertaining to tax exemption for the elderly and disabled to identify it as Article IIA.

Vote: Yes – Councilmembers Kirk, Hazard, Murdock, Scheps, Shea and Snyder
No – N/A
Abstain: N/A
Absent: Mayor Davis and Councilmember Littleton

Council Approval – Ordinance to amend proffers associated with conditionally zoned land – 500 North Pendleton Street – Salamander Development, LLC

Town Planner Moore reminded Council that as of their last meeting, they had a proffer statement dated early March, on which he and the Town Attorney had some minor comments that they wanted addressed. He reported that they were both now satisfied with the revised proffers dated March 19th. Mr. Moore further reported that this matter was taken to the Planning Commission during their last meeting to update them on the changes that have occurred since they forwarded their recommendation to the Council. He noted that the Commission was now aware of the removal of the request for private streets as a part of the proffer amendment, as well as the inclusion of the preliminary layout exhibit as a part of the proffers. Mr. Moore reminded Council that he wanted to give the Commission an update in order to see if they had any comments for the Council. He reported that the Commission held some discussion of the flexibility that may be allowed with regard to the layout design of the subdivision plans, if the proffers were adopted. Mr. Moore confirmed there was some flexibility as there was some discretionary language in the proffers. He reminded Council of the speaker who spoke during their public hearing about the location of the traffic circle and advised that he assured the Commission that if it was moved to the north, it would not put the plan out of substantial conformance. Mr. Moore reported that both he and the Town Attorney were satisfied that the application was in a form that the Council would be able to act upon and noted that an ordinance was included in their agenda packet.

Councilmember Snyder moved that Council deny Zoning Map Amendment 14-03, Salamander's proffer amendment for the following reasons: (1) the applicant has not provided a recent independent traffic impact analysis for traffic on Chestnut, Reed or Stonewall streets in Ridgeview, which are narrow and have no sidewalks; (2) the proffer does not include a plan to use another route for construction vehicle traffic - these streets have old water and sewer lines which heavy vehicles are likely to damage; (3) the proffer does not conform to the grid pattern of the adjacent area as specified in the Visioning Committee Report and in the Comprehensive Plan, neither is the proposed development an extension of existing town neighborhoods for primary residences, but for luxury resort housing as an adjunct to the resort; and (4) the existing proffer statement is preferable to the Town. (The motion died for the lack of a second.)

Councilmember Hazard moved, seconded by Councilmember Shea, that Council adopt Zoning Map Amendment 14-03, an Ordinance to amend the proffers associated with conditionally zoned R-1 Single Family Residential, R-3 Residential and MUV Mixed Use Village District portions of the property at 500 North Pendleton Street.

Councilmember Murdock advised Council that she would vote for the motion currently on the table; however, she wanted to comment on Councilmember Snyder's motion as she understood the concerns, especially those related to traffic. She further advised that when Salamander first proposed their project, the Council said that spreading the traffic out was beneficial to the neighborhoods versus having all of the traffic on one street. Ms. Murdock noted that she was in favor of having as many entrances as could be added as it was healthy for the town. She further noted that traffic was always a problem.

Vice Mayor Kirk opined that Chestnut Street was in bad shape. Town Administrator Semmes noted that she would report this to VDOT.

Councilmember Hazard noted that during the last Council meeting, Councilmember Shea suggested reversing the stop signs on Chestnut Street and advised that the staff was going to discuss this with VDOT. He noted that this would help; however, it was not a part of the proffer revisions, but rather was something the Town must do. Mr. Hazard advised Council that the Planning Commission vetted this request closely. He noted that as to Councilmember Snyder's point regarding the traffic study, this must be done as a part of the site plan. Mr. Hazard advised that the Commission also discussed the traffic circle and noted that Mr. Plescow indicated it would be a part of their consideration and that they would look at the topography in that area. He reported that the Planning Commission asked Salamander if they could provide screening in the event they could not move the circle. Mr. Hazard advised that the Commission discussed most of Councilmember Snyder's points. He noted that the applicant was asked to do certain things and opined that they met almost ninety-five percent of what they were asked.

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

No – Councilmember Snyder

Abstain: Vice Mayor Kirk

Absent: Mayor Davis and Councilmember Littleton

Council Discussion – Asbury Church

Town Administrator Semmes reminded Council that during their last meeting, she mentioned that emergency repairs have been made to the Asbury Church. She reported that since that time, she has taken an architect, Jane Covington of the HDRC and a business owner into the building. Ms. Semmes advised as they talked about how to move forward, one of the ideas that was raised was to take advantage of the expertise in the community. She noted that someone mentioned that Bill Turnure had a complete set of drawings because he did a feasibility study of the building. Ms. Semmes suggested an ad-hoc committee be formed to advise Council on the best way to move forward. She further suggested that if the Council believed this was reasonable, she could return with some names for their consideration.

After some discussion, the Council agreed to appoint an ad-hoc committee to help the Town get the building into a useable condition. It was noted that the use of the building would be addressed at a later date.

Council Discussion – FY '16 General Fund Budget (continued)

Town Administrator Semmes advised Council that she was able to follow the Council's direction to equalize the tax rate and include a three percent cost-of-living-adjustment for the employees in the latest version of the budget. She reported that she has provided additional information from Visit Loudoun and reminded Council that, during their last meeting, they indicated that they wanted to know how the money that they already received was spent and how they would use any additional funds.

Councilmember Snyder noted that he put together a budget summary that the Council may find useful. He asked that it be distributed to the remainder of Council.

The Council held some discussion regarding Visit Loudoun. They noted that the Town already provided financial support for some of the items that they cited in their memorandum. The Council agreed to include \$30,000 in the budget for them. It was noted that the Town just received the economic development report from The CLUE Group. The Council suggested that the additional funds be left in the Economic Development Budget and noted that there may be some specific items within the report that Visit Loudoun could help to accomplish.

Councilmember Shea opined that it would help the Council make decisions if the Economic Development Budget was broken into segments. She proposed it be broken into the following segments: marketing, events, administration, committees and services. Ms. Shea suggested the budget include one amount for each category, with a breakdown of the items within each one.

Vice Mayor Kirk noted the proposed funding for a space needs assessment. She questioned whether this was for the Police Department and Facilities & Maintenance Supervisor. Town Administrator Semmes reported that it was for everything. She reminded Council that she has offered the Facilities & Maintenance Supervisor the opportunity to move his office to Well 4, which contained a kitchen, restroom and garage; however, he declined. Ms. Semmes reiterated that the proposed space needs assessment would include everyone. She opined that it was important to know how much space was needed in the future rather than just constructing new buildings. Ms. Semmes reminded Council of the potential land that would be coming to the Town from Salamander and suggested the Town may be able to leverage it. She noted that the Police Chief provided her with the Police Department's space needs and advised that the Council knew from its last meeting that the Council Chambers was not large enough. Ms. Semmes reported that she had a brief meeting with the Mayor this week and brain stormed this item. She advised that she proposed to put money in the budget to take the next step, which was to take the space needs and look at properties that could accommodate them. Ms. Semmes reminded Council that the Town had a civil engineer on call that could be used for this project.

Councilmember Snyder inquired as to the basis for the \$100,000 figure. Town Administrator Semmes confirmed it was an estimate based on her knowledge of what it cost to develop site plans at a concept level.

Councilmember Hazard questioned whether it made more sense to identify properties first. Town Administrator Semmes suggested that discussion be held in closed session during the next work session.

Vice Mayor Kirk suggested the staff not get married to moving the Town Offices to the Salamander property. Town Administrator Semmes confirmed that the goal was to keep it convenient and in town.

Town Administrator Semmes reported that she included \$100,000 in the proposed budget for updates to the Asbury Church. She advised that there were some budget uncertainties. Ms. Semmes noted that while it would not go directly into the Town's budget, the Town has requested additional funds from the County for the Route 50 Crosswalk Project, which they have included in their draft CIP for 2017. She advised that this would only impact the Town if it did not get the funding. Ms. Semmes noted that if this occurred, she did not know what that would do to the ability of VDOT to continue with the project as they could not bid it out until all of the funding was secured. She advised that if this occurred, it would affect the ability of the Town to do the water line project. Ms. Semmes reminded Council that twenty-eight percent of those costs would be handled by VDOT, plus they would administer the project. She advised that there would be additional management costs if the Town had to do the project on its own. Ms. Semmes advised that she did not have a cost estimate for the way finding signage; however, she noted that it made sense to do the ones on Route 50 as a part of that project. She advised that while she did not yet have a proposal, the staff met with Southern Software about their billing software. Ms. Semmes reported that a number of communities were abandoning Logics and going to this system. She expressed hope to have a cost by Council's next meeting and noted that they were currently working on the cost to convert the existing data.

Councilmember Snyder inquired as to who was using the new system. Town Administrator Semmes advised that Stephens City was currently using the system; and, noted that Berryville and Round Hill were purchasing it.

Loudoun County Management Fellow

Town Administrator Semmes introduced Elisa Bergeron, a management fellow with Loudoun County. She noted that Ms. Bergeron had a Master's Degree in Public Administration. Ms. Semmes advised that she started her internship last July and would do rotations through the County government through June. She noted that she invited her to find out what things were like on a town level.

Ms. Bergeron advised that her experience has been great and noted that she found it wonderful to walk around the town with the staff.

Councilmember Murdock inquired as to what Ms. Bergeron would do in June when her internship was complete. Ms. Bergeron advised that she would apply for jobs. She inquired as to what got the members of Council interested in serving. Councilmembers Hazard and Murdock noted that people encouraged them to do so. Vice Mayor Kirk noted that her mother was on the Council for twenty-two years, serving as Vice Mayor and Chair of the Finance/Personnel Committee. She advised that when she passed away, she asked the Council to allow her to finish out her term and has been serving ever since. Councilmember Shea noted that she moved to Middleburg after having worked here for many years and thought she needed to "step up or shut up". Councilmember Snyder noted that he moved here when he was in his twenties and fell in love with the town. He advised that he was appointed to the Planning Commission and a few years later ran for Council. Mr. Snyder noted that he served on both for a while. Councilmember Scheps noted that he moved here and wanted to get involved. He advised that he was involved in the Fire Department and was trying to be part of the community. Mr. Scheps expressed hope that his tenure would be as long as the other members. Councilmember Murdock noted that this would be her fourth and last term on the Council. She opined that the Town had a lot of new young people and suggested it was time for them to get involved. Ms. Murdock suggested the Council needed to consist of a combination of people with a history and young people. She opined that it would be nice if multiple people ran for the same seat. Councilmember Snyder noted that when he first ran for Council, debates were held at the Community Center. Councilmember Shea reported that she and Councilmember Murdock were going to do interviews with the newspaper explaining why they ran for public office.

Councilmember Murdock noted that Middleburg was a volunteer town. Councilmember Scheps noted that EDAC was a new committee. He advised that a lot of its members did not live in town, but worked here. Mr. Scheps noted that they felt passionate about the town.

Town Council Reports

Councilmember Murdock inquired as to the status of the Marshall/Madison Street Intersection Project and noted that she, the Chief and a volunteer were scheduled to bring a huge horse trailer into town next week to look at alternate routes to ensure that access could be made to the Spring Races' site.

Town Planner Moore reported that he had a revised schedule from the contractor and advised that if all went as planned, Madison Street would be open to north/south traffic in time for the Spring Races. He noted that there were still some hurdles to pass in order to make that happen. Mr. Moore recommended that Councilmember Murdock do the trials just in case.

Chief Panebianco reported that they would check all of the streets, starting at Pinkney Street and working their way back up. He suggested they do the trials in his vehicle first and then bring the trailer through.

Councilmember Shea questioned whether the horse trailers could go through the Salamander Resort property if necessary. Councilmember Murdock opined that they could not due to the turns located within the property. She noted that the exit would not be a problem. Vice Mayor Kirk noted that Salamander was scheduled to have a large number of guests that weekend.

Discussion

Food Trucks

Town Planner Moore reminded Council of his e-mail related to the food truck. He advised that his hands were tied as there was a process in the Town Code that defined this as an itinerant vendor. Mr. Moore opined that this was confusing, as one of the criteria was that the owner must have a business in town. He noted that by definition, an itinerant vendor was a traveling vendor and advised that they usually had to secure an itinerant vendor's license. Mr. Moore stressed that if the criteria was met, he must issue the permit. He opined that the Council's discussion was a larger discussion than this particular vendor. Mr. Moore advised that Hammer Down BBQ has had a presence in Middleburg at the farmer's market and wanted to have a presence at Mt. Defiance Cidery. He noted that it would operate on the weekends only. Mr. Moore advised that he did not have all of the documents; however, he opined that they would basically start work in the late morning and operate until they ran out of food or until 6:00-7:00 p.m. at the latest.

Councilmember Murdock questioned whether they would continue to be a vendor at the farmer's market. Economic Development Coordinator Pearson advised that it was her understanding that they would do both.

Town Planner Moore reported that in terms of the site, this would require some restriping of the existing parking spaces. He opined that they were going to make everything work under the current rules.

Councilmember Shea advised Council that she sent the Town Planner an e-mail saying that she understood that the intent behind the regulations was to be able to allow event food trucks. She further advised that she did not see this as an event. Councilmember Hazard agreed they were only to be for a short time frame. Vice Mayor Kirk opined that the ordinance was not written in accordance with the intent.

Councilmember Hazard opined that the ordinance needed a time frame. Councilmember Snyder noted the need to revisit the ordinance. Councilmember Shea questioned whether the permit would be for each time the vendor set up or for a season. Town Planner Moore opined that it was not clear in the ordinance. He further opined that this would be a permanent occupancy under the hours and days that he established. Mr. Moore noted that this would be a one-time permit.

Councilmember Snyder reminded Council that they opened the door to this by looking at an application from someone they liked and wanted to accommodate. Vice Mayor Kirk noted that the Council was trying to protect its existing businesses and restaurants as others wanted to bring in food trucks. She reminded Council that when the resort was under construction, Salamander brought in a food truck. Ms. Kirk reiterated that the Council was trying to protect the local businesses.

Town Planner Moore noted that the ordinance was very clear that the vendor must have a business within the corporate limits. He reported that this particular vendor was looking to establish an office for their catering business and could not get a permit until they did. Mr. Moore advised that they have already identified some potential office locations.

Councilmember Murdock suggested this ordinance be revisited. She questioned whether this particular permit would be “forever”. Town Planner Moore confirmed it would and advised that there would be no end date.

Councilmember Hazard noted that the Council assumed this would be for an event. Vice Mayor Kirk suggested the Council needed to revisit the ordinance quickly and inquired as to how quickly it needed to be done. Town Planner Moore advised Council that there was no stopping the current application. He opined that the urgency would be to head off future applications and suggested the Council refer this matter to the Planning Commission as soon as possible. Mr. Moore opined that it would be helpful for the Commission if the Council had any particular direction in which they wanted to head. He questioned whether they wanted to remove this as an administrative permit and have the permits issued by the Council only or whether they wanted something administrative that contained strict limitations such as on the number of events.

Councilmember Murdock suggested the permits be tie to events. Councilmember Shea suggested that if it extended beyond an event, the applicant must come to the Council. Councilmember Hazard suggested the permit be limited to a specific amount of time.

Town Planner Moore noted that the applicant must define the dates and times he will set up as an itinerant vendor. He advised that the vendor may include an end date in his application.

Councilmember Hazard noted that this particular food truck would sit in the parking lot. He questioned whether the food service would be separate from the cidery. Mr. Hazard further questioned whether the customers would be able to take the food into the cidery and noted that the cidery was not licensed for food. Town Planner Moore opined that the food truck vendor did not have any room to provide seating due to the constraints of the site. He advised that he would work closely with him to ensure he was satisfied with the criteria and that it was safe.

Councilmember Shea questioned whether a cidery was allowed to serve food. Councilmember Murdock opined that it was not and explained that it was trying to figure out a way to do so.

Councilmember Shea noted that part of the requirements for a restaurant was that only food that was prepared on the site could be served. She questioned whether this constituted on-site food preparation. Ms. Shea noted that the food truck could not put tables and chairs in the parking lot and noted that patrons would have to eat inside the building. She questioned whether this would be considered the service of food from a Health Department perspective. Councilmember Snyder noted that they may need a Health Department permit. Councilmember Shea asked the Town Planner to check on how the cidery was getting around the Health Department’s regulations.

Vice Mayor Kirk suggested the Town Planner try to get the vendor to offer an end date and noted that he ran out of product at the Farmer’s Market.

Town Planner Moore questioned whether the Council wanted this type of activity to require their approval. Councilmember Hazard suggested that language be developed that would identify when it would be an administrative permit and when Council approval would be required. Councilmember Shea noted that when the Council originally talked about this, they talked about tying it to an event. She suggested that one could argue that it could be tied to the summer season.

Town Planner Moore opined that he had enough direction to start a conversation with the Planning Commission.

Councilmember Scheps expressed concern that if people saw this vendor, they may say “Middleburg is now doing food trucks”, which could start something. Town Planner Moore noted that under the existing criteria, the itinerant vendor must be located on a commercially zoned lot and advised that there were not many businesses that had a parking lot with excess parking. He reminded Council that the business must continue to meet their parking requirements, as well as provide parking for the food truck.

Town Administrator Semmes suggested that one of the criteria be that the food truck must be for a special event and that it would be a short-term use in a space approved by the Town. She noted that it would help to have food trucks during Christmas in Middleburg.

Councilmember Scheps reminded Council of the lobster roll truck that set up for the grand opening of a business on Federal Street. Councilmember Hazard noted that the Council was trying to keep this activity for the restaurants and noted that that food truck was associated with a restaurant’s grand opening.

Vice Mayor Kirk suggested the food trucks should not be allowed in the public parking lots. Councilmember Shea noted the need to make sure the ordinance identified that this was for prepared food only and not for the sale or delivery of groceries.

Councilmember Scheps questioned whether a food truck needed to have a specific license. Town Planner Moore confirmed it must have a Health Department permit. He reminded Council that the ordinance provisions were not specific to food trucks but rather were specific to itinerant vendors; therefore, the vendor could sell anything. Councilmember Shea suggested the ordinance needed to address the purpose of the truck itinerant vendors.

Vice Mayor Kirk inquired as to how quickly this matter could return to the Council. Town Planner Moore noted that there were a lot of details to work out. He advised that the Commission would start the conversation this month and opined that it would take a couple of months to develop a draft ordinance and then hold a public hearing. Councilmember Shea suggested the Council and Commission hold a joint public hearing.

Vice Mayor Kirk questioned whether the Council could revoke the existing ordinance to prevent other food trucks from coming into town. Town Planner Moore noted that this would still require public hearings by the Council and Planning Commission as it would be an amendment to the zoning ordinance.

Chalking of Tires

Chief Panebianco displayed a sample sticker for the “free parking” on Washington Street. He reported that he was looking for bags that would be suitable and explained that he did not want to use red bags as people associated that color with no parking. Chief Panebianco advised that he was looking for a white or green bag, onto which the stickers would be applied. He opined that they were large enough to be seen. Chief Panebianco reported that the department has already received the gear to chalk the tires and advised that this would begin once they have the bags. He advised that they would promote this test on Facebook and their website and would make an announcement during a Council meeting. Chief Panebianco opined that this would begin sometime in May. Vice Mayor Kirk suggested the use of the sign message boards as well.

Councilmember Snyder questioned whether the motorist would get a twenty dollar ticket if they exceeded the two hour limit. He opined that this was high.

Councilmember Shea questioned whether the chalk was water resistant. Chief Panebianco reported that the chalk would be applied to the tire tread so it would be protected. He noted that he purchased a jay hook in order to chalk the tire tread and advised that the department would hold a meeting in April, during which time the staff would test chalk the tires on his vehicle.

Fitness Memberships

Town Administrator Semmes noted that there was one additional budget item that she needed to raise for discussion – that being fitness memberships. She advised that the staff was proposing to offer full-time employees twenty dollars a month for fitness memberships. Chief Panebianco requested that part-time employees also receive this benefit, excluding the part-time police officers. He explained that this would allow this benefit to be available to the part-time administrative assistant in his office.

Councilmember Shea questioned whether this benefit should also be offered to the remainder of the Town staff. Town Administrator Semmes reported that it would be a benefit that would be open to all of the Town’s employees.

Councilmember Shea noted that this benefit would then also apply to part-time employees who may work in the Town Office. She further noted that this was not about one employee. Chief Panebianco suggested it apply only to “permanent” part-time employees.

Closed Session – Personnel

Councilmember Murdock 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)(1) pertaining to the discussion, consideration or interviews of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of the public body. Councilmember Murdock further moved, seconded by Councilmember Shea, that these matters be limited to a discussion of the salary of a member of the Police Department. Councilmember Murdock further moved, seconded by Councilmember Shea, that in addition to the Council, the following individuals be present during the closed session: Martha Semmes and A.J. Panebianco. Councilmember Murdock further moved, seconded by Councilmember Shea, that the Council thereafter reconvene in open session for action as appropriate.

Vote: Yes – Councilmembers Kirk, Hazard, Murdock, Scheps and Shea
No – Councilmember Snyder
Abstain: N/A
Absent: Mayor Davis and Councilmember Littleton

Vice Mayor Kirk 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 requested that in the future, items such as the one just discussed in closed session be made more generic so they could be discussed in open session.

There being no further business, Vice Mayor Kirk declared the meeting adjourned at 7:50 p.m.

APPROVED:

Darlene Kirk, Vice Mayor

ATTEST:

Rhonda S. North, MMC, Town Clerk