



**MIDDLEBURG TOWN COUNCIL
Regular Monthly Meeting Minutes**



Thursday, July 9, 2015

PRESENT: Vice Mayor C. Darlene Kirk
Councilmember Kevin Hazard
Councilmember Catherine “Bundles” Murdock
Councilmember Erik J. Scheps
Councilmember Mark T. Snyder
Councilmember Kathy Jo Shea

STAFF: Martha Mason Semmes, Town Administrator
Angela K. Plowman, Town Attorney
William M. Moore, Town Planner
Debbie J. Wheeler, Town Treasurer
A. J. Panebianco, Chief of Police
Cindy C. Pearson, Economic Development Coordinator

ABSENT: Mayor Betsy A. Davis
Councilmember Trowbridge Littleton

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, July 9, 2015 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Vice Mayor Kirk led Council and those attending in the Pledge of Allegiance to the flag.

Councilmember Murdock moved, seconded by Councilmember Shea, to amend the agenda to move item XII(B) (Discussion – Short-term Rental Property Policies in Town) to the work session.

Councilmember Murdock explained that she wanted to allow the staff time to work on this matter and would like for the Mayor to be present for the discussion.

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

No – N/A

Abstain: N/A

Absent: Mayor Davis and Councilmember Littleton

Approval of Minutes

Councilmember Snyder moved, seconded by Councilmember Murdock, that Council approve the June 11, 2015 Regular Meeting and June 25, 2015 Work Session Meeting Minutes as amended.

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

No – N/A

Abstain: N/A

Absent: Mayor Davis and Councilmember Littleton

Public Comment

Steve Plescow appeared before Council representing Seven Loaves, LLC. He thanked the town and staff for participating in their food drive. Mr. Plescow noted that they also held a food drive as a part of the Upperville Horse Show, which was successful. He reported that things were going well. Mr. Plescow noted that he has spoken with Councilmember Shea about holding a Council volunteer session in the fall.

Councilmember Shea explained that she received an e-mail from the Loudoun County Food Bank announcing that on September 1st, public leaders would help at the food banks. She reminded Council that this was not a day when Seven Loaves was open so she asked if anything was being done locally and agreed to volunteer if something could be planned.

Mr. Plescow asked Councilmember Shea to work with him to coordinate an event. Several members of Council expressed an interest in participating.

Mr. Plescow encouraged the Council to consider installing a stop sign at the intersection of Marshall/Madison Streets for traffic headed north on Madison Street. He advised that he was almost hit at this location.

Councilmember Murdock noted that employees of VDOT were in the intersection earlier in the day. She inquired as to what they were doing. Town Administrator Semmes reported that they were picking up old signs that were in the middle of the triangle. She reminded Council that there has never been a stop sign at this location, with the exception of the temporary sign that was installed during construction.

Town Planner Moore reported that a stop bar was painted by the pavement marking contractor by mistake. He further reported that the Town asked that they not remove it at this point, as it was going through the process to request a stop sign.

Reggie Cooper, of Salamander Resort & Spa, appeared before Council to thank the Town for providing a wayfinding sign at their entrance. He noted that they were continuing to work to guide truck traffic to their Foxcroft Road entrance. Mr. Cooper thanked Chief Panebianco and the Middleburg Police Department for all they did for the resort. He noted that the Giving Pledge Conference, which included the largest group of high profile clients ever gathered, was held at the resort in June. Mr. Cooper advised that the Giving Pledge was an organization that consisted of billionaires who have pledged to give away half of their wealth during their lifetime; therefore, they brought forth the need for a lot of security and protection. He expressed appreciation for the Police Department's support.

Councilmember Murdock questioned whether Salamander would consider installing a sign on their driveway notifying guests who were exiting the resort that they were approaching a stop sign at the intersection of Pendleton/Marshall Streets. Mr. Cooper noted that such signage already existed. He opined that motorists' anticipated this intersection would contain a four-way stop.

Staff Reports

Town Administrator Semmes reported that the Town received a Virginia Department of Historic Resources grant for an update to the Historic Resource Survey. She noted that this would benefit the owners of "newer" historic buildings so they could take advantage of tax credits. Ms. Semmes advised that despite the process being very competitive, the Town received the entire amount it requested.

Vice Mayor Kirk inquired as to the location of the water discoloration complaint. Town Administrator Semmes reported that it occurred at 1 West Washington Street, in the apartment, and advised that she had a good discussion with the complaining party. She reminded Council that the Town has experienced periods where it had brown water and noted that she had just remarked that the Town had not had brown

water complaints since Well 4 was placed back on line. Ms. Semmes reported that the water lines were flushed in this area in response to the complaint and that a Town-wide flushing was scheduled to occur in the fall.

Councilmember Murdock noted that the National Sporting Library's Friday evening concert event was "huge". **Economic Development Coordinator Pearson** advised Council that Melanie Mathews, of the National Sporting Library, reported that they had three hundred seventy participants.

Vice Mayor Kirk noted the reference in the Town Planner's monthly report to "a residentially zoned property where medical services were reported as being provided". She questioned whether this had been addressed. **Town Planner Moore** reported that he contacted the owner; however, it had not been resolved as that individual was out of the country. He advised that he would continue to follow-up on it.

Councilmember Shea noted that there was a substantial change in the graph contained in the **Town Treasurer's** report for the meals and occupancy tax receipts. She further noted the sales taxes receipts. Ms. Shea opined that it did not appear that those revenues were increasing as much.

Town Administrator Semmes reminded Council that sales tax allocations were not based on sales in Middleburg but rather were based on a percentage of the County's school age population. She noted that the formula was set at the State level and advised that this tax was originally set up to fund education, which was why the formula was based on that. Ms. Semmes opined that it was an antiquated formula.

Councilmember Shea noted that the business license tax revenues have not grown in proportion to sales. Councilmember Scheps opined that some businesses may not be reporting their receipts.

Councilmember Shea suggested that as the Council looked at economic development and advertising, it needed to watch the budget.

Councilmember Hazard noted that the business license revenues were \$330,000 for the year, with the estimate being \$175,000. Councilmember Scheps noted that this increase was larger than the one in the meals and occupancy taxes. Councilmember Shea explained that her point was that this was a way to monitor items.

Town Administrator Semmes noted that the business license revenues have rebounded and advised that they were flat throughout the recession. She noted that this was the first year that she has seen a recovery.

Chief of Police Panebianco reported that a good crowd attended the Fourth of July event and opined that the fireworks display was amazing. He suggested the Council should be proud and advised that he heard many positive comments that evening.

Councilmember Snyder noted that the Community Center was also responsible as this was a joint effort.

Chief Panebianco noted that a smaller group participated in the children's parade due to the rain; however, it was still great. He expressed hope to change the route next year so it would occur along the main road, allowing the children to be seen. Chief Panebianco noted that this would be a shorter route, but would be more productive for the children.

Councilmember Murdock noted that the children were disappointed as they went for blocks with no one out to watch the parade. Councilmember Shea noted that it was difficult for the residents to know when to watch it.

Chief Panebianco opined that the Bluemont Concert performers provided for a festive crowd. He noted that some individuals were setting off fireworks after the concert, to which the officers responded.

Chief Panebianco reminded Council that National Night Out would be held on August 4th. He advised that the advertising for this event was underway. Chief Panebianco noted that it would be held downtown. He announced that they would have some big items this year, including a trampoline with bungee cords and a forty foot rock wall. Chief Panebianco noted that there would not be a dunk tank, as they wanted to mix things up so they did not have the same items each year.

Chief Panebianco noted that the security group at Salamander Resort & Spa was great and were easy to work with. He advised that Salamander's staff were also easy to find when there was an issue.

Councilmember Shea opined that it was brilliant to run traffic on Madison Street and to block the main entrance during the Fourth of July event. Councilmember Murdock noted that the exit was good, with there being a one-way route on Reed Street so the traffic left faster. Chief Panebianco noted that they would continue to improve each year. He further noted that prohibiting parking on Reed Street and making it a one-way street allowed people to leave quicker.

Action Items (non-public hearing related)

Council Appointment – Go Green

Councilmember Snyder moved, seconded by Councilmember Murdock, that Council appoint Lynne Kaye to Go Green for a two-year term, said term to expire May 12, 2017.

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

No – N/A

Abstain: Councilmember Shea

Absent: Mayor Davis and Councilmember Littleton

Council Approval – By-Laws – Economic Development Advisory Committee

Councilmember Shea moved, seconded by Councilmember Murdock, that Council approve the By-Laws of the Economic Development Advisory Committee, conditioned upon Paragraph 3-4 being amended to comply with Virginia Code Section 2.2-3708.1 as recommended by the staff.

Vice Mayor Kirk noted that Section 2-1 indicated that the Committee would include a member of the staff, who did not vote. She questioned whether this position should be named and opined that it would be the Economic Development Coordinator. Town Administrator Semmes noted that naming the position was not necessary and would give the Town some flexibility. Councilmember Scheps advised that he would prefer to not name the position.

Councilmember Shea noted that the Council had a long, thoughtful discussion as to who should be represented on this Committee and advised that she would like this to be reflected in the by-laws. She reminded Council that they wanted someone who would represent the citizens who lived in and around Middleburg. Ms. Shea opined that the Committee should also contain an official representative from the Middleburg Business & Professional Association.

Economic Development Coordinator Pearson questioned whether that person would be an Ex-Officio. Councilmember Shea advised that she was just saying the Committee should consist of these categories. She suggested it also consist of a certain number of individuals who would represent business owners. Ms. Shea noted that she was not suggesting increasing the number of Committee members.

Councilmember Snyder noted that he and Councilmember Shea spoke briefly about this earlier in the day. He suggested the inclusion of a mission statement in the by-laws to identify the purpose of the Committee. Mr. Snyder noted that the Council could make sure there were representatives for Town residents. He suggested the Committee could be asked to report based upon the mission statement. Mr. Snyder further suggested that if the Committee wanted to revise it, they could then propose changes for Council's consideration. Councilmember Hazard opined that this should be included under the "Members and Duties Section" of the by-laws.

Councilmember Shea questioned whether these were the Committee's by-laws or the Town's by-laws that governed EDAC. Town Administrator Semmes confirmed these were the by-laws of the Committee to govern how they operated. The Council held some discussion as to whether the document should be entitled "by-laws" or "policies and procedures". It was agreed the title should be amended to read "By-laws of the Middleburg Economic Development Advisory Committee".

Vice Mayor Kirk questioned whether the Council wanted the Committee to have a mission statement. After some discussion, it was suggested the Committee draft one for Council's consideration.

Town Administrator Semmes noted that the "Authorization and Purpose Section" referenced the resolution adopted by the Council. She questioned whether this had something to do with the reason the Committee was established and suggested it be reflected in the by-laws as opposed to being referenced.

Vice Mayor Kirk noted that Article 4 allowed the Committee to amend their by-laws with a two-thirds vote of the membership. She further noted that this meant the Committee could amend the by-laws without having to come to the Council. Councilmember Snyder suggested that any amendments should require Council approval.

Vice Mayor Kirk noted that Section 3-1 called for the Committee to have a Chairman and Vice Chairman. She questioned whether it should also have a Secretary to keep a record of its proceedings. Economic Development Coordinator Pearson noted that she performed that function for EDAC. Councilmember Shea noted that if listed as a requirement, this would be a duty the Committee would have to perform. She further noted that the Town Clerk performed this function for some committees, with others having to decide how this would be handled.

Vice Mayor Kirk opined that the language in Section 3-4 that talked about a medical condition or emergency was confusing. Town Administrator Semmes reminded Council that this was the language the staff recommended be removed and replaced. Economic Development Coordinator Pearson explained that the idea was to use the same language the Council used in its policy, but to change the term "Mayor" to "Chairman" and "Council" to "Committee". Vice Mayor Kirk noted that she was comfortable with the language in the Council's policy.

Councilmember Shea requested that Items 2-3(b) and (c) under "Powers and Duties of the Committee" be switched as she believed the priorities were different. She further requested that Item 2-3(a) be amended to read "Adopt and periodically review rules governing the conduct of its business and meetings to be approved by the Council" so it would not be interpreted to be something that would be done only once. Ms. Shea asked that the new Item 2-3(c) be amended to include the language "the group would establish a process for applying for the funds and standards for measurement for determining whether the funds are being used well or need to be increased/decreased". She explained that she wanted to avoid the issues that occurred with the Health Center Fund. Vice Mayor Kirk agreed.

Councilmember Shea asked that the language at the end of former Item 2-3(c) be amended to read "...infrastructure necessary to support the livability of the town, business community and public events." She suggested the Council give the Committee the chance to look at this again.

Councilmember Snyder noted that there was a motion on the table. He suggested the Council table the motion to the next meeting.

Councilmember Shea moved, seconded by Councilmember Murdock, to table the motion to the next session.

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

No – N/A

Abstain: N/A

Absent: Mayor Davis and Councilmember Littleton

(On motion to table)

Economic Development Coordinator Pearson noted that EDAC would not meet prior to the Council work session. Councilmember Snyder suggested they did not need to. He further suggested that if EDAC wanted a revision after the Council approved the by-laws, they could request it.

Town Administrator Semmes noted that the staff would revise the draft and return it to the Council.

Town Attorney Plowman noted that she had a minor issue with Section 2-1. She questioned whether it was only the member of the staff who did not vote, with the Council representative having a vote. Ms. Plowman suggested the need to clarify this language. Council agreed and suggested the language be changed to make it clear that the Council representative would be a voting member.

Councilmember Shea clarified that she was not asking for additional members to the Committee, but rather was only asking for a description.

Town Administrator Semmes questioned whether the Council wanted the Middleburg Business & Professional Association to appoint a regular member from among one of the existing eight members. The Council agreed it did. Councilmember Shea explained that she specifically wanted the MBPA to designate a member to serve on the Committee. Vice Mayor Kirk noted that this member would serve as the liaison between the two committees.

Town Administrator Semmes noted that the Committee already had eight members. She questioned whether this appointment would occur with the next vacancy.

Councilmember Shea questioned whether there was an existing Committee member, who was also a MBPA member, who could be designated to report to the MBPA. Economic Development Coordinator Pearson noted that almost all of the Committee members were members of the MBPA. Councilmember Hazard noted that it was not necessary that this be a member of the MBPA Board. Councilmember Shea opined that, in the end, it should be a member designated by MBPA's Board; however, she suggested that for now they be asked to designate an existing Committee member as their representative.

Council Approval – Ordinance to Approve Joint Exercise of Powers with National Joint Powers Alliance

Town Administrator Semmes advised Council that it was not necessary to approve the ordinance as she found another way to address the issue. She explained that the staff was trying to upgrade the phone system and noted that funding was included in last year's budget, as well as this year's. Ms. Semmes advised that if the Town joined this association, the phone company would provide a two thousand dollar price break. She noted that after researching what other jurisdictions in Virginia were doing, she determined that there was a section in the State Code that would allow the Town to do cooperative procurement with any government entity, including localities in other states. Ms. Semmes reported that the staff would secure the new phone system under this cooperative procurement power.

Councilmember Shea questioned whether the Pink Box would also be on the new phone system or whether it would be separate. She opined that their phone bills were “amazing”. Economic Development Coordinator Pearson reported that they would be on a separate phone system. Town Administrator Semmes suggested the staff work on their phone service to reduce the costs. Vice Mayor Kirk suggested they be discouraged from making long distance phone calls.

Discussion Items

Result of Study of Bagging of Parking Meters

Vice Mayor Kirk noted that she did not see many cons, and mostly saw pros. Chief Panebianco confirmed there were more pros than cons. He opined that there were pros with any of the options, and advised that all would work. Chief Panebianco suggested the Council determine what Middleburg needed. He advised that parking meters worked and noted that they allowed an officer to determine at any given time whether a vehicle has paid. Chief Panebianco further noted that they would not, however, know whether the vehicle had been there all day or simply had not paid for five minutes. He advised that if the meters were removed and replaced with a technology form of tire marking, the Police Department would have a better understanding of who was moving along and who was not.

Councilmember Murdock questioned whether the Town had the manpower to handle such a system. Chief Panebianco confirmed it would require a considerable amount of manpower.

Vice Mayor Kirk questioned whether the Town needed this information. Chief Panebianco opined that there was an issue. He advised that on the weekends, parking was at a premium. Chief Panebianco opined that not having something to encourage the turnover of parking spaces could be detrimental to the Town. He suggested that if motorists realized they did not have to move every two hours, the Town could have commuters parked on the main street, resulting in no parking for the businesses. Chief Panebianco noted that the vehicles could not be towed if they were doing nothing illegal. He suggested the need to have some type of system in place to force the movement of vehicles. Chief Panebianco advised that his memorandum contained options, all of which would work; and, opined that the question was whether the Council wanted meter posts in the newly constructed areas of Route 50. He questioned whether the Council wanted boxes in the middle of the street, which were expensive and would not fit the intent of visitors, which was to have a care free shopping experience. Chief Panebianco advised that, under this system, motorists would have to walk to a box to secure a piece of paper and then walk back to put it on their dashboard. He noted that there were electronic options to extent a motorists’ time at the meter; however, the staff would have to coordinate that, meaning there would be a technology and manpower issue. Chief Panebianco advised that he did not expect the Council to have an answer tonight and suggested this was an opportunity for discussion. He noted that he and the Town Administrator were available to discuss the options in detail. Chief Panebianco opined that they would offer similar opinions as to what would work; however, he did not want to offer an opinion at this time.

Councilmember Shea suggested the Council should go with a signed, time limited parking system. She further suggested that the main street be different than the side streets and that weekends be different than weekdays. Ms. Shea suggested the Council consider the hiring of a part-time person dedicated to monitoring parking. She advised that this would not mean the existing officers would not handle parking enforcement. Ms. Shea opined that this may cost the Town less money. She confirmed that she was not necessarily talking about the chalking of tires.

Councilmember Hazard questioned how this would be enforced. Chief Panebianco suggested the use of an electronic chalking system and advised that he was scheduled to attend a webinar on one next week.

Councilmember Murdock questioned whether a part-time person would be able to handle these duties. Chief Panebianco confirmed they would; however, they would not be able to handle them every day. He reiterated that he was looking at options; and, expressed a belief that technology would allow for an entry of the tag and a GPS marker/parking spot number into an electronic system. Chief Panebianco noted that he has looked at other options, including a contractor; however, he would not recommend the use of one as the Town would lose control of the system. He noted that such systems were also revenue generating based, which was not the Town's "vibe".

Councilmember Shea noted that she was not saying this was "the solution"; however, she advised that this was the option she wanted to present. She suggested the need for more information.

Councilmember Murdock advised that her recommendation was in line with Councilmember Shea's. She further advised that she would love for there to be no meters on the main street, given the Town's beautification efforts. Ms. Murdock opined that it would be good to not have meters in a historic town, although she agreed they could be located on the side streets and in the parking lots.

Councilmember Shea opined that they were not needed on the side streets. Vice Mayor Kirk agreed. She suggested that whatever option the Council selected, it be the option for the entire town. Chief Panebianco suggested the meters be left in the parking lots.

Councilmember Murdock noted that removing the meters would provide more room for the pedestrians.

Councilmember Snyder advised that he was tired of spending money to replace the meters and noted that they always had operational issues. He further noted that the last time the meters were replaced was the third time during his tenure. Mr. Snyder advised that the cost was never balanced by the revenue and noted that he would like the two to match. He opined that the Council's goal should be to ensure the parking spaces turned over enough that people could find one. Mr. Snyder suggested the goal not be to generate revenue or obtain sophisticated technology. He further suggested the Town should have a system it could afford, that did not have to be constantly replaced, that did not require a large workforce to enforce and that did not cost a lot for maintenance.

Vice Mayor Kirk noted the amount of time the Facilities & Maintenance Supervisor spent maintaining the meters. Chief Panebianco noted that his officers spent a great deal of time maintaining them as well. He advised that once a month, an officer fed every meter and tagged those that were not working. Chief Panebianco opined that this test was ethically required in order to do enforcement. He advised, however, that depending on the heat, the meters still may not work.

Councilmember Murdock questioned how the staff would ensure the meters would work in the parking lots. Chief Panebianco advised that he was looking at other options for the parking lots. He noted, now that an opinion has been offered, that he and the Town Administrator believe the meters were an eye sore. Chief Panebianco advised that he has observed visitors digging for money, which was an issue now that people no longer carried as much change. He opined that the removal of the meters would make a difference. Chief Panebianco noted the need for publicity on the removal. He advised that he was listening to WTOP, which was talking about the worst places to park in Northern Virginia; and, noted that Middleburg was mentioned as a location where it was hard to locate a parking space. Chief Panebianco noted the importance of turning over the parking spaces.

Councilmember Hazard questioned whether two hours was optimal as a time limit. He further questioned whether this should be increased to three hours. Chief Panebianco noted that he has been talking to people and observing what was occurring. He advised that during the weekends, it took a minimum of three hours to shop and eat. Chief Panebianco noted that he spoke with one visitor who was going to leave after two hours as she did not want to look for another parking space.

Councilmember Hazard questioned whether there was adequate parking for the employees of the businesses. He noted the parking pass program in the Liberty Street Parking Lot. Mr. Hazard asked whether that program could be expanded. He questioned whether parking could be provided in two locations so people would not have to walk far.

Councilmember Shea suggested the need to identify additional parking. She advised that she and the Town Administrator have spoken about renting and/or increasing parking. Town Administrator Semmes noted that she was aware of one parking lot that was under-utilized and suggested the Town talk to the owner about renting some spaces for use by employees under a permit system.

Vice Mayor Kirk opined that the Town would still experience problems with repeat offenders. Chief Panebianco suggested it would have to do something to discourage them. He noted that there were options; however, the Town would have to crack down on a few to ensure the needs were met for the majority.

The Council agreed to allow the staff to develop a parking plan that addressed the entire picture for their review. It was suggested that consideration be given to making the parking spaces smaller. Town Administrator Semmes suggested the staff look at this on a block-by-block basis.

Councilmember Shea asked that the staff consider the Council's request for the creation of some fifteen minute parking spaces in some locations.

Chief Panebianco suggested the need to consider a bus loading zone. He advised that shopping tours were coming to Middleburg; however, they tended to stop in the middle of the street.

Vice Mayor Kirk inquired as to how long it would take the staff to prepare something for Council's review. Chief Panebianco suggested that he and the Town Administrator start work on this and that they then provide a report on what it would take.

Town Administrator Semmes noted that there may be a need to hire consultants who were experts in parking. Councilmember Shea suggested the Town Planner and Planning Commission be involved in the process before the Council talked about the need to hire consultants.

Chief Panebianco suggested the staff provide an overview of a parking plan and, once the Council agreed to the plan, it build it up to make it functional. He reported that the staff was on the same page; however, he did not want to offer the Council an opinion until he had their input.

Vice Mayor Kirk noted that she did not like the free parking and opined that motorists were abusing it. Chief Panebianco opined that they were not and advised that forty percent of the offenders were the same people. He noted that this only involved six people. Councilmember Shea noted that this would occur no matter which system was used.

There being no further business, Vice Mayor Kirk declared the meeting adjourned at 6:59 p.m.

APPROVED:

Darlene Kirk, VICE MAYOR

ATTEST:

Rhonda S. North, MMC, Town Clerk