



**MIDDLEBURG TOWN COUNCIL
Regular Monthly Meeting Minutes**



Thursday, December 14, 2017

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

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

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, December 14, 2017 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Mayor Davis led Council and those attending in the Pledge of Allegiance to the flag.

Addition of Item to the Agenda

Councilmember Snyder moved, seconded by Councilmember Hazard, that Council add item XIX (Consent to Assign Refuse/Recycling Contract) to the agenda.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Public Presentations

Video Presentation – Middleburg Community Charter School

Rochelle Proctor, Dave Quanbeck and Richa Badami, of the Middleburg Community Charter School, presented their anti-bullying video entitled “The Middleburg Upstanders”. Ms. Proctor, the Principal, noted that the key word in their name was “community” and advised that they were proud to be a part of Middleburg. She opined that the Middleburg community was reflected well in the video. Ms. Proctor noted that the Charter School not only educated the minds, but also the hearts of the children and opined that the video was a fine testament to their good work.

Ms. Badami noted that she served on the Board of Directors for the Charter School and advised that she was proud to have made the video. She further advised that she was more proud of the kids for opening their hearts. Ms. Badami thanked the community for being a part of it.

Ms. Proctor noted that Ms. Badami came to the school and the children just talked. She stressed that the stories they shared did not occur at the Middleburg Community Charter School.

Mayor Davis advised that she was so impressed with the students and opined that their comments were spot on. She noted that they were not told about the video until just before filming; therefore, their comments were spontaneous. Ms. Davis opined that the video sent a strong, powerful message. She noted that Middleburg was lucky to have such a wonderful school and dedicated people. Ms. Davis opined that the filming and editing were excellent and reiterated that it shared an important message. She reported that it was available as a u-tube video and advised that the Town would promote it on its Facebook page. Ms. Davis expressed hope that this message would get out.

Councilmember Snyder noted that the Charter School was important to the town.

Ms. Badami advised that the video was entitled “The Middleburg Upstanders”. She noted that it included members of the police and fire departments and explained that the school was always about the community. Ms. Badami advised that she would love to see the message continue and serve as an example for other schools. She noted that a school in Washington, DC was already sharing the video and opined that it needed to be seen.

Councilmember Hazard recommended the representatives from the school come to the Council meetings more often to tell the Council what was going on as they were a very important part of the community. Vice Mayor Kirk noted that the Council would love to know how it could help the school.

Special Recognitions by Mayor and Council

Mayor Davis congratulated Delegate-Elect Wendy Gooditis on her recent election to the Virginia House of Delegates. She advised that the Town looked forward to working with her.

Delegate-Elect Gooditis noted that she was one of four individuals who founded a school in Winchester, Virginia in 2002. She advised that it was a different model than the Middleburg Community Charter School; however, she noted that the previous presentation took her back to those days, including the feeling of comradery and accomplishment. Ms. Gooditis advised that fifteen years later, she saw how much came out of that school and noted that her children now owned their own businesses.

Delegate-Elect Gooditis advised that she was at the meeting to learn and explained that she was in office to learn and represent her district’s interests well. She opined that there were amazing people in Richmond and advised that one of her challenges was that her district was spread across three counties. Ms. Gooditis expressed hope to sit down with the members of Council to hear their points of view and about the Town’s needs. She noted that she was grateful for the faith that people had put in her and reiterated that she wanted to hear from them.

Delegate-Elect Gooditis advised Council that the deadline for pre-filing legislation was December 4th and noted that she could file five more bills after that. She advised that it was her intention to file the Town’s proposed charter amendment as one of the five.

Town Administrator Semmes thanked Delegate-Elect Gooditis and noted that she had the opportunity to brief her on the business personal property tax situation and its history.

Delegate-Elect Gooditis applauded the Town for issuing refunds. She inquired as to the number of checks that would be issued. Town Treasurer Bott reported that the Town issued one hundred ninety-nine checks, totaling \$253,000.

Delegate-Elect Gooditis expressed hope that the fix would be approved. She advised that she wanted to be included in meetings and events in the town and noted that the Town Administrator had the contact information for her legislative assistant.

Public Comments

Albert L. Bland, of St. Louis, reported that an employee of the Safeway was terminated last week. He advised that he learned that the employee made a mistake; and, even though he fixed it, he was still fired. Mr. Bland noted that he had worked there for thirty-two years and had lost everything. He advised that he spoke with the manager, who told him that “he could not talk about it and he (Mr. Bland) must work through the main office”. Mr. Bland asked the Council and staff to help do something to get this individual reinstated. He advised that according to the individual, he had never been written up for any other mistake. Mr. Bland reiterated that he had worked there for thirty-two years and was about ready to retire. He further reiterated his request for assistance and opined that it would be better coming from the Mayor and Council. Mr. Bland noted that the individual was not aware that he was appearing before them. He advised that a lot of people were upset about this and reiterated that this individual had lost his benefits after thirty-two years.

Kathyjo Shea, of 21854 Foxcroft Road, noted that she served on a committee with the owner of the King Street Oyster Bar. She advised that she was disappointed that a response to his trash collection problem had taken so long and encouraged the Council and staff to put an eye toward looking at the consequences of decisions. Ms. Shea opined that the Town gave him permits to be located there; however, it did not address the trash issue. She acknowledged that trash disposal was the business’ responsibility; however, she opined that it was the Town’s responsibility to look ahead to the decisions it made.

Ms. Shea asked that the Town notify people when the streets were being cleaned so the cars could be moved off the main street. She reported that there was more trash accumulating due to the bump-outs and advised that if the street sweeper could not get into them due to parked cars, they could not get cleaned. Ms. Shea noted that she and Jilann Brunett picked up trash three or four times a week. She encouraged the Council to make street clean-up a part of any event that happened in town. Ms. Shea noted that in October of 2015, she was part of a committee that presented changes to the protocols in the Town’s special events ordinance. She advised that the then-Council had issues with how those changes applied in the residential areas and noted that none of it moved forward. Ms. Shea encouraged the Council to consider changes to the ordinance and opined that there were no clean-up provisions for major events in the town. She reported that following Christmas in Middleburg, Punkin Lee cleaned up The Hill School and the sidewalks; she cleaned up the area in front of her business; and, Ms. Brunett and Lynn Wine cleaned up other areas. Ms. Shea reiterated that this was something that needed to be included in the planning.

Ms. Shea advised that she would like EDAC, the staff and the Council to start encouraging pride in the town. She opined that it was her responsibility to see that people who walked into her business were not walking through trash, weeds or debris. Ms. Shea advised that she would like to see this become routine in the town. She noted that the MBPA addressed it informally during their last meeting and advised that she would like for it to become a part of the Town’s thinking as well.

Approval of Minutes

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve the November 9, 2017 Regular Meeting minutes as amended.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Staff Reports

Councilmember Littleton questioned whether the water tower painting was complete. **Stuart Will, of IES**, confirmed it was and noted that it was listed in his report.

Councilmember Littleton questioned whether there were any other issues and noted the gentleman who came to a Council meeting to talk about damage that was done to their parking lot.

Mr. Will reported that he and the Town Administrator looked at the paving; however, it was no more deteriorated than it was when he came to Middleburg in 2014. He advised that the deterioration was not due to this project.

Town Administrator Semmes reported that the parking lot only had a base coat of asphalt, and did not have a final coat. She opined that it had deteriorated over time and advised that she would be happy to follow up with the property owners.

Councilmember Littleton noted the sewage that was leaking on Route 50. Mr. Will reported that this situation had been rectified and noted that he would also have the lines televised. He advised that he encountered grease and root intrusions into the system and reported that this was on his list of things to address.

Councilmember Snyder expressed appreciation for Mark Inboden’s on-going reports on the Well 4 treatment plant.

Town Administrator Semmes expressed appreciation for being allowed to attend management training and noted that she found it to be very helpful. She advised Council that she planned to discuss it with the staff so they could get the benefits of what she learned. Ms. Semmes reported that she recently received a certificate from the ICMA (International City Managers Association) recognizing her twenty years of management service.

Councilmember Daly noted the plans to repave the streets and questioned whether they would time sequence it. Town Administrator Semmes reminded Council that this was a VDOT project. She advised that like the Route 50 Project, the staff would work closely with them to make sure they put out as much advance information as possible Ms. Semmes reminded Council that VDOT would rebuild most of the streets north of Route 50 and advised that this project was long overdue.

Councilmember Snyder suggested the staff meet with VDOT and the contractor to go over their plans. He noted that the Town would still receive complaints; however, it may be able to mitigate some of the issues in advance.

Town Administrator Semmes reported that a contractor had not yet been selected and advised that the project would be put out to bid after the first of the year. She confirmed the staff would let the residents know as it received information. Ms. Semmes noted the need to coordinate the paving with the water line project and advised that this was already happening.

Vice Mayor Kirk noted the NBC 4 interview the Town Administrator did related to an investigation and asked that she be careful about doing those. Mayor Davis noted that she asked the Town Administrator to do it and advised that it had nothing to do with the investigation. Town Administrator Semmes opined that it was nice that the reporter liked Middleburg and wanted to provide a counter point to something that was happening that appeared to be awful.

Councilmember Hazard inquired as to the status of the Asbury Church Project. Town Administrator Semmes reported that the contract had been signed and the contractor had submitted the building permit application. She noted that under the terms of the contract, the contractor had two hundred ten days to complete the work; however, she opined that it would take less time.

Town Clerk North reported that the latest Action Tracker on the members' desk. She noted that the staff received a cost proposal from the number one ranked firm regarding the space needs study and was currently negotiating with the vendor. Ms. North further reported that the pricing for the electronic agenda software and video/audio system were due from the vendors by the end of the week.

Business & Economic Development Director Gaucher announced that there would be a ribbon cutting ceremony on December 15th for Le Boudoir and that their grand opening was scheduled for December 16th. He reported that the financial literacy event, on which the Town was partnering with the Middleburg Bank, had been rescheduled to January 17th.

Business & Economic Development Director Gaucher reported that twelve firms had expressed interest thus far in the community branding RFP; however, they had until next week to do so. He noted that submissions were due January 12th.

Councilmember Hazard noted a theme in the people who were looking to locate a business in Middleburg. Business & Economic Development Director Gaucher confirmed he was focused on recruiting the food and beverage industry for the short term. He noted that he was also recruiting specialty retail and the arts; was seeking to provide technical assistance for the existing businesses; and, was managing the branding project. Mr. Gaucher reiterated that the food and beverage industry was the primary area of his focus; therefore, the Council would see that theme. Councilmember Hazard opined that it was nice to see that much interest being expressed in Middleburg.

Councilmember Littleton noted that he had received public input regarding the financial literacy program with Middleburg Bank. He opined that the discussions would not be about the Middleburg Bank, but rather would be about how to be financially literate.

Business & Economic Development Director Gaucher reported that there would be representatives for other financial sectors there, such as a CPA firm and a community lending institution. He noted that he was not aware of any other banks that would be present.

Councilmember Littleton noted the need to give all of the banks equal opportunities and to make sure no one was precluded who wanted to engage. He opined that it may not be a bad idea to touch base with the other financial businesses in town.

Business & Economic Development Director Gaucher noted that this was discussed during the last Council meeting. He reminded them that the Middleburg Bank approached him about doing this program. Mr. Gaucher advised that financial literacy was only one of the areas of technical assistance he wanted to offer. He explained that this one was being done first because the bank approached him.

Councilmember Littleton noted that he only mentioned it because people have said “they wanted to make sure everyone had a fair shake”. Vice Mayor Kirk suggested the people talk to Mr. Gaucher.

Town Planner Moore reported that Tim Cole, the Facilities & Maintenance Supervisor, did a tremendous job during Christmas in Middleburg. He noted the loss of institutional knowledge resulting from the departure of the former supervisor and advised that Mr. Cole had to recreate and make up things on his own. Mr. Moore reported that he did a marvelous job and handled all of the curve balls that were hit to him well. He noted that while he checked with him often, he usually had the answer figured out already. Mr. Moore advised that lessons were learned this year. Vice Mayor Kirk asked that the Town Planner take the concerns that were raised about the clean-up to Mr. Cole.

Councilmember Hazard noted that a storage pod had been placed in town and questioned how long it could remain. Town Planner Moore reminded Council that pods should only be in place for thirty days; however, he could extent that due to the circumstances. He advised that in this case, there were extenuating circumstances and reported that it would be gone by the end of February.

Mayor Davis thanked everyone for what they did for Christmas in Middleburg, including Jim Herbert, the Committee, the volunteers, the Police Department and the Town staff. She opined that it was a wonderful day.

Councilmember Snyder opined that it had become the norm for the community to pull off this incredible event and make it look easy. Mayor Davis acknowledged that there were hitches; however, no one noticed them.

Town Treasurer Bott reported that the personal property tax refund checks would be signed and mailed in the morning. Councilmember Snyder thanked the staff for coordinating the refunds.

Councilmember Miller questioned whether the real estate tax receipts were way up. Town Treasurer Bott reminded Council that real estate tax collections only occurred once a year. She reported that 97% of the taxes were collected through December 5th.

Chief of Police Panebianco reported that Christmas in Middleburg was a success. He noted that he did not yet have attendance numbers as he was still waiting for the photos; however, his instinct was the number was the same as last year. Chief Panebianco opined that this was the size that the Committee should shoot for each year. He advised that Facilities & Maintenance Supervisor Tim Cole did a fabulous job. Chief Panebianco noted that the Town staff, his staff and the Council went out of their way for this event and worked long hours. He reiterated that everyone did amazing work. Chief Panebianco noted that the Town staff kept the thirty officers fed. He opined that the event went as well as could be expected. Chief Panebianco reported that he would continue to debrief and improve the Town’s role each year. He noted that he kept a written plan so if personnel changed, it would be easy for the next person to see what steps were needed.

Town Administrator Semmes noted that the deputies from the Sheriff’s Department said they looked forward to this detail. Chief Panebianco confirmed he received a lot of repeat people. He noted that they trained the volunteer officers and told them to be as nice as they could. Chief Panebianco reminded Council that these officers did not know about locations and advised that they put out a map so they could point things out to the visitors. He reiterated that the staff did a fabulous job and noted that this was a marquee event for the town.

Councilmember Leonard-Morgan questioned whether there was any trouble this year. Chief Panebianco confirmed there was not.

Vice Mayor Kirk questioned the change to the meal. She opined that volunteers used to provide it. Town Administrator Semmes reported that the former Economic Development Coordinator used to handle this, with assistance from a citizen. Chief Panebianco reported that Administrative Assistant Tina Staples did a great job coordinating it and noted that the officers were well fed. Town Administrator Semmes explained that the staff provided items, such as sandwiches, that could easily be transported.

Councilmember Miller questioned whether the property and business checks were up considerably. Chief Panebianco noted that the number of checks depended on who was working days and nights, as well as the weather. He advised that his monthly report would likely change when the new reporting system was implemented as it would not include items that were no longer relevant. Chief Panebianco expressed hope that the new system would be in place by March 1st.

Councilmember Leonard-Morgan noted that arrests were down by thirty-two year-to-year. Chief Panebianco noted that this was not thirty-two different arrests, but rather were a lot of charges that were placed on a couple of people. He opined that everyone was doing a great job.

Town Attorney Crim reported that he had some items to discuss with the Council in closed session.

Reports of Town Committees/Council Liaisons

Vice Mayor Kirk reported that the Health Center Advisory Board met and needed some guidance from the Council. She noted that this item would be discussed in closed session.

Action Items (non-public hearing related)

Council Approval – MOA – Consolidated Tax Billing

Town Treasurer Bott reminded Council that they expressed concern last month about the language related to the selection of the vendor and reported that adjustments had been made to the document so it was clear where the County was in that process.

Town Administrator Semmes noted that there was a piece of legislation that went with this item and reported that she had spoken with Delegate-Elect Gooditis about it.

Vice Mayor Kirk moved, seconded by Councilmember Snyder, that Council authorize the Mayor to sign a Memorandum of Agreement between the Town and Loudoun County to enable the consolidated County-Town billing program to be implemented.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Council Approval – Health Center Fund Donations

Vice Mayor Kirk noted that these were not really Health Center Fund donations this year as the money would come from the General Fund. She advised that the Council had the recommendations from the Health Center Advisory Board. Ms. Kirk noted that Middleburg FISH was doing a lot more. She advised that the Town could not give everyone everything they asked for and explained that the Board tried to be fair. Councilmember Snyder advised that he was fine with the recommendation.

Vice Mayor Kirk moved, seconded by Councilmember Daly, that Council approve funding for non-profits from the General Fund Budget for FY '18 as proposed by the Health Center Advisory Board.

Councilmember Littleton reported that he would abstain from the vote since he served on the Board of Directors for the Middleburg Museum Foundation.

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

No – N/A

Abstain: Councilmember Littleton

Absent: N/A

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

Council Approval – Ordinance Pertaining to Bad Tax Debt Write-Offs and Financial Policy Pertaining to Other Bad Debt Write-Offs

Councilmember Snyder moved, seconded by Councilmember Daly, that Council adopt an ordinance to address uncollectible taxes. Councilmember Snyder further moved, seconded by Councilmember Daly, that Council approve the addition of Section G – Accounts Receivable Collection – to the Town's existing financial policies as recommended by staff in its memorandum dated December 14, 2017.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Council Approval – Consent to Assign Refuse/Recycling Contract – ESI

Town Planner Moore reported that CSI was acquired by ESI, which was based out of Manassas, Virginia and advised that they assumed their contracts. He noted the provision in the Town's contract that required the Council's consent to the transfer. Mr. Moore advised that they waited until today to make the recommendation to approve this as he wanted to meet with the representatives from the new company, which he did earlier in the day. He noted that he was disappointed that the Town was not notified of the sale and advised that he just haphazardly found out about it. Mr. Moore reported that once he reached out to their contact, they jumped into motion. He reiterated that he met with their General Manager and Government Accounts Manager earlier in the day and advised that he left the meeting with a good feeling. Mr. Moore opined that there would be some changes that would need to be communicated to the public in the coming months; however, CSI's website was still functioning in the meantime. He noted that if a resident needed to call for a bulk collection, they could continue to use the CSI phone number. Mr. Moore advised that this would be phased out over the next six months and noted the need to get the new information to the citizenry.

Vice Mayor Kirk questioned whether they would accept the same items as CSI. Town Planner Moore confirmed they acquired CSI's MRF and would continue to offer comingled recycling.

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve the assignment of the existing contract with Con-Serv Industries for refuse collection and recyclables to EnviroSolutions Dulles, LLC and authorize the Mayor to sign the Consent to Assignment.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Discussion Items

2018 Legislation Program

Town Administrator Semmes reminded Council that Delegate-Elect Gooditis would help the Town with the charter amendment. She noted that the Town Attorney had forwarded something from the County Attorney regarding enabling legislation that Loudoun County was seeking regarding distracted driving. Ms. Semmes advised that it was very difficult to get someone as a reckless driver and explained that, under the County's proposal, a law enforcement officer would be allowed to cite a driver for distracted driving as a lesser offense.

Chief Panebianco noted that reckless driving was a hard charge to get and, often, was not appropriate but was the only applicable one. He advised that what was proposed would provide an opportunity to do something less. Chief Panebianco further advised that the lesser charge could be pre-paid, which would free up the courts. He noted that this was something that Sheriff Chapman brought out of his office and advised that he was on board with it. Chief Panebianco explained that it was not just for cell phone use and could be used for other charges, such as following too close.

Councilmember Snyder opined that a lot of attorneys liked to bargain. Chief Panebianco confirmed that reckless driving charges were often bargained down. He noted that the charge required the officer to be there for court.

Delegate-Elect Gooditis noted that someone else was carrying this legislation; however, she would look into it.

Town Administrator Semmes reminded Council that they normally looked at the VML Legislative Program. She reported that this year's program was similar to last year's. Ms. Semmes advised that while there was general support during the recent TANV meeting for most of the items, the police chiefs were concerned about the two items related to the decriminalization of marijuana.

Chief Panebianco reported that the Virginia Chiefs Association opposed this legislation. He advised that they met with a chief from Colorado to see the impacts of this change. Chief Panebianco explained that while it could be made legal, the vendors could not use the banking system; therefore, they must deal in cash sales. He advised that there would not be a prescription but rather the individual would get a card. Chief Panebianco advised that for \$250, one could stand in line and get a card for medical marijuana. He reported that there were a lot of issues that revolved around medical marijuana. Chief Panebianco reiterated that he opposed both bills and opined that the VML made a mistake in supporting them.

Councilmember Snyder reported that he supported the entire VML list.

Councilmember Littleton reminded Council that he served on the VML Executive Board. He noted that they would hold a review session in a couple of weeks to discuss this. Mr. Littleton reminded the members that he asked them to let him know individually how they felt.

Town Administrator Semmes advised that if the Council was not comfortable supporting the entire legislative program, they could move forward with supporting those that they did. She reminded Council that the staff followed all of the bills and could always let the Town's representatives know of things it would like to or would not like to support.

Mayor Davis noted the bill related to incentives for infill development/tax abatement and noted that it stated that the abatement would be for properties not challenged by housing structures. She questioned whether this meant open space or commercial development. Ms. Davis further questioned whether this would apply to a row of offices. Town Administrator Semmes expressed an assumption that it meant open space. Councilmember Littleton reported that he would find out what was meant.

Councilmember Littleton reminded Council that earlier in the year, state legislation was introduced for 5G cell phones that removed localities' authority to regulate 5G cell towers. He noted that federal legislation was now under consideration to do the exact same thing. Mr. Littleton advised that it went further than the Virginia legislation in that it would allow, in its current form, an entity to take land for a cell phone antenna. He noted that VML's Executive Director was getting more information. Mr. Littleton suggested the need to get in touch with federal representatives to oppose this legislation and opined that there needed to be a lot of energy expended by the state as a whole to keep it from happening.

Town Administrator Semmes expressed an assumption that the federal law did not include protections for historic districts. Councilmember Littleton advised that it allowed cell phone companies to take land and do what they wanted for 5G cell antennas.

Restaurant Solid Waste Disposal

Town Planner Moore reminded Council that last month they held a discussion on restaurant solid waste disposal. He noted that it was generated by a specific incident; however, it grew into a large discussion of what was an appropriate level of service for restaurants. Mr. Moore reminded them that they asked the staff to develop options for their consideration. He noted that there was also talk of needing to understand the costs. Mr. Moore advised that it was premature to look at costs and explained that it was difficult to get an estimate until the scope of work had been narrowed down.

Town Planner Moore suggested the need to talk about different types of offerings to see if the Council was leaning toward one way or another. He advised that he could then return with the fiscal impacts of providing enhanced services. Mr. Moore noted that he had already ruled out some things, such as purchasing a truck and hiring its own personnel, due to cost and regulatory concerns. He advised that in his memorandum, he laid out four options for the Council's consideration. Mr. Moore noted that the first option was to raise the limit currently in place for non-residential customers. He advised that collections would still only occur once a week; however, the limit on the number of trash cans would expand from the existing four 96-gallon carts. Mr. Moore opined that this would be most beneficial for new entries. He reminded Council that the Town was trying to attract more restaurants and noted that there may be some barriers to entry for new businesses because the properties under consideration may be landlocked and have no place for a dumpster. Mr. Moore opined that increasing the number of trash containers could be helpful for lower trash generating restaurants. He noted that he said this because it would continue to be a once a week collection. He advised that the downside was that an existing low trash generating restaurant with a small dumpster may say they don't want to pay for the

dumpster and could switch over to the Town's service. Mr. Moore opined that this would be moving to a less desirable way to handle restaurant waste and reminded Council that the most desirable way was by using a dumpster. He advised that carts could be successful, depending on the type of waste and frequency of collection. Mr. Moore noted that if the Council wished to implement this system, it could do so; however, it may be possible that some restaurants that were currently using dumpsters could move away from that.

Town Planner Moore advised that the second option was more frequent curbside collections. He suggested they could be offered two or three times a week for an unlimited volume. Mr. Moore opined that this would be more beneficial for those restaurants that generated a larger amount of trash. He noted that this would be an easier Town-provided solution for the oyster bar. Mr. Moore advised, however, that the Town would run the risk of businesses that had an existing dumpster abandoning that for the Town's service. He noted that, again, the Town would be moving toward a less desirable method of containing and collecting restaurant refuse. Mr. Moore advised that an impact of more frequent collections would be the look of the streetscape. He noted that people were used to seeing cans one day a week and advised that the businesses were generally good about removing them from the street following the collection. Mr. Moore questioned what would happen if the collections increased to three times a week. Vice Mayor Kirk suggested it not be three times a week.

Town Planner Moore advised that another consideration was that the Town would have to have multiple providers if it did trash collection more often as the current provider could not come multiple times a week for a small business collection. He noted that they were, however, interested in Saturday collections on a Town-wide basis.

Town Planner Moore noted that the Council talked about enhanced services for restaurants; however, he suggested the Town should look at equitable services for all businesses. He questioned what would happen if an office wanted collections from the Town. Mr. Moore noted that restaurants were wonderful in that they generated business, which generated meals tax revenue; however, he noted that the customer paid the tax, not the restaurant. He further noted that the restaurants only collected and remitted the tax. Mr. Moore advised that the public health was another response as to why extra service should be provided only to restaurants.

Town Planner Moore advised that the third option was whether the Town wanted to take on the business of providing trash collection for all restaurants and offer individual solutions. He noted that some municipalities did so. Vice Mayor Kirk opined that Middleburg did not have the time or staff to implement this option. Mr. Moore noted the complexity of planning, budgeting and dealing with the turnover in businesses and advised that this option would require a tremendous administrative effort. Councilmember Miller agreed it would require huge oversight by the staff.

Town Planner Moore advised that the fourth option was to keep the current system. He reminded Council that it was designed as a residential service that was supplemented for certain small businesses that had a low volume of trash. Mr. Moore advised that he was not saying "it was the right thing to do"; however, it was very common for municipal waste collections to be provided for residential and limited businesses with the expectation that large-volume businesses must address it as a part of their operations budget. He noted that there was a consideration in the sense of equity in what someone was paying in a private business. Mr. Moore opined that if a business was a high volume one, it should pay based on the amount of trash it was generating.

Town Planner Moore reminded Council that this was a new situation for the Town. He further reminded them that there had been a “mess” on the street only this one time. Mr. Moore advised that the Town knew it was going to happen a few days in advance and did its best to plan for it; however, it had not been repeated since that time. He reminded Council that the Town did offer the business space at the Town Shop last month for a dumpster; however, the owner declined the offer and instead arranged for private curbside collection twice a week, in addition to the Town’s limited collection. Mr. Moore noted that the Town did provide for unlimited recycling for businesses. He reiterated that this particular business had two additional private collections per week as it did not want to transport its trash to the Town Shop and advised that this seemed to be working fine. Mr. Moore questioned whether the Town should revise its system based on one offense. He noted that as others came along seeking to locate food and beverage establishments in town, they could also have unique locations. Mr. Moore cited the sushi restaurant that was going to open and suggested there may be challenges with the location; although, he noted that a previous restaurant had a small dumpster there.

Councilmember Hazard opined that things were currently fine; however, he suggested the Town may want to offer more services. He recommended it first find out how businesses were using this service. Mr. Hazard suggested it may be possible to get a better deal if one vendor provided services for multiple customers. He further suggested the need to look at the pick-up times and noted that if a restaurant closed at midnight, the trash could be placed out at that time and be gone by 5:00 a.m.

Vice Mayor Kirk noted that the Town had received noise complaints about dumpsters that were being emptied at night. She reminded Council of the apartments that were located in the commercial areas.

Councilmember Snyder noted the need to look at this more comprehensively. He advised that he did not want to encourage existing businesses to get rid of their dumpster and would like to encourage restaurants to locate in town. Mr. Snyder advised that he liked Councilmember Hazard’s idea of coordinating the service and suggested it could be an add-on service. He opined that restaurant owners wanted to save money and suggested the Town could have standards for restaurants based on volume. Mr. Snyder advised that he would like to protect the Town from a restaurant that did not care about their trash; however, he would also like to make it easier for restaurants to comply with the requirements. He suggested the Town make services available that would be more affordable than they would otherwise be and that would avoid health hazards.

Councilmember Leonard-Morgan noted that the idea of having food in a dumpster for a week was a concern. He opined that the restaurants did not need six day a week pick-up; however, he suggested the Town needed to help them. Mr. Leonard-Morgan noted that the Town was getting money from the restaurants when they were successful through the collection of meals taxes and opined that this would be a win/win/win situation if done right. He suggested that if the Council needed to talk about having two extra pick-ups a week to keep the sanitation situation under control, it should. Mr. Leonard-Morgan opined that this may mean that some restaurants would no longer pay for dumpster service. He cited the example of Julien’s, whose employees climbed over a wall to dump their trash. Mr. Leonard-Morgan suggested the need to have a discussion of enhanced services.

Councilmember Littleton noted that this was a very complex issue. He advised that it was about trash and public safety. Mr. Littleton acknowledged that dumpsters were safer than cans. He advised that it was also about behavior and opined that whatever the Council decided to do, it would alter behaviors. Mr. Littleton noted that the dynamic of the town was changing and reminded Council that the Business & Economic Development Director was actively seeking to bring more food and beverage businesses to town. He reminded Council that this was not an issue five years ago and suggested it may be a larger one in another five years. Mr. Littleton opined that it warranted having the staff and representatives of the Council sit down with a diverse representation of the restaurants to ask questions. He expressed an understanding of the staff’s point and noted that one restaurant currently paid for a dumpster; therefore, their trash was never seen and there was no cost to the Town.

Mr. Littleton questioned whether that business would save money by eliminating their dumpster and placing multiple cans on the street if the Town offered enhanced services. He noted that he was not suggesting creating another committee; however, he opined that there was more to this issue than was known. Mr. Littleton advised that he would love to hear from the restaurants on what worked, how it worked and the fees.

Councilmember Snyder advised that he would like to have a conversation with them. He noted that he also wanted them to keep their dumpsters and questioned how they could be incentivized to do so. Mr. Snyder questioned how the Town could work with the restaurants to create a trash solution that worked and fit in with the Town's best interests. He advised that he liked the idea of sitting down with the restaurants to determine how to make this work better for everyone.

Vice Mayor Kirk suggested the Council task the staff with meeting with each restaurant to find out the details of their situation. Mayor Davis suggested that specific questions be identified that the staff could ask of the restaurants.

Councilmember Snyder suggested a meeting be held in the Town Office and that it be done on an ad-hoc basis. Mayor Davis noted that it was difficult for owners to get here. Vice Mayor Kirk agreed it may be easier to go to the restaurants to ask them questions.

Councilmember Hazard suggested the staff ask the restaurants if they would be interested in collections three times a week if there was a charge for it. He further suggested they start with a plan.

Councilmember Miller agreed; however, he noted that in order to get to a plan, the staff must investigate the options, including what worked elsewhere, what the Town could afford to do or that could be affordable as a service. He suggested they could not simply ask the restaurants what they wanted or they would get multiple answers.

Councilmember Snyder noted that he was on vacation for the next three weeks and offered to talk to the restaurants.

Councilmember Miller opined that the staff needed to come up with options and analyze what would work for Middleburg. He suggested the need to consider residential collections as well and recommended that if the Town looked at its trash policy, it should look at all of it. Mr. Miller questioned whether once a week collection was enough for the residential areas.

Councilmember Hazard questioned whether residential collection was a problem. He suggested the Council fix the issue and if something else came up, the Town could visit it at that time. Councilmember Snyder disagreed with the need to look at all of the collections.

Councilmember Miller questioned when the Town's existing contract expired. Town Planner Moore confirmed it expired the end of June; however, the contract contained the option to renew for two additional renewal periods of two years each. He advised that the existing contract was very competitively bid and noted that the next lowest bid was 150% higher.

Vice Mayor Kirk agreed with Councilmember Hazard that the Town should only fix the problem if there was one. She suggested it look at the remainder of the system in the spring before the renewal.

Town Planner Moore noted that the Town must notify the vendor ninety days before the expiration and the vendor must notify the Town one hundred twenty days in advance if it intended to not renew the contract.

Town Administrator Semmes reminded Council that there were only two bids the last time. She noted that Middleburg was too far for most of the vendors to travel; therefore, it did not fit into their routes.

Councilmember Leonard-Morgan opined that there was a local provider. Town Planner Moore noted that the local company only offered front-loading dumpster service; although, the owner had expressed interest in when the contract would be bid. He suggested he may be interested in expanding into curbside collections.

Town Administrator Semmes reminded Council that CSI/ESI had a MRF.

Vice Mayor Kirk questioned whether it would be possible to piggyback on another town's contract. Mayor Davis noted that at one time, the Town tried to get all of the towns together to bid the contract. Town Administrator Semmes reported that the towns were not all on the same cycle. Vice Mayor Kirk suggested the staff look into this again.

Mayor Davis suggested the staff check with other towns on what they did for their restaurants. She further suggested they find out the vendor they were using, how often they offered collections and how they paid for it. Councilmember Littleton suggested they look at towns that were Middleburg's size. Mayor Davis suggested it would not hurt to know what others were doing.

Councilmember Daly noted that other countries used hermetically sealed trash cans and noted that you never saw the trash that was being dumped as it was collected. He questioned the technology that was available and whether there were better trash cans that could be used. Mr. Daly noted the need for something that was sealed to keep the animals out.

Town Planner Moore noted that CSI/ESI did not have those in this area. He reported that they only offered curbside service and rear load dumpsters. Mr. Moore advised that there were other solutions; however, they were not available with the current company. He noted that geography drove what was available to the Town.

Councilmember Hazard questioned whether Go Green could research the technology. Councilmember Leonard-Morgan confirmed it could.

Councilmember Miller questioned when this item would return to the Council. Mayor Davis suggested it return during the January work session.

Councilmember Littleton questioned whether it was the consensus of the Council that the staff should come up with an initial plan and then talk with the restaurants. Councilmember Miller suggested the need to know the options first and to determine what worked in other towns. Councilmember Hazard agreed. He suggested the restaurants be asked about their weekly volume. Councilmember Miller agreed this needed to be part of the analysis. Town Planner Moore noted that a lot of baseline questions needed to be asked.

Vice Mayor Kirk suggested the staff come up with some questions. Town Planner Moore noted that it was important to understand the restaurants' concerns and advised that it had only heard from one. He suggested there was a lot of background information that the Town needed to understand.

Councilmember Littleton suggested the staff develop a questionnaire that the restaurants could fill out.

Councilmember Leonard-Morgan suggested Go Green look at the technology.

Mayor Davis noted that this item would return during the January work session.

Closed Session – Appointments to Town Boards/Commissions, Property Acquisition/Disposal & Legal Advice by Counsel

Councilmember Daly moved, seconded by Vice Mayor Kirk, that Council go into closed session as allowed under the Virginia Freedom of Information Act Sections 2.2-3711(A)(1), (3) and (8) 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 and employees of the public body; the discussion or consideration of the acquisition of real property for a public purpose or the disposition of publicly held property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body; and, consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel. Councilmember Daly further moved, seconded by Vice Mayor Kirk, that these matters be limited to (1) appointments to the Planning Commission, HDRC, Health Center Advisory Board, BZA and Pink Box Advisory Committee; (2) the acquisition/disposition of property within the town; (3) the provision of legal advice by counsel related to the Town's responsibilities regarding Town owned property. Councilmember Daly further moved, seconded by Vice Mayor Kirk, that in addition to the Council, the following individuals be present during the closed session: Martha Mason Semmes, Martin Crim, Rhonda North and Will Moore for the first part and Martha Mason Semmes, Martin Crim, Will Moore and Jamie Gaucher for the second and third parts. Councilmember Daly further moved, seconded by Vice Mayor Kirk, that the Council thereafter reconvene in open session for action as appropriate.

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

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

Councilmember Littleton moved, seconded by Councilmember Daly, that the Council authorize the Mayor to execute a space needs contract with PMA Architects, once it was negotiated, up to the amount of \$30,000.

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

Councilmember Miller suggested with regard to the trash issue that Business & Economic Development Director Gaucher, under the auspices of economic development, should go to the businesses with the Town Planner. He further suggested they work together to come up with solutions for the trash issue. Mr. Miller noted that an issue arose during the recent EDAC meeting with regard to helping the business that was having an issue. He reiterated his suggestion to have Business & Economic Development Director Gaucher help resolve the issue. The remainder of Council agreed.

Appointments to Board & Commissions

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council re-appoint Eric Combs to the Middleburg Planning Commission for a four-year term, expiring December 31, 2021. Councilmember Snyder further moved, seconded by Vice Mayor Kirk, that Council re-appoint Virginia Jenkins, Bill Anderson and Margaret Littleton to the Historic District Review Committee for three-year terms, expiring December 31, 2020. Councilmember Snyder further moved, seconded by Vice Mayor Kirk, that Council re-appoint Erik Scheps to a two-year term on the Health Center Advisory Board, expiring December 31, 2019. Councilmember Snyder further moved, seconded by Vice Mayor Kirk, that Council re-appoint Mary Kay Garwood, JoAnn Hazard, Rita Lang, Linda Platt and Dana Reuter to the Pink Box Advisory Committee for two-year terms, expiring December 31, 2019.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Mayor Davis reminded Council of Mr. Bland’s comments and noted that she did not know whether there was anything the Council could do. After some discussion, the members agreed they could personally write a letter to Safeway in support of the employee. Mayor Davis asked the Town Clerk to provide the members with a mailing address. She also asked the Town Administrator to contact Mr. Bland to let him know the members would send letters individually.

There being no further business, Mayor Davis declared the meeting adjourned at 8:54 p.m.

APPROVED:

Betsy A. Davis, MAYOR