



MIDDLEBURG TOWN COUNCIL Regular Monthly Meeting Minutes



Thursday, November 9, 2017

PRESENT: Mayor Betsy A. Davis
Councilmember J. Kevin Daly
Councilmember Kevin Hazard
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 Bott, Town Treasurer
A.J. Panebianco, Chief of Police

ABSENT: Vice Mayor Darlene Kirk
Councilmember Philip Miller

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

Public Hearings

Amendment to Town Code Chapter 89 & Schedule of Fines – Stopping, Standing & Parking

No one spoke and the public hearing was closed.

Proposed Charter Amendment – Personal Property Taxes

Town Administrator Semmes explained that the charter amendment would allow the Town to levy a tax on business personal property without regard to the rate or existence of other personal property taxes, which was essentially the vehicle tax. She noted that the Town did not levy a vehicle personal property tax. Ms. Semmes advised that through two town attorneys, the Town was not aware that there was an issue with the business tangible personal property taxes as a result of a section of the State Code that says the business tangible personal property tax rate could not be higher than the rate of the other classifications. She advised that since the Town did not have a vehicle tax, it was left in a difficult situation. Ms. Semmes explained that the charter amendment would permit the Town, since it seemed to be unique as this was not found in any other jurisdiction, to not have to impose a vehicle tax but still be able to levy the business tangible personal property tax.

No one spoke and the public hearing was closed.

FY '18 Budget Amendment

Mayor Davis explained that the amendment was being done in order to allow for the refunding of the property personal taxes and to cover the tax revenues that would not be received this year.

Town Administrator Semmes explained that the State Code permitted the Council to refund the past three years' tax levies, with a ten percent interest payment. She reported that the staff had issued letters to the affected businesses that had paid the tax over the last three years. Ms. Semmes further reported that the amount of the amendment would cover the maximum amount of the refunds and the revenues in the current budget. She advised that once approved, the Town Treasurer would issue the refunds. Ms. Semmes estimated they would go out in early December.

No one spoke and the public hearing was closed.

Action Items related to Public Hearings

Amendment to Town Code Chapter 89 & Schedule of Fines – Stopping, Standing & Parking

Councilmember Daly moved, seconded by Councilmember Snyder, that Council (1) adopt an ordinance to amend Town Code Chapter 89 pertaining to Stopping, Standing & Parking and (2) adopt a revised Schedule of Stopping, Standing & Parking Penalties.

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

Proposed Charter Amendment – Personal Property Taxes

Councilmember Snyder moved, seconded by Councilmember Leonard-Morgan, that Council approve the amendments to the Town Charter as proposed. Councilmember Snyder further moved, seconded by Councilmember Leonard-Morgan, that Council direct the staff to forward these amendments to Middleburg's current Delegate for presentation to the General Assembly.

Town Administrator Semmes advised Council that, at the suggestion of Delegate Minchew, she contacted Senator Vogel's office to set up a meeting with her to discuss the amendment. She noted that she also reached out to Delegate-Elect Gooditis and opined that it would be good to have her support. Ms. Semmes confirmed she was pursuing getting the amendment pre-filed.

Councilmember Littleton inquired as to when Delegate-Elect Gooditis would be sworn into office. Town Attorney Crim reported that it would be before the General Assembly session began.

Councilmember Littleton questioned whether Delegate Minchew would continue to serve until that time. Town Attorney Crim confirmed he would; however, he could not pre-file bills.

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

FY '18 Budget Amendment

Councilmember Snyder moved, seconded by Councilmember Daly, that Council approve the proposed FY 2018 budget amendments and supplemental appropriation of \$320,000 from the General Fund reserves related to the business tangible personal property tax program as advertised in the public hearing notice.

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

Addition of Item to the Agenda

Councilmember Hazard moved, seconded by Councilmember Snyder, that Council add item XIIC (Discussion – Restaurant Solid Waste Disposal) to the agenda.

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

Approval of Minutes

Councilmember Snyder moved, seconded by Councilmember Daly, that Council approve the October 12, 2017 Regular Meeting and October 26, 2017 Work Session minutes as amended.

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

Staff Reports

Councilmember Snyder inquired as to the status of Well 4. **Stuart Will, of IES**, reported that he tried to bring it online this week; however, he had a problem with one of the chemical feed pumps. He advised that he anticipated receiving the part soon, at which point it would be ready to go.

Mayor Davis opined that a lot of things were going on with that plant. Councilmember Snyder noted that the Utility Committee had been discussing the differences between the two plants and reported that his goal was to make the two the same as the one on Stonewall Avenue. He reminded Council of the construction issues that occurred with the Well 4 plant.

Councilmember Littleton inquired as to the status of the painting of the water tower. Mr. Will reported that the contractor disinfected the tower earlier in the day and expressed hope that they would start filling it in the morning. He reported that it would be filled slowly over the weekend so it would not tax the system. Mr. Will expressed hope to have it back on line next week.

Town Administrator Semmes noted the need to do two bacteria tests before the tank could be put back online.

Councilmember Littleton questioned whether there had been any feedback from the residents. Mr. Will advised that there were complaints regarding equipment in the way and noted that he had not heard anything over the past week. He opined that the residents realized that this was going to happen.

Town Administrator Semmes reminded Council that the Town put notices on the residents' doors. She confirmed there were no further complaints.

Mr. Will noted that the sand blasting was very noisy; however, the noise level went down after that was complete.

Councilmember Snyder opined that IES did a great job of reaching out to the residents.

Mr. Will advised Council that he checked on the project every day. He noted that it was off schedule by a couple of days.

Councilmember Snyder opined that the painting of the Well 3 tank should go smoother in the spring. Mr. Will noted that there was room to get all of the equipment inside the fence and out of the way.

Councilmember Littleton noted that the Town did not own the right-of-way at the Stonewall tower, but, rather had an access easement; therefore, it had no right to leave the equipment there for a long period of time. He acknowledged that the tank would not have to be repainted for ten years; however, he suggested the Town should figure out how to fix this problem for the future, otherwise, the Town would be in violation of its own ordinances the next time this occurred.

Councilmember Snyder reported that it would be discussed during the next Utility Committee meeting.

Town Clerk North reported that the Town received three responses to the RFP on the Space Needs Study. She further reported that she, Town Administrator Semmes and Town Planner Moore met earlier in the day to discuss them and made a recommendation to the Ad Hoc Property Committee for discussion next week. Ms. North advised that the Town was also inviting three vendors for electronic agenda software and two vendors for video services to give presentations to the Electronic Agenda Committee. She reported that Mayor Davis provided her with her first Mayor's Message earlier in the day and advised that it was now posted on the Town's website, had been sent to the local newspapers and was sent to the Administrative Assistant for circulation via the Town Email Blast. Ms. North advised that the Middleburg Eccentric had agreed to publish it.

Councilmember Littleton advised that he was pleased with the agenda, video and closed captioning proposals that were received. He further advised that the Town received three good responses and opined that it had good options from which to choose.

Councilmember Leonard-Morgan advised that he would not mind attending a meeting on the electronic agenda software. Town Clerk North confirmed this was possible and noted that she just needed to advertise the meeting as three members would be present.

Business & Economic Development Director Gaucher reported that he was in Richmond earlier in the day introducing himself and meeting the people who headed up the divisions of the Virginia Economic Development Partnership. He noted that many of them had heard of Middleburg; however, no one had ever been here. Mr. Gaucher reported that this would change.

Business & Economic Development Director Gaucher reported that he was partnering with Middleburg Bank to do a financial literacy program at the Community Center and noted that this would be announced that the Bizz Buzz next week. He opined that it would fit in nicely with the services that should be provided to existing businesses in the community. Mr. Gaucher reported that they would touch on topics such as credit, the difference between working capital versus fixed assets, types of loans, what a loan package consists of, and federal and state guarantees that may be utilized by small businesses.

Business & Economic Development Coordinator Gaucher reported that he was also launching an advertisement on WINC FM that would focus on Small Business Saturday in order to get people to visit Middleburg to do as much Christmas shopping as possible.

Councilmember Littleton questioned whether the Middleburg Bank reached out to Mr. Gaucher. Business & Economic Development Director Gaucher confirmed they did and noted that he had a number of conversations with the members of their organization. He reiterated that they proposed the partnership. Mr. Gaucher reported that it would be at no cost to the Town and would address a need. He opined that this was important and advised that, if successful, he could see it evolving into an on-going relationship.

Councilmember Snyder opined that it would be nice if it could be opened to the general public as well as businesses. He acknowledged that the initial focus would be on businesses; however, he expressed hope that focus could also be placed on the residents.

Business & Economic Development Director Gaucher advised Council that the Middleburg Bank and Focus Wealth Management approached him earlier in the day regarding two events – one focusing on businesses and one focusing on people having a better understanding of their personal credit and becoming a first time home buyer. He noted that economic development usually did not get into the business of helping people qualify for a mortgage; however, he was interested in the business piece. Mr. Gaucher advised that he did not have a date at this point.

Councilmember Snyder opined that this was wonderful for small businesses and suggested it may make them more stable, which would benefit the general population as well as the banks.

Business & Economic Development Director Gaucher reported that it would be free; however, registration would be required. He noted that they were looking to secure fifty participants for the first event.

Councilmember Hazard questioned whether they would have packets available for people who wanted to borrow money or whether this would be strictly educational.

Business & Economic Development Director Gaucher reported that there would be several organizations in the room, including the Certified Development Corporation, a non-profit lender and a Small Business Administration person. He advised that he did not know whether they would actively take applications at the event. Councilmember Hazard opined that people needed to know where to go after the program.

Councilmember Littleton acknowledged that the Middleburg Bank reached out to the Town; however, he suggested the need to be careful of the appearance of having partnered with one bank. He suggested that if this developed into a regularly occurring event with the “Town seal of approval”, Mr. Gaucher needed to make sure others were invited to participate if they chose.

Business & Economic Development Director Gaucher agreed and noted that he had already had those conversations with the Middleburg Bank. He reported that they had no issues with that.

Councilmember Snyder opined that if the event went well, others would hear about it and would contact Mr. Gaucher. Business & Economic Development Director Gaucher agreed and noted that this was not specifically for the clients of Middleburg Bank. He confirmed it was open to anyone.

Councilmember Hazard inquired as to what was "Feed Bag Foods". Business & Economic Development Director Gaucher advised that they had a double decker bus, with the ground floor serving as the back house of a restaurant, and seating being located upstairs. He explained that they did not want to be a food truck but rather wanted to park in Middleburg on a semi-permanent basis. Mr. Gaucher opined that this was interesting.

Councilmember Littleton questioned whether the bus was red. Business & Economic Development Director Gaucher confirmed it was bright red. He noted that he and the Town Planner discussed some locations where it could go. Mr. Gaucher suggested the Council think of it as a semi-permanent bus and noted that it would be brought in on a trailer. He opined that it would be like a little building. Mr. Gaucher reported that their interest was not only to serve from the bus but also to potentially have an indoor space. He opined that it would be a twelve-month a year operation and suggested they could have picnic tables or an outside space.

Councilmember Hazard inquired as to the additional lodging option. Business & Economic Development Director Gaucher reported that it was a group called Hosteling International that was based in the United States, which managed fifty-four properties in the U.S. and had a network in Europe. He further reported that they came here to meet with him about expanding the hospitality options in Middleburg. Mr. Gaucher advised that the most recent example of their projects was in Richmond. He opined that their website offered a sense of what they thought would work in Middleburg.

Councilmember Hazard questioned whether the users would be hikers and bikers. Business & Economic Development Director Gaucher confirmed they would. He advised that these would be people who did not own an automobile, were traveling and did not want to stay in a resort.

Town Administrator Semmes advised Council that she stayed in one in Stockholm. She noted that the ground floor was a hostel for families, with separate kitchen, living and eating areas. Ms. Semmes advised that the rooms were very modest, affordable and clean.

Business & Economic Development Director Gaucher reported that Hosteling International had properties in California, Hawaii, and Washington, DC. He reiterated that they had fifty-four properties in the United States.

Councilmember Littleton opined, based on their website, that bunk beds, teens and young people were their market. Business & Economic Development Director Gaucher confirmed that was some of their market and advised that some also included private rooms for families. He explained that it would be a combination.

Councilmember Littleton questioned their vision for Middleburg. He further questioned where it would be located and how large it would be. Business & Economic Development Director Gaucher reported that they were not there yet. He advised that they had a team that did villages around market opportunities. Mr. Gaucher noted that he could not say whether the property would have ten or one hundred beds; however, he confirmed the clientele was not limited to youth. He noted that the Vice President of the company for this region lived in Lovettsville.

Mayor Davis questioned whether Certified Humane was looking to move their office to Middleburg. Business & Economic Development Director Gaucher confirmed they were. He reported that it would involve five or six employees with desks and computers.

Councilmember Littleton inquired as to the amount of space needed. Business & Economic Development Director Gaucher reported that they were looking for one- to two-thousand square feet. He noted that they looked at several properties in and around town.

Councilmember Hazard opined that it was good to see the YMCA was looking at the Community Center. Business & Economic Development Director Gaucher confirmed they were, especially for summer camps. He noted that they originally talked about moving a chapter here; however, that fizzled out and they were now talking of using the facility for the summer.

Town Planner Moore reported that the infill sidewalk project was moving along and advised that he had some concept plans. He noted the additional survey work that was done on Chinn Lane to make sure there was adequate storm drainage since the curb and gutter would direct water to that area.

Town Planner Moore reported that he and the Town Administrator met with VDOT on the Ridgeview Water Line Project that would be done in coordination with the repaving VDOT planned to do in the next calendar year. He advised that the repaving involved almost the entire town, with the exception of Route 50 and a few other spots. Mr. Moore noted that they planned to mill and pave on the south side of town; however, on the north side, they would do full depth construction. He explained that this would mean a lot of disruption and time to accomplish the work; however, the Town would end up with a better end product. Mr. Moore noted that the Town discovered how bad the sub-structure was when it did the Marshall/Madison Project and advised that it was essentially laid on dirt. He reported that VDOT did core samples and found this was the case everywhere.

Councilmember Snyder noted that the Town would receive complaints; however, the repaving was needed. He advised that it would tie in well with the new water lines. Mr. Snyder reiterated that people would be upset.

Town Treasurer Bott reported that real estate tax bills went out, as well as the final water bill of the year. She further reported that Southern Software was here for two days this week for training on the utility bills. Ms. Bott noted that the members only received her report yesterday and asked that they let her know if they had any questions on it.

Chief of Police Panebianco thanked the Council for recognizing his staff for the job they did and noted that it was greatly appreciated. He opined that Halloween was a success and noted that he was surprised with the numbers since it occurred on a week day.

Chief Panebianco reported that the Middleburg Charter School approached him about getting with AAA to start a school safety patrol program and noted that the kids asked for it. He explained that the way the process worked was that there would be interviews at the school, with eight children being selected from the fifth grade. Chief Panebianco advised that at the end of the year, eight fourth graders would be selected and would be mentored by the fifth graders. He reported that they would receive a sash immediately; however, they would not earn their badge until after the first grading period. Chief Panebianco expressed hope to bring the children to a Council meeting to take their oaths when they earned their badges. He opined that this would be a good opportunity to show the students how the Council operated. Chief Panebianco noted that taking the oath would hold them accountable to the community. He advised that he was very excited about this opportunity.

Chief Panebianco noted that the Council approved the additional twenty-five dollar late fee amendment. He reported that the Town was back in business with the Department of Motor Vehicles and advised that the issue was theirs, not the Town's, as they had set it up in the wrong category. Chief Panebianco reported that the Town had to re-apply as everything DMV sent was under the wrong section. He noted that the Administrative Assistant contacted DMV earlier in the day and found the Town had been approved for a week; however, it had never been notified.

Chief Panebianco reported that he and Town Planner Moore were working on some minor issues and explained that there was a need to tweak some parking so it could be enforced.

Councilmember Snyder noted that he was heartened to see the traffic summons and warnings were up, as they had been down for some time. He further noted the need to make sure people were driving safely.

Chief Panebianco reported that the selective enforcement was by assignment. He noted that the officers used marked vehicles as they were trying to slow people down, not catch them. Chief Panebianco advised that when the officers caught someone, they issued warnings and summonses. He acknowledged that part of the increase was due to a new officer and explained that new officers tended to be more aggressive. Chief Panebianco advised that the officers generally issued warnings more than tickets and noted that the State Code allowed the officer to have discretion.

Councilmember Leonard-Morgan questioned whether there were any issues at the crossing to the Middleburg Charter School. Chief Panebianco advised that he had not received any complaints; however, there were issues with rolling stops. He noted that in the morning, there were also issues with school traffic as it could not all fit on their parking lot. Chief Panebianco advised, however, that this was over quickly.

Councilmember Leonard-Morgan noted that he had noticed that people were not stopping. Chief Panebianco advised Council that he would make a note for the officers to work the stop signs and noted that they did so for a while. He advised that these issues tended to occur in spirits and reiterated that he would put this on the to-do list.

Councilmember Leonard-Morgan inquired as to how the planning for Christmas in Middleburg was shaping up. Chief Panebianco confirmed it was coming along. He reported that the press passes were going out and opined that everything was where it needed to be. Chief Panebianco advised that in the next week or so, he would walk all of the posts and tweak the operational plans as he did each year. He noted that he received a good response to his request for officers and reported that they would have roughly thirty law enforcement officers that day to assist, not counting the ones outside of town.

Mayor Davis noted that the press release only mentioned the parking to the east of town. She suggested the need to make sure people knew where the two parking lots were located. Chief Panebianco expressed hope that the addresses were right and noted that last year, the address of the Pink Box was listed. He advised that while there were big flashing signs, people followed their GPS. Chief Panebianco noted that he would put something on the Police Department's Facebook page as the event got closer.

Councilmember Leonard-Morgan questioned whether the crowd would be similar in size to last years. Chief Panebianco advised that he did not get the vibe. He noted that he put out a blurb on Christmas shopping on the Police Department's Facebook Page and received 1,500 hits. Chief Panebianco advised that he usually got 1,500-2,500 hits on his posts. He noted that he would get the word out, would include information on parking and would encourage people to get here early. Chief Panebianco advised that he had been trying to say "come now and shop through Christmas".

Town Attorney Crim noted that he had questions regarding the MOU on consolidated billing. He explained that this was an agreement between the towns and the County Treasurer; however, the draft legislation was between the treasurers. Mr. Crim noted that he had brought this to the County Attorney's attention and opined that it was something they could work out.

Town Attorney Crim reported that he was working with the Town Administrator on the Asbury Church stabilization contract. He explained that he wrote the contract based on a commonly used form for construction contracts, which he modified for local government use. Mr. Crim advised that the contractor wanted to use their form; however, that did not cover a lot of the contingencies. He expressed hope to finalize the contract so the work could be initiated.

Town Attorney Crim reported that he was still working with AT&T on their lease and advised that they sent the Town some comments this week; however, they were based on a prior draft. He expressed hope to bring this to the Council soon. Town Administrator Semmes reported that the issues were minor.

Town Attorney Crim reported that he and the Town Administrator made a site visit to the King Street Oyster Bar prior to the meeting and walked the path to reach the Town alley where consideration was being made for locating a dumpster. He noted that the Town was also looking at other options. Mr. Crim reminded Council that this item was being added to the agenda for discussion.

Town Attorney Crim advised that as to Councilmember Leonard-Morgan's intersection question, this was effectively an issue of engineering, education and enforcement. He noted that if the first two elements did not exist, the third one would not help. Mr. Crim suggested the need to educate people on how to proceed safely and opined that this was the second most effective option. He opined that if the Police Department needed to sit on the same intersection every week, the Town needed to look at the engineering and education. Mr. Crim acknowledged that this was a non-standard intersection.

Councilmember Hazard opined that it helped immensely when the Town Administrator and Town Planner got VDOT to approve a third stop sign. He advised that he was not sure what else could be done besides re-engineering the intersection, which the Town would not do.

Town Attorney Crim suggested the use of rumble strips and other low cost items.

Town Planner Moore reminded Council of the conflicting engineering challenges. He noted that there was one thing that could be changed; however, it would cut off the turn radii. Mr. Moore expressed confidence that the Town had the best engineering option. He advised that due to the design, there were site distance issues. He reminded Council that the early plans reconfigured the intersection using a more standard approach; however, there was push back from the Virginia Department of Historic Resources, which would not allow for the approval of federal funding. Mr. Moore explained that because this intersection was so unique, VDHR did not want it to be realigned.

Councilmember Leonard-Morgan questioned whether there was a reason why Hamilton and Purcellville were not participating in the centralized billing program. Town Administrator Semmes explained that Purcellville had just spent a lot of money for Munis to do their billing; therefore, they wanted to get their monies worth out of that software. She opined that they may change in the future. Ms. Semmes advised that Hamilton has had the same system, with the same treasurer, for years and opined that it was a matter of not wanting to change the way they were doing things. She noted that Hamilton had some utility customers; however, they had a very small number of tax customers. Ms. Semmes opined that they would not change until their current administration changed.

Action Items (non-public hearing related)

Council Approval – Special Event Funding Request – Mosby Heritage Association

Business & Economic Development Director Gaucher advised Council that several weeks ago, EDAC received a request to support next year's Conference on the Art of Command in the Civil War and noted that Chairman Bataoel provided a memo outlining their recommendations. He reported that

there was some concern by the Committee around the level of the request and explained that it was larger than it had historically been in the past. Mr. Gaucher advised that given the current political state, some members also voiced concern about the Town supporting the organization and event. He reported that this was an academic event that was led by very high level, nationally recognized experts. Mr. Gaucher acknowledged; however, that when talking of the Civil War, there was an opportunity for a flash point or something that could reflect negatively on the Town. He reported that EDAC recommended supporting the event at a lower dollar amount and having the organization work with the Town around the marketing and other items to prevent a negative experience being associated with Middleburg.

Councilmember Hazard opined that the Mosby Heritage Association was not looking for support in the sense that it needed money to run the event and noted that they raised \$50,000 last year; however, they only spent \$16,000. He acknowledged that they were a non-profit organization. Mr. Hazard agreed this was a good event and noted that when he had the inn, they housed people who were attending it. He confirmed that they returned during the year. Mr. Hazard questioned why the Town would want to fund them when their net income was \$32,000 before sponsorships. Councilmember Snyder noted that he had the same impression.

Business & Economic Development Director Gaucher reported that one hundred people attended the last event. Mayor Davis noted that they paid \$450 for full registration and \$225 for Friday and Saturday only.

Town Administrator Semmes reminded Council that there was a line item in the budget for the Mosby Heritage Association and the Journey Through Hallowed Grounds. She further reminded them that the funding was targeted to the Journey Through Hallowed Grounds for their \$500 membership fee and to the Mosby Heritage Association for \$1,000. Ms. Semmes noted that the Town had given them \$2,000 in the past; however, it had never given them more. She expressed an understanding that this request was for this event and suggested the money could be in addition to or replace what they already received in the budget. Ms. Semmes noted the need for clarification.

Councilmember Leonard-Morgan expressed a preference to pay for advertising the town in their literature. He noted that the Town recently spent \$4,800 on a piano recital and advised that he did not hear anything about it. Mr. Leonard-Morgan questioned whether the town received a benefit.

Councilmember Littleton inquired as to the number in attendance at the recital. Councilmember Leonard-Morgan reported that he heard it was fifty people.

Councilmember Hazard opined that the Town was only providing seed money for events. He noted that the piano recital was organized by an arts organization that was basically a start-up. Mr. Hazard suggested this was where the Town should put its money. He further suggested that the special event funding not be for those who were already operating in the black. Mr. Hazard advised that he could see giving the Heritage Association \$1,000-2,000; however, he wanted to see some advertising in return. He acknowledged that the conference targeted restaurants and shopping. Mr. Hazard noted that a lot of couples attended, with one individual going to the conference and the other going shopping. He further noted that they stayed for a couple of days and were good for the town.

Councilmember Daly questioned whether the brochure in the agenda materials was a mock-up. Business & Economic Development Director Gaucher advised that it was for this year's conference.

Councilmember Daly questioned who would be on the cover of next year's and advised that if it just showed Confederates, he would say "no" to the request. He suggested the need for the brochure to show a nice proportion of Federals and Confederates.

Councilmember Littleton noted that the Heritage Association was applying eleven months in advance of their event. He further noted the profit/loss statement for this year's event. Mr. Littleton suggested the Town needed to ask for more information. He reminded Council that non-profit's goals were not monetary. Mr. Littleton acknowledged that some non-profit events generated profits, and others losses, and opined that this event may fund other things the organization did throughout the year for free. He suggested the need to ask them the question of what would be the impact of the Town's donation outside of the event.

Mayor Davis noted that the profit/loss statement showed a net operating income of \$32,000. Councilmember Hazard opined that that was for the Association. Councilmember Littleton advised that it was just for this event and noted that the Heritage Association's budget was way more than that.

Dan Morrow advised the Council that he had served on the Heritage Association's Board of Directors for eight years and was now on their Advisory Board. He noted that as to the issue of north/south, there was as much a mixture of north and south as one could imagine. Mr. Morrow advised that the money generated from this event went to some really interesting programs, including a huge program that was done for the Loudoun County Public School System. He reported that they were one of the few organizations to go into the schools and teach local history. Mr. Morrow reported that they also did battlefield preservation. He advised that as to quality, this was a world-class conference on command. Mr. Morrow noted that business schools like Harvard did similar activities and brought senior executives in to use battles, such as the Battles of Middleburg and Aldie, as case studies. He advised that the Association was very sensitive to what was occurring and even changed their logo.

Councilmember Hazard suggested they come back with a request for the organization, not just for the event. He advised that as an event, he would have to say "no".

Mayor Davis noted that when the Town gave them money in the past, it was given to the organization for all of the programs they did. She agreed they should return or the Town should give them a donation.

Councilmember Hazard suggested they return and provide better information. He opined that based on the information provided, the Town should not give them a donation.

Councilmember Snyder opined that the Town was already giving them money as they were a line item in the budget. Town Administrator Semmes advised that there was a line item for organization donations; however, it was not earmarked for the Mosby Heritage Association.

Councilmember Snyder advised that he was comfortable giving them what was earmarked in the budget and suggested that if they wanted more, they must return and tell the Council about the need.

Councilmember Littleton advised that he liked Councilmember Leonard-Morgan's idea if the desire was to focus on the event, as opposed to the organization. He suggested there may be an option where the Town could provide part money and part in-kind services do to some joint advertising or outreach. Mr. Littleton suggested it would be great to figure out a way to target their outreach to get one to two hundred people to attend the conference. He further suggested the need for a development conversation between Business & Economic Development Director Gaucher and the Mosby Heritage Association. Mr. Littleton advised that he agreed with Councilmember Hazard in concept. He noted that he was all for funding this request; however, based on the application, it appeared the money would be going to their bottom line.

Councilmember Leonard-Morgan advised that he would be in favor of that; however, he would like to hear more about the bigger picture.

Town Administrator Semmes noted that, for many years, the Heritage Association measured the effectiveness of their event, including where the participants were staying. She noted that this was incorporated into the Town's funding application.

Mayor Davis summarized that the Council would like for more information. Business & Economic Development Director Gaucher confirmed this request would return to them.

Discussion Items

Consolidated Tax Billing

Mayor Davis questioned, if approved, whether the Town taxpayers would have two billings like the County. Town Treasurer Bott confirmed they would.

Mayor Davis noted that the taxpayers would be billed twice; however, each bill would only be half. She suggested this could be both a good and a bad thing for budgeting purposes.

Town Administrator Semmes advised that it would be good for the Town in that it would receive the cash flow earlier. She opined that it was wrong for people to have to come up with money to pay their tax bills in early December.

Mayor Davis opined that the Town and County's tax bills would be combined; therefore, the bills would be higher as they would include the Town's half. She questioned whether the Town would still have vehicle stickers. Town Administrator Semmes advised that as written, there could be a permanent sticker or there could be no sticker. Councilmember Daly advised that he liked having the fox sticker on the car.

Councilmember Hazard noted that the MOU stated that the Town would give the County \$2,500 and that they would then find a vendor. Town Administrator Semmes confirmed the County already had their system. She explained that the County Treasurer went to the Board of Supervisors for something for the towns and the Board authorized the expenditure of money to have their software altered so they could do the consolidated billing.

Town Treasurer Bott advised that the cost was actually \$1,375. She noted that Table B depicted the costs when all of the towns were in. Ms. Bott explained that if Purcellville or Hamilton returned, they already knew the amount and Middleburg would get a refund. Town Administrator Semmes advised that they would pay an additional ten percent if they came in later.

Mayor Davis opined that the Town would pay 1.2% of the cost. Town Attorney Crim reported that the Town would pay 1.15%. Town Administrator Semmes advised that Leesburg would pay the lion's share, as the cost was based on population.

Mayor Davis opined that the Council would not vote on the MOU yet. Town Administrator Semmes confirmed this was just for discussion as this was the first time the Council saw the MOU. She explained that the staff did not want to presume they would vote on it at this time and proposed it be an action item in December unless the Council wanted to handle it during this meeting.

Councilmember Snyder advised that while he was comfortable making a motion, he would defer action to next month if anyone wanted to wait.

Councilmember Littleton agreed with Councilmember Hazard. He noted that the agreement should not say "when they choose a vendor" if one had already been chosen.

Councilmember Snyder suggested the staff return with it next month. Councilmember Leonard-Morgan suggested there may be a need to modify the agreement.

Mayor Davis opined that it sounded like the Council was ready to approve the MOU, but there was a need to clarify that issue.

Bad Debt Write-Off

Town Attorney Crim advised that there have been a couple of issues that have been discussed by the staff. He noted that one was the bad tax debt, which was not included in this item. Mr. Crim explained that this item was related to bad rent and utility payments that were uncollectible at this point. He noted the need to get them off the books and to relief the Town Treasurer of the obligation of collecting them. Mr. Crim explained that it needed to be done as a write-off so they could be taken off the books for accounting purposes.

Councilmember Snyder opined that when the Town Attorney said “it was a non-receivable” that the actors were not incurring debts. Town Attorney Crim confirmed this was his understanding. Town Administrator Semmes reported that these debts occurred prior to the staff’s time. Councilmember Leonard-Morgan noted that Nextel was no longer in business.

Councilmember Snyder moved, seconded by Councilmember Daly, that Council authorize the Treasurer to write off the uncollectible delinquent receivables identified in the Treasurer’s list presented to Council this evening in the amount of \$26,962.23.

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

No – N/A

Abstain: N/A

Absent: Councilmembers Kirk and Miller

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

Restaurant Solid Waste Disposal

Mayor Davis opined that there were a lot of moving parts with the King Street Oyster Bar. She reminded Council that they talked about this issue years ago, including that restaurants should have their trash picked up more than once a week. Ms. Davis suggested this was something the Town should consider paying for and noted that they paid a meals tax. She further suggested this would be a perfect use of those tax revenues. Ms. Davis opined that the Town should not have people come in and do things for the town and then have their hands tied. She opined that trash was not attractive. Ms. Davis noted the email from the Red Fox Inn and agreed with the need to fix this and to do so quickly.

Town Planner Moore opined that it was important to establish the history of how things got to where they were with this particular situation. He suggested the need to bifurcate the two discussions of providing service to the King Street Oyster Bar and providing a greater level service to all restaurants. Mr. Moore advised Council that he and the Town Administrator both identified very early in the permitting process with the King Street Oyster Bar’s operator that he would need to arrange for private collections. He reminded Council that the Town Code was very specific about the level of service the Town provided and included special provisions for restaurants in that the Town Administrator may require a dumpster as opposed to curbside collection. Mr. Moore reiterated that the staff identified this issue to the owner early on. He noted that recognizing that there was no onsite capability for a dumpster, the staff gave him contacts for the surrounding property owners so he could possibly make arrangements with them. Mr. Moore advised that the operator created this situation by not addressing

it in advance. He expressed hope that the situation that occurred over the weekend with the trash accumulation was something that was a one-time thing and advised that he explained to the operator that this level of service would not be provided in the future. Mr. Moore advised that he made sure the Town's contractor cleaned it up this one time. He noted that the business was inspected by the Health Department and advised that storing trash out of containers and in a walkway was a public health hazard, which was not good. Mr. Moore reiterated that this was something the staff identified to the operator early on and advised that he was aware of the level of service the Town provided. He acknowledged that anyone could come to the Council to suggest the Town provide a higher level of service. Mr. Moore advised that so this situation would not happen again, he offered to work with the operator to possibly come up with an interim solution. He noted that one such solution was to look at the public alley that extended north of Federal Street as a location for a dumpster. Mr. Moore further noted that this was not a good situation as it was tight and the operator would have to traverse other properties to get to it. He advised that he also floated the idea of possibly, on an interim basis, allowing him to use the Town Shop on South Madison Street as a location for a dumpster that he could place there. Mr. Moore noted that this could also possibly benefit Julien's Restaurant, as they were also having solid waste issues as their property was landlocked. He reiterated that this maybe an interim solution. Mr. Moore noted that the operator was on the radar of the Health Department, not due to a report of the Town or a citizen.

Councilmember Snyder noted that restaurants were important to the town. He advised that he would like for the staff to provide options for additional trash collections targeted for restaurants that the Council could evaluate.

Town Planner Moore noted that restaurants often used dumpsters, rather than curb-side collection, not just because of the volume of trash but also because of the nature of their waste. He advised that it was a bad idea to store restaurant waste in plastic bags as it was not sanitary, especially when it was stored in close proximity to the restaurant.

Councilmember Snyder agreed. He noted that this was the first time the Town experienced this situation at this location; however, this issue had come up repeatedly. Mr. Snyder suggested the need for the Council to understand how much the additional service would cost the Town. He acknowledged that the Town collected a meals tax and suggested there was some leeway. Mr. Snyder reiterated that he would like to see some options. Councilmember Hazard advised that he would like to see all the options.

Town Administrator Semmes advised Council that the current provider did not pick up dumpsters.

Councilmember Leonard-Morgan suggested the trash collection occur three times a week.

Councilmember Snyder reiterated that he would like to see the options.

Town Administrator Semmes confirmed this could be discussed and suggested the Council also discuss the health implications.

Town Planner Moore confirmed he could get information regarding additional curb-side collections; however, he reiterated that they were a bad idea for restaurants.

Councilmember Leonard-Morgan noted that the side alley was narrow and that there were neighbor issues. He reminded Council that the oyster bar was bringing in new revenues and visitors.

Councilmember Littleton suggested the sushi restaurant would have the same issue and opined that they would have no space for a dumpster. Town Planner Moore advised that the restaurant that was formerly in that space had a small dumpster.

Councilmember Littleton agreed with Mayor Davis and Councilmembers Leonard-Morgan and Snyder. He opined that this would become an increasingly bigger problem and suggested it was the Town's responsibility to resolve it. Mr. Littleton opined that if a restaurant chose to have a dumpster, this was their choice. He suggested that if the Town offered this service, it must do so for all of the restaurants. Mr. Littleton noted the need to figure out a solution.

Town Planner Moore reiterated that he had a problem with curbside service for restaurants. He noted that he ran the trash department for the City of Winchester for five years and explained that due to the nature of food waste, it was not something that should be handled by a manual or semi-automated system. Mr. Moore explained that this type of collection was not appropriate for that kind of business and advised that dumpsters were.

Councilmember Daly noted the need to consider the safety and health of the community. He opined that plastic bags would attract rats.

Town Planner Moore advised that in Winchester, outside of a special assessment district, there was trash collection service, with a limit on the number of containers. He further advised that in the core area of the downtown, the property owners paid a special assessment and received an enhanced level of service that included an unlimited amount of garbage. Mr. Moore noted that not a single restaurant in the special assessment district used curbside collection because they could not store waste in a sanitary manner in between collections. He reiterated that they located dumpsters on their own property or had an agreement with a neighbor.

Councilmember Snyder advised that his concern was the need to address this situation from a health and safety point. He further advised that he also wanted to make it feasible for restaurants to operate without dramatically changing the architecture of the town.

Mayor Davis opined that the King Street Oyster Bar would not recycle their oyster shells. Councilmember Leonard-Morgan confirmed they did; however, he advised that there was an issue. He explained that the oyster recyclers did not come to Middleburg and advised that Mr. Allison was trying to change that. Mr. Leonard-Morgan opined that there may be some bins with oyster shells.

Town Administrator Semmes noted that this was a unique situation with the two landlocked restaurants. She advised that the staff would like to continue to work on it, including an interim solution. Ms. Semmes reminded Council that they were exploring the option of a dumpster or two. She noted that they were looking at the alley and advised that she had spoken with the Town Attorney about a license agreement that he had done elsewhere. Ms. Semmes advised that they have talked about getting one of the local trash companies to look at the alley to see if they could place a unit there and still allow people to get to their buildings. She reminded Council that this area was all commercial. Ms. Semmes further reminded them that there was a dumpster located behind the former Coach Stop Restaurant for years.

Councilmember Daly noted that the Dutch had sealable roll-away trash units. He advised that he did not know whether this existed in the United States; however, he suggested the staff check to see whether it did. Mr. Daly explained that the unit acted as a dumpster; however, it was rollable and manageable for small spaces. He suggested the restaurants could get multiple units. Mr. Daly advised that they were locked down so animals could not get into them and there was no odor.

Councilmember Leonard-Morgan opined that leaving a restaurant to get rid of their trash was a non-starter. Town Administrator Semmes noted that they needed an interim place to store it. Councilmember Hazard noted that they could use the alley; however, they could not leave the trash there for a week.

Councilmember Littleton opined that this occurred because it was their opening week and suggested it would level out.

Town Administrator Semmes opined that the owner would love to have an eight yard dumpster. Town Planner Moore advised that he would love to have it in the public alley, as it was the most convenient location for him.

Councilmember Littleton reported that he contacted BAC about the cost for an eight yard dumpster that would be dumped twice a week. He further reported that they said it would be \$240 on a monthly basis; however, they would only pick it up once a week.

Councilmember Snyder suggested the need to get the facts so the Council could talk about this issue.

Councilmember Littleton noted that there was a month between this Council meeting and the next one. He further noted the upcoming holidays. Mr. Littleton suggested the need to allow the owner to put a dumpster in the alley now; otherwise, the trash accumulation would re-occur.

Mayor Davis suggested a dumpster be placed at the Town Shop. Town Planner Moore advised that the operator of the oyster bar did not receive that suggestion well as it would require him to transport his trash. He stressed that he was not trying to discourage the Council from providing a greater level of service; however, he explained that there were options. Mr. Moore advised that the operator was very forward that he had a quote for someone to come and do the collection privately; however, he said the cost was \$1,600/month. He noted that he did not say how frequent those collections would be. Mr. Moore asked that the Council not lose site of the fact that this was not the best the operator could do and opined that he forced the Town's hand on this.

Councilmember Hazard agreed the operator should have done this to begin with as it was his responsibility.

Councilmember Littleton expressed an understanding; however, he opined, that the Town did a lot that was not by code just because it was the right thing to do.

Town Planner Moore noted that the Town had not been put in this situation before. He opined that the staff did the best it could in advance on multiple occasions to let the operator know this needed to be addressed. Town Administrator Semmes confirmed the staff suggested options.

Councilmember Daly noted that the operator had a responsibility to be a good citizen.

Town Planner Moore suggested that if the Council was comfortable doing so, an interim solution would be to offer the operator space at the Town Shop to place a dumpster. He noted that this could be done quickly. Mr. Moore advised that it could be placed in the public alley, which would be more convenient; however, it would involve more moving parts.

Councilmember Hazard opined that it would take months to get the legal work done if it could be done at all.

Town Attorney Crim noted that this would be a very inconvenient walk for the operator and could be an unsafe condition in the winter. He opined that it was not a good solution.

Councilmember Leonard-Morgan opined that the Town Shop would be a great precursor. He noted that Julien's used a ladder and dropped their trash over a wall, which was unacceptable.

Councilmember Snyder suggested the Town require businesses to operate on whatever it could give them today. He further suggested it would be great if it could offer the Town Shop as a site. Mr. Snyder recommended the staff tell the operator it was looking at options for the Town to provide service as a long-term solution; however, for the short-term, he must meet the Town Code.

Councilmember Hazard noted the Health Department issues. Town Planner Moore advised Council that the Health Department was waiting to hear from him and noted that he told him the Council would be discussing this matter.

Councilmember Leonard-Morgan suggested the staff have a small dumpster placed at the Town Shop next week.

Town Planner Moore questioned whether the Town should arrange and pay for it. Councilmember Hazard suggested the King Street Oyster Bar be allowed to put a dumpster there. Councilmember Daly agreed and noted that he knew the situation before he moved into the building. Town Planner Moore reiterated that he discussed this with him when he issued the zoning location permit. He advised that it was discussed very early, during his first contact with him.

Town Administrator Semmes noted that this operator had to get a dumpster for his restaurant in Leesburg. Town Planner Moore noted that he did so even though Leesburg provided trash collection six times a week in his area.

Councilmember Daly suggested the staff tell him the Town would provide space in its area for him to put a dumpster so he could take his trash there, as opposed to leaving it in the alley.

Councilmember Leonard-Morgan opined that this would be a problem as he must transport it.

Mayor Davis questioned whether BAC's dumpsters had lids. Councilmember Hazard confirmed they had a plastic one.

Councilmember Littleton opined that the issue, as he understood it, was not about a dumpster but was how close it was to the business. He noted that if it was located at the Town Shop, it would be away from the restaurant.

Mayor Davis opined that if it was located at the Town Shop, the nearby residents would be upset. Town Planner Moore advised that this would only be an interim solution.

Mayor Davis opined that a unit with a metal lid would be less odorous. Town Planner Moore advised that the unit could be located as far away from the residences as possible. Councilmember Littleton suggested it be located close to the building so it would blend in with it.

Councilmember Snyder reiterated the need for a short- and long-term solution.

Councilmember Littleton reminded Council that there was another business with the same landlocked issue. He opined that it was one that had been festering with them for years. Mr. Littleton suggested the Town should allow them to use this dumpster as well and that the Town should pay for it.

Town Attorney Crim advised Council that the Town could authorize the use of public property in a way that was not available to others through a license or franchise. He noted that he sent a sample license agreement to the Town Administrator that he worked on for another locality that had a similar situation. Mr. Crim noted that the issue then became what would they pay for, whether they would pay for the insurance and the need to indemnify the Town. He advised that those were issues for the Council to decide. Mr. Crim confirmed this did not have to wait a month and recommended the

Council authorize the staff to undertake a short-term solution and to bring this matter back at next month's meeting for future action. He suggested they also make it available to businesses in need of this service. Mr. Crim noted that this solution would allow the restaurant to stay open without having a Health Department issue. He suggested that if the operator did not like it, he would have to come up with a better solution. Mr. Crim further suggested that in the meantime, the staff could return with other options.

Councilmember Littleton suggested two things needed to be done. He suggested the first was the short-term fix, which was to place the right size dumpster in the Town Shop parking lot for the two businesses so they would have the ability to use it. Mr. Littleton recommended the Council empower the staff to do so and authorize the Mayor to approve this by November 15th. Councilmember Snyder agreed. Councilmember Littleton advised that the second item was the presentation of additional options to the Council for their review and action by the December Council meeting.

Town Administrator Semmes confirmed the staff could have cost estimates; however, she noted the procurement issue.

Councilmember Hazard suggested the staff look at what the Town received from the meals tax and the cost to provide this service. He further suggested the need to determine whether the Council needed to raise the tax for those who used this service. Mr. Hazard opined that a lot of restaurants would not use it and suggested there be a special tax assessment for those who did.

Councilmember Snyder noted the need for a long-term solution that was sustainable.

Councilmember Hazard suggested the restaurants may be able to do this cheaper themselves.

Councilmember Littleton reported that BAC gave him a quote of \$100/week/property.

Town Administrator Semmes questioned whether the Council was only talking about the restaurants. The members confirmed they were.

Councilmember Littleton noted that the Business & Economic Development Director was looking at bringing in some breweries. He suggested that if the Town had another landlocked building, there could be another business with this same issue. Mr. Littleton opined that it would be great to find any unique properties where this could be an issue.

Councilmember Snyder noted that, years ago, the Town addressed parking issues by waiving the parking requirements. He suggested this was another opportunity to help the town.

Town Administrator Semmes suggested the staff find out how much it would cost for restaurants to have dumpsters picked up.

Councilmember Littleton noted that BAC was based in Middleburg, which gave them an advantage. He advised that he would forward their quote to the staff.

Town Administrator Semmes questioned whether the Town would pay for the dumpster. Councilmember Hazard recommended it not and suggested it simply allow them to use the space. Town Attorney Crim opined that this would be the legal solution.

Councilmember Snyder suggested the Council authorize the Mayor to execute an agreement in the short-term. Town Planner Moore reminded Council that this would have to return to them for the license agreement. Town Attorney Crim suggested the Council could move to authorize the Mayor to sign a temporary license on a month-to-month basis until a permanent solution was found.

Councilmember Littleton agreed the Mayor should review and have the approval authority for the temporary license.

Draft Employee Handbook Updates – Chapters 7 & 8

Town Clerk North advised Council that the Town Attorney recommended some minor tweaks that were clarification in nature. She further advised that those would be incorporated into the changes the Council would see in January.

Chapter 7 – Standards of Conduct

Councilmember Snyder opined that item A(5) on Page 53 was saying that the employees need to treat vendors and other members of the staff with respect. He suggested this needed to be said and requested that the idea of “respect” be included. Town Clerk North advised that this also applied to interactions with the public.

Councilmember Snyder suggested that item D(2)(c) on Page 58 be changed from requiring an eight character password to a sixteen character one. He advised that an eight character password could be cracked by rudimentary software. Mr. Snyder explained that cracking a password did not start to get challenging until it reached sixteen characters. The Council agreed to go with sixteen characters.

Councilmember Snyder suggested the word “supervision” in item E(6) on Page 59 be changed to “interaction” and explained that he did not want to allow an employee to discuss something personal about an employee because they were not their supervisor. The remainder of Council agreed.

Town Administrator Semmes noted that the Chief of Police asked for a clarification of item B(3), which limited the use of a take-home vehicle used on a regular basis to a twenty-five mile radius of the Town Office. She further noted that Culpeper was more than twenty-five miles away from the Town Office.

Town Clerk North noted that the Chief of Police was allowed to take his vehicle home under his employment contract. She further noted that the Town Attorney recommended the Employee Handbook not be written to an employment contract.

Town Administrator Semmes suggested an exception be added. Town Attorney Crim suggested that a general exception be written for the entire Employee Handbook that would note “unless contracted otherwise”.

Chapter VIII – Employment Health & Safety Policies

Councilmember Snyder opined that the sentence in the last paragraph on Page 72 pertaining to follow-up testing for a period following an employee’s return to work was vague. He suggested it instead refer to item (C)(1) on Page 74, which was more definitive.

Councilmember Littleton suggested the entire sentence simply be struck. The remainder of Council agreed.

Information Items

Councilmember Littleton advised Council that two weeks ago, the auditor sent him the pension information, which he reviewed as he was curious as to why the Town’s pension liability was going up when the interest rates were going up. He reported that the pension fund had the right to disconnect the actuarial and pension liability from the interest rate fluctuation; therefore, they did a rate

calculation every year that was independent of the interest rate. Mr. Littleton noted that ERISA strongly recommended that local governments not do that; however, it did not mandate it. He reminded Council that ERISA was the federal law that mandated policy around how pension funds must be managed. Mr. Littleton reported that under ERISA, private businesses were not allowed to do that with their pension funds; however, municipal and state governments were. He advised that there was nothing the Town could do about this.

Town Administrator Semmes opined that the liability was a guess. She reminded Council that it was not an actual liability.

Councilmember Littleton advised that municipalities paid more even though the liability was going down. He acknowledged that the money was going into the pension fund; however, it gave VRS the ability to pull in more money. Mr. Littleton noted that in another organization, if the interest rate went up, they would not have to contribute as much. He opined that this allowed the Town to overfund the pension when it normally would not.

Councilmember Snyder opined that localities underfunded it years ago.

Town Administrator Semmes opined that they were using the higher interest rate recommended by GASB so they were trying to change. She advised that GASB made VRS go back and recalculate the liability and spread it out to the localities. Ms. Semmes opined that they overestimated the liability. She reminded Council that the Town paid in what VRS said it should pay.

Councilmember Littleton reiterated that this was something in which the Town had no choice. He advised that it was what it was unless the legislature mandated changes to tie it to the interest rate.

Town Treasurer Bott advised Council that she contacted VRS for clarification on what was in the report and noted that they were working on a response to her questions. She expressed hope to have the response next week so she could find out how they determined the Town's unfunded liability, including who was included. Ms. Bott noted that the report listed forty plus participants; however, there were only seven retirees from the Town currently drawing retirement. Ms. Bott advised that she was investigating how they came up with the numbers specifically for Middleburg.

Councilmember Littleton noted that Delegate Randy Minchew lost his bid for re-election. He opined that he was a great advocate for the Town. Mr. Littleton proposed that the Town give him a Resolution of Appreciation at its December meeting to thank him for his service.

Councilmember Snyder agreed. He noted that he had spoken with the Town Administrator about reaching out to Delegate-Elect Wendy Gooditis to have her come to a Council meeting. Mayor Davis noted that she was working on a letter for Delegate-Elect Gooditis. Town Administrator Semmes confirmed she would invite her to a meeting.

Councilmember Littleton reminded Council that Loudoun County was going through a re-write of their comprehensive plan. He noted that this was a major, multi-million dollar undertaking, which was called "Envision Loudoun". Mr. Littleton reported that the Board of Supervisors set up a stakeholders committee, which would go around their planning commission, made up of twenty-six people with different interests in the county. He opined that getting twenty-six people to agree on one policy was a large challenge. Mr. Littleton noted that they met every other Monday from 6:00-9:00 p.m. and reported that he had been attending those meetings since July.

Councilmember Littleton reported that the stakeholders committee was working hard; however, they had a green staff due to turnover. He noted that Ricky Barker was heading this project. Mr. Littleton advised that as he watched the committee work, he noticed it was becoming more and more of a

contentious environment. He noted the recent article in Loudoun Now about it. Mr. Littleton advised that he was making no comment on the intentions of the members; however, they have made decisions that were not in the interest of Middleburg, the rural areas or preserving what went around them. He explained that a housing needs assessment was performed by George Mason University two years ago that stated that Loudoun County needed 18,000 additional housing units beyond what was already authorized based on current zoning to support additional growth. Mr. Littleton reminded Council that the comprehensive plan was supposed to be a policy document. He opined that instead of doing good planning and saying “just because this said we needed another 18,000 houses, we don’t want that”, the committee has said “where do we put them”. He advised that they had not done the policy work to actually come up with the right policy statement for the County. Mr. Littleton noted that they did a lot of great work with the public input sessions and reported that over 8,000 people participated.

Councilmember Snyder opined that the public input did not go very far.

Councilmember Littleton distributed a handout from the committee meeting. He noted that it contained a map that broke Loudoun County into three policy areas – suburban, transition and rural. Mr. Littleton reminded Council that seventeen years ago, the County downzoned a lot of properties in the rural policy area in order to protect it. He noted that the Board of Supervisor’s direction to the stakeholders committee was to not touch the rural policy area. Mr. Littleton advised that as a result, all of the work had been done in the suburban and transition areas, the latter of which was meant to be a transitional zone from the dense development to moderate development. He noted that the stakeholders committee, which had been meeting since February, had a lot of builder and developer interests represented on it. Mr. Littleton opined that they did a lot of work on what should go on and what should happen; however, in one meeting, they voted to make their current recommendation to the Board of Supervisors, which was depicted on the third page of the handout.

Councilmember Hazard noted that the Board of Supervisors did not have to take their recommendations.

Councilmember Littleton advised that in some areas, the transition policy area would only be five hundred feet wide, where it was now ten thousand feet. He reported that the stakeholder committee voted to put all 18,000 units in the transition area, which would become a suburban area; therefore, there would no longer be a buffer. Mr. Littleton noted that the public documents that were available before the meeting and what was voted upon instantaneously were different. He advised that nothing was released prior to the vote. Mr. Littleton noted that he met with Ricky Barker to express his concerns. He advised that the staff gave a briefing to the Board of Supervisors a couple of weeks ago, to which the Board told the stakeholders committee that “they got it totally wrong, go and redo it”; however, the committee voted again and put 11,000 units in the transition policy area. Mr. Littleton opined that there was a large disconnect between what was happening versus the broad goal. He noted that when the Board of Supervisors gave the committee direction to not touch the rural policy area, their intention was to preserve it.

Councilmember Littleton advised that in reality, the by-right development in most of the rural policy area was denser than in the transition area. He opined that long-term, the County should examine the rural policy area to increase the protections for the countryside. Mr. Littleton reminded Council that the development between Lena and Aldie was by-right development. He advised that he set up a meeting with the County Administrator and had talked with the planning staff. Mr. Littleton noted that he asked Ricky Barker to come to Middleburg on December 14th, before the Council meeting, to brief the members on this.

Town Administrator Semmes reiterated that Mr. Barker would come at 5:00 p.m. on December 14th, prior to the Council meeting, to brief the Council. She noted that the Planning Commission would also be invited to attend.

Councilmember Littleton noted that Mr. Barker was the Director of Planning and the members of the stakeholders committee were members of the community. He reported that he would continue to attend their meetings; however, members of the public could not talk. Mr. Littleton noted that they were supposed to present their final recommendation to the Board of Supervisors by the end of January. He opined that the opportunity to influence the members would be to talk to them individually. Mr. Littleton suggested that the members of Council talk to the members of the Board of Supervisors.

Mayor Davis advised that she was doing that and opined that most of them understood.

Councilmember Littleton advised that his concern was the rural policy area, specifically the by-right development, at which the committee was not even looking. He noted that Loudoun County had seven towns, six of which were located in the rural policy areas. Mr. Littleton reiterated that the stakeholders committee was not looking at what that should look like in terms of what they would like to protect. He suggested the need to get something very powerful together. Mr. Littleton noted that the Board of Supervisors met three to four times a month and suggested the Town get a large contingency of private citizens to appear at a meeting in January to say how they felt.

Councilmember Leonard-Morgan questioned how far the by-right development extended. Councilmember Littleton confirmed it was for the entire county. He noted that areas in conservation easements could not be touched; however, there were a lot of properties that were not in a conservation easement.

Town Administrator Semmes reported that before the County downzoned the properties in western Loudoun County, people could do by-right development on three acre lots even though a lot of them often would not perk. She noted that they could cluster the development. Ms. Semmes reported that currently, the regulations allowed for one house per forty acres unless they were clustered. She opined that they did a good job of developing these regulations; however, there were a lot of units that had already been platted. Ms. Semmes noted that some properties were being developed into wineries.

Councilmember Littleton noted that the transition area was one unit per three acres. He advised that they were given a choice to keep it as is or increase it to four units per acre, with no consideration being given to anything in between. Mr. Littleton reiterated that they voted to increase the density.

Town Administrator Semmes advised that one of the members was advocating for affordable housing. She noted that at four units per acre, this would be a single-family home, which would not be affordable. Councilmember Littleton opined that the lot alone would cost \$340,000.

Councilmember Snyder noted that the Middleburg Comprehensive Plan had the same problem in the early 1990s in that the map showed development at three houses per acre on the Salamander property. He advised that they corrected that in the 1990s. Mr. Snyder opined that if people had their way, they would add that additional density and would go to three to four units per acre.

Councilmember Hazard suggested the Council should not just get forty people from Middleburg to attend the Board of Supervisors' meeting. He further suggested the need to get five people from each of the districts.

Councilmember Littleton reported that Supervisor Buffington was on Middleburg's side.

Town Administrator Semmes displayed a flyer prepared by a coalition of citizens and conservation groups who were working with the Piedmont Environmental Council to inform the public and encourage public participation in the Envision Loudoun process. She suggested this group could pull together large numbers of people to attend a Board of Supervisors meeting.

Councilmember Littleton reiterated that the County received 8,000 public comments, with the rural areas providing significantly more participation than the suburban areas. He advised that 83% said “do not put more houses in the transition area”; however, the stakeholders committee voted to triple it. Mr. Littleton noted that the scary thing was this document would be the foundation on which decisions would be made. He advised that the committee had thick packets of information at every meeting; therefore, they were generating a ton of stuff to support their recommendations.

Councilmember Daly reminded Council that on the eleventh hour of the eleventh day of the eleventh month in 1918, the war to end all wars ended. He further reminded them that it became known as The First World War as the second one followed twenty years later. Mr. Daly noted that there were more veterans today and opined that the current administration was providing help for opportunities to create new ones. He encouraged the audience to thank veterans for what they had today and noted that they were the reason they could enjoy their freedoms. Mr. Daly noted that he liked this day more than Memorial Day as he could have coffee with friends and advised that they were living memorials.

Mayor Davis opined that the banners for the various branches of the military looked nice. Town Planner Moore reminded Council that these were the idea of Albert Patterson of the Middleburg Printers. He noted that he offered to print them and gave them to the Town at his cost.

Mayor Davis reminded Council that Councilmember Miller was organizing the Town’s Christmas Party. She suggested the members reach out to him with what they would like to bring and noted that the next meeting would not occur until after the luncheon. Ms. Davis asked the Town Clerk to reach out to Councilmember Miller to tell him that the members would let him know what they were bringing and that he should let them know what was missing and still needed.

Closed Session – Acquisition of Property & Appointment to Go Green

Councilmember Hazard moved, seconded by Councilmember Littleton, that Council go into closed session as allowed under the Virginia Freedom of Information Act Section 2.2-3711(A)(1) and (3) 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 and the discussion or consideration of the acquisition of real property for a public purpose, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body. Councilmember Hazard further moved, seconded by Councilmember Littleton, that these matters be limited to (1) an appointment to Go Green and (2) the acquisition of property within the town. Councilmember Hazard further moved, seconded by Councilmember Littleton, that in addition to the Council, the following individuals be present during the closed session: Martha Mason Semmes, Martin Crim and Rhonda North for the first part and Martha Mason Semmes, Martin Crim and Will Moore for the second part. Councilmember Hazard further moved, seconded by Councilmember Littleton, that the Council thereafter reconvene in open session for action as appropriate.

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

No – N/A

Abstain: N/A

Absent: Councilmembers Kirk and Miller

(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 Leonard-Morgan moved, seconded by Councilmember Daly, that the Council appoint Lindsay Watts to Go Green to fill an unexpired term, said term to expire May 12, 2018.

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

No – N/A

Abstain: N/A

Absent: Councilmembers Kirk and Miller

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

There being no further business, Mayor Davis declared the meeting adjourned at 9:06 p.m.

APPROVED:

Betsy A. Davis, MAYOR