



## MIDDLEBURG TOWN COUNCIL Regular Monthly Meeting Minutes



Thursday, June 9, 2016

PRESENT: Mayor Betsy A. Davis  
Vice Mayor Darlene Kirk  
Councilmember Kevin Hazard  
Councilmember Trowbridge Littleton  
Councilmember Kathy Jo Shea  
Councilmember Mark T. Snyder

STAFF: Martha Mason Semmes, Town Administrator  
Angela K. Plowman, Town Attorney  
Rhonda S. North, MMC, Town Clerk  
William M. Moore, Town Planner  
Ashley M. Bott, Town Treasurer  
Mike Prince, Lieutenant

ABSENT: Councilmember Catherine "Bundles" Murdock

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, June 9, 2016 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 Hearing**

#### **Ordinance Pertaining to Zoning Text Amendment 15-03**

No one spoke and the public hearing was closed.

### **Action Items related to Public Hearing**

#### **Ordinance Pertaining to Zoning Text Amendment 15-03**

Town Planner Moore reminded Council that almost a year ago, representatives from Salamander Development approached the Planning Commission to discuss a small part of the proposed text amendment that dealt with maximum setbacks in the R-1 and R-3 Districts. He explained that the current ordinance only allowed for a small window to site the front of the homes and advised that Salamander asked for greater flexibility with regard to the maximum setback. Mr. Moore noted that they initially requested a much larger setback; however, after months of study, the Planning Commission came up with a recommendation that they felt was appropriate for all of the zoning districts in the town. He advised that the staff then presented the Commission with some things that it had been thinking about, including that the ordinance did not distinguish side yards on corner lots from side yards in interior lots. Mr. Moore noted that, under the existing ordinance, items such as accessory structures, tall fences and walls could encroach in a side yard adjacent to a street that would usually be treated differently when adjacent to a right-of-way. He advised that he proposed suggestions that would still allow for the encroachments in some situations. Mr. Moore reminded Council that the part of the amendment related to fences was where the staff's recommendation differed from the Planning Commission's. He further reminded them that they discussed different options for addressing this over the last three months and at the conclusion of

their May meeting, opted to allow for a six foot fence along one frontage; however, if it exceeded four feet, it must be of a twenty-five percent (25%) open design in order to allow for the circulation of air and light.

*Councilmember Snyder moved, seconded by Councilmember Hazard, that Council adopt an ordinance to amend Articles II, X and XII of the Middleburg Zoning Ordinance pertaining to yard definitions, residential zoning district regulations and permitted extensions into required yards.*

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

No – N/A

Abstain: N/A

Absent: Councilmember Murdock

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

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### **Special Recognitions by Mayor and Council**

Mayor Davis recognized Melanie Mathews, Executive Director of the National Sporting Library and Museum. She announced that there were two 2016 Loudoun Design Award winners from Middleburg – the National Sporting Library and Coe Eldredge of University Group. Ms. Davis noted that the purpose of these annual awards, which were operated by the Loudoun County Design Cabinet, was to recognize buildings, interiors, places and details that help make Loudoun County a unique, high quality place to live, work and play. She announced that the University Group received a familiar award for the Middleburg Professional Center office building and the National Sporting Library and Museum received recognition in the make-over category for its transformation of the Vine Hill Mansion into a world class art gallery. Ms. Davis noted that both were presented awards by the Design Cabinet during the Loudoun County Board of Supervisors meeting held June 7<sup>th</sup>.

Town Administrator Semmes noted that Ms. Mathews brought in the award panel for viewing. She opined that the awards program gave the County a chance to do something positive and recognize those who put something extra into their buildings in order to make communities high quality places.

Ms. Mathews reported that there was an article in the Loudoun Times Mirror, which included the same image from the poster. She advised that she met some great people and that this was a wonderful networking opportunity. Ms. Mathews thanked Town Administrator Semmes for her assistance in the process. She advised that she would leave the award with the Town for a while and would pick it up later.

### **Approval of Minutes**

*Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve the May 12, 2016 Regular Meeting and May 26, 2016 Work Session Minutes as amended.*

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

No – N/A

Abstain: N/A

Absent: Councilmember Murdock

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

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## **Staff Reports**

Vice Mayor Kirk inquired as to when the staff would be able to start working on the inventory of Town properties. **Town Administrator Semmes** reported that the inventory had been updated and was scheduled for discussion during the June work session.

**Town Planner Moore** noted that initially the HDRC meeting had been cancelled; however, they have now scheduled a special meeting on June 16<sup>th</sup> to consider an Eagle Scout project at the Middleburg Charter School. He noted that the scout was on a deadline; therefore, the Committee agreed to schedule a special meeting.

**Town Treasurer Bott** reminded Council that Councilmember Snyder asked that she follow-up on increasing the Town's password links and suggested they be a minimum of fifteen characters. She reported that the Town's IT contractor had no issue with this and advised that it would be more of an issue for the staff as they would have to remember a password that would change every ninety days. Ms. Bott advised that Councilmember Snyder also asked whether a hacker could access other things if they cracked the initial password. She advised that this would depend on the password links for Southern Software and noted that she would talk to them about increasing their password link as well.

Councilmember Snyder explained that there were two ways to get into the system – to crack a password and to get to the data. He advised that he wanted to improve the Town's password system and suggested that if the staff had an issue using longer passwords, they should give him a call. Mr. Snyder noted that his company was about to scan passwords for any word in a dictionary and would reject it if they found one.

Town Treasurer Bott reported that she met with the auditors this week regarding the upcoming audit. She advised that they would return July 20<sup>th</sup> to do the confirmations. Ms. Bott reported that the audit schedule has been set. She advised that she did not foresee any issues and noted that she has been through many audits.

Councilmember Shea noted that the Treasurer's report indicated that there were two businesses that were delinquent in their meals tax, with one having caught up. She further noted that the report indicated that the Treasurer was holding the business license for the one business; however, it was still operating.

Town Treasurer Bott advised Council that she had given the business owner a deadline as he was making a good faith effort to pay. She noted that she explained to him that she could contact the ABC Board and have their alcohol license revoked. Ms. Bott reported that she was looking at what steps could be taken to ensure they did not continue to do business. She advised that she has been working with both businesses for a couple of months and was trying to give them the benefit of the doubt. Ms. Bott noted that she was trying to not be too harsh.

Councilmember Snyder advised Ms. Bott that he appreciated the details and depth of her report format.

**Police Lieutenant Prince** reported that the department started the program for parking vehicles in the construction area during weekends last weekend. He opined that as motorists got used to it, it would be more beneficial. Lt. Prince noted that this past weekend's efforts were trial and error. He opined that there would be more to report at the next meeting as they would have more of a history.

Lt. Prince reminded Council that the classroom in their office has been certified by the Academy for use as a training room, which has been very beneficial. He reported that the officers have now used it three times, which was the most training that Middleburg had seen in a while as an entire group. He thanked Officer Hollins for devoting himself to that program and opined that he had done a great job. Lt. Prince noted that the officers could get their training hours here, without the need to go to Ashburn.

Lt. Prince reminded Council that National Night Out would be held August 2 and invited the members to attend. He noted that they would have a dunking booth and hotdogs.

Councilmember Shea noted that the Police Department's monthly report indicated that ticketing was down compared to last May. She questioned whether this was true even with the construction and road time that the force has put in. Lt. Prince advised that he could not answer as to the numbers. He noted that they have had a lot of people on vacation.

Councilmember Shea questioned whether "warnings" occurred anytime an officer stopped someone. Lt. Prince advised that a warning could be anything from a traffic stop to jaywalking. He noted that they were normally traffic related.

Vice Mayor Kirk noted that Chief Panebianco told her last week that the officers were doing more ticketing than ever.

Councilmember Hazard noted that, according to the report, summonses were up two hundred percent. He further noted that warnings were down.

Councilmember Shea opined that this seemed low. She noted that she had witnessed a number of officers talking to people.

Vice Mayor Kirk opined that the officers were doing a great job of getting people to stop on the back street.

Lt. Prince advised Council that the only way to address this issue was to keep doing enforcement, which the officers were doing daily. He opined that this was all they could do until the construction was over. Lt. Prince noted that motorists would try to avoid the construction zone and opined that the Ridgeview Subdivision residents were getting the blunt of this as motorists were cutting across the side streets. He advised that even though it looked like cars were "flying", according to the radar, they were going the speed limit. Lt. Prince opined that people's eyes said "motorists were doing 40 mph" when they were actually doing the speed limit. He reported that the officers were writing stop sign violations.

Vice Mayor Kirk opined that motorists would continue to cut through the Ridgeview Subdivision once the construction was complete as they would have learned that path.

Councilmember Snyder opined that this would give the Town more leverage to get a four-way stop sign at the intersection of Pendleton/Marshall Streets. Vice Mayor Kirk suggested that now was the time to make that request again. The remainder of Council agreed.

Councilmember Snyder opined that a four-way stop would make this route less attractive. Mayor Davis opined that it was dangerous as people already believed it was a four-way intersection.

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

**Council Appointments** – Middleburg Arts Council

*Vice Mayor Kirk moved, seconded by Councilmember Snyder, that Council re-appoint Peter Wood, Maribe Chandler-Gardiner and Anne Charlotte Robinson to the Middleburg Arts Council for two-year terms, said terms to expire June 14, 2018.*

Vote: Yes – Councilmembers Kirk, Hazard, Littleton, Shea and Snyder  
No – N/A  
Abstain: N/A  
Absent: Councilmember Murdock  
(Mayor Davis only votes in the case of a tie)

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Council Appointments – Economic Development Advisory Committee

*Vice Mayor Kirk moved, seconded by Councilmember Shea, that Council re-appoint Prem Devadas, Duane Ellis and Vincent Bataoel to the Economic Development Advisory Committee for two-year terms, said terms to expire April 1, 2018.*

Vote: Yes – Councilmembers Kirk, Hazard, Littleton, Shea and Snyder  
No – N/A  
Abstain: N/A  
Absent: Councilmember Murdock  
(Mayor Davis only votes in the case of a tie)

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Council Approval – Frederick/Winchester Service Authority Waste Management Agreement

*Vice Mayor Kirk moved, seconded by Councilmember Snyder, that Council approve the Frederick-Winchester Service Authority and Town of Middleburg, Virginia Waste Management Agreement, in a form approved by the Town Attorney, for the disposal of the Town's sludge. Vice Mayor Kirk further moved, seconded by Councilmember Snyder, that the Town Administrator be authorized to sign the agreement on the Town's behalf.*

Mayor Davis noted that the cost was \$.03/gallon; however, she questioned the total cost. Town Administrator Semmes opined that the Town budgeted to spend \$60,000/year for sludge removal.

Councilmember Snyder reported that this was something the Utility Committee has been discussing and noted that it was a requirement in order to renew the license for the wastewater treatment plant. He reported that the agreement with Loudoun Water was out of date and was not valid.

Town Administrator Semmes reminded Council that sludge removal involved two costs. She advised that there was the cost to actually have the sludge received by a facility; however, there was also a cost for hauling. Ms. Semmes reported that she would bring the Council an agreement with Five Star Septic to haul it. She noted that it may be possible to simply amend the existing contract to change the delivery location. Ms. Semmes advised that in order to calculate the cost, Five Star must first take a load over to the Berryville facility so they could see how long it would take.

Councilmember Snyder suggested that if it made sense to the Town Attorney, the Council could approve an amendment to the contract.

Town Administrator Semmes noted that this may or may not have to be done.

Councilmember Shea questioned what would occur if the Town was not able to negotiate a contract with Five Star. Town Administrator Semmes confirmed it would be able to do so as they wanted the Town's business. She reported that they have been a good company for the Town. Ms. Semmes reminded Council that they were originally procured through an RFP issued by Loudoun Water, which included all of the towns, including Middleburg.

Councilmember Shea noted that the agreement indicated that the Frederick/Winchester Service Authority took food waste. She questioned whether there was a potential for the collection of food waste at some point.

Town Administrator Semmes confirmed there would not be by the Town. She noted that food waste was collected by companies like Valley Protein. Ms. Semmes advised that the Town did not have the equipment to collect food waste. She noted that the Frederick/Winchester Service Authority not only took municipal waste, but they also took food waste from restaurants. Ms. Semmes noted that it was converted to energy. She opined that some of Middleburg's restaurants may already have a contract with Valley Protein to dispose of their food waste at this facility.

Councilmember Snyder opined that this was a good project for Go Green.

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

No – N/A

Abstain: N/A

Absent: Councilmember Murdock

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

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Council Approval – Request to Initiate Zoning Text Amendment 16-01 Pertaining to Limited Residential Lodging (Short-Term Rentals)

*Councilmember Snyder moved, seconded by Councilmember Shea, that Council initiate Zoning Text Amendment 16-01 pertaining to limited residential lodging and to refer this amendment to the Planning Commission for their study and recommendation.*

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

No – N/A

Abstain: N/A

Absent: Councilmember Murdock

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

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**Discussion Items**

Council Discussion – Request to amend Policy Pertaining to Participation in Meetings Electronically

Mayor Davis opined that electronic participation in meetings was not allowable for closed sessions and that the staff wanted to add this to the policy.

Town Attorney Plowman advised Council that the State Code was silent on this issue. She noted that in looking at the concept of a closed session, if a member was off site, the Council would have no control over who was sitting there, which would invalidate the closed session. Ms. Plowman recommended something be put in writing and noted that once the criteria for electronic participation were met, the participation was permitted unless the member was beyond the number of electronic participations permitted in a year.

*Councilmember Snyder moved, seconded by Councilmember Shea, that Council approve the amendments to the Council's Rules of Procedures as proposed regarding amendments to participate in meetings electronically.*

Vote: Yes – Councilmembers Kirk, Hazard, Littleton, Shea and Snyder  
No – N/A  
Abstain: N/A  
Absent: Councilmember Murdock  
(Mayor Davis only votes in the case of a tie)

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**Information Items**

Mayor Davis reminded Council that a reception would be held on June 23rd, from 4:30 to 6:00 p.m., for the outgoing members of Council. She asked that they let the staff know whether they were coming and expressed hope that everyone would attend.

Councilmember Shea reported that she has been sworn into office for her temporary appointment.

Councilmember Shea reported that a resident advised her that she would like to see a comparison on her water bill so she could look at what the readings were for the previous two months in order to compare them to the current reading. She questioned whether this was something that could be added to the bill under the new software system.

Town Treasurer Bott confirmed she would look into this.

Councilmember Snyder agreed the Town should do this to the extent practical. Mayor Davis noted that most utilities offered information for a year so the customer could see what they spent at the same time the previous year. She opined that whatever could be offered would be great.

**Closed Session** – Personnel (Evaluation of Town Administrator)

*Vice Mayor Kirk moved, seconded by Councilmember Hazard, that Council go into closed session as allowed under the Virginia Freedom of Information Act Section 2.2-3711(A)(1) pertaining to the discussion, consideration or interviews of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of the public body. Vice Mayor Kirk further moved, seconded by Councilmember Hazard, that these matters be limited to the evaluation of the Town Administrator. Vice Mayor Kirk further moved, seconded by Councilmember Hazard, that in addition to the Council, the following individuals be present during the closed session: Martha Mason Semmes. Vice Mayor Kirk further moved, seconded by Councilmember Hazard, that the Council thereafter reconvene in open session for action as appropriate.*

Vote: Yes – Councilmembers Kirk, Hazard, Littleton, Shea and Snyder  
No – N/A  
Abstain: N/A  
Absent: Councilmember Murdock  
(Mayor Davis only votes in the case of a tie)

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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.

There being no further business, Mayor Davis declared the meeting adjourned at 7:07 p.m.

APPROVED:

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Betsy A. Davis, MAYOR

ATTEST:

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Rhonda S. North, MMC, Town Clerk