



MIDDLEBURG TOWN COUNCIL
Regular Monthly Meeting Minutes
Thursday, June 8, 2017



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

STAFF: Martha Mason Semmes, Town Administrator
Martin R. Crim, Town Attorney
Rhonda S. North, MMC, Town Clerk
Mike Prince, Police Lieutenant
William M. Moore, Town Planner
Cindy C. Pearson, Economic Development Coordinator

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, June 8, 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 Hearing

Zoning Text Amendment 17-02: Definition of Personal Service Business

No one spoke and the public hearing was closed.

Action Item related to Public Hearing

Zoning Text Amendment 17-02: Definition of Personal Service Business

Councilmember Snyder moved, seconded by Councilmember Leonard-Morgan, that Council adopt an ordinance to amend Articles II and XI of the Middleburg Zoning Ordinance pertaining to the definition of “personal service business”.

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

No – N/A

Abstain: N/A

Absent: Councilmembers Kirk and Hazard

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

Appropriations Ordinance/FY '18 Budget

Councilmember Snyder moved, seconded by Councilmember Daly, that Council adopt an ordinance to Approve the Budget, Adopt Tax Rates and Make Appropriations for the Fiscal Year ending June 30, 2018.

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

Approval of Minutes

Councilmember Snyder moved that Council approve the April 13, 2017 Regular Meeting, April 27, 2017 Work Session; May 8 & 9, 2017 Middleburg Futures’ Group, May 11, 2017 Regular Meeting, May 18, 2017 Special Meeting, May 22, 2017 Comp Plan Session; and the May 25, 2017 Work Session Meeting Minutes.

Councilmember Snyder questioned why there were minutes for the Middleburg Futures’ Group meetings. He noted that the minutes indicated that because there were three Councilmembers in attendance, a quorum was present. Mr. Snyder opined that having three members present may trigger a notice requirement; however, he opined that it did not represent a quorum. Town Clerk North reminded Council that three members constituted a quorum for meeting purposes. She noted that four were needed for voting purposes.

Mayor Davis advised Council that she would like to discuss this further and suggested it be added to the agenda as a discussion item.

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

Staff Reports

Mayor Davis noted that the Town received calls about water leaks and questioned whether any were found. **Stuart Will, of IES**, reported that none were found. He explained that when people received high bills, they asked that the meter be checked and advised that he did so and also re-read it a week later. Mr. Will further advised that he also checked the low-flow meter. He noted that if the low-flow meter stopped, there was no leak.

Mayor Davis questioned whether the bills were extremely high. Mr. Will confirmed that one was and advised that it was the result of a defective meter. He noted that it was a new digital meter and advised that it kept moving even though he had turned off the water. Mr. Will reported that it was being returned to the supplier as it was under warranty.

Town Administrator Semmes reported that the customer was granted relief from the high water bill.

Councilmember Snyder asked that Mr. Will include upcoming planned events, such as maintenance, in his monthly reports so the Council would have advanced notice.

(Vice Mayor Kirk arrived at the meeting at 6:06 p.m.)

Town Administrator Semmes reported that the Salamander conservation easement amendment was approved by the Potomac Conservancy and noted that they were in the process of getting it signed. She advised that the Mayor would then sign it, at which point, it would be sent to Salamander’s attorney for their signature and then recordation.

Town Administrator Semmes reminded Council that they asked for information on the cost of a parking study. She noted that she spoke with two consultants and advised that, depending on the level of detail, the cost would be \$35,000-50,000 for a study similar to what was done in the past. Ms. Semmes advised that if the Council wished more detailed information, the cost could be \$75,000-100,000. She suggested the Council look at the \$35,000-55,000 range. Ms. Semmes noted that she had some examples of studies if the Council was interested.

Councilmember Leonard-Morgan questioned whether the Town's previous parking study cost that kind of money. Town Administrator Semmes noted that the last study was done in 2005. She advised that with inflation, that was where the price would be.

Councilmember Snyder noted that this was the cost for the data collection and analysis.

Town Administrator Semmes noted that there was new methodology available and advised that some consultants use license plate reader technology, which made it easier to do periodic checks during the day to determine occupancy of the spaces. She reported that the study would involve doing inventory and occupancy counts and then making recommendations.

Councilmember Snyder opined that the Town would probably be good with the base level study.

Councilmember Miller questioned whether it was possible to update the 2005 study. Councilmember Snyder opined that the consultant would look at the previous studies.

Town Administrator Semmes noted that she was just providing a price range. She advised that it could be tightened through the scope of work. Ms. Semmes noted that the staff could see whether the previous study would help any. She confirmed there was some consulting money in next year's budget that could be used to cover some of the cost.

Councilmember Miller inquired as to the timeframe for completion of the study. Town Administrator Semmes opined that it would take three months. She noted that the important thing was to decide when the Council wanted the study done and suggested the middle of summer or winter may not be the best times. Ms. Semmes suggested the Council would want the study to be done during a busier time, such as the fall. She noted that one company said they could make seasonal adjustments.

Town Administrator Semmes reminded Council that the Comprehensive Plan update was underway and questioned how this study would interact with that.

Councilmember Miller noted the need to find a way to do this. He reminded Council that they have been talking about it and opined that it needed to be done.

Councilmember Snyder opined that everyone believed there was not enough parking; therefore, the Town did a study. He suggested the Council get the actual data.

Councilmember Miller opined that much had changed since the last study.

Vice Mayor Kirk questioned what the Town would receive for that amount of money. Councilmember Miller suggested the need to determine what the Council wanted from the study and to write that into the scope of work. He opined that there was a lot of information in the last study.

(Councilmember Hazard arrived at the meeting at 6:12 p.m.)

Town Administrator Semmes reported that she made an informal job offer, in consultation with the Mayor and Councilmember Miller, to a candidate for the Business & Economic Development Director position, which that person accepted. She noted the need to do a formal offer letter. Ms. Semmes advised that the informal offer was contingent up the background and reference checks. She reported that the reference checks were excellent so far and the criminal background check was clean. Ms. Semmes advised that she was looking at a start date of the second week in July. She explained that a formal announcement would not be made until the employment letter was signed. Ms. Semmes reiterated that she had received rave reviews from the references, including a Town Manager who supervised the candidate; a former director of a small business development center, who appointed the candidate; a selectman, which was the equivalent of a councilmember; and, a business client. She reported that she had one more client to call.

Councilmember Littleton suggested that before the individual arrived, the Town Administrator and Councilmember Miller should identify some of the first priorities on which he should focus and some of the Town's initial expectations.

Town Administrator Semmes opined that one of the Council's biggest priorities was branding and marketing.

Councilmember Snyder suggested it would be helpful to have a list of recommendations from EDAC for review and approval.

Councilmember Miller suggested they align with the vision session. He reminded Council that EDAC took direction from them. Mr. Miller suggested the identification of the Council's vision goals that aligned with the job and recommended those be sent to EDAC for their review. Councilmember Snyder agreed.

Councilmember Littleton noted that the individual would not arrive for a month. He suggested the members of Council put any ideas they may have together and give them to the Town Administrator. Mr. Littleton opined that it would be great to make initial introductions within the first two or three weeks.

Councilmember Miller questioned whether the Town had a formal process to bring on a new employee. Town Administrator Semmes confirmed it had a check list for new employees.

Councilmember Littleton questioned whether the checklist was administrative, procedural matters or more about the job. Town Administrator Semmes confirmed she would go over the job, including the initiatives and committees that were specific to that job. She reminded Council that Ms. Pearson would still be available and would help this individual network and would identify organizations that he needed to meet with. Ms. Semmes advised that she liked the idea of including the vision items.

Councilmember Leonard-Morgan opined that the Middleburg Futures' Group came up with a lot of ideas of which this individual needed to be aware.

Councilmember Littleton noted that he may identify things the Town may have missed.

Town Clerk North reported that the Council had the latest action tracker on their desks.

Councilmember Littleton suggested the items be sorted by priority so the important items were at the top. He noted that the Council's top ten goals have been added to the list and suggested the need to determine their priority, when to begin them and to fill out the remainder of the columns. Councilmember Hazard reminded Council that they agreed to do this at the work session.

Councilmember Littleton questioned whether the members of Council received the quad framework. Town Clerk North noted that she had already received a response back from one member.

Mayor Davis opined that the Council was supposed to bring their responses to the work session. Councilmember Miller reminded Council that the idea was to complete the forms and send them to the Town Clerk. Town Clerk North reported that she would then compile the responses for each item into one document, with that being included in the work session agenda.

Councilmember Littleton noted that the Town Clerk sent out quad sheets that contained a statement at the top of the page for each item. He explained that the quad sheet was divided into four sections to identify what was needed, what the Council wanted to accomplish, how long it would take and what resources would be needed. Mr. Littleton suggested the members complete each section with just one or two sentences and noted that it was not a difficult exercise. He advised that the Town Clerk would then take the individual members' input and identify any commonality. Mr. Littleton noted that this would then be used as the starting point for the work session discussion.

Councilmember Leonard-Morgan advised that as the Go Green representative, he would like to reduce the use of paper and questioned what was happening with the electronic agendas. He noted that he was putting them on his iPad. Mr. Leonard-Morgan reminded Council that they had a conversation about electronic agendas not long after he started serving on the Council.

Councilmember Littleton reported that he reached out to four different solution architects, who could help develop a system, and two hardware providers. He further reported that he, Councilmember Daly, Town Administrator Semmes, Town Clerk North and Town Planner Moore were scheduled to meet to do a requirements gathering.

Councilmember Leonard-Morgan questioned whether a standalone system was already proposed. Town Clerk North advised Council that she, the Town Administrator and the Town Planner heard presentations from two electronic agenda software providers – Granicus and Boarddocs.

Councilmember Leonard-Morgan questioned whether those systems were not suitable. Councilmember Littleton suggested that before picking what the Town wanted to implement, it needed to identify its requirements. He opined that Granicus could be awesome; however, he suggested the need to know what the Town wanted.

Councilmember Snyder opined that too often a system was provided that did what it did and people tried to use it. He suggested the need to identify what the Town wanted it to do before it was purchased.

Councilmember Littleton suggested the need to figure out what made sense and what the requirements were. He reported that he would then bring that back to the Council to see what they thought. Mr. Littleton opined that it must be the right size. He suggested the list of requirements not be so long that it would take five years to implement. Mr. Littleton further suggested the Town go to three different solution architects who knew all the systems and could identify what made sense based on the Town's needs. He reiterated that this would then be brought to the Council. Mr. Littleton noted the need for an implementation schedule and price quotes and to figure out what best fit the Town.

Mayor Davis questioned the timeframe for completion of this item. Councilmember Littleton reported that he had spoken with three vendors. He suggested they be given the Town's requirements so they could do an assessment and provide the Town with two or three options with prices and a schedule. Mr. Littleton opined that this could be done within a couple of weeks.

Councilmember Snyder suggested the staff see if Leesburg had a requirements list. Councilmember Littleton advised that he called their CIO, who said this was one of the more frustrating things he dealt with as people kept questioning why the system did not do things.

Councilmember Hazard opined that a basic requirements list could be obtained from other jurisdictions. Councilmember Snyder suggested it would be obtained from the software companies marketing people. He noted that software/hardware products were items that a sales department put together, not technology people or the end user.

Councilmember Hazard suggested that others have already given the solution architects their lists of needs.

Councilmember Littleton suggested the Town provide its own list and then use the architects' lists as validation of whether the Town's was right or wrong.

Vice Mayor Kirk opined that another town had already done this. Town Clerk North noted that a couple of years ago, she sent a poll to her fellow clerks and found that the majority were using Granicus or Boarddocs, with a couple using SharePoint.

Vice Mayor Kirk questioned whether those who were using the systems were satisfied. Councilmember Hazard questioned what the currently users liked and disliked about their systems. He suggested the Town look at where this had been done successfully. Councilmember Snyder agreed that polling other bodies was an excellent idea as the Council could concentrate on things that were bugging others.

Town Attorney Crim suggested that VML be asked to conduct a poll. Town Administrator Semmes noted that the Virginia Institute of Government put out polls daily and advised that she would get them to ask if anyone had prepared a requirements list.

Councilmember Littleton reiterated that he and Councilmember Daly were meeting with the staff and advised that he wanted to take the opportunity to identify the needs before anyone was fettered by what someone else had done. He noted that everyone always leapt to the solution. Mr. Littleton opined that the suggestions offered were the right path.

Vice Mayor Kirk noted that she did not want there to be something that no one thought of. Councilmember Littleton noted that there would always be something. Councilmember Snyder noted that every time he put a system together, there was always an improvement as you could not think of everything.

Councilmember Daly urged caution to avoid getting "requirements creep".

Councilmember Miller suggested it was important that the system be compatible with whatever the Town did from a minute's perspective. He further suggested it be one system or at least compatible. Councilmember Littleton noted that he and the staff discussed that earlier in the day.

Mayor Davis questioned the status of the new website. **Economic Development Coordinator Pearson** reported that she was meeting with Erin Gable and her husband next week to look at the proposed website in its current form as it was beyond her capabilities. She explained that she asked Ms. Gable to develop a calendar of events as what the Town's contractor provided was unacceptable. Ms. Pearson noted that they simply used the existing calendar as they could not create one themselves. She advised that it did not look right from a format perspective and explained that if she changed the pictures, they would flip a different way.

Mayor Davis questioned whether the contractor had a calendar. Town Administrator Semmes reminded Council that this was part of the contract; however, what they provided was not what they were asked to do. She explained that they were asked to provide a calendar that other people could post on, with the Economic Development Coordinator approving the posts.

Councilmember Snyder noted that his brother did website development and had asked when the Town was going to update theirs.

Economic Development Coordinator Pearson reiterated that Ms. Gable and her husband were coming in so she could ask for suggestions and a cost estimate. She suggested that another option was to go back to the contractor and tell them that what they provided did not work.

Town Administrator Semmes explained that the staff was looking for a back-up plan.

Mayor Davis opined that the amount of time this was taking was ridiculous.

Economic Development Coordinator Pearson noted that the contractor's project manager had changed three times and she had not even been given the name of the latest one.

Councilmember Leonard-Morgan questioned whether the Town was too far into the contract to start with someone else. Vice Mayor Kirk opined that this was not necessarily the case. Mayor Davis noted that there were other companies that had expressed an interest in this contract.

Economic Development Coordinator Pearson advised that this was frustrating. She noted that she would notify the Council as to what was happening after the first of the week.

Town Planner Moore thanked the members who attended the Comprehensive Plan work session and opined that it was a success. He reminded them that Loudoun County was also updating their Comprehensive Plan. Mr. Moore reported that they would hold two workshops next week – one in Hamilton on June 13th and one in Aldie on June 15th – and encouraged the members to attend if they were interested. He noted that he would email the information on them to the Council.

Town Planner Moore reminded Council that an HDRC meeting had been scheduled for next week; however, he was cancelling it as the applicant had not yet submitted their application.

Town Planner Moore advised that from a maintenance perspective, he was deep into recruitment and reported that he had received applications from some good candidates. He noted that he was looking to short list them and schedule interviews very soon. Vice Mayor Kirk asked that this information be shared with her.

Councilmember Leonard-Morgan thanked Mr. Moore and noted that he was doing a lot of the maintenance work himself.

Town Planner Moore confirmed he was. He noted that Jesus Sandoval was also doing a lot of the work, including most of the trash collections and maintaining the public restrooms.

Mayor Davis noted that the monthly report indicated some sign hardware was missing. Town Planner Moore confirmed the hardware and straps were missing for three of the parking signs on South Madison and South Pendleton Streets and advised that they have been ordered. He expressed hope that they would arrive soon.

Councilmember Miller questioned whether the sign poles that were bolted into the concrete would get covers. Town Planner Moore noted that a test cover was used on one pole and advised that the staff was satisfied that this was the solution. He reported that eleven more had been ordered and would be received soon.

Vice Mayor Kirk noted that it was good to see Officer Putnam back at work.

Mayor Davis questioned whether the Police Department was planning to implement the new parking enforcement system by July 1.

Police Lieutenant Prince reported that this was his understanding. He noted that training was scheduled for the end of the month on the new equipment. Lieutenant Prince opined that the system should be ready to go by July.

Town Attorney Crim reported that he had been working on the draft parking ordinance, which was on the agenda. He noted that he, the Town Administrator and the Chief discussed it to make sure it was legal and practical. Mr. Crim reminded Council that an individual could initiate an administrative appeal to the Chief and explained that if the violator was unsatisfied, the appeal could be placed on the court docket for adjudication.

Town Attorney Crim reported that he had completed his legal review of the draft Employee Handbook and provided his comments to the staff. He suggested the staff may want to put things in other sections and suggested they check the internal cross references.

Town Attorney Crim reported that he and the Town Administrator have been working with Mr. Littleton on a MOU for the Pink Box and opined that it was “there”. He further reported that he revised the contract for the maintenance of the water tanks. Mr. Crim noted that he was exchanging emails with the company and was trying to figure out how to incentivize prompt work when their schedule was not known in advance.

Town Attorney Crim advised Council that he had had some back and forth with AT&T on their cell tower lease and noted that they have been provided the information they needed. He expressed hope that this would be resolved soon. Mr. Crim advised that AT&T was balking at some things he had pushed, such as a premium lease payment in the event the lease ended and they continued to hold over their equipment. He explained that he wanted to incentivize them to sign a new lease.

Town Attorney Crim reported that he had revised the draft ordinance on employee bonuses that was provided by the Town Clerk. He noted that this would come to the Council in a future meeting. Mr. Crim explained that it would give the Council the authorization to grant bonuses. He noted that the Council was having an ongoing discussion as to the best process. Mr. Crim advised that the ordinance was simple and referred to the Employee Handbook for the criteria. He noted that any dollar amount must be approved by the Council, either in the budget or on an ad-hoc basis.

Town Attorney Crim reported that he had been asked to review a Memorandum of Understanding with the County for consolidated tax billing. He advised that this was on his radar for the near term.

Action Items (non-public hearing related)

Council Approval – Special Event Funding Recommendations – EDAC

Vice Mayor Kirk moved, seconded by Councilmember Daly, that Council approve the funding requests submitted by Christmas in Middleburg in the amount of \$9,000 plus public safety support; by the Middleburg Film Festival in the amount of \$15,000 plus public safety support; and, by the Middleburg Concert Series in the amount of \$3,000, said funding to come from the FY '18 Budget.

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

Council Approval – Resolution of Appreciation – Marvin Simms

Vice Mayor Kirk moved, seconded by Councilmember Daly, that Council adopt a resolution extending its appreciation to Marvin Simms for his service in the Town’s Facilities & Maintenance Department from April 2003 through May 24, 2017.

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

Town Clerk North reminded Council that normally, resolutions of appreciation were handed to the honoree. She advised that Councilmember Littleton suggested this one be placed on a wood plaque, with a plastic cover. Ms. North suggested that if this was the Council's desire, it could be done and the resolution would be mailed to Mr. Simms once the Town had his new address. After some discussion, the Council agreed it wished for the resolution to be framed in this manner.

Councilmember Snyder noted that the Council did a lot of resolutions of appreciation and suggested the need to think about how the Council handled them. He opined that this could get involved. Mayor Davis and Vice Mayor Kirk noted that this particular individual was a fifteen year employee; therefore, it was different than a committee appointment.

Town Clerk North reminded Council that the resolution would normally be presented to the employee along with a Middleburg paper weight; however, that could not occur in this situation.

Councilmember Hazard suggested these be handled on a case-by-case basis.

Council Approval – Town Council Vision Statement, Mission Statement, Core Values, Strategic Initiatives – 2017-2020

Mayor Davis asked that Strategic Initiative B be corrected to read “Strengthen community engagement and partnerships”.

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve the Town of Middleburg Vision Statement, Mission Statement, Core Values, Tagline and Strategic Initiatives for 2017-2020 as presented and amended in the meeting. Councilmember Snyder further moved, seconded by Vice Mayor Kirk, that the staff be directed to place these items on the Town's website.

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

Discussion Items

Amendments to Town Code Chapter 89 Pertaining to Parking

Mayor Davis noted that amendments have been proposed that would allow violators to appeal the ticket. She further noted that they would be able to file an appeal with the court if they did not agree with the Chief's decision. Town Attorney Crim confirmed the proposed amendments would preserve an individual's due process rights.

Councilmember Daly moved, seconded by Councilmember Snyder, that the Council adopt an ordinance to amend Town Code Chapter 89 pertaining to Stopping, Standing and Parking.

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

Outstanding Parking Tickets

Councilmember Snyder opined that this was an interesting idea and noted that the Town currently had a paper ticket system and was moving to an electronic one. He further noted that the staff was talking about a process to get rid of the paper tickets after a certain point in time.

Town Clerk North advised Council that paper tickets could not be entered into the new software system; therefore, the staff was trying to figure out a way to collect them and get rid of them. She reminded them that they were written off after three years. Ms. North explained that the staff's suggestion was that the Town waive the late fee if people paid them within a certain period of time.

Councilmember Snyder questioned the date by which the Town would move into the new system. Councilmember Littleton noted that it would be July 1.

Councilmember Snyder suggested the Council waive the late fees and give them until the end of July to pay the tickets.

Councilmember Miller questioned what would happen after the end of July. Councilmember Snyder opined that there was not a lot that could be done.

Town Clerk North noted that she needed to send letters to those with outstanding tickets. She further noted that she would be on vacation for two weeks in July. Ms. North advised that this would not give the individuals much time to pay the tickets as they would receive the letters only a few days before the deadline. She reminded Council that currently, if an individual did not pay their ticket, nothing happened and the tickets simply remained on the books for three years, at which time they were written off.

Town Attorney Crim suggested the Town could take them to court and get a judgement against them for the amount of the parking ticket.

Lieutenant Prince advised Council that in the past, he took thirty-one past due parking ticket holders to court. He further advised that of the thirty-one, he obtained one conviction. Lieutenant Prince noted that the Town paid him overtime to spend the day in court, on which it made twenty dollars. He questioned whether this was cost effective.

Town Attorney Crim explained that the way this would work if the Town tried to enforce this civilly, would be to sue the violator for the cost of the parking ticket. He noted that if they did not show up on the first return, the Town would get a judgement against them by default. Mr. Crim suggested that if they did show up, a court date would be set and the police officer would need to be present or the Town must dismiss the charge. He opined that this may or may not be cost effective and advised that it was hard to say. Mr. Crim advised that when he first became an attorney, one of the things he did was to collect fees for the rental of text books and noted that even though they got judgements against the individuals, they were still collecting the fees twenty years later. He explained that it would be a long term process and noted the need to do a cost-benefit analysis.

Councilmember Miller noted that the Town had approximately one hundred fifty past due tickets. He suggested that at twenty dollars a ticket, this was only three thousand dollars and opined that it was not worth it. Councilmember Snyder agreed.

Mayor Davis questioned the number of people involved in the past due parking tickets. Town Clerk North confirmed there were definitely some repeat offenders; however, she would not say there were a lot of them.

Councilmember Hazard reminded Council that they have talked about the DMV solution. Town Clerk North advised that these tickets were written prior to that system being in place.

Councilmember Daly suggested the individuals be given until the end of June to pay the tickets.

Councilmember Snyder noted the small amount involved and advised that he would not argue about quietly letting this die.

Councilmember Leonard-Morgan cited the principle and reminded Council that other people paid their fines. He questioned whether the Town should let them get away with not paying. Mr. Leonard-Morgan opined that this was not a money issue.

Councilmember Miller noted that the principle already existed as the Town wrote them off after three years. He opined that this was terrible.

Councilmember Snyder noted that under the new system, it would be more difficult to be a scofflaw and opined that they would feel pain if they tried to treat this the way they have in the past. He suggested it was not worth it to go after the old tickets. Mr. Snyder suggested the Town send out a letter.

Town Clerk North advised Council that most of the individuals have already received two reminder letters.

Mayor Davis asked when they were last contacted. Town Clerk North reminded Council that she checked the past due tickets on a quarterly basis and, after obtaining the owner information from the Leesburg Police Department, sent them a first notice, which gave them thirty days to pay the fine. She advised that if they still remained on the books, she sent a second notice, giving them another thirty days.

Mayor Davis opined that the individuals were not going to pay and suggested that sending another letter would set the Town up for failure again.

Councilmember Littleton questioned the number of people who lived in Middleburg. Town Clerk North reported that she checked this periodically and found that approximately one half were from this area.

Councilmember Littleton noted that the initial fine was twenty dollars. He questioned the value of the tickets with the late fees. Town Clerk North reminded Council that there was a single twenty-five dollar late fee for these tickets, making them worth forty-five dollars. Councilmember Littleton noted that this would make the tickets worth six thousand dollars.

Councilmember Littleton questioned whether the Town could post the individuals' names on the Town's website as scofflaws. Town Attorney Crim confirmed it could; however, there was a "but".

Councilmember Littleton asked the Council to think about this option. He noted that they were talking about more than five thousand dollars and opined that Councilmember Leonard-Morgan had a good point in that a lot of people did the right thing and paid their tickets on time. Mr. Littleton suggested that because it was a little difficult, the Council was talking about letting a lot of people, half of whom lived in town, off the hook. He agreed it was stupid to spend ten thousand dollars to collect fifty; however, he questioned whether there was something that could be done that was different than sending a letter.

Vice Mayor Kirk questioned whether the past due parking fines could be added to the water bills. Town Attorney Crim confirmed there was no basis for doing so. He advised that the issue with putting a public list together was that the Town would need to make sure it was one hundred percent accurate. Mr. Crim noted that there was no way to guarantee that as the Town would only have the car and the car's owner as of the date of the ticket, which may not be accurate. He reiterated that the information may not be accurate or the owner may not be the driver of the car. Mr. Crim advised that there were a lot of issues that could come up and suggested the Town would run a risk by publishing a list of names.

Councilmember Littleton opined that there must be a way to incentivize the individuals to pay the tickets.

Mayor Davis questioned the age of the tickets. Town Clerk North confirmed they were less than three years, as any that were older have already been written off. Councilmember Miller opined that most were older as the Town offered free parking for a year.

Councilmember Hazard questioned whether it would make sense to pursue only those individuals with multiple past due parking tickets. He opined that if someone only had one ticket that was one thing; however, if they had four, the Town should take them to court. Town Clerk North questioned whether this number would apply to the same vehicle or all vehicles in an individual's name.

Vice Mayor Kirk suggested the Town try to get payment from those individuals who lived in town. She noted that she did not want to list names on a website.

Councilmember Littleton suggested the Council think outside of the box. He further suggested the Town call them and volunteered to take some of the names on the list.

Mayor Davis agreed the Town did not want people to "get away with it"; however, she noted that it was also trying to be friendly and offer free parking. She acknowledged that these tickets occurred prior to that time. Ms. Davis reminded Council that they were trying to start fresh and had new laws. She suggested the staff make a list and if the person got another ticket that they then get a phone call.

Lieutenant Prince opined that the Town would see the same violators under the new system. He advised that everything was already in place to deal with this situation.

Councilmember Daly agreed with Lieutenant Prince and Mayor Davis. He noted that they would already be in the system and advised that when they violated again, they would get hit with the new ordinance.

Vice Mayor Kirk questioned whether they would be taken to court if the Town wrote them a letter stating that they had past due tickets and the Town was going to a new system.

Councilmember Littleton questioned whether the Town could turn these over to a collection agency. Town Attorney Crim confirmed it could; however, he opined that the amount was too small.

Councilmember Miller suggested the Council try the phone call route and see if it worked. He further suggested that if it did not, the Town could then pursue the amnesty route. Mr. Miller opined that it would eventually reach that point anyway.

Councilmember Snyder opined that the ship had sailed and advised that if it was listing, he did not want to do a lot to save it, as it was being replaced.

Vice Mayor Kirk noted that the tickets would remain on the books.

Councilmember Leonard-Morgan questioned whether a repeat offenders' old ticket would be added to the count if that individual offended again. Town Clerk North confirmed it would not as the paper tickets would not be in the new system.

Councilmember Littleton suggested the Town call individuals who had two or more tickets. Town Clerk North noted that the Town did not have their phone numbers and advised that it would have to find them.

Councilmember Hazard suggested the Town write the offenders a letter and offer them amnesty on the late fee if they paid the ticket by the end of August.

Councilmember Miller questioned whether this was worth the staff's time to pursue. Mayor Davis suggested it was not. She further suggested it was also not worth the bad publicity. Town Clerk North noted that the Town had spent the twenty dollars just in her time to send out the letters that had already been sent.

Councilmember Miller noted that the Council should have had that discussion when it set the parking fines.

Mayor Davis questioned the number of members who were willing to leave the system as it was. The members agreed they were.

Councilmember Hazard suggested the Council approve the motion as presented but that they insert the date of the end of August into it.

Councilmember Hazard moved, seconded by Councilmember Daly, the Council authorize the Town staff to waive the late fees for any outstanding parking tickets as of the date of the implementation of the new electronic parking system if the original amount of the past due ticket(s) is paid by August 30, 2017.

Mayor Davis noted that the staff had asked that they be allowed to set the date. Town Clerk North advised Council that she would make this date work.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Mayor Davis noted that a violator would not be able to get away with not paying their fine under the new system.

Councilmember Littleton advised that if this involved only one ticket, it would not bother him; however, if it involved two or more, the individual was intentionally not paying their tickets.

Council Meeting Minutes

Mayor Davis noted that she spoke with the Town Clerk regarding the need to take minutes for the Middleburg Futures' Group (MFG). She reminded Council that when this group was initially put together, the Middleburg Business & Professional Association (MBPA) asked the Council to share the expense and they "appointed" Councilmembers Littleton and Miller to the committee. Ms. Davis opined that it was great that Councilmember Leonard-Morgan was involved; however, by having three members of Council, these became public meetings that had to be publicized. She noted that because of that, the Council must also approve minutes of a meeting in which the members did not know what was said. Ms. Davis expressed concern that the Council was approving minutes that showed members as being "absent"; therefore, it looked like they just did not show up. She advised that she felt funny approving minutes when the Council was not a part of that meeting.

Councilmember Snyder noted that the Council did not charter it and opined that it was chartered by the MBPA. He advised that he was not sure why the Town was doing minutes for a body that did not report to the Council.

Councilmember Littleton reminded Council that the goal was to make sure the three groups – the Council, MBPA and EDAC – had equal representation, which was why the number was three for each, plus Eric Combs as the Chair of the Planning Commission. He noted that having three Councilmembers was what triggered the requirement for minutes. Mr. Littleton recommended that those members who were not present for the MFG meetings abstain from voting on those minutes. He confirmed their meetings were open to the public. Mr. Littleton suggested that only those members who were present vote on the minutes and the remainder abstain.

Councilmember Snyder opined that this was not appropriate. He suggested that when meeting minutes were presented to the Council, it was their responsibility to approve, amend or deny them. Mr. Snyder suggested these activities be included in EDAC's report to the Council and that there not be formal meeting minutes.

Councilmember Littleton reminded Council that the MFG was intentionally not a Town body. He opined that if it was run through EDAC, it would be a Town body.

Councilmember Snyder explained that he was only suggesting the report be included in the Economic Development Coordinator's report.

Mayor Davis questioned why minutes were being taken if this was not a Town committee. Councilmember Miller noted that they were required because three members of Council were present. Town Clerk North noted that there was a court case that was on point and suggested the Town Attorney brief the Council on that case.

Town Attorney Crim advised Council that there were a lot of situations such as this where members of Council show up at a citizen meeting and there was a discussion of public business and someone would say "that was a meeting of Council because there were three members there", which then triggered the requirement to advertise the meeting and for there to be minutes. He cited the case of a town on the eastern shore that narrowly avoided a FOIA violation in a case in which members of their council attended a citizens meeting and discussed town business matters that were to appear later on a council agenda. Mr. Crim noted that while the court found that a violation had not occurred as the members' participation was very limited, he recommended the Council not rely on this to avoid potential criminal fines. He explained that the way to avoid running afoul of the Freedom of Information Act was to have a process whereby if it was identified that three members would be present and participating in a discussion that did not fall under one of the narrow FOIA exceptions, the meeting should be advertised and minutes taken as have been done in this instance. Mr. Crim confirmed those minutes needed to be approved by the body. He noted that they could approve them anyway they liked with regard to those members who were absent. Mr. Crim advised that some people would abstain from the vote if they were not present; however, they did not necessarily have to do so. He reminded Council that as long as there was one positive vote more than negative votes, the minutes would pass. Mr. Crim advised that case law showed it was dangerous to have a meeting with three members present, even if it was a citizen meeting, if public business matters were discussed unless the FOIA process was followed carefully, including advertising the meeting and preparing minutes.

Councilmember Hazard questioned whether minutes would have to be done if one of the three Councilmembers did not show up for the meeting. Town Attorney Crim suggested that if it was a meeting in which three members were expected and it was advertised, minutes should be taken so there was a record. He noted that this gave the Town a paper trail that showed it had complied with the Act and advised that the General Assembly wanted to make sure the public was informed of discussions of public business.

Town Clerk North suggested that in the future, three members not be appointed to a committee.

Councilmember Snyder noted that the Council did not appoint three members to the committee. He questioned whether the minutes showed the remaining members as being "absent". Mr. Snyder objected to that listing. Town Clerk North reported that the minutes did not list them as being "absent", but rather listed them as being "not present". The Council asked that the minutes for the Middleburg Futures' Group only show those members who were present.

Councilmember Hazard suggested the Council not have groups of three for committees that did not report to the Town. Town Attorney Crim advised that there was a problem with a two member committee as anytime they talked about public business, it would be a committee meeting. He noted that the same was true for three member committees and suggested the ideal size was four members so two members could talk one-on-one. Mr. Crim noted that he was only talking about committees that were appointed by the Town.

Town Clerk North reminded Council that the MFG was not a Town committee. Councilmember Snyder suggested the Council reconsider the appointment and that they be done by the MBPA. Councilmember Littleton noted that he did not remember making appointments and opined that the Council only agreed it was a good thing to do and agreed to split the cost. Town Clerk North confirmed the Council did not make a motion and vote to appoint members to the MFG.

Town Attorney Crim suggested the Mayor or Council not appoint two members to a body.

Councilmember Miller questioned whether minutes still needed to be taken since the MFG was not a Town committee. Town Attorney Crim confirmed they did because three members of Council were present.

Councilmember Littleton noted that the MFG was not a Town committee and there was no motion by the Council to make appointments to it. He further noted that this group was independent of the Town. Mr. Littleton opined that because three members of Council participated in the meetings and Town matters were discussed, the meetings had to be advertised and minutes taken; however, the Council was not running afoul of FOIA. Town Attorney Crim confirmed this was correct. He reminded Council that Virginia law allowed any two members of Council to talk about public business matters at any time.

E-Mail Exchanges

Councilmember Snyder noted a recent email exchange where the Council was getting feedback and advised that it was informative. He noted, however, that Councilmembers began to offer their input. Mr. Snyder encouraged the members to not engage in this type of activity as it could be construed as a secret meeting, which could get the members in trouble with FOIA.

Vice Mayor Kirk opined that the Council should not have been included in the email exchange. Town Clerk North reminded Council that the citizen who wrote the email copied the Council on it.

Vice Mayor Kirk noted that the email string kept coming back to the members of Council. Councilmember Snyder noted that this was okay; however, the members of Council needed to remember that they should not weigh in.

Councilmember Miller suggested that any emails sent to the members of Council should be sent as a blind copy so that if a member responded, it would not go to everyone. He noted that the bcc function would not allow an individual to reply to all, which removed the danger of a FOIA violation. Mr. Miller suggested that when the staff sent out correspondence to the Council, they should use the bcc function. He noted that this was the acceptable standard in Virginia.

Town Attorney Crim agreed the use of the bcc function made it difficult to reply-all, which could be a back and forth discussion. He noted that it was unknown as to where the line was between a meeting and a non-meeting and advised that there had been some court cases on the issue. Mr. Crim explained that the issue was how close the exchange was to a physical meeting and advised that this was a matter for a judge to decide. He noted the need to create norms to try to keep governing bodies out of trouble and suggested the use of the bcc function as a norm.

Councilmember Miller suggested the Town adopt the use of the bcc function for the future. The remaining members agreed.

Information Items

Councilmember Littleton noted that someone asked about the creation of digital minutes and reported that there would be a meeting in the morning to discuss it. He advised that he was getting with Jay Hubbard on this; had spoken with an individual who did AV design; and, left a message for C-Span, which did an amazing job, asking them how they did it. Mr. Littleton noted that C-Span could video a two hour meeting and within an hour, all of the individual text was available in a transcript that was searchable.

Councilmember Littleton reported that the Middleburg Museum Foundation met earlier in the week and opined that all was going well. He advised that, assuming all went well with the approvals, they would break ground the beginning of the year and hopefully be open by May.

Councilmember Littleton reported that the Museum Foundation planned to identify the first ten or twelve stories they would like to tell and noted that their focus would be about the history of Middleburg. He advised that they were trying to capture the character and flavor of the history. Mr. Littleton asked that the members let him know if they knew of someone who had an artifact or story.

Councilmember Leonard-Morgan suggested the Foundation reach out to the citizenry through the newspapers.

Councilmember Littleton opined that that was a great idea. He noted that they hired the former curator of the Virginia Museum in Richmond, and who also did a project for the Oatlands, to help do the same thing for Middleburg. Mr. Littleton advised that he had given them a framework; however, the Foundation must fill in the details.

Councilmember Hazard suggested the Foundation talk to the Middleburg Charter School and noted that they had pictures. Mayor Davis noted that Tyler Gore had tons of history. Councilmember Snyder suggested the Middleburg Eccentric and Middleburg Life should be able to identify people who have written interesting stories.

Councilmember Littleton noted that the churches would be included, including the Free Church, which was the oldest African American church in Virginia and dated back to 1822.

Town Clerk North advised Councilmember Littleton that the historic photographs that were in the Council Chambers belonged to former Councilmember Bundles Murdock. She noted that Ms. Murdock purchased them for display in the museum and asked that they be displayed in the Town Office until it was opened.

Closed Session – (1) Appointments to Wellhead Protection Advisory Committee, Economic Development Advisory Committee and Middleburg Arts Council (2) Personnel and (3) Property Acquisition

Councilmember Daly moved, seconded by Vice Mayor Kirk, that Council go into closed session as allowed under the Virginia Freedom of Information Act Sections 2.2-3711(A)(1) 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. Councilmember Daly further moved, seconded by Vice Mayor Kirk, that these matters be limited to (1) appointments to and the performance of the Economic Development Advisory Committee, Middleburg Arts Council and Wellhead Protection Advisory Committee; (2) the salary of the Acting Facilities & Maintenance Supervisor; and, (3) potential property acquisition within the Town limits. Councilmember Daly further moved, seconded by Vice Mayor Kirk, that in addition to the Council, the following individuals be present during the closed session: Martha Mason Semmes and Rhonda North for the first part and Martha Mason Semmes for the second and third parts. Councilmember Daly further moved, seconded by Vice Mayor Kirk, that the Council thereafter reconvene in open session for action as appropriate.

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

No – N/A

Abstain: N/A

Absent: N/A

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

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

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council re-appoint Mark Metzger to the Economic Development Advisory Committee for a two-year term expiring April 1, 2019. Councilmember Snyder further moved, seconded by Vice Mayor Kirk, that Council re-appoint Elizabeth Rice, Marci Nadler and Punkin Lee to the Middleburg Arts Council for two-year terms expiring June 14, 2019. Councilmember Snyder further moved, seconded by Vice Mayor Kirk, that Council re-appoint Morris “Bud” Jacobs, Bruce Gilbert and Jilann Brunett to the Wellhead Protection Advisory Committee for two-year terms expiring June 14, 2019.

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

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that until the Town hired a Facilities & Maintenance Supervisor, the Town provide additional pay in the amount of \$500 per pay period to Will Moore while he assumed those duties, in accordance with the Town Administrator’s memo.

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

There being no further business, Mayor Davis declared the meeting adjourned at 8:43 p.m.

APPROVED:

Betsy A. Davis, MAYOR

ATTEST:

Rhonda S. North, MMC, Town Clerk