



**MIDDLEBURG TOWN COUNCIL**  
**Regular Monthly Meeting Minutes**  
**Thursday, April 9, 2015**



**PENDING APPROVAL**

**PRESENT:** Mayor Betsy A. Davis  
Vice Mayor C. Darlene Kirk (left early)  
Councilmember Kevin Hazard  
Councilmember Trowbridge Littleton  
Councilmember Catherine “Bundles” Murdock (left early)  
Councilmember Erik J. Scheps  
Councilmember Mark T. Snyder  
Councilmember Kathy Jo Shea

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

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, April 9, 2015 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 Comment**

Lilly Dunning, Director of Bluemont Concerts, thanked the Council for their past support. She advised that they were trying to address some challenges this year and explained that the Community Center’s ball field would not be available for two weeks. Ms. Dunning advised they have been conducting research and exploring other options and reported that out of that has come a positive potential partnership with Salamander Resort. She noted that she was in the process of working out the details and would attend the April 23<sup>rd</sup> work session, with a proposal for the Council’s consideration. Ms. Dunning opined that this proposal would be positive for all involved and would solve the problem of rotating venues. She noted that the concerts have been moved six times in twenty years. Ms. Dunning advised that she also wanted to get Council’s feedback on the performers for the upcoming season. She distributed information on last year’s performers.

Steve Plescow, President of Seven Loaves, thanked the Council for their support. He advised that they planned to participate in the 4<sup>th</sup> Annual Love Your Neighbor, Feed Your Neighbor Food Drive. Mr. Plescow introduced Lynette Austin, the coordinator of the food drive.

Ms. Austin reported that the first year of the food drive, they collected fifty-five thousand pounds of food; the second year, they collected seventy thousand pounds; and the third year, they collected nearly ninety thousand pounds. She noted that all of the food went to the food pantries in Loudoun County. Ms. Austin advised that it supported the pantries at a time of year when people were not focusing as much on them. She reported that the drive was a community effort that was supported by the schools, local faiths and government organizations. Ms. Austin acknowledged that the food banks were doing good on their own; however, she noted that it was fun to see what happened when everyone came together.

Mr. Plescow reported that he would work with the Economic Development Coordinator to get information on the event out in the Friday Email Blast. He noted that he also planned to work with the Middleburg Business & Professional Association and advised that some businesses already planned to do a special collection. Mr. Plescow advised that the food drive would occur on May 2<sup>nd</sup>, with collections occurring in front of the United Methodist Church and, hopefully, Safeway. He noted that they would distribute a list of items desired for the pantries.

Councilmember Shea noted that the brochure indicated that peanut butter was needed. She questioned whether they needed other nut butters for those who did not use peanut butter. Ms. Austin confirmed that nut butters of any kind were welcomed. She explained that they surveyed the pantries to determine the top five food items that were sought and advised that those emerged to the top of the list. Ms. Austin reiterated that any nut butters were great.

Councilmember Murdock noted that one in six children was food insecure and opined that this was a huge number. Ms. Austin noted that this number was born out when one looked at the free and reduced lunch statistics in the schools.

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

#### **Resolution of Appreciation – Middleburg Beautification & Preservation Committee**

Mayor Davis recognized the members of the Middleburg Beautification & Preservation Committee who were present, including Punkin Lee, Elaine Burden, Susan Webb and Bundles Murdock. She read the resolution aloud.

*Councilmember Murdock moved, seconded by Vice Mayor Kirk, that Council adopt a Resolution of Appreciation expressing appreciation to Middleburg Beautification and Preservation, Inc. for their work to beautify and preserve the community.*

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

No – N/A

Abstain: N/A

Absent: N/A

(Mayor Davis did not vote as there was no tie to require her vote)

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Mayor Davis presented a signed copy of the resolution to the members of the Committee.

#### **Presentation of Donation to Town – Middleburg Beautification & Preservation Committee**

Ms. Burden presented the Mayor with a check in the amount of \$50,000 for the purchase of new street lights for Washington Street. She advised that the entire county has supported them since 1993. Ms. Burden noted that she has been involved in the committee since its inception. She thanked those individuals who have offered their gardens in the past in order to conduct the fundraisers that allowed them to do the projects they have done throughout the years.

Mayor Davis expressed the Town's appreciation for the donation. She noted that this gift would benefit not only the people who lived here but those who experienced the area when visiting.

Town Administrator Semmes thanked the Committee for their care of the Town's street trees. She opined that there was not another town in the country that took better care of their trees thanks to the Beautification Committee. Ms. Lee noted that they had a tree inventory and a three-year maintenance program.

**Approval of Minutes**

*Councilmember Snyder moved, seconded by Councilmember Shea, that Council approve the March 12, 2015 Regular Meeting and March 26, 2015 Work Session Minutes as amended.*

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

No – N/A

Abstain: N/A

Absent: N/A

(Mayor Davis did not vote as there was no tie to require her vote)

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**Staff Reports**

**Stuart Will, of IES**, reported that the wells and treatment facilities were all good, as was the water distribution system. He further reported that he investigated potential leaks; however, he found that the water was due to melting snow. Mr. Will advised Council that he performed leak detection in the Ridgeview Subdivision; however, he did not hear anything. He noted that he would repeat this quarterly. Mr. Will reported that the wastewater treatment plant operations were normal; however, they had problems with the collection system that needed to be addressed. He explained that one such problem occurred on Chinn Lane and advised that there was an obstruction where the lateral joined the main. Mr. Will noted that the sewer pipe was lined, and explained that when this occurred, the laterals were cut open. He reported that in this case, the contractor missed the lateral and the hole that was cut was offset from it. Mr. Will noted that it has been this way for years. He advised that there was also a drainage problem on Chestnut Street; however, that problem was not on the Town side of the system. Mr. Will advised that in that case, the property owner took care of their own problem. He reported that he also conducted normal safety inspections during the month.

**Town Administrator Semmes** reported that the Town received a safety grant, in the amount of \$1,387, from VML Insurance. She noted that Mr. Will identified items needed, including a hazardous entry gas detector. Mr. Will explained that hazardous entries involved ones that were not designed for normal human occupation; therefore, the atmosphere must be monitored to verify there was good oxygen. He reported that VML Insurance paid for this detector.

Town Administrator Semmes acknowledged the letter received from Patricia Thomas that talked about her sewer lateral. She reported that she responded to her and explained the Town’s lateral policy. Ms. Semmes reminded Council that if she fixed her lateral to the Town’s standards, the Town would accept maintenance of it from the main to the property line. She noted that she has not received a response from Ms. Thomas. Ms. Semmes reminded Council that Ms. Thomas’ letter also talked about the condition of Chestnut Street and reported that the Facilities & Maintenance Supervisor has talked with VDOT about that and other streets. She noted that they indicated that they would look into this; however, the streets were not on their list at the present time. Ms. Semmes opined that North Madison Street was getting worse, particularly the ditch, and noted that VDOT had promised to address that last year but did not. She advised that she would follow-up with them on that. Ms. Semmes noted that Jim Bishoff, the Town’s Engineer, was doing work that would extend into that area; therefore, VDOT would need to address the ditch.

Mayor Davis questioned whether VDOT would address the hole at the intersection of Route 50/Pendleton Street. Town Administrator Semmes opined that they would address this intersection when they did the crosswalk project. Mayor Davis suggested they patch it until then. Town Administrator Semmes noted that there were also two areas by the stop light that were bad. She reiterated that the Maintenance Supervisor was aware of these problems and has brought them to VDOT’s attention.

Councilmember Murdock reported that she has received complaints of water pooling on Locust Street.

Town Administrator Semmes noted that the roads in Maryland were in better condition than those in Virginia. She opined that Virginia was not devoting enough funds to maintenance.

Councilmember Hazard questioned whether a lot of the small towns were experiencing the same issue. He suggested they band together. Mr. Hazard noted that it has been a bad winter; therefore, there were more problems than normal. He suggested that VDOT needed to use some emergency funds to address this issue.

Mayor Davis noted that the Town Administrator's report mentioned new billing software. She reminded Council that the Town never received the tax module it previously purchased, for which it paid a large amount of money. Town Treasurer Wheeler reported that the Town paid \$7,500 in advance for the module that was never received. She advised that all of the towns in the Blue Ridge Users Group paid up front. Ms. Wheeler reported that she has not been paying the maintenance fee associated with this module as the Town never received the product.

Mayor Davis noted the need to get the Town's \$7,500 back. Vice Mayor Kirk agreed.

Town Administrator Semmes noted that all of the others in the users group were doing the same thing. Town Treasurer Wheeler confirmed that most were going to Southern Software.

Mayor Davis asked that the staff pursue the return of the money due to the Town.

**Economic Development Coordinator Pearson** distributed the economic development report prepared by The Clue Group. She noted that she could also send it electronically. Ms. Pearson advised Council that the Middleburg Business & Professional Association has asked to meet with the Council to discuss the report. She suggested the Council discuss that request once the members have had an opportunity to read the report.

Councilmember Shea questioned whether EDAC would have a chance to look at the report and opined that their comments may be helpful to the Council. Economic Development Coordinator Pearson confirmed they would receive it during their first meeting. She noted, however, that they had other things to address at that meeting.

**Town Planner Moore** reported that the contractor was working again on the Marshall/Madison Street Intersection Project and expressed hope that it was moving in a positive direction. He further reported that both lanes would be open for the Spring Races. Mr. Moore advised that some design issues related to drainage that were not picked up in the plans have been encountered; therefore, the project finish date may get stretched out beyond the first of May.

Councilmember Shea noted that she loved the new format for the **Treasurer's** report.

**Chief of Police Panebianco** announced that the Drug Take Back Program would be held April 25<sup>th</sup>, from 10:00 a.m. to 2:00 p.m., at the Town Office. He noted that it would be done as a drive-through.

Chief Panebianco reminded Council that they talked about a permit process for special events, at which time he was directed to meet with organizers who held special events in town. He noted that he already did that for those that he knew about and explained that a permit process would be for those that he did not know about. Chief Panebianco noted that he sometimes did not know of an event until after it was already scheduled and advised that he needed more notice. He requested some direction from the Council. Chief Panebianco noted that he was not suggesting overburdening organizers with permits; however, he suggested the need to have some control over what came up that required the use of public

funds. He reminded Council that he must pay the officers to man the events and explained that it would be easier to manage those expenses if he had more than a week's notice. Chief Panebianco opined that there was an advantage to reconsidering a permit process for special events and noted that it would give the Town a warning. He suggested that even if the Council did not want to charge a fee, simply requiring notification would allow the staff to know the employee and financial impacts that were coming.

After some discussion, the Council agreed to form a sub-committee consisting of Councilmembers Shea and Hazard, Chief Panebianco and a member of the Middleburg Business & Professional Association to review the previous special event permit draft documents and make a recommendation to the Council on a policy that would fit with Middleburg. (Vice Mayor Kirk left the meeting at 6:40 p.m.)

Chief Panebianco reiterated that the Department would hold a Drug Take Back on April 25<sup>th</sup>, during which time they would collect any legal drugs, including vitamins and pet medications. He noted the need to keep them from getting into the Town's water supply. Chief Panebianco advised that people could either drive through or walk up to the drop off location.

Councilmember Murdock announced that on Saturday, April 11<sup>th</sup>, the Boy Scouts would apply storm drain markers around town and noted that this was a project that they were doing for the Town. She asked the Police Department to give them whatever support they needed as they crossed the streets.

Mayor Davis noted that the Board of Supervisors approved the \$591,000 requested by the Town to finish the crosswalk project. She suggested the Council thank Janet Clark and the other members of the Board if they saw them. Ms. Davis noted that the Town would send a letter thanking the County.

### **Reports of Town Committees/Council Liaisons**

Councilmember Shea reported that Go Green was cooperating with Loudoun County on their Spring Clean Up this weekend. She further reported that VDOT bags could be picked up from 8:00 a.m.- 12:00 noon at the Community Center. Ms. Shea noted that if participants did not have an area to clean up in town, one would be given to them. She stressed that help was needed as the town was seeing more litter.

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

#### **Council Appointments** – Middleburg Community Farmers Market Committee

*Councilmember Snyder moved, seconded by Councilmember Shea, that Council appoint Ken Matick and Judith Plescow to two-year terms on the Middleburg Community Farmer's Market Committee, said terms to expire August 31, 2017. Councilmember Snyder further moved, seconded by Councilmember Shea, that Council appoint Betty Inestroza to a two-year term, said term to expire August 31, 2017. Councilmember Snyder further moved, seconded by Councilmember Shea, that Council appoint Deltone Moore and Michael Smith to fill unexpired terms on the Farmer's Market Committee, said terms to expire August 31, 2016.*

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

No – N/A

Abstain: N/A

Absent: Vice Mayor Kirk

(Mayor Davis did not vote as there was no tie to require her vote)

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(Councilmember Murdock left the meeting at 6:48 p.m.)

Council Appointments – Go Green

*Councilmember Snyder moved, seconded by Councilmember Shea, that Council appoint Rebecca Poston and Mary Woodruff to the Go Green Committee for two-year terms, said terms to expire May 12, 2017.*

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

No – N/A

Abstain: N/A

Absent: Councilmembers Kirk and Murdock

(Mayor Davis did not vote as there was no tie to require her vote)

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Councilmember Snyder questioned why the expirations were on such an odd date. Town Clerk North opined that they were based upon when the Committee was established.

Mayor Davis questioned whether the Committee had a quorum issue since only two members were being appointed. Town Clerk North confirmed it did not and reported that the vacancy was being advertised.

Mayor Davis noted that the Local Government Education Week proclamation has been deleted from the agenda as that week has passed.

**Discussion Items**

Request to Move Polling Place for Town Elections – Loudoun County Office of Elections

Council expressed concern about moving the polling place and questioned the need for additional parking. It was noted that the polls have been at the Town Office for a long time and that people were used to that. The Council expressed concern about moving it out of the center of town to a location that was not as walkable. They questioned why this was being proposed.

Town Administrator Semmes reported that she spoke with Judy Brown, the Registrar, to understand why they wanted to move the polling place. She noted that Ms. Brown has not received complaints from the voters; however, the poll workers expressed concern about insufficient parking. Ms. Semmes noted that they also mentioned that the Town staff must unplug everything in the room. She advised that the Facilities & Maintenance Supervisor checked the electricity and found the circuits to be better in the Council Chambers than in other areas of the building. Ms. Semmes noted that there were 1,300 registered voters for non-Town elections. She advised that Ms. Brown indicated they only needed approval to move the Town election poll and explained that if the Council chose to continue to hold the Town elections in the Town Office, the County could still move the non-Town elections. Ms. Semmes noted that the Board of Supervisors made the decision on the polling place for those elections. She advised that Ms. Brown was not adamant about moving the polling place. Ms. Semmes noted that she asked her why the Fire Department was chosen and was told that she did look at other locations. She advised that Ms. Brown indicated that she asked what would happen if the Fire Department had an emergency and noted that this was a concern. Ms. Semmes advised that Ms. Brown indicated that she also looked at the Community Center; however, she believed it was not handicapped accessible, even though it is, so she dismissed that location. She advised that she did not look elsewhere. Ms. Semmes noted that Ms. Brown did say she was getting ready to do something to move this forward, which was why she was checking with the Town. She reiterated that Ms. Brown indicated that she was not set on moving the polling place and suggested that she needed some assurance from the Town that parking would be blocked off on election days. Ms. Semmes noted that Ms. Brown also mentioned that the poll workers were aware that they were inconveniencing the Town staff as they did not have use of the room that day. She advised that she did talk to staff, who found the use to be irritating. Ms. Semmes reiterated that Ms. Brown indicated that if she was given some assurance in writing that parking would be reserved, this would help.

After some discussion, the Council agreed they would like for the polling place for both Town and non-Town elections to remain in the Town Office, as it was more convenient to the citizenry and a safer location. They asked the Town Administrator to draft a letter to Ms. Brown explaining that the Council felt strongly about this. Town Administrator Semmes noted that she would write the letter and would call Ms. Brown.

Status Reports - (1) ZMA 15-01 - 109 W. Marshall Street; and, (2) SUP 15-02 - Upgrade existing telecommunications equipment

ZMA 15-01: Town Planner Moore reminded Council that this was a discussion item that he raised with them last October. He noted that the Comprehensive Plan recommended this property for commercial use. Mr. Moore reported that the Planning Commission has recommended approval. He noted that he anticipated a site plan would be submitted soon after Council's action on this item. Mr. Moore reported that the public hearing before the Council has been scheduled for next month.

Councilmember Snyder questioned the number of property owners that have now paid for a rezoning from residential to C-1 and noted that it would have been given to them for free ten years ago. Town Planner Moore reported that there have been two during his tenure. He opined that the Town could anticipate more in the future.

Mayor Davis questioned whether the public hearing has already been scheduled. Town Planner Moore confirmed the Planning Commission has made its recommendation and that the public hearing was scheduled for Council's May meeting.

SUP 15-02: Town Planner Moore reported that this involved a request on behalf of T-Mobile, who currently has six antennas on the Town's Marshall Street Water Tower, consisting of three antennas in two sections. He further reported that they wanted to add one additional antenna to each section; therefore, there would be nine antennas, plus additional ground equipment in the form of a cabinet. Mr. Moore noted that the ground equipment was already screened. He reported that the Planning Commission had no concerns about the request and recommended approval with conditions. Mr. Moore explained that those conditions included conformance with the plans and the requirement for a structural analysis. He noted that the applicant has already submitted the analysis, which was under review. Mr. Moore reported that he anticipated having the review results before next month's meeting; therefore, this condition could be struck. He advised that a third condition was related to the Town Administrator's negotiation of a new lease. Mr. Moore noted that this was separate from the SUP, as the Town was also the owner of the property. He advised, however, that if the lease was not updated, there would be a condition that would require that the lease be finalized before any improvements could be made.

The Council held some discussion regarding the lease negotiations, specifically the rent. Town Administrator Semmes reported that T-Mobile initially offered to pay an additional \$150/month; however, she rejected that offer. She advised that she looked at the other existing leases and talked to the Town Attorney about what other jurisdictions were getting for their leases. Ms. Semmes noted that she would bring the amount under consideration to the Council when this item came before them for public hearing. She noted that she was still waiting for T-Mobile's response to the Town's offer. The Council continued its discussion of the terms of the lease and upon what the rent amount should be based. They suggested the rent amount should be in line with what T-Mobile was paying other communities. Town Administrator Semmes confirmed this was the Town's request.

**Information Items**

Mayor Davis announced that Gary Smallwood would be holding a concert on the steps of the Community Center on April 10<sup>th</sup>. She noted that the concert would be moved indoors in the event of bad weather.

**Closed Session** – Appointment to EDAC

*Councilmember Hazard moved, seconded by Councilmember Shea, 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. Councilmember Hazard further moved, seconded by Councilmember Shea, that these matters be limited to a discussion of an appointment to the Economic Development Advisory Committee. Councilmember Hazard further moved, seconded by Councilmember Shea, that in addition to the Council, the following individuals be present during the closed session: Martha Semmes and Cindy Pearson. Councilmember Hazard further moved, seconded by Councilmember Shea, that the Council thereafter reconvene in open session for action as appropriate.*

Vote: Yes – Councilmembers Hazard, Littleton, Scheps, Shea and Snyder  
No – N/A  
Abstain: N/A  
Absent: Councilmembers Kirk and Murdock  
(Mayor Davis did not vote as there was no tie to require her vote.)

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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.

*Councilmember Snyder moved, seconded by Councilmember Shea, that Council appoint Vincent Bataoel to the Economic Development Advisory Committee for a one-year term.*

Vote: Yes – Councilmembers Hazard, Littleton, Scheps, Shea and Snyder  
No – N/A  
Abstain: N/A  
Absent: Councilmembers Kirk and Murdock  
(Mayor Davis did not vote as there was no tie to require her vote.)

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There being no further business, Mayor Davis declared the meeting adjourned at 7:15 p.m.

APPROVED:

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Betsy A. Davis, MAYOR

ATTEST:

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Rhonda S. North, MMC, Town Clerk