



**MIDDLEBURG TOWN COUNCIL
Regular Monthly Meeting Minutes**



Thursday, December 10, 2015

PRESENT: Mayor Betsy A. Davis
Vice Mayor C. Darlene Kirk
Councilmember Kevin Hazard
Councilmember Trowbridge Littleton
Councilmember Catherine “Bundles” Murdock
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
A. J. Panebianco, Chief of Police
Cindy C. Pearson, Economic Development Coordinator
William M. Moore, Town Planner

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, December 10, 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.

Mayor Davis thanked the Council, staff and public for their support and for giving her time with her family during her recent loss.

Councilmember Murdock announced that Mayor Davis’ parents were awarded the Legacy Award during the recent Middleburg Business & Professional Association meeting.

Public Comments

Dan Morrow, publisher for the Middleburg Eccentric, noted that they published a video yesterday of the Horse & Hounds Parade that has garnered nearly 85,000 views to date. He opined that there were approximately 30,000 people in attendance.

Addition of Item to the Agenda

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council add item XII(C) to the agenda (Request for Town Matching Funds – VDOT Drainage Project – N. Madison Street).

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

No – N/A

Abstain: N/A

Absent: N/A

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

Public Hearing

Zoning Text Amendment 15-01 – Amendment to Article II pertaining to definitions and Repeal and Re-enactment of Article XVII, Part II pertaining to floodplain overlay district

Town Planner Moore reminded Council that this was a rewrite of the Town’s floodplain ordinance that has been in the works. He noted that it was being done in conjunction with, but separate from, the new floodplain mapping that FEMA was in the process of adopting. Mr. Moore reported that what was before Council was an adaptation of FEMA’s model ordinance, which was adapted to meet the needs of the community. He advised that the Town Engineer, who was also a certified floodplain manager, worked extensively with the staff to ensure it met the community’s needs. Mr. Moore explained that by adopting the ordinance, the Town could continue to participate in the national flood insurance program and affected residents could purchase flood insurance.

No one spoke and the public hearing was closed.

Janet Clarke, of the Loudoun County Board of Supervisors, reported that the County just acted on amendments to its floodplain ordinance. She noted that they adopted the FEMA required portions of the ordinance; however, they separated out some other committee recommendations, which they did not adopt.

Action Items related to Public Hearings

Zoning Text Amendment 15-01 – Amendment to Article II pertaining to definitions and Repeal and Re-enactment of Article XVII, Part II pertaining to floodplain overlay district

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that the Council adopt ZTA 15-01 to amend Article II of the Middleburg Zoning Ordinance pertaining to definitions and to repeal and re-enact Article XVII, Part II of the Middleburg Zoning Ordinance pertaining to floodplain overlay district regulations.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Public Presentation

Janet Clarke, Blue Ridge District representative of the Loudoun County Board of Supervisors, expressed her appreciation for the opportunity to serve as the area’s representative. She advised that she wanted to provide some updates prior to her departure, particularly related to roads/transportation. Ms. Clarke distributed a map showing the proposed road network around the Stone Springs Hospital, which identified roads that would be built within the next two years. She reported that all of the roads were included in the County’s CIP and have been funded. Ms. Clarke further reported that Metro was planned to be on line by 2020. She advised that there were also additional roads beyond that which were expected to be completed. Ms. Clarke reported that the Board has made changes in the County’s transportation plan so North Star would connect to Evergreen Mill Road. She opined that this network should be complete within the next three years, at which time, the Route 606 widening project would also be complete. Ms. Clarke noted that interchanges were also planned for construction.

Supervisor Clarke reported that construction was planned in the Brambleton area. She noted that Creighton Road was being extended to where the newest elementary school was being constructed. Ms. Clarke advised that the school would open in the fall of 2016. She noted that the campus would also eventually include middle and high schools.

Supervisor Clarke reported that the property adjacent to that would be a new future two hundred fifty-four acre park. She advised that this park was included in the CIP and was anticipated to cost \$45 million. Ms. Clarke reported that it would include equestrian trails, a fishing pond, an ADA compliant playground and athletic fields. She opined that construction would start in a year.

Supervisor Clarke noted that she has been fighting to preserve the old Arcola Elementary School for an alternative use. She reported that the Board of Supervisors issued a RFP for a public/private partnership, with proposals having been received, including one from Windy Hill. Ms. Clarke noted that the Board would receive information on the proposals at its next meeting. She opined that they were all good ones.

Supervisor Clarke noted the utility line projects that were in the works. She reminded Council of the four data centers that were being constructed on Poland Road, which would require a massive amount of power. Ms. Clarke noted that Amazon was the applicant. She reported that she brought forth an item to oppose the construction of the lines, as well as a recommendation for an alternative, as it was her understanding that the SCC would just propose an alignment if the submitted ones were opposed. Ms. Clarke noted that the County would participate in the evidentiary hearing in Richmond on this matter. She reported that four miles of power lines were required to go from Poland Road to the data center site and advised that they would either go in front of or behind the hospital, along Route 50 or along Evergreen Mill Road. Ms. Clarke noted that she took an item to the Board to make data centers a special exception use in all zoning districts; however, she could not get the majority of the Board's support. She advised that she would continue to appear before them to advocate for this.

Supervisor Clarke reported that the County was about to embark on an update to its Comprehensive Plan and noted that the newly elected members were briefed on it. She advised that this would be a lengthy process. Ms. Clarke recommended the Town submit its comments and position on it, particularly as it involved the areas surrounding the town.

Supervisor Clarke reported that with respect to water and septic, tremendous headway has been made in that the County has allocated funds to meet the needs of the communities. She reported that tonight, Loudoun Water's Board of Directors was supposed to vote on universal rates, which she has fought to achieve.

The Mayor and Members of Council thanked Supervisor Clarke for her service. Mayor Davis presented her with a Middleburg paper weight and a floral arrangement.

Approval of Minutes

Vice Mayor Kirk moved, seconded by Councilmember Scheps, that Council approve the November 12, 2015 Regular Meeting 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 only votes in the case of a tie)

Staff Reports

Mayor Davis thanked the **Economic Development Coordinator** for her hard work on Christmas in Middleburg, as well as the extra treasurer's work. Economic Development Coordinator Pearson noted that all of the employees have pitched in to help.

Town Administrator Semmes reported that a gigantic piece of equipment would be coming through town next week. She noted that the Virginia Department of Motor Vehicles had control over where the driver would go and reiterated that he would come right through the middle of town. Ms. Semmes noted that this transport would occur at night. She advised Council that some trees would have to be cut in order for it to come through.

Councilmember Murdock questioned why it must come through the town. Town Administrator Semmes explained that the vehicle was too large to utilize four lane roads due to the under passes. She expressed concern regarding the weight of the vehicle on the cold patches associated with the new water line project; however, she noted that she has pointed that out to them. Ms. Semmes opined that the unit may be so big that it may have to go down the middle of the road.

Chief Panebianco noted that it would have a State Police escort and reported that it weighed two hundred twenty thousand pounds. He noted that he had a picture of the unit. Chief Panebianco reported that it had wheels bolted to it.

Councilmember Murdock inquired as to who would trim the trees. Town Administrator Semmes noted that she insisted that they not trim them themselves and put them in touch with Care of Trees. She advised that Care of Trees would mark those locations that needed to be trimmed on a map. Ms. Semmes reported that twenty trees would be impacted - most not seriously, but some would require the removal of a substantial limb.

Councilmember Murdock requested that before and after photos be taken.

Economic Development Coordinator Pearson reported that someone came from Purcellville this week to do some general ledger work and would return again next week.

Chief of Police Panebianco reported that Officer Tharpe asked him to thank everyone for their support. He noted that he would attend the employee luncheon.

Chief Panebianco announced that the National Night Out event was selected as the top event in the nation and advised that it would not be possible without the community's support. He noted that Lieutenant Prince did the lion's share of the work in planning the event. Chief Panebianco advised that he did not know what they would receive and opined that it would be plaque. He noted that he would share it when it was received.

Councilmember Murdock noted that during the last Council meeting, Chief Panebianco mentioned that the Department planned to adopt a family for Christmas. Chief Panebianco reported that with everything that happened, they were not able to get that going this year. He advised that after talking with the staff, they agreed to wait until next year to do it so they could do it right. Chief Panebianco noted that they had the funds, which they would hold until next year.

Councilmember Shea suggested the Department consider doing a Christmas in July, which would remove this project from their busiest time of the year. Chief Panebianco noted that they would look at all of the options; however, he opined that the officers really wanted to do something for a family at Christmas.

Chief Panebianco thanked the Mayor and Council for their support of National Night Out. He noted that Jay Hubbard helped assemble the award application submission, including his video of the event. Chief Panebianco reiterated his appreciation and opined that this was a defining event for the Department.

Mayor Davis thanked all of the officers who participated in Christmas in Middleburg for their hard work.

Councilmember Shea noted that she spoke with some officers from Haymarket, who were extremely cooperative and caring.

Councilmember Murdock noted that she spoke with someone who was amazed at the number of uniforms and cars present.

Mayor Davis noted that her husband said that people were thanking him for his service.

Reports of Town Committees/Council Liaisons

Councilmember Shea reported that Go Green did not meet this month.

Action Items (non-public hearing related)

Council Approval – Health Center Fund Donations – Health Center Advisory Board

Vice Mayor Kirk noted that there was something she wanted to change in the Health Center Advisory Board's recommendation. She explained that Seven Loaves requested \$12,000; however, the Board only recommended \$11,000. Ms. Kirk asked that the Council consider giving them the entire \$12,000 as they did a lot for the community. She noted that the Board also recommended that a donation be made to Backpack Buddies and explained that this program provided breakfast and lunch to children on the weekends. She opined that it was a good organization.

Mayor Davis noted that the memo indicated that two organizations did not respond to the request for submissions; however, she opined that the Museum Committee did. Town Administrator Semmes explained that their application was received after the deadline and after the Board met, which was why it was included as an addendum. She noted that they did not ask for a specific dollar amount.

Vice Mayor Kirk noted that a good amount of the donations would come out of the General Fund. She suggested the donation for the museum come from the General Fund as well.

Councilmember Snyder suggested that since the Town was donating more than the Health Center Fund could provide, it would be appropriate to include a line item in next year's budget for this purpose. Vice Mayor Kirk suggested it be in the amount of \$5,000.

Vice Mayor Kirk questioned whether the Council was in agreement with the donation of \$12,000 to Seven Loaves. The members agreed they were.

Vice Mayor Kirk moved, seconded by Councilmember Snyder, that Council approve annual charitable contributions for FY '16 in the amount of \$35,500 as recommended by the Health Center Advisory Board, with \$29,000 to come from the Health Center Fund and the balance from the General Fund Contingency Reserve.

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

Discussion Items

Draft Resolution – Walking/Pedestrian Tours

Vice Mayor Kirk opined that the Town Clerk did a nice job drafting the resolution; however, she noted that she did have questions that the Council needed to consider. She advised that she has already told her that she thought definitions were needed.

Councilmember Snyder advised that as to the question of enforceability, he would like to see the resolution mostly serve as a guideline. Vice Mayor Kirk agreed. She suggested the Town determine what the tour operators planned to talk about; and, explained that while she did not want to approve it, she did want to make sure it was factual.

Councilmember Shea reminded Council that they previously discussed this and agreed it was not something the Town could do. She further reminded them that they were not making decisions based upon one applicant, but were making it for everyone who wished to operate a tour. Ms. Shea advised that she did not understand why the resolution referenced both tour businesses and pedestrian parades. Town Clerk North reminded Council that both were included at their request.

After some discussion, the Council requested that the following changes be made to the draft resolution: (1) add a definition for the term “tour business”; (2) delete the references to “pedestrian parades”; (3) add language requiring a tour operator to submit their tour route to the Police Department for information purposes only, including any changes that occur in the future; and, (4) include language that would require the tours to be completed no later than 10:00 p.m. It was noted that the Town’s insurance carrier recommended a minimum of \$1 million in liability insurance, naming the Town as an additional insured, which was included in the resolution. An amended resolution will return to the Council in January for further consideration.

Request for the Designation of an Emergency Shelter

Councilmember Murdock requested that, as head of the Public Safety Committee, she be allowed to discuss this with Chief Panebianco and Town Administrator Semmes.

Councilmember Shea reminded Council that she asked a question during the last meeting when someone was talking about shelters.

Councilmember Murdock reminded Council that she met with a former Police Chief and representatives from Loudoun County and reported that the Town could not formally designate the Community Center as an emergency shelter as it could not provide food and beds. She asked that they be allowed to develop a formal plan.

Councilmember Shea explained that she was not only concerned about a major catastrophe. She suggested the need for planning so all members of Council were alerted of events, such as when a police officer was hit or when two hundred fifty people were stranded in town.

Councilmember Murdock reiterated her request that she and the staff work on this item and bring something back to the Council.

Councilmember Shea asked that they also look at the addition of a generator at the Police Department and Town Office so there would be power at both locations during an emergency.

Town Administrator Semmes reported that she spoke with the Facilities & Maintenance Supervisor about using the old generator from the wastewater treatment plant; however, it was loud as it was a diesel generator. Councilmember Murdock opined that this did not matter as when it was needed, it was needed.

Town Administrator Semmes suggested a generator may not be needed in both locations during an emergency.

Councilmember Littleton opined that the building that housed the Police Department was already wired for a generator. He noted that this location was far enough away that the noise would not be a big deal.

Councilmember Murdock suggested she and the staff return with prices for generators for each location, as well as a plan. She reported that they would have this for the January meeting.

Councilmember Hazard suggested the prices include a transfer switch. Councilmember Littleton opined that there was already a switch at the Police Department.

Vice Mayor Kirk noted that she suggested the Town Administrator include a line item in future budgets to address what would happen once the Police Department's lease expired.

Request for Town Matching Funds – VDOT Drainage Project – N. Madison Street

Town Administrator Semmes advised Council that VDOT has found money for maintenance work in Loudoun County. She noted the huge backlog of projects just in Middleburg. Ms. Semmes reminded Council that the Town brought a list of its needs to VDOT's attention last year, specifically the erosion at North Madison Street. She reported that VDOT would like to take \$120,000 to stabilize and improve the ditch to stop the erosion. Ms. Semmes advised that she had not yet seen the design and suggested the Town would want to see the scope of work to make sure it was comfortable that what was proposed would improve the situation. She reported that VDOT has asked the Town to provide matching funds so they could stretch their money throughout the County. Ms. Semmes advised Council that they were not required to do so; however, VDOT would appreciate a match. She advised that her recommendation was to offer twenty percent, which was what the Town paid when it matched grant funds and noted that this would come to \$24,000. Ms. Semmes noted that this could come from the Town's Contingency Reserve.

Vice Mayor Kirk opined that the Town should not offer more than that and noted that the Council did not know whether the project would cost \$120,000.

Town Administrator Semmes noted that this was how much money was available. She suggested the Town could see if VDOT would accept less.

After some discussion, the Council agreed to offer up to a fifteen to twenty percent match, pending a review of the scope of work.

Councilmember Murdock moved, seconded by Vice Mayor Kirk, that Council approve an allocation of up to 15-20% of the project cost from the FY '16 General Fund contingency as the Town's contribution to the proposed VDOT North Madison Street Drainage Project, provided that the Town staff has the ability to review and provide input to the project scope of work prior to its approval by VDOT, as the Town's budget allows.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Information Items

Councilmember Shea announced that the Sixth Annual Christmas Dinner would be held on Christmas Day at the Parish House between 1:00 and 3:00 p.m. She noted that there was no charge and that everyone was welcome.

Closed Session – Personnel

Vice Mayor Kirk 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. Vice Mayor Kirk further moved, seconded by Councilmember Shea, that these matters be limited to a discussion of (1) the hiring of a Town Treasurer and (2) compensation of Town employees. Vice Mayor Kirk further moved, seconded by Councilmember Shea, that in addition to the Council, the following individuals be present during the closed session: Martha Mason Semmes and Cindy Pearson. Vice Mayor Kirk further moved, seconded by Councilmember Shea, that the Council thereafter reconvene in open session for action as appropriate.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Councilmember Murdock left the meeting at 8:40 p.m., prior to the conclusion of the closed session.

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 present 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 8:32 p.m.

APPROVED:

Betsy A. Davis, MAYOR

ATTEST:

Rhonda S. North, MMC, Town Clerk