



**MIDDLEBURG TOWN COUNCIL**  
**Regular Monthly Meeting Minutes**  
**Thursday, January 12, 2017**



**PRESENT:** Mayor Betsy A. Davis  
Councilmember J. Kevin Daly  
Councilmember Kevin Hazard  
Councilmember Peter Leonard-Morgan  
Councilmember Philip Miller  
Councilmember Mark T. Snyder

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

**ABSENT:** Vice Mayor Darlene Kirk  
Councilmember Trowbridge "Bridge" Littleton

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, December 8, 2016 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Mayor Davis led Council and those attending in the Pledge of Allegiance to the flag.

**Public Comment**

Kathyjo Shea, 21854 Foxcroft Road, appeared before Council in response to an article in the Middleburg Eccentric, which mentioned volunteers for Town committees. She expressed disappointment that a staff member appeared to evaluate a Council decision in the interview. Ms. Shea noted that as a former councilmember, she pushed to have applicants submit a bio with the letter of intent. She advised that over her eight years on the Council, she saw a great deal of variety in the letters of intent. Ms. Shea opined that knowing the expertise of and having information on an applicant was important. She noted the changing demographics of the town and Council, and opined that the Council would be asked to appoint individuals they only knew slightly or not at all. Ms. Shea reminded Council that committee members were bound by FOIA and suggested they should be willing to cooperate as Town representatives. She further suggested it was important that the Council knew this when they appointed them.

Ms. Shea opined that the Council expressed its appreciation in the Council Chambers for volunteers; however, she suggested they did not do so in a way that was meaningful. She expressed her belief that it needed to acknowledge the volunteers for their expertise and contributions. Ms. Shea suggested they needed to be recognized as competent members of the team and periodically recognized and thanked. She opined that active recruitment was vital. Ms. Shea advised that over her eight years on the Council, she observed that some members were good at convincing citizens to join and be a part of committees and she encouraged the new members to take this on as a serious commitment. She noted that the Council had someone who worked with and supported the staff; however, there was no one on the Council to give support to the volunteers. Ms. Shea encouraged the Council to make sure the staff's personal opinions were reflective of the Council's opinions in any interview situation.

**Special Recognitions by Mayor and Council**

**Resolutions of Appreciation – Christmas in Middleburg; Kathy Ribaldo and Nelson Steven Hallmark**

*Councilmember Snyder moved, seconded by Councilmember Daly, that the Council adopt a Resolution of Appreciation for the volunteers, sponsors and donors associated with the 2016 Christmas in Middleburg event.*

*Councilmember Snyder moved, seconded by Councilmember Leonard-Morgan, that Council adopt resolutions extending its appreciation to Kathy Ribaldo for her service on the Middleburg Planning Commission from September 2006 through December 2016 and to Nelson Stephen Hallmark for his service on the Board of Zoning Appeals from June 2011 through December 2016.*

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

No – N/A

Abstain: N/A

Absent: Vice Mayor Kirk and Councilmember Littleton

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

(on resolution for Christmas in Middleburg)

---

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

No – N/A

Abstain: N/A

Absent: Vice Mayor Kirk and Councilmember Littleton

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

(on resolutions for Ms. Ribaldo and Mr. Hallmark)

---

Mayor Davis advised that she heard nothing but praise for the Christmas in Middleburg event and opined that it was well done. She noted that the crowds were the perfect size – full, but not overly full. Ms. Davis further noted that the parking went beautifully. She advised that by 6:00 p.m., everyone was gone and everything was clean. Ms. Davis opined that everyone had a great time, including the parade participants who raved over the new barriers. She thanked Chief Panebianco for his cooperation in that endeavor. Ms. Davis presented a signed copy of the resolution to Jim Herbert, Chair of the Christmas in Middleburg Committee.

Mr. Herbert advised Council that one reason the resolution was so long was that there were so many people involved in the event. He further advised that it took a village to put it on. Mr. Herbert noted that he would provide a detailed report to Council during its January work session; however, he opined that they have developed a really nice formula. He noted the need to tweak some things. Mr. Herbert reminded Council that the Town had good weather again that day. He recognized the Councilmembers and Town staff that assisted, including Marvin Simms, Chief Panebianco, and Councilmembers Hazard and Daly. Mr. Herbert advised that whenever something was needed, it was done professionally, with an outcome that presented the town well and offered a good experience for those who attended. He noted that the Resolution of Appreciation was meaningful and that he felt appreciated as a volunteer.

Mayor Davis thanked Economic Development Coordinator Pearson in particular and noted that this was her last coordination of Christmas in Middleburg.

Mr. Herbert noted that Ms. Pearson did a lot of heavy lifting, as did Councilmember Daly, Chief Panebianco and Facilities & Maintenance Supervisor Simms. He reported that DeeDee Hubbard, Joanne Hazard and Punkin Lee also worked shoulder-to-shoulder to put on the event.

Mayor Davis read the Resolution of Appreciation for Mr. Hallmark's service on the Board of Zoning Appeals and presented him with a signed copy. She also read the Resolution of Appreciation for Kathy Ribaudo's service on the Planning Commission and noted that she would deliver a copy to her.

**Approval of Minutes**

*Councilmember Snyder moved, seconded by Councilmember Daly, that Council approve the December 8, 2016 Regular Meeting minutes as amended.*

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

No – N/A

Abstain: N/A

Absent: Vice Mayor Kirk and Councilmember Littleton

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

-----  
**Staff Reports**

**Chief of Police Panebianco** reminded Council that he provided an end-of-the-year recap in his report. He reported that over the weekend, the Speaker of the House and others were at the Salamander Resort and noted that the Police Department assisted with their security. Chief Panebianco opined that they had a good trip. He reminded Council that the Department worked with the Capitol Police and Secret Service when government officials visited Middleburg.

**Stuart Will, of IES,** reported that December was an exceptionally smooth month.

**Town Administrator Semmes** noted that the Council received an invitation to the STEAM Team Complete Streets Imagination Kits Unveiling Event on Saturday, January 21<sup>st</sup>. She advised the members that she met with the students at the start of the project to talk about Town government and explained that they then developed ideas for how the streets in Middleburg could be improved and made safer. Ms. Semmes further explained that on January 21<sup>st</sup>, the students would present boxes that would open up and illustrate their ideas. She opined that it would be a fun event and would give the students a chance to meet the Mayor and members of Council. Ms. Semmes advised that this was a wonderful program that was offered on Saturdays for disadvantaged children from the Hill House, who were assigned eight grade student mentors from The Hill School.

Councilmember Snyder noted that the students were future volunteers for the Town.

Town Administrator Semmes noted that the Council was having trouble finding a date for its visioning session that everyone could attend. She suggested they consider looking further into March. Ms. Semmes reminded Council that Mr. Chandler offered Tuesday/Wednesday evening sessions that ran from 5:30-9:00 p.m. and 5:30-9:30 p.m. respectively.

Councilmember Snyder advised that this would not fit into his work schedule.

Town Administrator Semmes advised that Councilmember Hazard indicated that he could do an evening session on one of the days.

Councilmember Snyder noted that he may have to drop out of one day if it was held on a Tuesday/Wednesday.

Town Administrator Semmes advised Council that she would get some dates for their consideration.

Councilmember Hazard inquired as to the status of the flag regulations and noted that Shakespeare in the Burg was coming up. He advised that they wanted to secure new flags. Mr. Hazard questioned how quickly the staff could get the new regulations to them.

Economic Development Coordinator Pearson reported that the staff was almost to the point of getting the regulations out and explained that they were finalizing the size of the pocket that would be needed at the top and bottom to hang the banner. She expressed hope to have the information by January 16<sup>th</sup> at the latest.

Councilmember Miller opined that the information on the banner arm's size should be in the light pole's specifications.

Town Administrator Semmes explained that the staff was trying to determine how long the banners should be and noted that they came in different sizes.

Economic Development Coordinator Pearson noted that there were also different ways to hang them from the bottom. She advised that this could be accomplished by adding an arm to the pole that would be installed and removed as needed or by placing something into the bottom of the banner.

Councilmember Miller noted that he did not see an update on the hiring of a management company for the Health Center in the report. Economic Development Coordinator Pearson reported that she prepared a list of what the Town would like the company to do and noted that the list was reviewed by Councilmember Littleton. She advised that this list was passed onto another possible management firm and noted that he was supposed to respond today. Ms. Pearson reported that as of 4:00 p.m., he had not. She advised that once she heard from him, she would compare his price to those secured from other firms.

**Town Clerk North** reported that the Committee reviewed the six proposals received for the parking enforcement software and narrowed the list down to three. She advised that those vendors would be coming to Middleburg on January 19<sup>th</sup> and 24<sup>th</sup> to provide a demonstration of their systems. Ms. North noted that they have been asked to bring the actual equipment that would be used so the Police Chief could see it.

Councilmember Snyder questioned who was serving on the Committee. Town Clerk North reported that it consisted of herself, the Police Chief and the Town Treasurer.

Town Clerk North reported that she had contacted two companies that provided electronic agenda software. She reported that she, the Town Planner and Town Administrator would do a webinar with one firm on January 24<sup>th</sup> and that she was waiting to hear from a second one to schedule a date.

Mayor Davis questioned whether this was software used by other localities. Town Clerk North reminded Council that she surveyed localities a couple of years ago to determine what software they used. She advised that she contacted the two companies that were most utilized.

Councilmember Miller opined that Microsoft also offered government agenda software. Town Clerk North noted that she would check on that as well.

**Economic Development Coordinator Pearson** noted that she has added a Health Center report to her monthly report. She advised Council that she had begun work on the upcoming Farmers Market.

Councilmember Snyder noted that he was distressed at losing the French Hound and suggested that an effort was needed to bring restaurants into Middleburg.

Economic Development Coordinator Pearson advised Council that she had a few people who were interested in locating a restaurant in Middleburg; however, she could not discuss them at this time. She opined that both would be a great addition.

Councilmember Snyder advised that he would appreciate any suggestions the staff may have to make it easier for restaurants to move to Middleburg.

Mayor Davis noted that this was part of the reason the Council adopted the tourism zone ordinance. Councilmember Miller noted that EDAC was aware of and was looking at this issue.

Councilmember Snyder opined that Middleburg was at a low point with regard to restaurants.

Councilmember Miller noted that there were a couple of reasons for this, including that the buildings needed to be built out to support a restaurant and that the rents were extremely high. He noted that restaurants needed to turn over a certain number of tables just to pay the rent. Mr. Miller reported that those were the chief concerns that he was repeatedly hearing.

Councilmember Leonard-Morgan reported that he spoke with the owners of a new restaurant in Leesburg who had already looked into Middleburg; however, the problem was the lack of lunchtime business.

Mayor Davis suggested that if the members knew of someone who may be worth investigating that they let the Economic Development Coordinator and Councilmember Miller know. She noted the importance of talking to any restaurant or business that would be a great fit for Middleburg.

Councilmember Daly agreed with Councilmember Miller that the issue was unreasonable rents.

Councilmember Miller opined that there was no way for the Town to get around that. He noted that EDAC was working on incentives, which was why it wanted to do the tourism zone.

Councilmember Snyder advised that, years ago, the Town's parking requirements for restaurants were the same as they were for other businesses in that district. He reported that, at his suggestion, the Council agreed to eliminate the parking requirement for restaurants in that district. Mr. Snyder advised that he was willing to look at anything to help rebuild the restaurant businesses.

Councilmember Miller opined that a lot of this would involve conversations between the landlords, the Town and the business. He noted that everyone must be willing to negotiate. Mr. Miller opined that the Town would do anything it could. He explained that EDAC was trying to come up with a smart solution to a long-term problem.

Councilmember Hazard suggested the need to bring in some businesses to let them know there was a lunch trade. He noted that shoppers needed a place to go for lunch. Mr. Hazard opined that there was a market and that it was quantifiable.

Economic Development Coordinator noted that this was more so now that the Red Fox Inn was not serving lunch during the week. She advised that some businesses have reported that they only have two options for sit down lunches with their clients.

Mayor Davis noted that the Town was well aware of the issue and hoped to do something about it.

Councilmember Miller thanked Economic Development Coordinator Pearson for her monthly report on the Health Center and noted that it was very informative.

**Town Planner Moore** noted the need to make a correction to his monthly report related to the Museum Foundation permit request before the Planning Commission. He explained that the wrong date was shown for the Council's work session and reported that they would review this request during their January 26<sup>th</sup> meeting.

Town Planner Moore advised Council that as to the floodplain ordinance amendment, this was something that must be pushed through very quickly. He noted that it was very minor and consisted of an update to the date of the floodplain overlay mapping. Mr. Moore opined that this was an example of localities getting a nasty letter saying "if don't do this within xx time, we will suspend you from the program". He advised Council that he previously worked with someone from the same organization who said that the ordinance amendment that was done in 2015 would cover everything. Mr. Moore reported that the public hearing on this item was already scheduled for the Planning Commission meeting this month and for the February Council meeting.

**Town Treasurer Bott** reported that she received an update from Southern Software and advised that they planned to go live with the remainder of the modules in early March. She noted that there would be a water billing in early March and advised that she did not want to do both at the same time; therefore, she would probably push the software out a little so she would do one more water billing in the old software. Ms. Bott reported that the January water bills would go out this week.

Councilmember Snyder noted the two boxes that showed the fund balances, which were located on the last page of the Treasurer's monthly report. He opined that they were confusing. Town Treasurer Bott reported that the bottom box was for all three of the Town's funds. She further reported that the one above it was for the Health Center Fund. Ms. Bott advised that she would label them more clearly in the future.

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

Councilmember Miller reported that the Health Center Advisory Board had issued checks to charities.

### **Discussion Items**

#### **Legislative Priorities**

Town Administrator Semmes advised that her memo contained general legislative priorities and noted that the Council also had the Virginia Municipal League's legislative priorities. She reported that she and Chief Panebianco also went through some pre-filed bills. Ms. Semmes reminded Council that the General Assembly session had just opened and advised that her memo was on the legislation that had been filed as of January 4<sup>th</sup> that she felt were significant enough in relation to town affairs that she should bring them to the Council's attention. She suggested the Council may want to take a position on the bills and provide it to Delegate Minchew and Senator Vogel. Ms. Semmes advised that she was happy to answer any questions they may have. She noted that the Town Clerk looked at the FOIA and data collection bills and the Town Treasurer looked at the tax related bills. She reminded Council that there would be many more coming.

Town Administrator Semmes reported that she spoke with Delegate Minchew who said "he would appreciate any input that any community could offer". She advised that she gave the Council some ideas of possible actions and reminded them that, in the past, they endorsed the VML's legislative

priorities. Ms. Semmes explained that their priorities were general statements such as "the State should not push state mandates to local governments" and that "it should leave localities' powers alone". She suggested the Council could adopt their legislative priorities; take positions on the list of bills that were before it, with the Mayor translating their positions to Delegate Minchew and Senator Vogel; or, monitor and communicate on bills on an ad-hoc basis.

Councilmember Snyder noted that the members could also communicate on their own, which he had done in the past.

Town Administrator Semmes noted that Councilmember Littleton spoke with Delegate Minchew about the Airbnb bill. She encouraged the members to communicate with the legislators; however, she opined that it had more power if it came from the Town.

Councilmember Snyder expressed appreciation for the Chief's input and noted that he would like it from the Chief and the police officers. He noted, however, that some of his comments seemed to be based on his philosophy rather than from a Town perspective. Mr. Snyder advised that his feedback to the Chief was that he wanted him to offer his feedback from a Middleburg prospective. He asked that the Chief put on his "Middleburg hat" and advise the Council on how the legislation would affect the Town. Mr. Snyder noted that while he welcomed all feedback, he was more interested in that input.

Town Administrator Semmes noted that the first item on the Chief's list was related to school security officers. She advised that this would not impact the Town unless they were pulled from a school in Middleburg. Ms. Semmes opined that the Chief was offering his input from a Police Chiefs' Association perspective. She suggested that the bills that only applied to Middleburg be reviewed.

Councilmember Snyder reiterated that he was interested in those bills that affected Middleburg. He noted that he wrote a news column and advised that he deliberately did not get into national politics as his focus was here. Mr. Snyder reiterated that while he welcomed all input, he was more appreciative of the items that pertained specifically to Middleburg.

Mayor Davis noted that Delegate Minchew was already aware of the ones that the Town had spoken with him about in the past, such as the Airbnb bill.

Town Administrator Semmes confirmed that Delegate Minchew was aware of the Town's concerns related to that bill. She advised Council that she forwarded her list to him, with a note that the Council had not weighed in on the items. Ms. Semmes reported that Delegate Minchew did not get back to her on them, other than to send an email of appreciation.

### Closed Sessions

Councilmember Snyder questioned whether it was necessary to discuss a single applicant for a single position on the Planning Commission in closed session. He noted that he was inclined to nominate the applicant to fill the position unless a member wanted to discuss the appointment in private for any reason. Mr. Snyder suggested a closed session discussion was more appropriate if there was more than one applicant for a position; however, if there was only a single applicant, he would prefer not to discuss it in closed session unless there was a need to discuss it privately. He explained that he would prefer to have as few topics in closed session as possible.

After some discussion, the majority of the Council agreed that from the standpoint of procedure, they would like to discuss all appointments in closed session first as this was a personnel issue. It was noted that some members may not necessarily know the applicant. It was further noted that if there was nothing to discuss, the closed session would be brief and the Council would move forward with the nomination.

Legislative Priorities (continued)

Town Administrator Semmes questioned what the Council wished the staff to do with regard to its legislative priorities.

Councilmember Snyder advised that he was good with Part I. He suggested the Council defer on Part II. Mr. Snyder further suggested that if the members disagreed, they could contact their legislators.

Town Administrator Semmes reminded Council that there would be other bills in the future. She advised that she would talk with the Chief about the ones that did not pertain to Middleburg and would bring back the list. Ms. Semmes further advised that she would let the members know what was happening with the bills.

Councilmember Miller noted that something was missing from one of the pages in Part II.

Council agreed to follow Councilmember Snyder's suggestion and to discuss the bills the Chief had a recommendation on for Middleburg during their work session.

**Closed Session** – Appointment to Planning Commission & Hiring of Town Attorney

Councilmember Hazard moved, seconded by Councilmember Daly, 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 Daly, that these matters be limited to (1) a discussion of an appointment to the Planning Commission and (2) the hiring of a Town Attorney. Councilmember Hazard further moved, seconded by Councilmember Daly, that in addition to the Council, the following individuals be present during the closed session: Martha Mason Semmes, Rhonda North and Will Moore for the first part and Martha Mason Semmes for the second part. Councilmember Hazard further moved, seconded by Councilmember Daly, that the Council thereafter reconvene in open session for action as appropriate.

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

No – N/A

Abstain: N/A

Absent: Vice Mayor Kirk and Councilmember Littleton

(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 Hazard moved, seconded by Councilmember Snyder, that Council appoint Mimi Dale Stein to the Middleburg Planning Commission to fill an unexpired term, said term to expire December 31, 2019.*

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

No – N/A

Abstain: N/A

Absent: Vice Mayor Kirk and Councilmember Littleton

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

---

Town Administrator Semmes noted that Town Attorney Plowman could not attend the meeting due to family matters. She further noted that she had asked her to provide the Council members with an update on a pending legal matter and questioned whether they received it. The members of Council indicated they did not.

Councilmember Miller noted that he requested follow-up on a single item and confirmed that the Economic Development Coordinator followed-up on it and reported back to him.

Mayor Davis noted that DeeDee Hubbard brought in a news article about how Leesburg was getting businesses, which she asked be distributed to the Council. She opined that the location of businesses was a cyclical event.

There being no further business, Mayor Davis declared the meeting adjourned at 7:13 p.m.

APPROVED:

---

Betsy A. Davis, MAYOR

ATTEST:

---

Rhonda S. North, MMC, Town Clerk