



**MIDDLEBURG TOWN COUNCIL  
Regular Monthly Meeting Minutes  
&  
PLANNING COMMISSION  
Special Meeting Minutes**



**Thursday, November 13, 2014**

**PENDING APPROVAL**

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

**PLANNING COMMISSION:** Kathy Ribaldo, Chair  
Amanda Scheps, Vice Chair  
Eric Combs, Commissioner  
H. H. Duval "Dev" Roszel, Commissioner  
Don Woodruff, Commissioner

**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  
Terry Inboden, Inboden Environmental Services  
Stuart Will, Inboden Environmental Services

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, November 13, 2014 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**

Paul Eden, President of the Middleburg Lions Club, invited the Mayor and Members of Council to attend their Beaujolais Nouveau Night on November 20<sup>th</sup>. He reported that this was an opportunity for the community to get to know the Lions Club and when their donations would be made to Seven Loaves, Leader Dogs and the Cherry Blossom Breast Cancer Fund.

There being no further comments, the Mayor closed the public comment period.

Councilmember Murdock inquired as to what Leader Dogs involved. Mr. Eden reported that they were a charity that worked at the VFW teaching dogs to be guide dogs.

**Planning Commission Meeting**

At the request of Mayor Davis, the members of the Planning Commission assembled at the table in front of the Council dais. Chair Ribaldo called the special meeting of the Commission to order at 6:03 p.m.

**Public Hearings**

Zoning Text Amendment 14-02 – Amendments pertaining to definitions, use regulations and parking requirements for libraries and museums (Joint public hearing by the Town Council and Planning Commission)

No one spoke and the public hearing was closed.

Chair Ribaldo explained the reasons for the proposed ordinance amendment, which basically defined the terms “libraries” and “museums” and made them similar throughout the zoning ordinance. She noted that currently, some of the uses were allowed by-right and advised that if adopted, they would be allowed by special exception permit. Ms. Ribaldo explained that another major change was that the parking requirements for both uses would be one space per five hundred square feet. She reported that during the Commission’s previous discussion of this item, they removed the phrase “for viewing” from the ordinance and proposed that the two definitions be parallel. Ms. Ribaldo explained that previously, the definition of a “library” referred to a building, whereas the definition of a “museum” referred to an activity. She reported that the Commission proposed that both be described as facilities. Ms. Ribaldo noted that museums must be non-profits that were open to the public.

Commissioner Woodruff questioned whether the requirement for non-profit status would also apply to libraries. Chair Ribaldo confirmed it would only apply to museums.

*Commissioner Woodruff moved, seconded by Commissioner Combs, that the Planning Commission forward ZTA 14-02 to the Town Council recommending approval because the provision of definitions, use regulations and parking requirements for libraries and museums represented good planning practice.*

Vote: Yes – Commissioners Ribaldo, Combs, Roszel, Scheps, Woodruff and Councilmember Hazard  
No – N/A  
Abstain – N/A  
Absent – Commissioner Littleton

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Chair Ribaldo adjourned the meeting of the Planning Commission at 6:10 p.m., at which time Mayor Davis continued the meeting of the Council.

Zoning Map Amendment 14-01 – An Ordinance to rezone two lots from R-3 Residential District to C-1 Restricted Commercial District – 110 East Federal Street

No one spoke and the public hearing was closed.

**Action Items related to Public Hearings**

Zoning Text Amendment 14-02 – Amendments pertaining to definitions, use regulations and parking requirements for libraries and museums

*Councilmember Snyder moved, seconded by Councilmember Shea, that Council adopt ZTA 14-02, an ordinance to amend Articles II, X, XI and XVI of the Middleburg Zoning Ordinance pertaining to definitions, use regulations and parking requirements for libraries and museums.*

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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**Zoning Map Amendment 14-01** – An Ordinance to rezone two lots from R-3 Residential District to C-1 Restricted Commercial District – 110 East Federal Street

Town Planner Moore advised Council that this technically involved two lots; however, they appeared to be one. He noted that the property was currently developed with a single-family dwelling. Mr. Moore reported that the property was an isolated residential property, surrounded by the C-1 Commercial District. He reminded Council that this property was part of a Town initiated mass rezoning in 2003, which attempted to bring additional properties into the C-1 District. Mr. Moore advised that at that time, the current owner of this property and the owners of other properties resisted the rezoning as they did not want a higher real estate tax assessment for property that was in a residential use. He reported that this property has now transferred to a new owner who was requesting the zoning designation the Town sought in 2003. Mr. Moore advised Council that the Planning Commission has considered this request and noted that due to the limited size of the property, they did not feel the rezoning would have any negative impacts. He noted that there were no proffers associated with the rezoning. Mr. Moore reported that the rezoning did conform to the Comprehensive Plan, which called for commercial zoning in this area.

*Councilmember Snyder moved, seconded by Councilmember Murdock, that Council adopt ZMP 14-01, an ordinance to rezone two lots at 110 East Federal Street from R-3 Residential to C-1 Commercial.*

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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**Public Presentations**

**FY '14 Annual Audit Report** – Mitchell & Company

Sandy Tondreau, of Mitchell & Company, advised Council that she and Jeff Mitchell met with the Town Administrator and Town Treasurer to review and discuss issues in detail. She provided Council with a copy of her presentation and the draft audit.

**Comparative Balance Sheet:** Ms. Tondreau advised Council that the Town had a very good year, with the General Fund's total assets and fund balance having increased considerably from prior years. She noted that this was evident in the cash balance, which was up by almost \$600,000. Ms. Tondreau advised Council that the other items shown were fairly consistent, with the receivables being up slightly, mostly due to past due real estate taxes and some utility taxes. She noted that some of the general accounts receivables were related to refundable grants in which the Town must wait to receive reimbursement. Ms. Tondreau advised Council that the fixed assets did not change. She noted that the payables were mostly normal payables that the Town would owe at the end of the year. Ms. Tondreau reminded Council that they had budgeted for the General Fund to pay the Health Center Fund rent for the Police Department and reported that they booked that amount; therefore, a payable and a receivable were shown in the amount of \$9,000. She advised that the accrued expenses mostly related to wages and retirement. Ms. Tondreau

noted that they also booked an accrual for the stewardship fees that were owed to Salamander. She reminded Council that the original balance was \$40,000, with the Town having paid \$10,000; therefore, it still owed \$30,000. Ms. Tondreau advised that the other obligation amounts were primarily due to vacation and sick leave owed to the employees. She reported that the Health Center Fund had a small loss, which reduced the fund balance.

Vice Mayor Kirk reported that she and the Town Administrator have discussed this and opined that all of the monies that should be were not shown in that account. She further opined that there should have been an additional \$30,000 in the Health Center Fund. Town Administrator Semmes reported that the figures the Council were currently seeing included what had been added. She advised that the Fund almost broke even, with there being a \$1,000 deficit. Ms. Semmes noted that the figures before Council included the \$29,000 in donations they made, as well as the transfers.

Ms. Tondreau reported that the Water/Sewer Fund was up but not as significantly as the General Fund. She further reported that the receivables were up primarily because the billing was up and reminded Council of the end-of-the-year corrected billing that occurred. Ms. Tondreau noted that as of the end of the year, the long-term debt service was down. She acknowledged that the Council recently approved new debt and opined that it was good that the Council had the opportunity to use debt to take care of projects that needed to be done.

Profit & Loss Summaries: Ms. Tondreau reported that the General Fund had a surplus of over \$450,000 and the Health Center Fund had a small deficit of \$1,000. She advised that the Water/Sewer Fund had a total surplus of \$117,000; however, this excluded donated capital and availability fees.

Operating Revenues: Ms. Tondreau reported an increase in the Water/Sewer Fund and General Fund's operating revenue. She further reported that the Health Center Fund's revenue was flat.

General Fund Revenues: Ms. Tondreau noted that the biggest revenues in the General Fund included the bank franchise tax, meals tax, occupancy tax and business license tax. She reported that the meals tax showed the largest increase. Ms. Tondreau advised that they would continue to monitor this trend.

Water/Sewer Fund Revenues: Ms. Tondreau reported that there was an increase in the user charge revenues and that the tower rental revenue was up slightly. She reminded Council of the slight water/sewer rate increase that was approved; however, she advised that most of the revenue increase was due to the Salamander Resort. Ms. Tondreau noted that this revenue also included the insurance payment received for the Well 4 repairs.

General Fund Budget-To-Actuals: Ms. Tondreau reported that the Town's budgeted revenue was close to the actuals and advised that what was missing was some grant money that was not received due to the timing of the transportation projects. She noted that some categories were also underestimated. Ms. Tondreau reported that the same occurred with the expenses due to the transportation grant projects. She advised that otherwise, the budget-to-actuals were on target.

General Fund Surplus Fund Balance: Ms. Tondreau reported that there was a dramatic increase in the surplus fund balance. She reminded Council that in 2006, this number was not good.

Revenue/Expense Summary: Ms. Tondreau explained that this chart was not the same as the operating revenue one. She reminded Council that the former chart showed a surplus of \$117,000 in the Water/Sewer Fund and explained that this chart removed the donated capital and availability fees as they were not operating revenues. Ms. Tondreau noted that they also booked the depreciation expense, which was not an operating expense for the Town. She further noted that this chart did not include debt as an operating cost. Ms. Tondreau advised that this provided for a net operating surplus of \$130,124 for the Water/Sewer Fund and reported that this was the first year this fund had a positive operating position.

Percentage of Gallons Billed to Pumped: Ms. Tondreau reported that there has been a definite improvement in this number and advised that the staff was providing them with numbers that were more accurate in terms of internal use. She noted that the percentage was still not perfect when compared to other towns in the area; however, she reiterated that it has shown a definite improvement. Ms. Tondreau expressed hope to continue to see this number increase.

Town Issues: Ms. Tondreau reminded Council that while they worked closely with the management staff to do the audit, they worked for the Council and were required to provide them with the results. She reported that Mitchell & Company has issued the Town a clean opinion. Ms. Tondreau advised that there were no major issues encountered and noted that if there had been, they would have come to the Council early in the process. She reported that there were no issues with the management or staff in conducting the audit and advised that they were easy to work with and provided all of the information they needed. Ms. Tondreau noted that they did talk with the staff during their meeting about the Health Center Fund and urged the need to watch the deficits as they would eat away at the fund balance. She acknowledged the continuing discussions regarding donations and the need to balance them against the income. Ms. Tondreau reminded Council that this fund would continue to encounter expenses as the building was getting older and needed continuous maintenance.

Page 37 of Audit Report – Defined Benefit Pension Plan: Ms. Tondreau reminded Council that all municipalities were now required to do reporting on pensions as a footnote. She advised that it was basically a detailed summary of the information on the Town's pension, based on the financial information provided by VRS. Ms. Tondreau noted that the reporting was usually a year behind due to the date when VRS issued their report. She advised that the chart provided the value of the assets and liabilities, using an actuarial formula to determine the Town's liability. Ms. Tondreau reported that in looking at the numbers as of June 30, 2013, the Town's pension fund was underfunded by \$643,000. She noted that the auditors did not need to do anything with this now other than disclose the information; however, in the fiscal year ending June 30, 2015, they must record an amount if it continued to be underfunded. Ms. Tondreau expressed hope that it would not be as high next year. She reiterated that next year, they would have to report a liability, which would impact the General Fund surplus. Ms. Tondreau advised that she wanted to give the Council a heads up that this may be coming next year and expressed hope that the staff would share the VRS report when it was received so they could be prepared for it. She noted that the Town did not have to come up with the money but rather it must be recorded in the audit, with the liability being taken out of the fund balance.

Town Administrator Semmes reminded Council that the Town has done nothing wrong as it has always contributed what VRS told it to contribute. She advised that the deficit had to do with who retired and the value of the investments. Ms. Semmes expressed hope that in the future, the value would increase. She noted that the amount varied from year to year and changed depending on if an employee retired.

Ms. Tondreau noted that VRS only recalculated the percentages every two years; therefore, if there were changes, the Town may not be impacted right away.

Councilmember Hazard inquired as to how Middleburg's ratio compared with other small towns. Ms. Tondreau noted that she was not sure as she had not seen the data for other towns; however, she advised that she could find out. She opined that the larger municipalities were hit harder. Ms. Tondreau expressed an assumption that Middleburg was in a similar range to smaller localities.

Ms. Tondreau noted that the Town had a policy for retired employees that gave them a \$100/month benefit toward the cost of their health insurance. She advised that this technically this was a post-employment benefit that should have an actuary value so it could be recorded as a liability; however, she opined that it was not worth it to hire an actuary for such a small plan. Ms. Tondreau noted that it only cost the Town \$4,800 last year. She advised that they discussed with the staff the need to clarify the

policy as it was not clear whether the \$100 benefit only applied to those retirees who stayed on the Town's health insurance policy or if they could get it toward their own health insurance policy. Ms. Tondreau advised that the Council could decide this either way; however, she opined that it was unclear in the policy. She suggested the policy not be changed for those who were already receiving this benefit.

Ms. Tondreau suggested that given the excess cash in the General Fund, the Council may want to consider establishing an investment committee to monitor available cash and investment options. She noted that it was more difficult for towns to invest due to state laws and regulations as to where it could invest. Ms. Tondreau opined that it would be a benefit to have a separate committee to make recommendations to the Council. She advised that investing the money would allow the Town to earn extra interest on its money.

Ms. Tondreau reported that there were not a lot of delinquent receivables; although, she noted that there were a couple of old items related to water tower leases from a company that went bankrupt and some old Nextel money that got mixed up with some contract changes years ago. She advised Council that the Town Administrator and Town Treasurer would present information in the future on these items, along with suggestions for writing off the old amounts. Ms. Tondreau noted that there were also some old water/sewer amounts that may need to be written off.

### **Approval of Minutes**

*Councilmember Snyder moved, seconded by Councilmember Murdock, that the Council approve the October 9, 2014 Regular Meeting and October 23, 2014 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**

Vice Mayor Kirk noted the **Town Administrator's** postings on Facebook in reference to the Salamander housing project. She opined that it was good that she answered those questions. Town Administrator Semmes reported that it provided an opportunity to remind citizens that the Town staff was available to answer questions.

Vice Mayor Kirk noted that the Town Administrator also answered questions regarding the Marshall/Madison Project, which was good as well. Town Administrator Semmes advised Council that she did not spend a lot of time doing Facebook and noted that she only monitored it every now and then. She noted that if she saw something like that or if a member of Council brought something to her attention, she would respond.

**Economic Development Coordinator Pearson** announced that the 20<sup>th</sup> Annual Small Business Awards were given on November 7<sup>th</sup>. She reported that three businesses/organizations from Middleburg, out of four hundred sixty-three entries, were recognized as finalists and received a plaque. Ms. Pearson noted that they included the Fun Shop, Tack Box and Windy Hill Foundation.

Councilmember Shea inquired as to the location of the "Gardening with Michael Judd" event. Economic Development Coordinator Pearson reported that it would be held at the Community Center.

Mayor Davis inquired as to the time of the Thanksgiving Dinner at the Community Center. Economic Development Coordinator Pearson reported that it would begin at 6:00 p.m. on November 20<sup>th</sup>.

Councilmember Murdock questioned the reference to the Trotters Perk Bistro. Economic Development Coordinator Pearson reported that it would be located in the former Boxwood Tasting Room space and noted that they did not yet have an opening date.

Councilmember Shea noted that Ms. Pearson's report indicated that the Pink Box provided tours. She questioned whether they were for people coming into town. Economic Development Coordinator Pearson reported that one was arranged through Visit Loudoun, one was for a bus from another destination and the other consisted of six or seven guests that were staying at the Salamander Resort.

**Town Planner Moore** noted that his report mentioned the Planning Commission's pre-application discussion with Salamander and advised that Councilmember Hazard would elaborate on it during his report. He asked the Council to contact him with any concerns they may have regarding the Marshall/Madison Pedestrian Improvement Project. Mr. Moore opined that the project was not disruptive at this point and reported that it was moving forward. He suggested the weather would impact the schedule; however, he noted that there were plans in place to have the intersection clear for the Christmas in Middleburg event so traffic could get through.

Mayor Davis noted that she has assured people that the intersection would be passable during Christmas in Middleburg. She suggested the staff remind the contractor of the need to make sure it was during that week.

Councilmember Murdock reminded the staff that the Hunt Parade must come out of the back of the Red Fox Inn, right into the middle of the construction zone.

Town Planner Moore assured Council that the intersection would be passable for the event.

Councilmember Shea reported that a motorist told her that it was nearly impossible to make a right turn onto Route 50 at Liberty Street due to traffic during rush hour. Mayor Davis suggested the Police Department monitor this intersection during rush hour. Stuart Will, of IES, advised Council that he has noticed that this intersection was frequently blocked. Councilmember Littleton suggested motorists be encouraged to go down another block where there was better visibility. Economic Development Coordinator Pearson opined that it was easier to enter the road at Liberty Street and advised that motorists could not see at the intersection of Hamilton Street. She suggested the intersection at Jay Street was not bad from a visibility standpoint. Councilmember Shea asked the staff to look into this issue.

Town Planner Moore reminded Council that this phase of the project was only planned to last through the end of next week. He suggested this may be extended by a few days due to infrastructure issues. Mr. Moore reported that the closure of the intersection would only occur for a couple more weeks.

Mayor Davis reiterated her suggestion that the Police Department post an officer at this intersection during rush hour.

Councilmember Hazard noted that making the intersection "passable" during the Christmas in Middleburg event did not mean simply the use of plating. Town Planner Moore confirmed there would be no exposed steel plates and assured Council that if plates were used, they would be asphalted or matted to cover them.

Councilmember Murdock inquired as to the type of business that Fairchild Specialty Gifts & Food was and its location. Mayor Davis reported that it was located either behind or above Hastening Antiques.

Councilmember Hazard noted that it would offer kitchen items and gifts. He advised that they would also provide catering, but not from that location.

Mayor Davis noted that the Health Center Fund's revenue and expense totals on the Town Treasurer's report showed the expenses to be at 387%; however, the actual statement did not show it to be that amount. **Town Treasurer Wheeler** reported that this was an error.

Councilmember Shea noted that the Repairs and Maintenance line item under the Street Maintenance Budget was at 115%. Town Administrator Semmes opined that it was due to the brick work that was done on the sidewalks. She noted that this was not a budgeted item; however, she explained that after someone tripped, she asked the Facilities and Maintenance Superintendent to have the places that were a problem fixed. Ms. Semmes reported that a number of areas were improved and opined that the contractor did a great job.

Councilmember Hazard questioned whether the Town could address this through a mid-year budget adjustment. Town Administrator Semmes reported that the staff was planning to a mid-year budget adjustment due to the sale of the bonds and suggested this could be addressed at that time.

Town Administrator Semmes reported that the Town planned to purchase an inflatable mattress that could be placed at Well 4.

Mayor Davis noted that **Chief Panebianco** was not available to attend the meeting. She thanked the citizens of Middleburg and the Town employees for supporting him during his recent loss and advised that she was proud of the community.

Town Administrator Semmes reported that according to Lieutenant Prince, Halloween and the Middleburg Film Festival went smoothly. Vice Mayor Kirk noted that there were fewer children trick-or-treating this year. She reported that the police officers were visiting houses on the back streets earlier in the day about a suspicious car/person in the area. Councilmember Snyder advised that an officer stopped by his house and asked about someone who was apparently running a scam and trying to get into houses.

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

Vice Mayor Kirk reported that the Health Center Advisory Board met on November 10<sup>th</sup>. She advised Council that they sent out letters to the organizations that the Town worked with and received responses, with requested donations totaling \$34,400. Ms. Kirk reported that the Advisory Board recommended \$33,000 in donations based upon the money that was projected to be in this account. She noted that this will be an action item for the Council in December. Ms. Kirk reported that all of the usual organizations, with the exception of the American Legion, requested funding.

Councilmember Murdock questioned whether it was too late for the American Legion to submit a request. Councilmember Shea reminded Council that last year, they said they did not need the funds. Mayor Davis advised that this occurred two years ago; however, once her father was on the board, he submitted a request.

Vice Mayor Kirk advised Council that the Advisory Board has questions on where the Health Center Fund money was going as it was not shown in the account and advised that it appeared to have been addressed. She expressed hope that the interest was also being shown.

Councilmember Snyder advised Council that if there were requests for donations that exceeded the available funds in the Health Center Fund, he would like for the Advisory Board to submit a recommendation regarding them so the Council could possibly consider funding them from the General Fund.



Vice Mayor Kirk advised Council that the Advisory Board was concerned about donations being given from this fund to organizations that have not come through them for a recommendation. She reminded them that they added "A Place To Be" to the list last year and reported that the Advisory Board did look at other issues. Ms. Kirk noted that the Lions Club and American Legion did a lot of good for the community and suggested the Town needed to reach out to them. She noted that the Advisory Board did not recommend that the organizations receive all that they requested for a variety of reasons. Ms. Kirk reported that the Board reviewed each request and considered how the money would be used and the organization's budget.

Mayor Davis noted that Councilmember Snyder was suggesting that if the Advisory Board recommended cutting an organization's donation due to available funding, the Council may want to consider whether it wished to fund the full amount using some General Fund money.

Vice Mayor Kirk asked the staff to reach out to the American Legion and Lions Club to see whether they needed funds.

Councilmember Hazard reported that Steve Plescow gave the Planning Commission a preliminary briefing on the changes Salamander would like to make to the streets and the mixed use development portion for their proposed development. He reminded Council that the Town had a number of consultants who said the R-3 area needed to maintain the village feel; however, Salamander would like to make some changes to it. Mr. Hazard opined that they were thoughtful changes; however, he noted that they went away from the original concept. He reminded Council that the membership of the Commission has turned over since the consultants did their work and advised them that he has asked the staff to find the reports so the Commission could review them. Mr. Hazard advised that he also asked Salamander to make sure their proposal met the spirit of what was originally approved as a lot of work went into the development of the grid pattern. He noted that the Planning Commission would look at this item again before it came to the Council. Mr. Hazard advised that as to the mixed use development, when Salamander submitted their proffers, they thought they would bring more people into town; however, they were not finding that to be the case. He opined that they were going to request a change in the residential mix and may not want to do as much commercial development. Mr. Hazard suggested this would come to the Council through the Planning Commission in the next six months.

Councilmember Shea reported that Go Green met the end of October and elected new officers. She further reported that Andrew Gauldin and Nelina Loiselle would be the new Co-chairs. Ms. Shea noted that they immediately suggested the development of a brochure to alert people as to what businesses in Middleburg were green and what they did. She advised that they were also working to do some other "electronic things".

Councilmember Murdock inquired as to the status of the development of a battery collection program. Councilmember Shea reported that the gentleman who was interested in the program never showed up. She advised that she would make sure this issue came up again. Councilmember Murdock suggested it would be great if the recycling could be done at the Safeway and noted that it may encourage the purchase of batteries from them. Mayor Davis suggested the Middleburg Millwork was another possible location.

Councilmember Snyder reported that the Utility Committee continued to meet; although, they have changed their meeting time to 3:00 p.m. on November 20<sup>th</sup>. He advised that they were working on making sure that things were lined up in terms of maintenance and upcoming expenses. Mr. Snyder noted that they would also discuss in the future, the improvements to the water system that would be funded through the bond proceeds.

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

**Council Approval** – Request for Funding – Shakespeare in the Burg Committee

*Vice Mayor Kirk moved, seconded by Councilmember Hazard, that Council approve a request from the Shakespeare in the Burg Committee for a \$7,500 donation to cover the short-term costs associated with the event, said funds to come from the Special Events line item in the Economic Development Budget.*

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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**Council Appointments** – Boards & Commissions

*Councilmember Snyder moved, seconded by Councilmember Shea, that Council re-appoint Amanda Scheps to the Middleburg Planning Commission for a four year term, said term to expire December 31, 2018. Councilmember Snyder further moved, seconded by Councilmember Shea, that Council re-appoint Margaret Littleton, Pam Mickley Albers, Jane Covington and Bill Anderson to the Historic District Review Committee for three year terms, said terms to expire December 31, 2017. Councilmember Snyder further moved, seconded by Councilmember Shea, that Council re-appoint Howard Armfield and Edward “Snooks” Swain to the Health Center Advisory Board for two-year terms, said terms to expire December 31, 2016. Councilmember Snyder further moved, seconded by Councilmember Shea, that Council re-appoint Terri Kitchen, Jeri Coulter, Mary Bell Peters and Mimi Stein to the Pink Box Advisory Committee for two-year terms, said terms to expire December 31, 2016. Councilmember Snyder further moved, seconded by Councilmember Shea, that the Council recommend to the Judge of the Circuit Court, the re-appointment of Kathy Ribaldo to the Board of Zoning Appeals for a five-year term, said term to expire December 31, 2019.*

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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**Council Approval** – Resolution Supporting EPA & Army Corps of Engineers Proposed Definition of “Waters of the United States”

*Vice Mayor Kirk moved, seconded by Councilmember Snyder, that Council adopt a Resolution in Support of the United States Environmental Protection Agency and Army Corps of Engineers’ Proposed Definition of “Waters of The United States” under the Clean Water Act.*

Town Administrator Semmes advised Council that this issue arose during a Utility Committee meeting and reported that Terry Inboden had concerns. She noted that this was not just a reauthorization of the Clean Water Act, but rather dealt with the definition of what waters would be regulated. Ms. Semmes reported that it may have a financial impact on the Town in terms of its ability to expand its facilities that are located near streams. She advised that based upon what Mr. Inboden has said, the definition that was proposed was so broad that the staff was not comfortable supporting it. Ms. Semmes noted that a lot of people were saying this needed to be clarified and tighten so it was clear what the impacts would be on any property owner.

Mayor Davis questioned whether this was the same thing the County dealt with years ago. Town Administrator Semmes advised that that issue dealt with storm water management. She further advised that this identified when the Army Corps of Engineers could require someone to get a wetlands permit and defined the “waters of the United States”. Ms. Semmes noted that it was not that the staff did not support a change; however, she opined that the change as proposed was too broad and fuzzy.

Councilmember Snyder challenged the assertion that this would impact the Town’s utility operations.

Mr. Inboden opined that the proposed definition was very broad and open to interpretation. He noted that there were wetlands above the road leading to the wastewater treatment plant and suggested the Town may need to secure a permit to cross the stream or make improvements to the road. Mr. Inboden questioned what would be considered to be in the one hundred or five hundred year floodplains and the definition of a high water mark. Mr. Inboden noted that the definition was two hundred eighty-eight pages and reiterated his opinion that it was very broad and open to interpretation.

Councilmember Snyder noted that this issue was discussed briefly in the Utility Committee meeting. He further noted that the Committee was looking at improvements to the lift station. Mr. Snyder advised that he was comfortable the Town could handle the definition from a utilities point of view.

Mayor Davis questioned whether the proposed change could be revised. Town Administrator Semmes reported that individuals have asked that changes be made prior to its adoption. She reiterated that the staff was not comfortable with what has been proposed. Ms. Semmes noted that she has not read it and was relying on Mr. Inboden’s comments. She reminded Council that if they endorsed the resolution, it would be saying the Town liked the definition as proposed. (Vice Mayor Kirk left the meeting at 7:17 p.m.)

Mayor Davis questioned whether the definition could be changed if the Council and others did not endorse the resolution. Councilmember Scheps noted that the Council was just making a comment. Town Administrator Semmes advised Council that the resolution was saying the Council supported the definition as proposed and reiterated that the staff was saying it was not sure of the impact and recommended the Council not adopt the resolution.

Mayor Davis questioned whether the Council would offer its reasons for denying the resolution if they did so.

Councilmember Snyder advised that his “wellhead protection hat and utility hat” supported the resolution. He opined that the issues raised were development issues in terms of wetlands.

Councilmember Hazard questioned whether, as written, the Town would possibly have to secure an Army Corps of Engineers permit and have their oversight in order to do work on a Town road. Mr. Inboden advised that it was unclear and reiterated his opinion that the definition was vague.

Town Administrator Semmes reported that this issue arose when the Town discussed making improvements to the road at the wastewater treatment plant and opined that a permit would already be needed to improve the road. She explained that the question was how much further the wetlands would be regulated from the stream.

Councilmember Littleton noted that if the Town was going to do maintenance on land that had not been previously disturbed, it could be required to fall under the new rule. He further noted that he has dealt with the Army Corps in the past and opined it was a “bear” and could increase the Town’s costs.

Councilmember Snyder advised that he was more concerned about water quality than developers’ costs.

Councilmember Littleton noted that he was looking at it from the standpoint of what the Town may have to do from a maintenance point of view. He suggested the need for clarification before endorsing the resolution. Town Clerk North reported that the deadline for submitting comments ended tomorrow.

The Council held additional discussion on the proposed definition and its impact on the Town.

Vote: Yes – Councilmembers Shea and Snyder

No – Councilmembers Scheps, Littleton and Hazard

Abstain: Councilmember Murdock

Absent: Vice Mayor Kirk

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

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#### Council Approval – Easements – Middleburg Professional Center

Town Planner Moore noted that this was an ongoing item that he hoped to resolve related to a circa 2008 site plan. He reminded Council that in October of 2013, they approved the easements; however, there were some minor outstanding issues so the approval was subject to being in a form that was acceptable to the Town Attorney. Mr. Moore reported that since that time, additional easements have been added that he did not feel were addressed in the previous approval. He displayed a plat showing what has been added and noted that the main one was an encumbrance on Town property near the water treatment plant that involved the discharge of storm water. Mr. Moore reminded Council that this has already been considered because it was a part of the approved site plan; however, it was not captured in the easement document the Council previously approved. He reported that the Town Attorney has been working with the applicant's attorney to get the deed in a form that was acceptable. Mr. Moore advised Council that the document before them was in conformance with and matched up to the approved site plan.

*Councilmember Snyder moved, seconded by Councilmember Littleton, that Council authorize the Mayor to sign a Deed of Easements between the Town, the Middleburg Professional Center LLC, Barbara J. Gertzog, Scott Ritter and United Bank for the acceptance of utility easements associated with the Middleburg Professional Center Project located at 115 The Plains Road.*

Councilmember Shea questioned whether the proposed wellhead protection fencing would be affected by any of the easements. Town Planner Moore reminded Council that this approved site plan was in place prior to the adoption of the Wellhead Protection Plan. He advised that the improvements were already in place; therefore, the easements were necessary. Mr. Moore reported that many of the easements were temporary. He reiterated that the improvements were already in place and that there was no option to modify them.

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

No – N/A

Abstain: Councilmember Shea

Absent: Vice Mayor Kirk

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

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#### Council Approval – Design Services Contract – East Washington Street Waterline Replacement Project

Town Administrator Semmes advised Council that this was a project that would be funded through the \$1.5 million bond proceeds and involved an extension of the water line project that was being done from Washington to Jay Streets. She reported that if approved, the Town would take the water line further east to deal with low water pressure issues and to provide a loop of the system. Ms. Semmes noted that this

item was coming to the Council as the cost for the design work exceeded \$15,000. She reported that this was the same firm that was doing the design work for VDOT's water line project. Ms. Semmes reminded Council that the Town did not have to pay for the design work for the water line associated with the Route 50 project; however, this was a Town project. She advised that the cost would include the design, test pits and permitting so the work could be put out to bid.

Councilmember Snyder reported that the Utility Committee was eager to make the improvements as they would address a health concern. He noted that this would not just to address the inconvenience of having low water pressure.

*Councilmember Littleton moved, seconded by Councilmember Snyder, that Council accept the proposal, dated October 31, 2014, from Whitman, Requardt & Associates for the East Washington Street Waterline Extension Project.*

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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### **Discussion Items**

#### **Proposed Draft Oil Tank Leak Brochure**

Councilmember Snyder advised Council that the Wellhead Protection Advisory Committee has recommended a brochure that was designed to address oil tanks. He suggested the need to also look at replacing the outdoor residential oil tanks in the town. Mr. Snyder expressed disappointment that the estimated cost to replace a tank was \$1,500. He advised that he expected the Committee to have further discussions in the future to determine if there was any grant money available to assist homeowners with the replacements as it was important to help protect the ground water and noted that a leaking tank could poison it.

Councilmember Murdock questioned whether the Town should also encourage the replacement of underground tanks. Councilmember Snyder explained that the Committee was not encouraging homeowners to install underground tanks. He reminded Council that fifty years ago, a lot of tanks were originally installed in basements; however, homeowners moved them out due to the smell of oil fumes.

Councilmember Shea noted that the brochure talked about how long a tank lasted indoors and outdoors, but not underground. Councilmember Snyder noted that there were too many variables, such as the type of soil, to identify that. He opined that most of the underground tanks in town have been removed.

Councilmember Murdock questioned the difference between oil and propane tanks. Councilmember Snyder explained that propane dissipated into the air and did not drip into the ground. He further explained that there were no ground water concerns due to leaking propane tanks.

The Council held some discussion regarding the removal of oil tanks in the Town limits, the abandonment of underground oil tanks, the estimated cost for removal, and the State regulations associated with oil tanks. It was noted that underground tanks that held less than three hundred gallons of oil were exempt from regulation unless they were leaking. After some discussion, the Council agreed to send out the proposed brochure in the next round of water bills.

### Request to Install Drinking Water Protection Signs & Storm Drainage Markers

Councilmember Snyder advised Council that the Wellhead Protection Advisory Committee would also like to alert people to the fact that Middleburg was a drinking water protection area. He reminded them that the Town received all of its water from the ground; therefore, it did not want people to spill something and not report it. Mr. Snyder explained that the signs were to encourage reporting by calling 911. He advised Council that the Committee would also like to install storm water drain markers. Mr. Snyder reported that the cost estimate for the signs was \$50/each and noted that the Committee was recommending the installation of five or six signs. He advised that he was unsure of the number of storm drain markers that would be needed.

Town Clerk North advised Council that the storm drain marker kit included one hundred markers. She advised that they would be installed on every drop inlet in the Town limits and noted that the Superintendent of Facilities and Maintenance has confirmed that one hundred would be enough for all of the drop inlets and would provide for an inventory for future replacements as needed.

Councilmember Murdock suggested the Middleburg Boy Scouts install the storm drain markers as a project. She noted that this would be a good way for them to learn about water.

Councilmember Shea noted that the Committee did a lot of work on the sign design; however, she advised that she did not like the wording. After some discussion, the Council agreed to add the term "For hazmat spills". They further agreed to approve both the signs and the marker program, with the markers to be installed as a community organization project. Councilmember Murdock agreed to contact the Boy Scouts to see if they would be interested in installing the markers.

The Council held some discussion regarding the design of the storm drain markers and agreed to go with the round version that contained only English (#ORD).

Town Clerk North advised Councilmember Murdock that she would notify her of the expected delivery date once she placed the order for the storm drain markers.

Councilmember Shea advised Council that Go Green would install the markers if no other community organization would volunteer to do so.

### Materials for Route 50 Traffic Calming Project

Town Administrator Semmes reminded Council that they previously provided the staff with clarity on the street bricks; however, they did not on the curb material. She reported that she received clarification from VDOT that if the Council desired, they could bid the project using granite and solicit a bid alternative for concrete if it was too expensive. Ms. Semmes questioned whether the Council wished to consider granite. She further questioned whether they preferred a square concrete curb in the event that they did not want to go with granite. Ms. Semmes noted that there was no extra cost for a square concrete curb.

Councilmember Murdock noted that she has been influenced by Scott Kasprovicz (Commonwealth Transportation Board Member) who suggested the use of granite. She advised that he said the concrete may be less expensive; however, he pointed out that Aldie and Upperville's concrete curbs were already deteriorating. Ms. Murdock reiterated that Mr. Kasprovicz wanted granite curb. She noted that he indicated the Town may have to pay more for it; however, he opined that it would pay for itself in five or ten years.

After some discussion, the Council agreed to solicit bids for a granite curb with a twelve inch concrete gutter pan and an alternative bid for a square concrete curb.

Town Administrator Semmes suggested that if the Town went with granite, it do a transition and reminded Council that the granite would only be used on the bump outs. She noted that the Town would be doing a project that involved the replacement of the street lights in those areas where it was replacing the sidewalk and suggested that she see how much it would cost to put granite in the downtown area, from Liberty to Pendleton Streets, as a part of that project. Ms. Semmes reminded Council that there was no money to do granite curb throughout the entire town; although, she noted that the Town could always ask for another grant. She advised that she did not know whether the Town could get one to replace curb that was just replaced; however, she suggested the Town could budget to replace the curb with granite over time.

The Council expressed concern about the appearance of using granite only for the bump outs. They agreed to get the numbers to do granite curb along the entire street. It was noted that the Town did the brick sidewalks a little at a time. The Council was suggested the cost be secured on a per foot basis so they could determine how many feet could be done.

### **Information Items**

Councilmember Murdock reported that she received a complaint from someone who was having a hard time finding a parking space in town. She advised that a couple of weeks ago, she had this same problem and opined that there was not enough parking. Mayor Davis noted that many of the business' employees parked on the street.

There being no further business, a motion was made and approved to adjourn the meeting at 8:05 p.m.

APPROVED:

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Betsy A. Davis, MAYOR

ATTEST:

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Rhonda S. North, MMC, Town Clerk