



**MIDDLEBURG TOWN COUNCIL  
REGULAR WORK SESSION  
MINUTES**



**Thursday, September 24, 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 Kathy Jo Shea  
Councilmember Mark T. Snyder

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

The Town Council of the Town of Middleburg, Virginia held their regular monthly work session on Thursday, September 24, 2015 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Mayor Davis called the meeting to order at 6:00 p.m.

Mayor Davis and the members of Council wished Councilmember Murdock a happy birthday.

Mayor Davis congratulated Town Clerk North on being named a Paul Harris Fellow by the Rotary Club of Warren County.

**Council Discussion** – Request to annex 8 acres into the Town limits – Mt. Defiance Cidery

Town Planner Moore reminded Council that Mr. Chretien previously spoke with officials from Loudoun County, who told him that he needed a minimum of ten acres, located completely in the county. He further reminded them that Mr. Chretien was looking at twelve acres, four of which were in the town and eight of which were in the county. Mr. Moore noted that at first, it seemed like this use would not be permissible in the county without a boundary line adjustment. He advised Council that he has since investigated the County's ordinances and spoken with an official in the Planning/Zoning Department. Mr. Moore reported that Loudoun County has two designations for wineries. He advised that Mr. Chretien was currently licensed as a commercial winery; however, when he moved, he would be licensed as a farm winery. Mr. Moore reported that the County's minimum acreage requirement only applied to commercial wineries; therefore, if Mr. Chretien proceeded as a farm winery, he would not have to meet the minimum acreage requirement that would necessitate the need for a boundary line adjustment.

Marc Chretien, owner of Mt. Defiance Cidery, reminded Council that the property he was considering bordered Middleburg. He advised that even though it was not required, he would submit his plans to the Council so they could see what he was doing. Mr. Chretien reported that the business currently required a winery license and a micro distillery license; however, he wanted to convert to a farm winery. He noted that this was not the same as a vineyard.

Mr. Chretien advised Council that the customer base for cider was more female oriented. He further advised that his business model was different than a winery in that the wholesale end of his operations made up more than half of his revenues. Mr. Chretien reported that they currently retailed their cider in four different states; therefore, having a production barn was important. He advised that he wanted to continue to be a part of the community. Mr. Chretien noted that one of his partners was a member of the Middleburg Film Festival and advised that he would like to have a facility where a movie could be viewed.

Mr. Chretien reminded Council that he would have an entrance on Route 50 on the east side of town. He further reminded them that the property was bordered by a cemetery. Mr. Chretien advised Council that he would not have loud music and noted that he wanted to be a good neighbor. He reiterated that even if not required, he wanted the Town to be a part of this process. Mr. Chretien opined that the County would take the Town's wishes into account.

Town Administrator Semmes questioned whether the idea was to construct a barn structure to house the operations. Mr. Chretien advised that he would basically construct a "pretty wedding barn". He noted that it would be a two-story post and beam structure, with windows and an oak floor; and, would be a facility for the patrons. Mr. Chretien advised that the eaves would extend ten feet out. He noted that they would also have a production barn with glass so patrons could see the equipment. Mr. Chretien advised that he would also construct a residence on the property.

Councilmember Snyder advised that the Town would be happy to show the plans to the HDRC and noted that they have complimented a lot of facilities.

Tim Clites, the architect, noted that this facility would be located in the Town's entrance area and opined that it was important that everyone was comfortable with it.

Councilmember Murdock noted that her only concern was the entrance/exit and traffic. She further noted the bumper-to-bumper traffic in the afternoon and evening due to commuter traffic. Ms. Murdock questioned how this would work.

Mr. Chretien advised Council that eighty percent of his retail business occurred during the weekends and noted that he was only open during the week for the locals. He reminded them that the entrance would be located across the street from the wastewater treatment plant, at the lowest part of the road, as VDOT requires a line of sight of three hundred ninety feet. Mr. Chretien advised that he could provide data on the number of cars/hour; however, he was not sure how realistic that number was for a small cidery. He opined that there may be one car every ten minutes and noted that most patrons would spend a couple of hours at the facility.

Councilmember Murdock questioned whether Mr. Chretien planned to have weddings at the barn. Mr. Chretien confirmed he would like to have some events every now and then. He opined that the only locations in Middleburg where couples could get married were Salamander or the Community Center. Mr. Chretien advised that he would like to do an occasional wedding. He reminded Council that he would only have one neighbor and advised that the property line would be heavily buffered. Mr. Chretien advised that while he would like to do that, he wanted to get a sense from the Town on whether he should. He opined that it would not result in a lot of noise as he did not foresee there being DJs and music.

Councilmember Littleton questioned whether the facility would be located in the town or the county. Mr. Chretien confirmed it would be in the county. He explained that he was treating it as being in the town because it would affect the Town.

Councilmember Littleton questioned whether the County's regulations would carry over into the town. He suggested Mr. Chretien make sure the building would be in the county. Mr. Littleton further suggested that if he was going to construct a residential structure, it be in the town.

Councilmember Murdock reiterated her concern about the traffic. She opined that Mr. Chretien's answer was that there would not be much during the commuter period.

Councilmember Shea advised that she was not as concerned about everyday traffic as she was event traffic, which tended to be in groups. She questioned whether there was a creative way to work with event traffic.

Mr. Chretien explained that he anticipated locals would use the Federal Street entrance. He advised that the businesses located on Federal Street would love to have traffic on that street, as they currently only experienced cut through traffic. Mr. Chretien noted that he would not promise the Council wonderful things and advised that if a wedding was held at this location with one hundred cars, there would be traffic. He questioned whether that was a bad thing. Mr. Chretien advised that his daily demographic was urban hipsters and opined that they would produce only a little bit of traffic.

Councilmember Shea asked that Mr. Chretien look at splitting the traffic if he had an event. She noted that even though the speed limit dropped at that location, motorists did not necessarily reduce their speed. Ms. Shea asked Mr. Clites to identify some creative ways to access the property so the entrance would be more visible.

Councilmember Snyder suggested this may be an opportunity to reduce the speed limit in that area. He noted the need to get VDOT's approval. Mr. Snyder suggested Mr. Chretien make himself aware of any large events being held in town so he could coordinate with the Town when he also had an event on his site.

Mr. Chretien opined that past behavior was a good indication of future behavior and noted that he has always been sensitive of the need to coordinate items with the Town. He advised that he would like to move here and would construct a residence quickly. Mr. Chretien noted that he would start as a part-time resident but would eventually become full-time.

Councilmember Hazard questioned whether Mr. Chretien planned to distill on the site. Mr. Chretien confirmed he did. He reminded Council that he currently had a Nano distillery on Washington Street for absent and rum. Mr. Chretien advised that whiskey was what was important and explained that, by its nature, it was messy to distill and required a compost pile. He noted that he wanted to produce whiskey and have a sampling bar.

Town Planner Moore noted the need for Mr. Chretien to discuss this with the County so they understood the types of uses that would occur. He further noted that Mr. Chretien did not want to disqualify himself from not being regulated. Mr. Moore explained that the Code of Virginia was very specific about what could not be regulated in terms of farm wineries. He advised Council that, at some point in time, the Town must amend its zoning ordinance and explained that it was no longer allowed to require wineries with retail sales to be uses by special use permit, as they must be a by-right use.

Mayor Davis noted that when the cidery opened, Mr. Chretien hoped to offer light fare. Mr. Chretien noted that wineries tended to have refrigerators that contained sliced meats and cheeses; however, he could not offer that due to space constraints. He advised that his plan for the farm was to offer sliced meats and cheese; however, if a customer emailed him a day in advance, he would arrange for a catered boxed lunch from a local restaurant.

Mayor Davis questioned whether a customer could purchase a glass of cider. Mr. Chretien advised that they could only buy samples. He explained that once they were a farm winery, he could sell a glass. Mr. Chretien reported that as to whiskey, the Virginia ABC Board only allowed sample pours so an individual could never get more than the equivalent of two shots.

**Addition of Item to the Agenda**

*Vice Mayor Kirk moved, seconded by Councilmember Shea, that Council add item #4(B) to the agenda (Council Approval – Release of Letter of Credit – Salamander Water Supply Facilities)*

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)

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**Council Discussion** – Annual Reports of Committees

Mayor Davis opined that the staff did a great job of organizing the meet & greets. She suggested the Council consider inviting the committees to come before them during a regular meeting, under Public Presentations, to give their reports. Ms. Davis acknowledged that fewer committee members were attending the work sessions and noted that those who did were not eating the food provided. She suggested the staff get in touch with the committee prior to their scheduled times to determine whether they had anything to present.

Councilmember Shea opined that it was extremely important to have the committees come before the Council. She agreed there was no need to provide food; however, she suggested it was important that they attend a meeting in order to keep the Council informed of their activities. Ms. Shea further suggested the need for the Council to ask questions and provide information.

After considerable discussion of the options, the majority of the Council agreed the Council representative for each committee should check with their respective committee to determine whether they wished to attend a work session in order to give a verbal report or whether they simply wished to submit a written report, with the understanding that they could ask to appear before Council if needed. They further agreed to eliminate the serving of food.

It was noted that the Streetscape Committee has already asked that they not be required to attend the work session. Vice Mayor Kirk asked that the Health Center Advisory Board’s annual report be removed from the October work session agenda. Councilmember Scheps advised Council that he would confirm whether the Pink Box Advisory Committee wished to appear before Council. The Council asked that this matter be discussed again at the next work session.

**Council Discussion** – Request to change date of October work session

After some discussion, the Council agreed to move the October work session to October 29<sup>th</sup>.

**Council Approval** – Release of Letter of Credit – Salamander Water Supply Facilities

Town Administrator Semmes reminded Council that the Water Supply Facilities Agreement required that Salamander provide the Town with a letter of credit to ensure the mechanics liens were released. She noted that this was because they were giving part of the facilities to the Town.

Ms. Semmes reported that Salamander has provided evidence that the liens have been released and removed. She advised Council that the agreement stated that the letter of credit shall be removed by the Town and advised that the Town was defined as the Town Council. Ms. Semmes opined that Council action was needed in order to do so, even though they had no choice.

Councilmember Snyder suggested that, once released, the Town Administrator ask Salamander about the unused wells located on their property. He further suggested that she ask Salamander to allow the Town to take over those wells. Ms. Snyder explained that he would like for the Town to manage them.

Town Administrator Semmes agreed it would be good for the Town to determine the status of all of the wells. She opined that one would be impacted by Salamander's subdivision. Town Planner Moore confirmed that at least one well would be abandoned as a part of the subdivision.

Councilmember Snyder suggested the need to have the Town manage any wells that Salamander was not using so they would not be a threat to the Town's water supply.

Councilmember Shea suggested that if the wells were not being used or there were no plans to use them that they be properly sealed. She reminded Council that an open well was a potential source of contamination to the Town's water source. Ms. Shea agreed with the need to check on the status of the wells; however, she advised that she did not want the Town to take on the financial responsibility for them.

Councilmember Snyder noted that they could also be used as a back-up water source if needed. He advised that he did not want to miss an opportunity. Mr. Snyder suggested the staff ask about the status of the wells.

Town Administrator Semmes confirmed she would find out the status of the wells; however, she noted that there was no way the Town could require Salamander to give it any of them. She reminded Council that there was something shown on their site plan that identified what was supposed to be done with each well.

Councilmember Snyder reminded Council that the Town had an ordinance that stated that property owners could not drill wells in town. He advised that if Salamander was amenable, he would love for the Town to take over the wells in order to ensure they were properly managed.

Councilmember Murdock inquired as to what the Town would do if it took over the wells. Councilmember Snyder advised that it would make sure they were properly sealed or used.

Councilmember Murdock advised that she did not mind keeping one or two for security purposes.

Councilmember Snyder reminded Council that the Town did not want an unsealed well as it was a source of pollution.

Councilmember Shea noted that the Town could drill another well if needed. She reminded Council of the danger that an open well could pull contaminants into the Town's water supply.

Town Administrator Semmes reminded Council that the study of the wells indicated whether each produced sufficient water to be used as a municipal well. She recommended the Town not take over the responsibility of sealing Salamander's wells as this was expensive. Ms. Semmes suggested she find out whether the wells were sealed. She reminded Council that one of the wells had the potential to interfere with Well 3 and suggested it could be used by the Town if Well 3 went dry.

*Councilmember Snyder moved, seconded by Councilmember Shea, that Council authorize the release of Salamander Development's Letter of Credit #TFTS-966561 from JPMorgan Chase Bank, N.A., in the amount of \$400,000, dated September 8, 2011. Councilmember Snyder further moved, seconded by Councilmember Shea, that Council authorize the Town Administrator to return the letter of credit to Salamander Development, LLC.*

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

No – N/A

Abstain: Vice Mayor Kirk

Absent: N/A

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

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### **Town Council Reports**

Mayor Davis reported that the Economic Development Advisory Committee met earlier in the day and reviewed two applications for special event funding. She further reported that they were not being forwarded to the Council at this time as the Committee had questions. Ms. Davis advised that they would continue their review during their next meeting, at which time they hoped to have some sort of a recommendation. She reported that once the Town Attorney approved the language, the Committee would also issue an RFP for website design services.

Mayor Davis advised Council that she was very impressed with the members of EDAC and noted that they were very knowledgeable. She opined that it was nice to have fresh faces on the Committee and noted that the members represented a good cross section, with some looking at items from a financial perspective, others from an arts perspective and still others from a retail perspective. Ms. Davis advised that they were doing a good job.

Mayor Davis reported that the Route 50 Traffic Calming Committee meeting was mostly about the landscaping for the Gilberts Corner roundabout. She reminded Council that the speed limit in this location has been changed to 35 MPH. Ms. Davis announced that the Town Administrator was scheduled to meet with VDOT in the morning on the crosswalk project and expressed hope to have information on it at the next Council meeting.

Councilmember Snyder reported that he and the Town Administrator have been talking about the Town's utility rate model and advised that MFSG has offered an acceptable proposal for updating the model. He expressed hope that by the time the Council was into next year's budget, there would be a fresh analysis of the utility rates and the availability fees. Mr. Snyder reported that the staff was providing MFSG with fresh data in order to update the model.

Councilmember Snyder reported that the Utility Committee continued to discuss things that were in process and were moving forward with those items the Town Engineer and IES have made a priority. He expressed confidence that the Town was doing the right things.

Vice Mayor Kirk announced that the Health Center Advisory Board would meet on October 13<sup>th</sup>. She reiterated that the Committee would not provide a report during the October work session.

### **Discussion**

Councilmember Murdock presented Mayor Davis with a plaque from the Middleburg Community Center thanking the Town for being an official sponsor. She noted that the fireworks display would not have occurred without the Town's support. Ms. Murdock advised that the money allocated by the Town was very much appreciated.

Councilmember Shea noted that she heard from two people who were disappointed that they were not asked to donate toward the fireworks display. Councilmember Murdock advised that others questioned why they should have to donate if the Town was doing so. Vice Mayor Kirk noted that some people believed that Salamander paid for the fireworks as they advertised it as “their” event. Councilmember Murdock acknowledged that she did not solicit donations this year and suggested it may have been a mistake.

**Closed Session** – Property Acquisition and Personnel

Councilmember Murdock moved, seconded by Vice Mayor Kirk, that Council go into closed session as allowed under the Virginia Freedom of Information Act Section 2.2-3711(A)(3) and (1) pertaining to the discussion or consideration of the acquisition of real property for a public purpose, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body and 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 Murdock further moved, seconded by Vice Mayor Kirk, that this matter be limited to a discussion of (1) property acquisition for the Police Department and (2) the performance of a Town employee. Councilmember Murdock further moved, seconded by Vice Mayor Kirk, that in addition to the Council, the following individuals be present during the closed session: Martha Semmes, AJ Panebianco and Angie Plowman for the first part and Martha Semmes and Angie Plowman for the second part. Councilmember Murdock further moved, seconded by Vice Mayor Kirk, 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)

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

There being no further business, Mayor Davis declared the meeting adjourned at 7:45 p.m.

APPROVED:

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Betsy A. Davis, Mayor

ATTEST:

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Rhonda S. North, MMC, Town Clerk