



**MIDDLEBURG TOWN COUNCIL  
Regular Monthly Meeting Minutes**



**Thursday, February 8, 2018**

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

**STAFF:** Martha Mason Semmes, Town Administrator  
Martin R. Crim, Town Attorney  
Rhonda S. North, MMC, Town Clerk  
Ashley M. Bott, Town Treasurer  
A.J. Panebianco, Chief of Police  
William M. Moore, Town Planner  
Jamie Gaucher, Business & Economic Development Director

**ABSENT:** Vice Mayor Darlene Kirk  
Councilmember Kevin Hazard

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, February 8, 2018 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Max Humphrey and Thomas Basinger, of Boy Scout Troop 2950, led Council and those attending in the Pledge of Allegiance to the flag. Mayor Davis noted that Scouts Humphrey and Basinger were working to earn their Citizenship in Community Badge.

**Public Comment**

Albert Bland appeared before Council representing some people to thank the Council for their efforts to get an employee of Safeway reinstated. He reported that he was reinstated with full benefits.

**Public Hearing**

**Ordinance to Amend Town Code – Snow/Ice Removal**

Town Planner Moore reported that the Town Code contained provisions requiring property owners to remove snow/ice from the public sidewalks if their property was located in a commercially zoned district. He advised that there were no such requirements in the residential districts. Mr. Moore explained that if adopted, the proposed ordinance would expand this requirement town-wide so anyone who owned and/or inhabited property with a public sidewalk adjoining it would be required to remove the snow/ice within a certain time.

Edward Wine, 107 East Marshall Street, advised Council that he and his family had property that adjoined the main street. He noted that when he cleaned the sidewalk, if the State cleaned the parking spaces adjacent to it, they threw ice onto the sidewalk that could not be removed. Mr. Wine advised that he supported the Town Code; however, he asked that before fining someone, the Town make sure the individual never attempted to clear the walk. He reiterated that there were times when the State covered the sidewalk.

No one else spoke and the public hearing was closed.

**Action Item related to Public Hearing**

**Ordinance to Amend Town Code – Snow/Ice Removal**

Councilmember Snyder suggested this would unnecessarily raise the bar in the residential areas to requirements that were suitable for the business district. He opined that the Town did not look at the differences between business and residential districts and reiterated that this would be a hefty load to place on the residents by giving them the same stringent time requirements as businesses. Mr. Snyder advised that having these requirements in the business district made sense as people needed to get from business to business; however, he opined that the urgency and importance were a lot less in the residential areas. He suggested that putting this onus on the residents was asking for trouble.

Councilmember Daly noted that there was sidewalk on Marshall Street. He advised that when snow was plowed, there could be three feet of it on the sidewalks. Mr. Daly noted that there was no place to move the snow to as there was a wall right against the line. He questioned whether the residents would be allowed to shovel the snow back into the streets. Mr. Daly opined that this would put the onus on a lot of homeowners, who may be pensioners. He reminded Council that Middleburg did not have a young population. Mr. Daly opined that this would be onerous for the people who had to trudge through the snow to reach the public sidewalk. He advised that in his area, there was twenty feet before the property owners would reach the outer sidewalk. Mr. Daly reiterated that they could be talking about sidewalk that contained three feet of snow as the result of the snow plows.

Councilmember Leonard-Morgan opined that this was reflected in a citizen's email that explained that when the snow plows came along, they placed a lot of snow on the sidewalks, which was a problem as it was compacted and heavy. He opined that people could not move it and would get fined under the proposed ordinance. Mr. Leonard-Morgan acknowledged that the intent of the ordinance, which was to keep people safe and the sidewalks clear, was good. He advised that he liked the idea of getting people who could do so to help their neighbors and opined that this probably happened anyway.

Mayor Davis agreed and suggested this item needed more discussion. She further suggested there may be a need for a different time frame. Ms. Davis advised that she was not in favor of the amendment. She agreed that businesses were different as they must be open and have safe access. Ms. Davis reminded Council that some of the houses on Route 50 had a lot of sidewalk and opined that it would be a lot to shovel. She advised that she was not in favor of taking action on this.

*Councilmember Miller moved, seconded by Councilmember Snyder, that Council table this to a work session.*

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

No – N/A

Abstain: N/A

Absent: Councilmembers Kirk and Hazard

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

**Public Presentation**

**Oath of Office – Middleburg Community Charter School AAA Safety Patrol**

Chief Panebianco reported that two students approached the principal about starting a safety patrol program and she in turn reached out to him. He advised that he was able to gather information to develop the program, including on the training and equipment. Chief Panebianco noted that AAA supplied most of the equipment, including the badges and sashes. He opined that they had a great program that would teach the students a lot of things, the biggest of which was that it would make them responsible citizens at an early age. Chief Panebianco noted that it was heartwarming to have students as the brain child of this program and who were thinking that far ahead. He opined that this said something about the students and the quality of the education at the charter school. Chief Panebianco noted that it was not a traditional school and advised that they thought outside of the box. He opined that this was proof that that thinking created forward thinking students. Chief Panebianco explained that he intended to present the safety patrol officers like he did his new police officers by having them stand before the Council, their parents and other students to publicly acknowledge that they were taking an oath to do certain things.

Councilmember Daly, Chair of the Council’s Public Safety Committee, asked the safety patrol officers to stand. He noted that as he looked among the young people who were taking this step and taking on this responsibility, he did not believe there was a parent who was not proud. Mr. Daly reminded the safety patrol officers that they had been selected and volunteered for this assignment and noted that they were being given a lot of trust by virtue of the responsibility that was being bestowed upon them. He reminded them that that responsibility was to take care of their fellow students. Mr. Daly noted that they were not selected for this assignment because they were “the biggest and baddest” but because they could take on the mantle of responsibility. He reiterated that they would be taking care of their fellow students’ safety and welfare. Mr. Daly noted that Middleburg was horse country and advised that he was an “old cavalry officer”. He advised that he was always taught that a good safety officer took care of his horse, equipment and troops and took care of themselves last. Mr. Daly reiterated that their first responsibility was the safety and welfare of the students, followed by their own safety and welfare. He opined that there was no one present that did not have the potential to accept that responsibility. Mr. Daly noted that there was no greater calling than service to God, family, community and country and advised that the students were starting at the community level. He welcomed the safety patrol officers to being a member of the community through their capacity of being safety patrol officers. Mr. Daly opined that they would do a great job and thanked the students for volunteering.

Chief Panebianco administered the Oath of Office to the safety patrol officers collectively. He presented each with a badge and certificate certifying them as a member of the Inaugural MCCA Safety Patrol established during the academic year of 2017-18.

**Approval of Minutes**

*Councilmember Snyder moved, seconded by Councilmember Daly, that Council approve the January 11, 2018 Regular Meeting and January 25, 2018 Work Session Minutes as amended.*

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

No – N/A

Abstain: N/A

Absent: Councilmembers Kirk and Hazard

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

## **Staff Reports**

**Stuart Will, of IES**, reported that they were making progress on Well 4 and advised that IES had received quotes for the needed materials.

Councilmember Leonard-Morgan noted the frozen water meters and questioned whether Mr. Will had any suggestions to citizens on how to prevent this. Mr. Will reported that frozen water meters occurred when the Town experienced snaps of cold weather. He explained that, once discovered, he took action by stuffing insulation on top of the meter. Mr. Will noted that thus far, this had been successful.

Mayor Davis questioned whether there was a frozen water meter in front of the Fun Shop. Mr. Will confirmed there was.

Councilmember Snyder noted that a building had no water when the meter froze.

**Town Administrator Semmes** reported that she attended the School Board's Charter School Committee meeting during which they discussed surplusizing the Middleburg Charter School property. She noted that Jill Turgeon, Middleburg's representative on the School Board, served on this committee. Ms. Semmes advised that Ms. Turgeon made good points and asked good questions about why the property should be surplusized when it had public school students in it. She reported that, as a result, this matter was referred to a joint committee of the School Board and Board of Supervisors. Ms. Semmes advised that that committee would meet on May 2<sup>nd</sup> and noted that she planned to attend. She advised that she would hold further discussions with the Council on this matter as appropriate.

Councilmember Littleton inquired as to whom on the Board of Supervisors served on that committee. Town Administrator Semmes reported that Supervisor Higgins and Chairman Randall served from the Board of Supervisors and School Board Members Dunn and DeKenipp served on it. She noted that none of the members of the Charter School Committee served on it. Ms. Semmes explained that the joint committee only made recommendations. She reminded Council that if the property was surplusized, it would go to Loudoun County to determine what to do with it. Ms. Semmes noted that they would not discuss that until after the joint meeting. She advised Council that she would let them know if something came up prior to the meeting; however, as of this time, there were no plans to discuss it at the Board of Supervisors' level before the May meeting.

Town Administrator Semmes reminded Council that she attended the General Assembly session in Richmond yesterday and reported that after some discussion, the sub-committee reported out the original charter bill, with the emergency enactment clause removed. She noted that the vote was 5-3, with one member absent. Ms. Semmes advised that Councilmember Littleton was going to Richmond in the morning for the full committee meeting. She reminded Council that it was very important for the Town to get this out of the committee; therefore, it was important for the Town to be represented.

Mayor Davis expressed appreciation to Councilmember Littleton and Town Administrator Semmes for attending the meetings.

Town Administrator Semmes reported that the charter bill passed the Senate on a 37-3 vote; however, it ran into head wind in the House. Councilmember Littleton confirmed the Senate passed it with no problem; however, it was different on the House side.

Mayor Davis agreed it made a difference to have representatives present to explain that the Town was trying to save a tax cut rather than impose a tax.

Councilmember Snyder questioned whether those raising an issue were new or long time serving legislators. Councilmember Littleton confirmed it was a mixture. He noted that some members signed a no tax pledge and if a bill had the word “tax” in it, they would vote against it even if it was trying to preserve a tax cut.

**Town Clerk North** reported that both the Granicus and Swagit contracts had been signed and noted that there was an item on the agenda related to the electronic agendas. She further reported that Jeff Stodghill, of PMA Architects, was in Middleburg to measure the Health Center building; and, noted that he previously measured the Town Office and Police Department spaces. Ms. North advised that the staff received the draft space needs analysis and would meet with Mr. Stodghill to discuss it.

**Business & Economic Development Director Gaucher** noted that he changed the format of his report in order to provide additional information and insight around the types of businesses he was recruiting. He reminded Council that over the next six to twelve months, he was focusing on the food & beverage industry and specialty retail, as well as managing the Town’s branding project. Mr. Gaucher advised that, as a result, the Council would see that many of the businesses in his report fell in the food & beverage category.

Business & Economic Development Director Gaucher reported that, while it was not a done deal, he believed he had a new tenant for the location where Olivo used to be. He noted that as soon as an agreement was signed, he would share more information.

Business & Economic Development Director Gaucher reported that during the last EDAC meeting, Vincent Bataoel was elected Chair and Aleco Bravo-Greenburg was elected as Vice Chair. He advised that they put a structure in place around the agenda and noted that he would serve as the Secretary for EDAC.

Councilmember Snyder expressed appreciation that Mr. Gaucher was concentrating on the food & beverage industry and noted that he would like to see more restaurants in Middleburg.

Councilmember Littleton noted that he liked the report format much better, including the categories. He expressed an assumption that Mr. Gaucher was working on things that were helpful to existing businesses and suggested those be included in the report as well. Business & Economic Development Director Gaucher noted that the project he previously mentioned to move a business into property on the east end of town was for an existing business. He confirmed he would add this information to his report.

Councilmember Littleton reminded Council that a couple of months ago, an idea was floated around creating monetary incentives for local businesses if they invested in infrastructure, such as building out a kitchen. He questioned whether any progress had been made on that item. Business & Economic Development Director Gaucher reported that it was on the agenda for the next EDAC meeting and advised that he was tasked with providing ideas. He noted that EDAC would make a recommendation to the Council.

Councilmember Miller suggested the Business & Economic Development Director’s monthly report include some level of priority or lead status for the listed projects and, if possible, an estimated completion date. He noted that otherwise, he thought it was a great format.

**Town Planner Moore** noted that he referenced the filing of a zoning map amendment and special use permit application in his monthly report. He advised that those applications had issues and, with the assistance of the Town Attorney, he drafted a response to the applicant. Mr. Moore reported that the applicant requested action be tabled on the applications until the Comprehensive Plan process had been worked out. He noted that this may involve its own process and reminded Council that it was

possible for an applicant to file an application for an amendment to the existing Comprehensive Plan. Mr. Moore advised that he was meeting with the applicant's representative to discuss their options. He opined that the applications were premature and advised that their submission had to do with a contract provision for the land that required that they be filed within a certain period of time.

Town Planner Moore noted that he received a number of inquiries earlier in the day about the status of the ABC store because it was recently emptied out. He reported that they were doing a renovation project and would re-open in a few weeks.

Councilmember Miller inquired as to how the staff's trash collection investigation was going. Town Planner Moore reported that he and Business & Economic Development Director Gaucher had a list of questions and were going to do interviews. He noted that when the January work session was capped, they pushed them off.

Councilmember Littleton questioned whether it would be ready for discussion at the next work session. Town Planner Moore advised that he would talk with Mr. Gaucher about making a presentation during the next work session as he would not be in attendance at that meeting. Business & Economic Development Director Gaucher opined that he would be prepared to offer a report then.

**Town Treasurer Bott** reported that she attempted to put tips to prevent a water meter from freezing on Facebook and noted that something would also be included in the newsletter in the future. She acknowledged that the Council just received the financial report and asked that the members call her with any questions once they had time to review it.

Councilmember Littleton questioned whether the proposed FY '19 Budget anticipated a \$300,000 loan from the General Fund to the Utility Fund. Town Treasurer Bott confirmed it did. Town Administrator Semmes reminded Council that the staff was asked to give the Council projected revenues for the CIP discussion.

**Chief of Police Panebianco** reported that the Route 50 traffic enforcement was going strong and advised that the Police Department was trying to bring awareness to motorists of the need to slow down. He further reported that he was meeting with individuals, including Senator Vogel, this coming weekend to discuss ideas on how to slow down traffic prior to it getting to the town.

Chief Panebianco reported that at one point, fifty percent of his staff had been out with the flu.

Chief Panebianco noted that during the work session, Jim Herbert spoke about a traffic incident during Christmas in Middleburg. He advised Council that there were several factors involved in clearing the streets so the parade could start. Chief Panebianco reported that it was not an officer who made the call to close the street and advised that he made the call to not allow more cars into the Salamander parking lot. He reiterated that this was due to several factors. Chief Panebianco advised that because the address for the Pink Box was given to those who purchased a parking pass, they all came to that location. He further advised that because the receipt said "priority parking", people thought if they went there, they would get special parking. Chief Panebianco noted that this added a lot of extra traffic at that location. He reported that, in addition, one of the bus drivers decided he did not want to wait and opened a barricade that closed the road, which kept a constant flow of traffic coming until the officers could figure out where they were coming from. Chief Panebianco confirmed that what Mr. Herbert said about motorists being able to see Salamander but not get into it were true; however, he noted that this only occurred because they were in close proximity to the parade. He advised that there were cars backed up all over the streets and one hundred horses in the field, some of which were getting anxious. Chief Panebianco noted that as much as he wanted everything to go smoothly, when it came to safety or making someone mad, he would make someone mad every time. He reiterated that he made the call. Chief Panebianco noted that they wanted to make sure they knew where the

traffic was coming from and were able to clear it out within two minutes of starting the parade. He advised that in the future, they would park a car at that location so it could not be moved. Chief Panebianco reported that he had officers jogging to different locations to find out where the traffic was coming from. He advised that as much as he wanted the event to be fun, it had to be safe. Councilmember Daly concurred that safety needed to come first.

Mayor Davis noted the issues at the dual highways and advised that this came up at a Route 50 Traffic Calming meeting a year ago. She explained that the concern was traffic coming from Zulla Road that was turning left and going up Route 50 the wrong way. Ms. Davis noted that VDOT painted arrows on the pavement, which helped. She suggested that it would help more if they were reflective as they did not glow at night. Ms. Davis noted that VDOT was also supposed to install a blinking light as motorists were coming down Zulla Road, with a message that there was a dual lane highway ahead.

Chief Panebianco reported that VDOT installed a sign on the stop sign that read “dual highway”; however, it was not obvious. He advised that he would like to slow the speed limit down on Route 50 farther back. Chief Panebianco opined that the Town had been fortunate that there had not been a head-on collision due to someone making a bad left turn; however, he suggested there would be at some point. He suggested the need to slow motorists down and reiterated that he would like to reduce the speed limit further back. Chief Panebianco recommended the painting of rumble strips on the highway to get people’s attention that they were coming into a bad area for traffic. He advised that the officers were writing tickets and reported that they had written twenty to twenty-five this month in that area.

Mayor Davis expressed hope that VDOT would do so and noted that the Town tried to get them to change the speed limit years ago; however, they would not.

Chief Panebianco reminded Council that the speed limit went from 50 mph to 35 mph to 25 mph. He opined that motorists raced to see who could get to the front spot in the dual lane. Chief Panebianco reiterated that the officers were writing a lot of tickets and advised that they were not giving warnings or allowing motorists to go much over the speed limit before ticketing them.

Councilmember Leonard-Morgan cited a similar case at Watson Road/Evergreen Road. He noted that there were complaints until there was a tragedy, at which point flashing lights were installed.

Chief Panebianco expressed a preference to address this prior to a tragic accident. He opined that one person killed was one too many and noted that this had already occurred. Chief Panebianco suggested that with Senator Vogel’s support, this could be handed over to the right people.

Councilmember Littleton opined that the bad part was the remnants of an old wall. He further opined that if someone was not familiar with the road, they thought it was someone’s property. Mr. Littleton noted that the trees had grown up and reiterated that it looked like private property.

Chief Panebianco questioned whether the wall was historic and suggested that if it was not, VDOT be asked to remove or relocate it. He advised Council that he was paying a lot of attention to this. Chief Panebianco reminded Council that DeeDee Hubbard raised this issue two years ago. He advised that even though this was not in the town limits, officers were going to this location in marked cars in order to try to get people to slow down and turn at the right location. Chief Panebianco reiterated that the Town had been lucky so far and advised that he was trying to get something done. He noted that he would put his concerns in writing.

Councilmember Snyder suggested the Chief ask the Council for help if needed. Chief Panebianco confirmed he would if they asked to hear from someone higher than him. He opined that it probably would not hurt to have a letter to Senator Vogel from the Council.

Councilmember Snyder asked that if he needed help that the Chief let the Town Clerk know so she could make the Council aware of it. He advised that the Council could then act immediately.

Councilmember Daly reported that he planned to attend the meeting with the Chief.

Chief Panebianco opined that the safety patrol students were amazing. He noted that they originally planned to have ten safety patrol officers; however, they all did a fabulous job during the interview so they secured two more badges. Chief Panebianco advised that these students would mentor the next generation of fourth grade students in the spring. He opined that this was a good program and noted that because AAA put money into it, the badges and sashes were free.

**Town Attorney Crim** reported that with regard to the consolidated tax bill, SB 92 passed the Senate on thirty-nine to zero vote and was referred to the House Cities, Counties & Town Committee. He further reported that the second bill, SB 123, was incorporated into SB 92. Mr. Crim advised that the House companion bill, HB 340, passed the House on a ninety-eight to zero vote and had been referred to the Senate Committee on Local Government. He noted that he did not expect any trouble with that bill passing.

Town Attorney Crim reported that he reviewed and signed the Granicus and Swagit contracts. He advised that he filed a request with the Circuit Court to appoint Dev Roszel to the BZA and worked on the Visit Loudoun MOU, which was postponed to the next fiscal year. Mr. Crim reported that he worked on the second amendment to the Sprint tower lease, which would allow additional equipment on the Stonewall Water Tower. He advised that he had been conferring with the Town Administrator regarding the Charter School and School Board's plan to surplus that property.

Councilmember Littleton noted the 5G bill and advised that two amendments were submitted last week and would be voted upon this week.

Town Attorney Crim noted that they were the subject of a VML Action Alert. He reported that the bills would strip localities of a lot of their authorities. Mr. Crim noted that there were a number of bad bills on VML's alert and cited a bill to remove the presumption of correctness for tax assessments. Mr. Crim explained that it would eliminate the requirement that someone who was challenging a tax assessment show a manifest error on the part of the assessor. He noted that the bill was pending and had advanced alarmingly. Mr. Crim reiterated that VML sent out an alert encouraging localities to oppose it. He advised Council that there was no such thing as fair market value in the abstract and noted that people just had opinions of the value of real estate. He suggested that instead of having circuit court judges sit as assessment panels, they should only decide cases where an assessor made an obvious mistake. Mr. Crim opined that the courts were not in favor of the bill.

## **Discussion Items**

### **CIP Discussion** (continued)

Town Administrator Semmes reminded Council of the information they requested during their last meeting. She reported that revisions were provided to assign each project a priority of high/medium/low. Ms. Semmes explained that the priority was based on health and safety, project status, cost and feasibility. She noted that the revisions include a highlighting of whether a project was due to public health/safety concerns. Ms. Semmes advised that a line was added to each item to describe the priority and why.

Councilmember Littleton expressed appreciation for the revisions and advised that they made a big difference for him. He noted that the Town had \$4 million worth of projects to do in five years; however, only \$1.9 million worth, or less than half, were identified as high priorities. Mr. Littleton opined that the Town could do the critical items.

Councilmember Snyder noted that items were placed on the CIP to keep things on the level.

Town Administrator Semmes reminded Council that the CIP would be a guide as they went into the budget process. She noted that the costs would change as projects went out to bid. Ms. Semmes suggested that once the Comprehensive Plan was complete, the Council may also decide there were other priorities that they wished to include on the General Fund side. She reminded Council that they did not have to adopt the CIP at this point and suggested it be used as a working document as the Council moved forward with the budget. Ms. Semmes noted the need to look at the utility rates and how the projects fit into the budget.

Councilmember Snyder suggested that as the Council looked at the FY '19 budget, they roll the capital projects into it. Councilmember Littleton agreed this was a good idea and noted that whether the Council wanted or needed these items to get done now would be a part of the budget discussions. He acknowledged that there would be trade-offs and noted that the Town had \$1.9 million worth of projects that were a high priority. Mr. Littleton suggested the Council may want to move some items earlier or later on the schedule. He agreed it made total sense to include this in the budget discussions.

Town Administrator Semmes noted that the Council could move items around as needed. She advised that if an opportunity came up that the Town did not see now, the Council could decide to change the CIP. Ms. Semmes noted the Council's concern about making sure the Town had adequate reserves that were preserved so the Town would be fiscally sound no matter what happened to the economy. She expressed hope that the Council felt confident the staff would do its best to take care of the Town's money.

Town Treasurer Bott advised Council that she was emailing the CFO with Access National Bank regarding their bank franchise tax and reported that, most likely, there would be a change in what the Town previously received. She noted that they were working on their return; therefore, she should have more information in the next month or so. Ms. Bott explained that their previous bank franchise tax was based on all of their branches, not just the one.

Councilmember Littleton explained that there was a State Code provision that stated that if the home office was in a locality, the locality could count that revenue as well as the revenue from all of its branches, which was why the Town received a lot from the Middleburg Bank. He further explained that if it was only a branch in a locality, the locality only received the value of that branch. Mr. Littleton noted that Access National Bank was headquartered in Reston. He reiterated that the Middleburg Bank was headquartered here and had eight branches; however, Access National Bank (now owns Middleburg Bank) only had a branch here. Mr. Littleton noted that the Town Code referenced the State Code; therefore, this was not a Town Code issue.

Councilmember Snyder reported that the Utility Committee was projecting what was needed and when for the Utility Fund. He advised that in terms of replacements, the Town was setting aside funds for any it knew would be coming in xxx years. Mr. Snyder noted that this was looked at each year in the rate model. He questioned whether the Council agreed with the priorities and time frames for the items under the General Fund. Mr. Snyder reported that he was good with what was presented for both funds; however, that did not mean the rest of Council was good with it. Mayor Davis and Councilmembers Leonard-Morgan and Littleton agreed they were fine with what was proposed.

Councilmember Littleton noted that the Town had a healthy fund balance and opined that it was smart and the responsible thing to frontload the expensive items now.

Mayor Davis questioned whether the remainder of Council was okay with the CIP as proposed. The members agreed they were.

Town Administrator Semmes suggested the Council could adopt the CIP as a part of the budget process. She opined that it would be nice if it was adopted so it could be put on the Town's website to show the Council's priorities for capital spending.

Councilmember Snyder opined that once the Council saw the budget, they would be comfortable doing that.

#### Draft Chapter 6 (Performance Evaluation) of Employee Handbook

Town Administrator Semmes reported that she and the Chief worked on Chapter 6 and noted that they met with Councilmember Littleton several times since he volunteered to help with it. She noted that she thought about whether the Council wanted to see the forms that went with it and decided there was no harm in including them. Ms. Semmes advised, however, that she wanted the Council to focus on the handbook and to make sure the policy they proposed was right. She noted that it would replace the current chapter, which was sparse.

Councilmember Snyder noted that it did not contain page numbers. Town Clerk North confirmed the page numbers would be added once this was placed in the handbook.

Councilmember Snyder requested a correction on Item 3 under C related to the process. He opined that the last sentence was poorly worded and asked that the grammar be corrected. Mr. Snyder noted that it included a compound subject and a singular verb. Town Administrator Semmes confirmed she would correct that.

Councilmember Snyder opined that it looked good. Councilmember Miller opined that it was great that there was finally a documented process in the handbook. He suggested the need to see how it worked and noted that the Council could tweak it as time went on.

Councilmember Daly noted that it was based on management by objective. He opined that the employees would know what was expected of them and could get feedback when they achieved a goal. Mr. Daly opined that the Town would not have a repeat of what happened a couple of years ago when employees were doing outstanding jobs but were not getting any recognition and were being lost.

Councilmember Snyder noted that the Employee Handbook was becoming more comprehensive and more sophisticated.

Chief Panebianco advised that the key element that they wanted to have in the document was that there would be a place where the employee could say "this is what I see as to how I'm doing on the goals that have been set". He opined that this would not be a formal evaluation but would be a mid-year check-in. Chief Panebianco suggested that if the employee surpassed the goals that were set that new ones could be set or if they had not reached them, the supervisor could determine if they needed help to get there.

Councilmember Snyder noted that annual reviews were rare years ago.

Chief Panebianco opined that what was proposed was not perfect; however, it was something to start with. He suggested the staff would find some things that it wished had been done differently. Chief Panebianco opined that the process would grow; however, he suggested that what was proposed was a good starting point.

Councilmember Littleton noted that the overall intent was that there be collaboration between the staff and the supervisor so there was a partnership around the employee's career and performance.

Town Administrator Semmes opined that an employee or the supervisor should not be surprised based on the mid-year review. She advised that the Town Clerk would incorporate this language into the draft employee handbook and would bring all of the changes requested by Council back for their review and adoption.

Town Clerk North reported that her goal was to have the revised draft handbook before the Council during the February work session. She advised that she would bring all of the comments made by the Council, along with the staff responses, before them for discussion. Ms. North expressed hope that the Council would be comfortable adopting the handbook during the work session or at the March Council meeting.

Town Administrator Semmes asked that the Town Clerk highlight the changes requested by the Council.

#### Status of Comp Plan Update/Federal Street Small Area Land Use Plan

Town Planner Moore reminded Council that the Planning Commission was ramping up the Comprehensive Plan process in terms of drafting the new plan. He further reminded them that during the last calendar year, public input was solicited and the consultant became familiar with the town and its existing documents and policies. Mr. Moore reiterated that they did data collection. He reported that they were now focusing on drafting the plan elements. He advised that a representative from The Berkley Group attended the January Planning Commission meeting to talk over a number of things with them. Mr. Moore opined that the Commission was happy with the direction it was taking. He advised that Councilmember Hazard suggested checking in with the Council, specifically on two matters to see if they were in agreement with the direction.

Town Planner Moore reported that the first item was that there was going to be a heavy focus on the Federal Street corridor and noted that this was something that came out of the public input sessions. He noted that the Commission had an assumption going in that this would be the case and advised that it was reaffirmed by the public input. Mr. Moore reported that the consultant, staff and Commission were suggesting a small area plan for Federal Street be included in the Comprehensive Plan. He advised that along with that, the consultant brought an early draft form of an illustrative redevelopment scenario, which showed how the area could be redeveloped. Mr. Moore noted that it included the siting of buildings and parking. He reported that a member of the Commission was concerned about taking a map of private land and drawing buildings on it. Mr. Moore opined that when including this type of document in a Comprehensive Plan, the wording was key. He explained that this was something that was supposed to show the possibilities. Mr. Moore advised that the discussion among the Commission members was that this was acceptable if the wording and public process were correct. He reiterated the proposal to do a small area plan and noted that the Commission would like to then reach out to the property owners to let them know they would like to include it in the Comprehensive Plan and get their feedback. Mr. Moore reiterated that the Commission was comfortable with that, with the exception of one member. He further reiterated the need for the process to be done right. Mr. Moore advised that Councilmember Hazard wanted to check in with the Council to get their thoughts. He questioned whether the members were comfortable with the Planning Commission taking the lead on this.

Councilmember Snyder questioned who was doing the writing – the Commission or the consultant. Town Planner Moore advised that it was a collaboration, with the consultant taking the lead.

Councilmember Snyder advised that he would like the Planning Commission to do the majority of the writing and noted that when he served on the Commission, they did all of it. He advised that he did a lot of it himself and opined that it was valuable to put the plan in local residents' perspectives. Mr. Snyder advised that he did not want the Comprehensive Plan to be written by experts and reiterated that he wanted to see a local perspective in the writing.

Councilmember Littleton reminded Council that this was discussed when they approved the hiring of the consultant. He noted that to require the Commission to do the writing put the burden on volunteers. Mr. Littleton opined that what ended up happening in those cases was it never got done.

Councilmember Snyder noted that he had no trouble doing it when he served on the Commission. Councilmember Miller noted that this was commendable. Councilmember Littleton applauded his efforts; however, he noted that this process started over three years ago when he was serving on the Commission. He advised that the reality was that the Commission needed help to do it. Mr. Littleton noted that The Berkley Group did this for a living and knew how to do it correctly. He reminded Council that the Planning Commissioners were not all land use lawyers who knew how to write the document so it could stand up in court if challenged. Mr. Littleton advised that at the end of the day, this was a Planning Commission product and noted that they would have to agree and be on board with it. He advised that they must own it as it was their responsibility and had their name on it.

Councilmember Snyder questioned whether the Commission was sitting back as spectators or whether they were driving the process. Town Planner Moore confirmed they were not sitting back. He reiterated that a lot of what they learned in the public process was an affirmation of their assumptions. Mr. Moore opined that a lot of what was in the plan would probably remain unchanged; however, it would be updated. He reported that the Federal Street plan would be a new section. Mr. Moore advised that while it would be a fresh document, they were not starting from ground zero. He noted that the Planning Commission was very dedicated to the process. Mr. Moore stressed that it would not be a boiler plate document that would be prepared by the consultant and rubber stamped by the Commission. He advised that he was very comfortable that the Council would get a draft plan that was well thought out.

Councilmember Snyder advised that his biggest concern was that it should reflect the members of the Commission and should not be driven by outside experts.

Town Planner Moore advised that based on his experience with this consultant, this was not the way they operated.

Mayor Davis advised that her biggest concern was that, whatever was allowed in the future in that area, it should maintain its historic character. She noted that the Council talked about Federal Street at one time and advised that some people wanted it streamlined, with sidewalk constructed from Jay Street to The Plains Road. Ms. Davis opined that the only way to do that without disrupting the buildings in the right-of-way was to make the streets one-way on both sides (Federal Street and Marshall Street). She advised that she would hate to see the town end up with a main street and one-way streets on either side. Ms. Davis opined that the issue was that this would make people go out onto Route 50. She stressed that she would never want to see one-way streets. Ms. Davis opined that the Town should not lose its character in order to create a streamlined look. She acknowledged that Federal Street was not great; however, it had character. Ms. Davis suggested that to tear it up and change it to something quirky worried her.

Town Planner Moore agreed with her concern and advised that there would be a lot of discussion about it. He acknowledged that there was a good push by the Planning Commission to improve the pedestrian accommodations on Federal Street. Mr. Moore advised that there were options that they were considering. He noted that the discussion of a one-way street came up; however, it died quickly. Mr. Moore advised that the Commission was looking at the concept plan that was put in front of them a few years ago when they worked on an update to the transportation chapter. He noted that it included some work by J2 Engineers, who offered some design options, one of which included a chicane. Mr. Moore explained that a chicane was basically like driving down a country road in that motorists came to a sign that said "one lane bridge ahead" that required them to stop to allow one person to go by. He further explained that it was a zigzag to reduce the road to one lane; however, there would still be two-way traffic. Mr. Moore confirmed there were creative options that could be used. He opined that stream lining the appearance was not the goal and noted that pedestrian accommodation was. Mr. Moore advised that if the Town wanted Federal Street to be successful for businesses, either new or existing, having better pedestrian accommodations was needed.

Mayor Davis agreed if it could be done creatively. She reiterated that she did not want a straight run of pavement.

Councilmember Littleton noted that there was the Comprehensive Plan and there was what the Town could afford. He suggested that unless there was a compelling need to do so, such as increased traffic and accidents, Federal Street should not be changed for the sake of change.

Town Planner Moore acknowledged that the Comprehensive Plan could feed the CIP. He further acknowledged that if the Comprehensive Plan called for sidewalks in this area, this could be a capital project. Mr. Moore reiterated that it would be an illustrative scenario if the Town was interested in doing redevelopment in this area that would show what the Town envisioned, with the developers doing things to help it along.

Mayor Davis suggested it be worded so it was clear that the Town wanted to improve pedestrian safety but did not want to affect the street's character.

Town Administrator Semmes noted that she and the Town Planner discussed the idea of a small area plan, which would identify where buildings should be located. She advised that its development should include public input from the property owners and citizens. Ms. Semmes opined that people found such plans to be more acceptable when they brain stormed them together. She suggested the need to discuss what happened on private property and advised that it was important to let the property owners be involved so they understood what was being proposed.

Councilmember Snyder advised that he would rather see examples of what was acceptable in terms of solving problems. He suggested the small area plan should identify what the Town envisioned and found acceptable to solve problems. Mr. Snyder further suggested that those things that the Town did not want also be spelled out.

Town Planner Moore questioned whether the Council was okay with the idea of including a small area plan for Federal Street. Councilmember Snyder confirmed he was.

Councilmember Littleton noted that the stakeholders' committee for Envision Loudoun was currently working on cities and towns. He advised that while their last meeting was cancelled, he had the agenda packet for it, which he would email to the staff. Mr. Littleton noted that it contained a lot of information, including a statement about Middleburg. He questioned where the statement came from.

Town Planner Moore noted that he was scheduled to meet with officials from Loudoun County recently; however, he missed the meeting due to the flu. He reported that the Town Administrator and Planning Commission Chair attended. Town Administrator Semmes reported that the language was from Loudoun County's old plan. Mayor Davis noted that it was developed years ago, with Middleburg providing a lot of the information.

Councilmember Littleton advised that he did not like what was recommended in the new plan, including the overall section on cities and towns which contained significant changes. He noted that their plan talked about each of the seven towns and had four sentences on Middleburg. Mr. Littleton advised that he did not like what was written about their policy toward towns. He explained that the general policy was for infill, redevelopment and more cooperative land use around the town, including the extension of utilities outside of the town. Mr. Littleton advised that they wanted to maximize development in a more effective way. He agreed this should be done with Leesburg, but not the other six towns. Mr. Littleton questioned whether the County asked for staff input on that section.

Town Administrator Semmes confirmed they did not. She advised that they showed them one policy that was under Middleburg; however, they did not talk about the general policies. Ms. Semmes noted that they did say that Loudoun County understood that Middleburg did not have or want an urban growth area and they were fine with that.

Councilmember Snyder noted that the rejection of an urban growth area went way back.

Mayor Davis questioned what the County wanted for all of the towns. Councilmember Littleton reiterated that they had developed a general policy for everyone. He advised that he planned to attend their next meeting on February 19<sup>th</sup>; however, he could not speak. Mr. Littleton suggested the staff may wish to attend as well.

Town Planner Moore noted that February 19<sup>th</sup> was Presidents' Day. Mayor Davis suggested Councilmember Littleton check on the meeting date.

#### Town Council Agendas/Electronic Format

Town Clerk North advised Council that as the staff as preparing for the electronic agendas, it looked at the agendas themselves. She reported that the Review Committee met earlier in the week to make its recommendations.

Town Clerk North opined that there was one item on the list that was probably more pressing than the others, that being the public hearings/action items. She reminded Council that when they had multiple public hearings during a meeting, they opened and closed each hearing and then addressed the action item related to each. Ms. North advised that looking at this from the standpoint of what would be easier for the Council to navigate using the electronic agenda, the staff and Review Committee were recommending a process similar to the one used by the Loudoun County Board of Supervisors. She explained that under that process, each item would be handled individually. Ms. North further explained that an item would be opened; the public hearing would be held; a report would be heard from the staff, followed by a report from the applicant if appropriate; discussion would be held; and, the Council would then take action. She noted that they could take action on the item, refer it to a committee or table action to another Council meeting. Ms. North reiterated that this would make the process easier for the Council. She opined that it would also be easier for the citizens and noted that some of them did not understand that when the Council closed a public hearing and moved to another item, they needed to sit longer so they could hear the Council's discussion and action. Ms. North opined that it would be easier to have all of the discussion on an item at once.

Councilmember Snyder agreed and suggested that it sounded like a reasonable change.

Councilmember Littleton opined that it would be easier on the Council, particularly if they had three items on the agenda. He noted that they heard the public comments and it could be forty-five minutes later before they held the discussion on an item and had to remember what was said earlier.

Town Clerk North opined that the Council was on board with that change. The members agreed they were.

Town Clerk North advised that the next item was the use of a consent agenda and suggested that if the Council wished to move to the use of one, now would be the time to do so. She reported that the Review Committee recommended the use of a consent agenda.

Councilmember Snyder advised that he had been in favor of using a consent agenda for years as they tended to make the meetings run more smoothly. He noted that under a consent agenda, all non-controversial items were placed on it, with the members voting to approve everything on that agenda.

Town Clerk North explained that the point of a consent agenda was that there was no discussion on any of the items on it. She noted that this would allow the Council to address multiple items with one motion. Ms. North cited the meeting minutes as an example of a consent agenda item.

Mayor Davis advised that she had mixed emotions about it. She further advised that she had no problem with it. Ms. Davis suggested that aside from the meeting minutes, there were not that many items on the agendas that would be addressed under a consent agenda. She acknowledged that a consent agenda was good for bodies that had large agendas, such as the Board of Supervisors; however, she suggested that for the number of items that were generally on the Council agenda, it was nice to go through the process.

Councilmember Snyder opined that it would make the meetings go quicker. He advised that it would streamline them and suggested they needed to be streamlined. Mr. Snyder noted that there were some innocuous items such as resolutions of appreciation, which were done regularly, that the Council did not need to dwell on. He acknowledged that there were other items that the Council may want to expand upon after the consent agenda, such as reading the resolutions of appreciation. Mr. Snyder opined that a consent agenda would offer flexibility.

Town Clerk North opined that it would make the process less awkward for things like resolutions of appreciation. She noted that the Council must first vote to approve the resolutions before they could be presented to the individual.

Councilmember Littleton noted that the Council was about to go with electronic agendas and advised that this would be a change in and of itself. He further noted that the Council already agreed to change the public hearings/actions items so each issue would be addressed as one item. Mr. Littleton suggested that be put in place so the Council could become comfortable with it and that it then see whether this was needed. He opined that the new system would decrease the length of the meetings, as the members would not have to shift paper; therefore, a consent agenda may not be needed.

Councilmember Snyder opined that a consent agenda was not controversial; however, he was willing to wait to discuss it.

Mayor Davis questioned the desire of the Council. The members agreed they wished to wait to consider the use of a consent agenda until after the electronic agenda was implemented.

Town Administrator Semmes reminded Council that even if an item was on a consent agenda, any member of Council could remove it if they wished to discuss it.

Town Clerk North advised that the last item was the committee reports on the work session agendas. She reminded Council that currently, all of the committees were listed, along with the representative responsible for that committee. Ms. North questioned whether the Council wanted to continue to list each one individually or just identify the item as “Committee Reports” with any member who wished to offer one, making a report.

Mayor Davis opined that it would appear just as it was on a regular Council meeting agenda. Town Clerk North confirmed it would.

Councilmember Miller suggested it simply be listed as “Committee Reports” and noted that not every committee would have met during that time period. The remainder of Council agreed.

Town Clerk North noted that some of these items would require a change to the Council’s Rules of Procedure. She advised that she would prepare them and present the changes to the Council.

Councilmember Snyder suggested the Council try the electronic agendas first and noted that more changes may be needed. After some discussion, the Council agreed to wait to change the Rules of Procedure until after the new system was implemented.

Request to amend Absenteeism Policy in Council’s Rules of Procedure

Mayor Davis suggested this item be deferred until Councilmember Hazard was present.

**Information Items**

Councilmember Littleton inquired as to the status of the letters on the federal 5G legislation. Town Clerk North reported that she had the letters for the Council to sign after the meeting.

**Closed Session** – (1) Appointment to MAC; (2) Appointment to HDRC; and (3) Property Acquisition

*Councilmember Miller moved, seconded by Councilmember Daly, that Council go into closed session as allowed under the Virginia Freedom of Information Act Sections 2.2-3711(A)(1) and (3) 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 and employees of the public body; and, 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. Councilmember Miller further moved, seconded by Councilmember Daly, that these matters be limited to (1) an appointment to the Middleburg Arts Council; (2) an appointment to the Historic District Review Committee and (3) the acquisition of property in the town. Councilmember Miller 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, Maribe Chandler-Gardiner, Deb Cadenas and Martin Crim for the first part; Martha Mason Semmes, Rhonda North, Will Moore and Martin Crim for the second part; and, Martha Mason Semmes and Martin Crim for the third part. Councilmember Miller further moved, seconded by Councilmember Daly, that the Council thereafter reconvene in open session for action as appropriate.*

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

No – N/A

Abstain: N/A

Absent: Councilmembers Kirk and Hazard

(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 the members so did. She reminded those present for the closed session that any discussion that occurred within it should be treated as confidential.

**Council Appointment** – Historic District Review Committee

*Councilmember Littleton moved, seconded by Councilmember Daly, that Council appoint Tim Clites to the Historic District Review Committee for a period of three years.*

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

No – N/A

Abstain: N/A

Absent: Councilmember Kirk and Hazard

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

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**Council Approval** – Property Acquisition

*Councilmember Snyder moved, seconded by Councilmember Leonard-Morgan, that Council authorize Mayor Davis, Council Member Littleton, and Town Administrator Semmes to pursue negotiations for the purchase of certain real property within the Town as discussed in closed session, to proceed with due diligence investigations regarding that real property, to report to Council on the progress of that negotiation, and to recommend whether the Council should make an offer to purchase the real property.*

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

No – N/A

Abstain: N/A

Absent: Councilmembers Kirk and Hazard

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

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There being no further business, Mayor Davis declared the meeting adjourned at 8:15 p.m.

APPROVED:

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Betsy A. Davis, MAYOR