



MIDDLEBURG TOWN COUNCIL Regular Monthly Meeting Minutes



June 13, 2013

PRESENT: Mayor Betsy A. Davis
Vice Mayor C. Darlene Kirk
Councilmember Kevin Hazard
Councilmember Trowbridge Littleton
Councilmember Kathy Jo Shea
Councilmember Mark T. Snyder
Councilmember David B. Stewart

STAFF: Martha Mason Semmes, Town Administrator
Angela K. Plowman, Town Attorney
Rhonda S. North, MMC, Town Clerk
Cindy C. Pearson, Economic Development Coordinator
David M. Beniamino, AICP, Town Planner
A. J. Panebianco, Police Chief
Debbie J. Wheeler, Town Treasurer

ABSENT: Councilmember Catherine "Bundles" Murdock

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, June 13, 2013 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

Suzanne Callie appeared before Council as a representative of the Middleburg Elementary Charter School Program Committee to brief them on the status of the school's application to become a charter school. She advised that they have been given what they believed was a mandate from the School Board to come up with ideas for making the school viable in the future. Ms. Callie noted that the School Board has given them a year; and, advised that they have made it clear that they would be open to a charter school application. She reported that they were working on the application and had set a goal to have something to the School Board by the end of the month. Ms. Callie noted that they have been meeting with parents and community groups in order to obtain as much input as possible. She distributed copies of their draft mission statement. Ms. Callie advised that they have heard from parents that transportation would have to be provided. She noted that even if it became a charter school, the Middleburg Elementary School would continue to be a publicly funded school. Ms. Callie explained that a charter would allow their organization to apply for outside grants to enhance the programs provided by the school. She encouraged those members of the Council who may be interested in participating in this program to contact the members of their organization, including Councilmember Shea. Ms. Callie noted that they were starting a Facebook page to keep people up to date on their activities.

Michael Pappas reminded Council that he appeared before them a month ago regarding a high water bill due to an undiscovered leak. He thanked the Council for considering an amendment to the policy and opined that it demonstrated their compassion. Mr. Pappas asked that the Council extend the amendments to any similar unpaid water bills that currently existed, such as his. He noted that he has

provided some proposed language that would allow this to occur. Mr. Pappas acknowledged that customers who have experienced high water bills due to leaks in the past have paid them. He noted that it was up to the Council to decide if they wanted to go back and help those individuals. Mr. Pappas thanked the Council for considering his request.

Action Items related to Public Hearings

Council Approval - Appropriations Ordinance – FY '14

Vice Mayor Kirk moved, seconded by Councilmember Snyder, that Council adopt an ordinance to approve the budget, adopt tax rates and make appropriations for the fiscal year ending June 30, 2014.

Councilmember Snyder opined that this was a good budget process and noted that the Council has put a lot of thought and analysis into it.

Mayor Davis thanked the departments and Town Administrator for their work on the budget.

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

No – N/A

Abstain: N/A

Absent: Councilmember Murdock

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

Public Presentation

Genie Ford, of the Middleburg Business & Professional Association, appeared before Council to brief them on the recently held Landlords Forum. She distributed information that the Business & Professional Association developed regarding things to think about when doing business in Middleburg; and, advised that the folders were also distributed to the landlords who attended the forum. Ms. Ford noted that the forum was modestly attended; however, a good discussion was held. She advised that they discussed having a professional survey done of the residents to determine the kinds of businesses they would like to see in Middleburg. Ms. Ford noted that this has been done in the past; however, it needed to be done again in a professional manner.

Ms. Ford reminded Council that during their first forum, a commercial real estate brokers meeting was discussed; and, advised that this was raised again during the second forum. She advised that the Middleburg Business & Professional Association was willing to do this; however, she could use the Town's assistance in moving this item forward. Ms. Ford noted that she was at the limits of her abilities. She reiterated that the Business Association was willing to move forward on this item; however, she suggested a committee may be needed.

Mayor Davis advised Ms. Ford that the Town already had plans to conduct a survey and hire a consultant.

Ms. Ford asked the Council how she should proceed.

Town Administrator Semmes advised Council that she would brief Ms. Ford on what the Town had in mind. She further advised that she would provide her with the information she provided to the Council on the staff's proposal to take a comprehensive look at what the Town wanted to do economic development wise and in determining the best ways to spend the Town's economic development money.

Ms. Ford reminded Council that the Association had a good turnout for the first forum, with the participants being engaged and saying they would return for a second session; however, this did not occur. She advised that she did not know how else to engage the landlords.

Town Administrator Semmes suggested this may occur once the Town started its process and brought in an expert.

Mayor Davis expressed hope that once the Town had the results, it would entice the landlords to attend a meeting.

Town Administrator Semmes noted that the landlords needed to be one of the stakeholders who were interviewed by the consultant.

Ms. Ford noted that this was encouraging. She advised that she left the landlords forum wondering what should happen now.

Town Administrator Semmes advised Ms. Ford that she had talked to the Council about using some of the Town's economic development funding to do an analysis of the business community. She noted that she called Kennedy Smith, the former Director of the National Main Street Center, as this was her area of expertise. Ms. Semmes advised that Ms. Kennedy had a consulting business that worked with small businesses in this type of environment; therefore, she brain stormed with her about what the Town needed to do. She noted that the Town would issue a request for proposals to hire a consultant who understood what Middleburg was about as a small community.

Councilmember Hazard noted that there was discussion during the landlords' forum about having information available at real estate offices so the agents would have it available when clients came to see them.

Mayor Davis opined that the Association did a good job in developing the folder. She agreed it was nice to have information that could be given to people.

Ms. Ford opined that the landlords may not know how to fully sell the Town. She expressed hope that the realtors did.

Town Administrator Semmes advised Ms. Ford that she has been talking to Prem Devadas, of Salamander Hospitality, about small business marketing. She noted that there was also specialized tourism marketing. Ms. Semmes expressed hope that partnerships could be developed for cooperative marketing. She suggested a process be developed whereby the Town could support organizations such as the Middleburg Arts Council and the Middleburg Business & Professional Association. Ms. Semmes suggested an advisory group be organized to assist the Town in making decisions regarding the distribution of funding for advertising special events.

Ms. Ford noted that there were many organizations in town. She advised that it was good to know they had this kind of support. Ms. Ford reminded Council that she was currently the Chair of Visit Loudoun and advised that she was ready to step up to do what needed to be done.

Councilmember Hazard noted that the Business Association talked about not just focusing on retail; and, suggested the focus needed to be broader. He advised that they discussed bringing in businesses; and, noted that the people associated with them would shop in town. Mr. Hazard suggested that marketing for the town should target not only retail, but other types of businesses.

Ms. Ford suggested the building located by the Exxon would be a great headquarters for someone.

Vice Mayor Kirk noted that the Economic Development Coordinator did a great job of reaching out to all of the groups. She opined that they were not operating on their own.

Ms. Ford noted that it would be easier if the organizations did not have to think about fundraising. She advised that this was always a challenge as the organizations were all pulling from the same pool. Ms. Ford opined that it said wonderful things about Middleburg that so many people served on committees.

Councilmember Shea noted that she and Ms. Ford have talked about looking at not just focusing on retail and businesses but also how they could support the citizens and meet their needs so they would shop in town.

Ms. Ford noted that this was the genesis for the professional survey.

Town Administrator Semmes noted that the survey would result in requests for things the town would not be able to get, such as a bowling alley. She advised that the staff has talked about the need to teach landlords about the importance of making sure a prospective new tenant had a business plan in place so they were more likely to be successful.

Ms. Ford agreed. She noted that the landlord may have a tenant today; however, this did not mean they would be one forever. Ms. Ford further noted that the “revolving door” hurt everyone.

Approval of Minutes

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve the May 9, 2013 Regular Meeting and May 23, 2013 Work Session Meeting Minutes as amended.

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

No – N/A

Abstain: N/A

Absent: Councilmember Murdock

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

Staff Reports

Councilmember Snyder reminded the **Town Administrator** of the need to schedule the training on the utility rate model.

Chief of Police Panebianco reported that he had completed the hiring process and advised that Officer Mark Putnam would be Middleburg’s newest officer. He noted that he came from the Gordonsville Police Department and was well versed in community policing. Chief Panebianco opined that he would fit into the community.

Chief Panebianco reported that National Night Out was scheduled for August 6th. He noted that Mark Davis had volunteered to assist and Councilmember Shea had expressed an interest in doing so as well. Chief Panebianco invited the members of the Council to volunteer.

Chief Panebianco announced that Mike Prince’s title had been changed from Senior Police Officer to Lieutenant. He noted that he would have the same duties. Chief Panebianco explained that by making this change, a clear chain of command would be identified. He reiterated that the new title fit with the duties he was performing.

Councilmember Shea questioned the status of the pedestrian safety program. Chief Panebianco reminded Council that he developed the brochure. He explained that he would have it printed under the 2013-14 budget year; therefore, he would order it in July. Chief Panebianco noted that he would check with the local printer; however, he usually found that online printers would print large quantities cheaply. He advised that once they received the brochures, the officers would start to work the crosswalks. Chief Panebianco reported that the Town did have a pedestrian who was struck in a crosswalk. He advised that in the interim, officers would do more enforcement at the crosswalks. Chief Panebianco noted that the Department did not have the ability to print the brochures in the volume that was needed to get the message out immediately. He explained that the concept of the program was to have the brochure and watch for a violation. Chief Panebianco further explained that they would stop any violators, starting with the pedestrians, and would educate them for a period of time. He advised that they would then focus on motorists. Chief Panebianco reiterated that they would first hand out the brochures and would follow up with enforcement. He advised that they would do this throughout the year. Chief Panebianco opined that this would be a good program and noted that it was a unique one that was developed by the Department. He expressed hope that the results would be favorable. Chief Panebianco reiterated that he would order the brochures as soon as the budget allowed. He noted that he may be able to order them in June and pay for them in July.

Mayor Davis asked that the Chief check with the local printer. Chief Panebianco confirmed he would. He noted that if his price was “within the ballpark”, he would use him. Chief Panebianco advised that they used the local printer on their last print job.

Councilmember Shea asked whether the officers would also look at the pedestrians that were not using crosswalks. Chief Panebianco confirmed they would. He noted that there was talk about adding a crosswalk at the post office. Chief Panebianco advised that, until it was constructed, they would hand out brochures at this location as well.

Vice Mayor Kirk advised the **Economic Development Coordinator** that she liked the inclusion of the report from Bendure Communications in her monthly report. She asked that this be included as often as possible.

Town Administrator Semmes advised Council that she had most of the information she needed to prepare the **utilities** report. She noted that Mr. Triplett was behind for March and did not get the wastewater information to her. Ms. Semmes expressed hope to get the reports caught up next month.

Action Items (non-public hearing related)

Council Appointments – Middleburg Arts Council

Vice Mayor Kirk moved, seconded by Councilmember Snyder, that Council appoint Wendy L. Roseberry to fill the unexpired term on the Middleburg Arts Council, said term to expire June 14, 2014. Vice Mayor Kirk further moved, seconded by Councilmember Snyder, that Council appoint Amanda Scheps to a two-year term on the Middleburg Arts Council, said term to expire June 14, 2015.

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

No – N/A

Abstain: N/A

Absent: Councilmember Murdock

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

Council Appointment – Go Green

Councilmember Shea moved, seconded by Vice Mayor Kirk, that Council appoint Nelina Loiselle to fill the unexpired term on Go Green, said term to expire May 12, 2014.

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

No – N/A

Abstain: N/A

Absent: Councilmember Murdock

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

Council Approval – Go Green Business Challenge

Jilann Brunett, Co-Chair of Go Green, advised Council that if they approved the challenge, Go Green would launch it the first week in July. She reported that they were working with the Middleburg Business & Professional Association and would use their e-mail list to distribute the challenge. Ms. Brunett noted that she also gathered e-mail addresses during the last Bizz Buzz meeting. She reported that they would send the challenge electronically and would ask the businesses to return it within two weeks. Ms. Brunett noted that this would be an educational year. She advised that if a business did not returned the questionnaire within two weeks, Go Green would take hard copies to that business to ask whether they were opting out of the program or simply did not get the questionnaire. Ms. Brunett noted that Go Green would evaluate the results during their August meeting to identify the weaknesses in the three categories (water, energy and recycling). She reported that throughout the year, Go Green would hold community meetings to talk about ways they could assist the businesses. Ms. Brunett noted that they would also gather the businesses ideas and distribute them to other businesses. She reported that a year from now, they would conduct the survey again to determine the changes.

Councilmember Snyder asked that Go Green keep the Wellhead Protection Advisory Board advised of their activities related to the challenge.

Councilmember Shea moved, seconded by Councilmember Snyder, that Council approve the Business Challenge as developed by the Go Green Committee.

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

No – N/A

Abstain: N/A

Absent: Councilmember Murdock

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

Discussion Items

Request from Salamander Resort to Place Recreational Amenity in the Conservation Easement

Town Planner Beniamino reminded Council that when they approved the Salamander Resort in 2007, the approval included a conservation easement that was co-held with the Potomac Conservancy. He further reminded them that the easement included a provision to allow Salamander to build a “challenge course” on four acres of land located within the conservation easement area. Mr. Beniamino reported that Salamander contacted the staff and asked it to begin a review of their documents, including the preliminary concept for the construction of a zip line. He advised that the staff was working with representatives from Salamander and the Potomac Conservancy on this item. Mr. Beniamino noted that Emily Warner and Jeb Rawl of the Potomac Conservancy were present. He

explained that, at this time, he wanted to give the Council a heads up that within the next month or so, the staff would bring a request to them for approval of a zip line within the conservation easement. Mr. Beniamino noted that the easement stated that the Potomac Conservancy and Town Council would approve activities within the easement. He advised Council that the Potomac Conservancy has asked for more details, which Salamander was working to provide.

Vice Mayor Kirk asked that this information be sent to the Council when it was sent to the Conservancy.

Councilmember Snyder reminded Council that he was the one that made it a point of securing the open space easement. He advised that he would like to make sure the Town started this request off correctly and took the input from the Potomac Conservancy seriously. Mr. Snyder noted that he did not disagree the Council should look at the proposal in conjunction with the Conservancy. He suggested that if the impact was nominal, the Town should approve it. Mr. Snyder reiterated that he wanted to start on the right foot with the Conservancy and the conservation of the open space.

Prem Devadas, of Salamander Hospitality, reminded Council that the land was in a conservation easement. He reported that they have been working with the Potomac Conservancy for a couple of years and had a good working relationship. Mr. Devadas noted that they performed periodic inspections of the property; and, advised that he went out on one of them. He opined that Salamander and the Conservancy have worked well together up to this point. Mr. Devadas recommended the Council consider that three parties should be active in the conversation, those parties being the Council, the Conservancy and Salamander. He opined that all three shared the same goal.

Councilmember Snyder advised that he expected Salamander's relationship with the Potomac Conservancy to be as good as its relationship with the Town.

Mr. Devadas noted that the Town and Salamander have been able to work things out even when there have been concerns and issues. He reported that they would do so here as well. Mr. Devadas reported that conversations have been held as recently as yesterday; and, advised that the Conservancy had responded quickly with some suggestions. He noted that they were now considering how they could move forward. Mr. Devadas reiterated that they all had the same goal. Mr. Devadas reported that in addition to the commitment they made with the conservation easement, the resort also made a statement about their approach to the environment by being LEED certified. He advised that they have spent a substantial amount of money to pursue this certification and expected that, once open, they would become one of the largest LEED certified resorts in the United States. Mr. Devadas opined that this would be great for Middleburg and Salamander.

Mr. Devadas reported that they hired a company to develop, implement and operate the course. He noted that while this was called a "zip line", it was a ropes course based upon challenges and team building programming. Mr. Devadas advised that many of the high end groups that were booking rooms at the resort were excited about the aspect of team building, education and nature that this course would represent. He noted that in the coming weeks, he would share specifics about what this involved. Mr. Devadas suggested the Council not think of this as a normal zip line program.

Emily Warner, of the Potomac Conservancy, advised Council that they would like to hear their opinions as well. She noted that as co-holders of the easement, they shared the responsibility of protecting the purpose of the easement and protecting the conservation values. Ms. Warner advised that they have asked Salamander for additional information and would be happy to continue their review once they received it. She reiterated that they would like to have the Council's perspective.

Councilmember Hazard asked whether the Council would get copies of the operational, equipment and structure information associated with the zip line. Town Planner Beniamino confirmed they would. He suggested the staff would provide it when it developed its report. Mr. Beniamino advised that the staff would then ask the Council to make a decision.

Councilmember Hazard asked whether there was a way to provide a visualization of the structures in the existing topography.

Mayor Davis opined that the Council wanted to know what the zip line would look like when it was in place.

Mr. Devadas asked what the Council would like to look at when making its decision. He noted that they would receive the response from the Potomac Conservancy. Mr. Devadas asked whether there was anything else the Council would like to assist them in their deliberations.

Mayor Davis suggested it would be nice to look at the structure from a bird's eye view to see where it would be located in the woods. She advised that she would like to see an actual drawing.

Councilmember Hazard advised that he would like to know what it would look like from both the town and Salamander's property. He asked that the drawings be to scale. Mr. Hazard suggested it would be great if it was invisible.

Mr. Devadas confirmed it was invisible from both the town and the hotel.

Town Planner Beniamino reported that the staff was looking for information on the impact of the zip line on the easement and whether trees would need to be taken out. He advised that once the information was received, he would compile and distribute it to the Council.

Councilmember Shea asked whether this would occur after the Potomac Conservancy had responded. Town Planner Beniamino advised that the staff was proceeding under the assumption that Salamander would bring back the requested information and the two organizations would move on separate tracks. He noted that ultimately, both must make a decision. Mr. Beniamino advised that he asked the Potomac Conservancy to make a decision first, which he would then bring to the Council.

Mr. Devadas advised Council that he would like to do both simultaneously. He noted that he wanted to hear their questions so he could be prepared for the next meeting.

Councilmember Snyder questioned the target date for construction of the zip line. Mr. Devadas advised that they would like to have it ready for the opening of the resort. He reported that they have a group from the New York Stock Exchange booked for September 24-25. Mr. Devadas noted that they have selected the Salamander Resort for their annual meeting; and, were looking for new ways to challenge their top executives.

Councilmember Snyder opined that to meet that target would require extraordinary communications with the Town, the Conservancy and Salamander.

Mr. Devadas noted that Ms. Warner responded immediately and clearly stated what she would like to see. He advised that he planned to get back with her tomorrow with his thoughts. Mr. Devadas opined that they have not asked for anything that was unreasonable. He advised that this was a matter of timing and how quickly they could move things along. Mr. Devadas opined that everyone had demonstrated a commitment toward addressing this request.

Vice Mayor Kirk opined that a zip line was a deviation from the initial vision that Salamander would be a resort spa. Mr. Devadas reminded Council that the conservation easement talked about a challenge course. He opined that past Council meeting minutes would confirm what this was and noted that he had always said the challenge course would include things like climbing walls and ropes courses. Mr. Devadas reiterated that this was a ropes course.

Mr. Devadas advised that the reason he selected the company he did was they had experience with high end resorts that used this kind of application in environmentally sensitive areas. He noted that it was important that this experience fit. Mr. Devadas advised that these activities were things that were done at five star resorts around the world and represented the epitome of challenge, education and team building. He reiterated that due to its location, the line would not be visible from the resort or the town.

Vice Mayor Kirk asked whether the line would be visible from Middleburg Downs. Mr. Devadas confirmed it would not.

Dev Patik, of Empower Adventures Operators, LLC, advised Council that his partner, Joe Durang, was a former Special Forces member. He further advised that he has been an instructor for seven years. Mr. Patik reported that he and CBI, the company that would develop the facility, have worked together for a number of years. Mr. Patik advised that his company had a long standing relationship with Salamander as they operated their course in Florida. He noted that their last facility was constructed in a sensitive area in Hawaii and included an elevated trail system. Mr. Patik advised that zip lines were included in the experience. He explained that participants ascended stairs; and, if they were not capable, would be hoisted to the top of the system. Mr. Patik reported that he would work very closely with the Potomac Conservancy to talk about the ecology of the environment. He advised that participants would be required to remove everything from their pockets. Mr. Patik stressed that they would treat the environment as pristine. He noted that the zip lines would create access for more people and advised that there would be adventure points that would include stop points. Mr. Patik reported that each station would provide an environmental lesson, including a history of the environment. He advised that a participant's first experience would involve cruising at 15-20 mph. Mr. Patik noted that upon arriving at the next station, the participant would take a foot bridge. He stressed that nothing in the footprint of the course would touch the ground. Mr. Patik reported that everything would be attached to the trees; and, noted that they would work with arborists to do so. He further noted that they would use challenge course technology to ensure the trees would not be harmed. Mr. Patik advised that this was the same technology that was used in national parks. He noted that they would actively involve themselves in the environment; and, advised that they would work with the Potomac Conservancy to develop a program. Mr. Patik reported that in Hawaii, they planted a couple thousand trees. He advised that his company's staff outings were all environmental; and, noted that this was in their hearts and roots. Mr. Patik advised that the zip line course was a unique experience that people would remember as being family-oriented.

Vice Mayor Kirk questioned the amount of acreage the zip line would cover. Mr. Devadas advised that the calculation depended on the way it was interpreted. He noted that this was one of the discussions being held with the Potomac Conservancy. Mr. Devadas opined that the trail track and a reasonable amount of space on either side of it would get to as much as one and a half acres. He advised that the issue they must discuss with the Conservancy was their idea of what the actual space that the zip line was located within should look like. Mr. Devadas suggested this could be interpreted as a four acre square; however, he opined that this language was not in the agreement. He further opined that the shape could be a different one that was not necessarily a single line that traversed as much as 15-20 acres. Mr. Devadas suggested the Vice Mayor's question was best answered after more conversation had occurred.

Vice Mayor Kirk asked whether Salamander was envisioning something that covered 15-20 acres. Mr. Devadas advised that on a linear basis, the line covered fifteen acres. He noted, however, that it did not cover fifteen square acres. Mr. Devadas opined that it was a good idea to get a visualization of the line from a bird's eye level and to get a cut level of it so the Town would know how it would be viewed from the town and how visible it would be.

Councilmember Hazard asked whether this has been done in other places in conservation easements. He further asked whether this was the first time this has occurred. Ms. Warner indicated it was the first she had encountered it.

Councilmember Hazard asked the Potomac Conservancy to research this issue. Ms. Warner advised that in terms of identifying the amount of acreage coverage, from a nationwide standpoint, they were interpreted as a polygon versus a linear shape; therefore, she agreed with Mr. Devadas. She further agreed it would be helpful to have a visual representation of the course. Ms. Warner explained that the issue was that it would separate twenty-five acres from the remainder of the woodland, not that the course would cover twenty-five acres. She further explained that they were looking at whether this division of forest land fit within what was committed to by the easement and the value of the contiguous forest land. Ms. Warner advised that the question was whether this would be compromised by the line. She reported that they have asked Salamander for additional information and advised that they planned to obtain input from the Department of Game and Inland Fisheries and the Department of Forestry.

Mr. Devadas advised that Mr. Patik could provide the information that had been requested. He reiterated that he had years of experience.

Mr. Patik opined that it would be helpful to make the requested information available. He advised that they have found no concerns about such crossings in other environments. Mr. Patik reiterated that the course would not touch the ground nor would the participants.

Mr. Devadas advised Council that a month ago, he walked through the woods with some equestrians from this area because he was concerned about the impact of the course on riders that may be coming through the woods. He further advised that they walked the exact location where the design took them through the woods. Mr. Devadas reported that the equestrians stated that there would be no impact.

Mayor Davis expressed her appreciation to Mr. Devadas and the representatives from Potomac Conservancy for keeping the Council informed. She noted that they would like to see pictures of what was being proposed. Vice Mayor Kirk asked that the information be provided sooner rather than later.

Parking on Pendleton Street

Vice Mayor Kirk advised Council that she has thought about parking on Pendleton Street. She noted that most of the people who parked in these spaces did so during the day. Ms. Kirk further noted that guests of the Salamander Resort would not check in until 4:00 p.m. She asked whether there would be an impact on the parking.

Councilmember Shea opined that the discussion of this item had taken a turn it never should have taken. She reminded Council that this was not about the Salamander Resort or the traffic it would generate. Ms. Shea advised that several people have said they were in near accidents at this location and others have said they have had to sit in Safeway's parking lot for ten minutes waiting to get out. She noted that the increased traffic had already occurred that created this difficult situation.

Councilmember Snyder agreed it needed to be addressed. He noted that the two parking spaces were done “quasi legally” thirty years ago. Mr. Snyder advised that he would like to move those spaces and create additional short-term parking spaces around town where they made sense. He noted that he would leave it up to the staff to make a recommendation on where fifteen minute parking spaces, that did not utilize a parking meter, should be located.

Councilmember Shea opined that a parking study was underway. Town Administrator Semmes confirmed there was not. She advised that one has been done in the past. Ms. Semmes noted that the Planning Commission was working on a transportation element for the Comprehensive Plan. She reminded Council that they have discussed parking, including the short-term and handicapped spaces on South Madison Street. Ms. Semmes noted that as they looked at that location, they discussed whether they should look at other places for short-term parking. She reminded Council that Eura Lewis recently complained about stopped trucks on South Madison Street. Ms. Semmes opined that it was a good idea to look at other temporary parking spaces for delivery trucks.

Vice Mayor Kirk noted the need to focus on Pendleton Street during this meeting. She further noted that no decision needed to be made at this time.

Councilmember Snyder advised Council that he liked the idea of moving one of the spaces forward and putting two additional short-term parking spaces across the street. He suggested they be marked with signage as opposed to a meter. Mr. Snyder noted that the appeal of short-term parking was that it was quick and the motorist did not have to think about money when he stopped.

Vice Mayor Kirk noted that she fed the meter when she went to the post office. She further noted that other motorists did not, which was irritating.

Councilmember Snyder reiterated that he would like to offer short-term convenience parking. He suggested the Police Department focus on the metered spots and ticket motorists who did not feed them. Mr. Snyder reiterated that one of the reasons he liked short-term convenience parking was that an individual could make a quick trip and be gone. He opined that it was low impact and high turnover. Mr. Snyder opined that it should not be a problem unless people abused the spaces.

Vice Mayor Kirk expressed concern that placing a parking space beside Salamander Touch could make it difficult for large trucks making deliveries to the Safeway. She suggested the Council not consider making that area a parking space.

Councilmember Hazard noted that the Town’s engineer, Jim Bishoff, looked at this location and stated that the trucks could make the turn.

Mayor Davis asked how a truck currently made the turn when there were two cars parked in front of the parking lot’s entrance. Councilmember Hazard opined that they waited until the cars were gone.

Vice Mayor Kirk noted that she did not know the answer; however, she opined that it was not a good option to move the parking spot up. She reminded Council of the narrow entrance at this location and noted that people were coming out of the Safeway to get onto Route 50. Ms. Kirk acknowledged that the engineer said this could be done; however, she noted that people were currently complaining about having problems getting in and out of this location.

Town Administrator Semmes noted the letter from McGuire Woods that had been placed on Council’s desk. She reminded Council that Mr. Bishoff proposed the idea of placing cones in the location where the space would be to simulate it. She suggested that another option was to park a Town car there before the Council made a decision so it could see how the space worked.

Councilmember Snyder agreed; and, noted that this was not time critical.

Vice Mayor Kirk opined that even if the Council moved the parking spaces, people would continue to park where they usually did.

Councilmember Shea suggested this was the reason why the Council needed to start moving on this issue. She further suggested the need for a period of time when the Police Department could warn and educate motorists. Ms. Shea opined that the Council did not have a choice about moving the spaces as this location was getting really dangerous.

Councilmember Hazard agreed. He noted that Councilmember Murdock almost had a head on collision at this location.

Mayor Davis noted that if the Council created a parking space by Salamander Touch and made two spaces across the street short-term, this would create three short-term parking spaces in this area. She reminded Council of the parking spaces that were located on site at the bakery and asked whether the owners had considered using those for their customers.

Town Administrator Semmes advised that the bakery had held no discussion with the staff of how to use their parking spaces.

Councilmember Littleton noted that the bakery owners parked their vehicles in those spaces. He suggested they should allow their customers to use them. Mayor Davis agreed. She noted that this would provide five parking spaces for the bakery's customers.

Vice Mayor Kirk noted that they did not seem to like that idea when they were at the last meeting.

Councilmember Snyder advised that he liked the idea of putting one of the Town's cars in the area beside Salamander Touch to observe the traffic. He noted that the Town could try some things; and, if they were a mistake, could fix them.

Vice Mayor Kirk advised that she would not vote for this as she did not like that idea. She noted, however, that she liked the idea of changing the two parking spaces across the street. Ms. Kirk advised that she was also fine with the bakery using their parking spaces. She suggested the members of Council drive by this location during the day to see how it worked. Ms. Kirk reiterated her concern that motorists would park in front of the bakery even if the spaces were removed.

Councilmember Stewart reported that he recently went into the Safeway. He advised that the same cars were parked in these spaces when he came out as when he went in.

Councilmember Shea opined that there were a lot of options that could be exercised. She suggested the Council must, however, not allow parking in front of the bakery.

Councilmember Snyder agreed. He noted that the Council was not willing to provide short-term parking for any other business.

Vice Mayor Kirk noted that the Town has been doing so for the bakery for thirty years.

Town Administrator Semmes asked whether the Town approved those parking spaces. Vice Mayor Kirk confirmed it did not.

Councilmember Snyder advised that he would approve a "no parking" sign once the Council changed the parking.

Town Administrator Semmes recommended there be a warning period of a substantial amount of time after the change. She further recommended a “no parking” sign be installed. Ms. Semmes suggested that temporary signage be installed to warn people.

Mayor Davis suggested that everyone needed to understand that doing this was not a reaction to the resort. She advised that it was about addressing the complaints regarding near accidents that have been received over the last year or two, as well as complaints of people who were not able to get out of the Safeway parking lot. Ms. Davis opined that the Council should have addressed this sooner. She expressed an understanding of the Stines’ concerns. Ms. Davis noted that the Council was trying very hard to make the new short-term parking spaces just as accessible. She opined that if anyone who was a “good customer” of the bakery would not walk across the street, they were really not a good customer.

Councilmember Shea advised that people were already parking in the Safeway parking lot and walking across the street; and, noted that they have been doing so for years. She reiterated that there were a lot of options to consider.

Mayor Davis advised that this past weekend, she observed lots of people going into the bakery who were walking. She noted that no one was parked in front of it.

Councilmember Littleton noted that the town had two other semi bakery types of businesses that were surviving by using the existing parking facilities. He further noted that those businesses had no special parking in front of their locations. Mr. Littleton opined that all of the businesses should have the same opportunities.

Vice Mayor Kirk suggested the Town needed to paint the curb yellow in this location. She noted that it was currently white. Ms. Kirk suggested this be done as the first step.

Councilmember Snyder reiterated his suggestion that the staff look to see where else fifteen minute parking designations could be placed. He questioned which other businesses would benefit from them. Mr. Snyder noted that the Town did not have to solve all of the parking problems at once.

Councilmember Shea opined that this would make more sense once the Town received the transportation study. She suggested the Council could not piecemeal this too much.

Mayor Davis acknowledged that Vice Mayor Kirk was not in favor of doing so; however, she asked whether the rest of Council wished for the staff to park a car in the space adjacent to Salamander Touch to see how it worked. The remainder of Council agreed it did.

Councilmember Stewart noted that his personal car was long. He expressed concern about having a car of that size parked on the corner.

Councilmember Hazard noted that this area was not on the corner.

Councilmember Stewart expressed concern about trucks that may be turning onto the street. He suggested the car would have to be moved.

Councilmember Shea asked whether placing the Town car in this space would prove a point if cars were still parking in front of the bakery.

Councilmember Hazard suggested it would show whether there were any problems for cars traveling north and turning the corner. He noted that this was the issue.

Vice Mayor Kirk noted that it was difficult for cars to travel south as well.

Mayor Davis noted that the majority of Council was in favor of parking a car in this area.

Town Administrator Semmes advised Council that the Police Department would monitor this location.

Chief Panebianco suggested that a better indicator may be to place a traffic cone in this location as opposed to a car. He noted that a cone could be run over with no damage.

Mayor Davis advised that the Council wanted to see how this would work from a height view as well. Councilmember Littleton agreed a car was needed for the test.

Chief Panebianco reported that he would park the old SUV there. He agreed it was a good idea to test this location to determine whether this was viable. Chief Panebianco reported that he has witnessed tractor trailer drivers do amazing things when forced to do so.

Mayor Davis opined that there would be more room to turn into the Safeway lot under this proposal.

Town Planner Beniamino expressed concern about the proposed parking space in that if a car attempted to leave it and wanted to turn east onto Route 50, it would cut into the travel lane for motorists on Route 50 that were attempting to make a right turn onto Pendleton Street. He opined that there was not enough room to pull out of the parking space and get into the travel lane.

Mayor Davis asked how that was any different than the existing traffic pattern of vehicles going around the parked cars.

Town Planner Beniamino agreed it was currently a problem. He advised that he did not disagree with the idea of creating the space; however, he suggested vehicles needed to be able to make the turn while in the travel lane.

Councilmember Hazard questioned the difference between the movement described by the Town Planner and a vehicle that was coming straight down Pendleton Street that wished to make that same turn.

Town Administrator Semmes displayed the engineer's drawing of this turning movement. She reported that theoretically, it could be achieved.

Councilmember Hazard opined that, under the conditions cited by the Town Planner, the car would take up less space as it would just have its nose in the travel lane.

Town Administrator Semmes recommended the Police Department also move the car in and out of the proposed space to see how the movements worked.

Mayor Davis asked that the car be parked in this location so the Council would have the results of the test for the next work session.

Town Administrator Semmes asked that, as opposed to changing the timing for the two existing parking spaces adjacent to the Safeway, the Town simply make them "stopping" spaces with no meter. Councilmember Snyder noted that this was what he had been suggesting.

Councilmember Hazard opined that the Police Chief had a problem doing this.

Chief Panebianco confirmed he did not. He advised that if a vehicle parked in the space for awhile, the officer would pay attention to it. Chief Panebianco noted that it was not a big deal to chalk a tire and re-check it in fifteen minutes. He advised that if the officers saw someone who was abusing the space, they would probably address that early so the motorist would get used to not parking there. Chief Panebianco noted that this was very manageable. He advised that there was nothing the Council had asked to do to make the traffic situation better that the Department could not do. Chief Panebianco advised that if the Council came up with a solution, they would work within those boundaries. He noted that the safety issues were a bigger problem than chalking a tire. Chief Panebianco reiterated that the Police Department would do whatever was necessary.

Vice Mayor Kirk advised that she could see the Department having an officer at this location a lot. Chief Panebianco noted that in the beginning, they would have an officer assigned there during peak hours to educate the motorists. He reiterated that they would work with the residents and shoppers to make them aware of the situation. Chief Panebianco advised that he would develop an enforcement plan, which he would run by the Council. He noted that before he could do so, he needed to know what they wanted to do. Chief Panebianco advised that the officers would do whatever was necessary to make this area safer.

Town Administrator Semmes reminded Council that the Department did the same thing on South Madison Street.

Chief Panebianco confirmed they had good cooperation from the businesses; and, only had to issue a few tickets. He advised that they educated most of the people in that area. Chief Panebianco asked that the Council identify a plan and not worry about the impact on the Police Department.

Councilmember Shea asked what the Virginia Department of Transportation (VDOT) would do if someone complained to them about Pendleton Street.

Town Administrator Semmes noted that VDOT maintained the street; however, it did not own the right-of-way. She reminded Council that they controlled the parking under the Town Code. Ms. Semmes reminded Council that the Town Code did not designate the two spaces in front of the bakery as parking spaces. She advised that she did not know what VDOT would do as they were not in the business of enforcing parking.

Town Attorney Plowman noted that the parking was in the travel lane.

Town Administrator Semmes suggested that the question was whether the Town could take action to designate these spaces as parking spaces under VDOT's regulations. She noted that if Pendleton Street was a one-way street, the Town could allow parking on one side of the street. Ms. Semmes advised that in this case, the entrance to the Safeway made it more difficult to permit parking.

Councilmember Snyder opined that VDOT could say remove the parking, make the street a one-way one or we will make it a one-way street.

Vice Mayor Kirk suggested the staff determine whether VDOT would be okay with the changes that were being proposed.

Councilmember Hazard noted that Mr. Bishoff already addressed that. He reminded Council that Mr. Bishoff talked about site distances and the distance from the intersection. Mr. Hazard noted that he worked under VDOT's parameters when considering this option.

Councilmember Shea asked whether the Town could remove the garden in front of the bakery and construct parking spaces in its place. Town Administrator Semmes advised that this would be too

close to the bakery's entrance. She reminded Council that the bakery's porch was also located in the right-of-way. Ms. Semmes opined that if VDOT had a problem with it, they would have let the Town know. She opined that the existing situation did not meet VDOT standards for on-street parking. Ms. Semmes opined that Mr. Bishoff should be able to answer that question since he worked for VDOT. She suggested the staff check with Mr. Bishoff to see if he could point them to someone with VDOT who could make an official call. Ms. Semmes opined that it would be nice for Council to have this information.

Councilmember Littleton suggested the Council conduct the test before contacting VDOT.

Town Administrator Semmes reminded Council that this was the reason she asked Mr. Bishoff whether this option was viable.

Councilmember Littleton opined that the use of parking spaces could be controlled. He noted the speed limit signs at The Plains that now stated the fines were double. Mr. Littleton suggested that putting that language on a fifteen minute parking sign would make motorists take it more seriously.

Mayor Davis suggested the Council try the test to see what happened.

Town Administrator Semmes advised Council that she would inform the Stines that this was the plan so they would understand the Town was doing a trial. She confirmed she would talk to them tomorrow. Ms. Semmes advised Council that the staff would not park the car at this location until she spoke with the Stines.

Proposed Amendments to Town Code Pertaining to Adjustments for High Water Bills

Town Administrator Semmes reminded Council that they received an initial e-mail from Mr. Pappas in their agenda packet, along with draft language prepared by the Town Clerk that was based upon Council's discussion during their last meeting. She advised that a letter from Mr. Pappas has been placed on their desks in which he suggested a modification to the proposed language to address those individuals who had bills that were pending.

Vice Mayor Kirk asked whether Mr. Pappas' proposed revisions would make the changes retroactive. She advised Council that she would not consider that.

Councilmember Shea questioned the amount of money that would be involved in such a modification. Town Administrator Semmes advised that Mr. Pappas' balance, after the \$5,600 adjustment on the sewer portion of the bill, was \$5,745. She reported that there was one other outstanding bill. Ms. Semmes advised that the amount of the bill that would have been waived under the proposed policy was \$2,450. She noted that the customer has been paying the bill and had a remaining balance of \$266.

Councilmember Snyder advised that he had a problem raising rates retroactively and cutting fees retroactively. He reminded Council that the Town has been struggling to get the utility system to pay for itself; and, noted that it has been operating at a deficit for some time. Mr. Snyder advised that the Council has worked diligently to make the utility system a sustained one. He noted that he was not trying to gouge anyone or make a profit; however, he wanted the system to be sustainable so it would not be lost and its quality would not decline. Mr. Snyder advised that he did not want to encounter availability issues. He opined that the Town could not afford a retroactive change. Mr. Snyder suggested it could go forward with the proposed language and build it into the Town's rate model.

Vice Mayor Kirk reiterated that she did not want to make the changes retroactive. She noted that if the Council did so, other customers could seek a refund.

Councilmember Shea noted that the customer cited by the Town Administrator could do so.

Councilmember Snyder noted that he experienced a leak on his property. He opined that it was “water under the bridge”.

Councilmember Littleton noted that he experience a leak two months ago; and, advised that his bill was \$1,000, which he paid.

Vice Mayor Kirk suggested the Council look at this one case and make a decision on it. She suggested that decisions be made on a case-by-case basis.

Councilmember Shea questioned what Ms. Kirk meant by that. Vice Mayor Kirk suggested the Council address this on a complaint basis.

Councilmember Snyder reminded Council that they could not utilize uneven treatment or the Town could end up in litigation. He opined that the language proposed by the Town Clerk was reasonable. Mr. Snyder suggested that if the Council did not like the proposed language, they should change it and then adopt it so the Town would have something that could be applied evenly.

Vice Mayor Kirk agreed. She noted that she did not have a problem with the language proposed by the Town Clerk; and, advised that she only had a problem with the language proposed by Mr. Pappas.

Councilmember Snyder reiterated that he liked the Town Clerk’s proposed language. He encouraged the members of Council to send her modifications for any language they did not like.

Mayor Davis inquired as to the number of past issues that the Town has experienced. Town Administrator Semmes asked how far back the Council wanted to go. She suggested that other than those instances the staff could recall receiving a complaint about, they would not know. Ms. Semmes noted that those instances would also have to meet the requirements of the proposed ordinance. She opined that the staff would not have the information on what met the criteria in order to go back further than the two outstanding bills.

Councilmember Shea asked whether the Council would open the Town up to litigation if it made an exception for one person.

Town Attorney Plowman advised that she and the Town Clerk talked about making the ordinance retroactive. She advised that while the Council was not prohibited from doing so, they needed a good policy reason to do so. Ms. Plowman further advised that another question was how far the Council would want the ordinance to go back. She opined that the date would be arbitrary and suggested it would be difficult to select a time frame.

Town Attorney Plowman noted that she looked at the draft ordinance; however, in looking at it again during this meeting, she realized that Section 113-26(E) did not identify when the customer must make the request for a credit. She suggested a time frame was needed.

Councilmember Snyder noted that the intent under the draft language was that the customer would report an issue to the Town Office and document that the problem had been corrected within ten days.

Town Clerk North opined that the customer would seek the credit immediately. She reminded Council that the water bills had a due date and if not paid by that date, a ten percent penalty was applied to the account. Ms. North opined that a customer would not want to incur a penalty. She advised that she would add language to clarify that the application for a credit must be submitted before the bill’s due date.

Councilmember Snyder suggested the Town Clerk work on some language, which could be reviewed at the next meeting.

Town Clerk North reminded Council that whatever was done with the water ordinance would affect the sewer ordinance. She noted that she delayed advertising the public hearing on the sewer ordinance because she knew these changes would affect that chapter as well.

There was some discussion as to whether Mr. Pappas would be allowed to comment on the Council's discussion of this item. It was noted that he already spoke on this item during the public comment section of the agenda and had provided written comments.

Councilmember Shea noted that Mr. Pappas could submit any additional comments in writing, which would then be shared with the Council prior to any changes being made to the ordinance.

Town Administrator Semmes expressed an assumption that Mr. Pappas wanted to say something regarding making the ordinance retroactive and how far back that could go. She noted that he suggested it be retroactive to the past billing cycle. Ms. Semmes reminded Council that the Town Attorney questioned the basis for using that date, which could be considered to be arbitrary and capricious. She noted that even if the Council selected a previous time frame, it may not be fair to others who have been in this situation; therefore, it may not pass the constitutional smell test.

Town Attorney Plowman reiterated that if the Council made the ordinance retroactive, it would require a good policy reason to do so. She suggested that one such reason would be if the Town experienced an extremely hard freeze that resulted in a large number of breaking pipes and a large amount of unknown water leaks. Ms. Plowman further suggested that in such a case, the ordinance could be made retroactive to November 1.

Town Administrator Semmes stressed the need for a reason to distinguish a retroactive date.

Information Items

Mayor Davis reminded Council that the *Prelude to Gettysburg* was this weekend. She noted that it involved a lot of exciting activities, including people in period dress.

Town Administrator Semmes reported that the pavement core sampling was underway. She noted that this would be used to help with the crosswalk project.

Town Administrator Semmes reported that the traffic calming improvements at Gilberts Corner have been delayed. She noted that the plan was to do some immediate work to improve the north-south traffic flows.

There being no further business, a motion was made and approved to adjourn the meeting at 7:48 p.m.

APPROVED:

Betsy A. Davis, MAYOR

ATTEST:

Rhonda S. North, MMC, Town Clerk