



MIDDLEBURG TOWN COUNCIL
Monthly Work Session
Thursday, April 23, 2009
Town Office, 10 W. Marshall Street



6:00 p.m.

PENDING APPROVAL

PRESENT: Mayor Betsy A. Davis
Vice Mayor Darlene Kirk (arrived late)
Councilmember Trowbridge Littleton
Councilmember Catherine "Bundles" Murdock
Councilmember Lisa Patterson
Councilmember Judith Pryor Plescow
Councilmember Mark Snyder

STAFF: Jerry M. Schiro, Town Administrator
Rhonda S. North, MMC, Town Clerk
Elizabeth D. Whiting, Town Attorney
Cindy C. Pearson, Economic Development Coordinator

ABSENT: Councilmember Kathy Jo Shea

The Town Council of the Town of Middleburg, Virginia held a public hearing and their regular work session on Thursday, April 23, 2009 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Mayor Davis opened the public hearing at 6:00 p.m.

PUBLIC HEARING

Public Hearing – Zoning Map Amendment 09-01 – 100 W. Marshall Street – Nina Ramsey

Town Administrator Schiro advised Council that this request was for a rezoning at 100 West Marshall Street, as well as the adjacent parcel to the north. He explained that the property was currently zoned R-3 Residential; and, the applicant was asking for a C-1 Commercial designation. Mr. Schiro noted that the Council's agenda contained the details of the request. He advised Council that the Planning Commission has recommended approval of the request. Mr. Schiro reminded Council that they initiated a similar rezoning several years ago; however, the property owner chose not to pursue it at that time. He advised that the rezoning was in compliance with the Town's Comprehensive Plan.

No one spoke and the public hearing was closed.

REGULAR MEETING

Action Items

Council Approval - Zoning Map Amendment 09-01 –100 W. Marshall Street – Nina Ramsey

Councilmember Snyder moved, seconded by Councilmember Littleton, that Council adopt an ordinance approving Zoning Map Amendment 09-01 for Nina B. Ramsey, by Jimmy Ramsey, for property known as 100 West Marshall Street and a vacant parcel immediately adjacent thereto.

Vote: Yes – Councilmembers Littleton, Murdock, Patterson, Plescow and Snyder
No – N/A
Abstain: N/A
Absent: Councilmembers Shea and Kirk
(Mayor Davis did not vote as there was no tie to require her vote)

Council Approval – Identity Theft Protection Policy

Town Attorney Whiting advised Council that she would send an electronic copy of the document that eliminated the underlining. Councilmember Snyder noted that the Town Attorney made all the changes requested by Council.

Councilmember Murdock moved, seconded by Councilmember Snyder, that Council adopt a resolution approving an Identity Theft Protection Program for the Town of Middleburg.

Vote: Yes – Councilmembers Littleton, Murdock, Patterson, Plescow and Snyder
No – N/A
Abstain: N/A
Absent: Councilmembers Shea and Kirk
(Mayor Davis did not vote as there was no tie to require her vote)

Council Discussion – Request for support for federal housing tax credit application –
Llewellyn Village Apartments

Town Administrator Schiro explained that this request solicited support from the Town, in the form of documents, in order to acquire State tax credits to renovate the Llewellyn Village Apartments. Councilmember Murdock asked when the apartments were built. Councilmember Littleton expressed his opinion that they were constructed in the late 1980’s or early 1990’s; and, noted that they were constructed around the same time as the Federal Towers. Town Attorney Whiting noted that the Windy Hill Road was upgraded during this same period; and, reminded Council that the Town sought condemnation against one of the landowners for right-of-way. (Vice Mayor Kirk arrived at the meeting at 6:07 p.m.) Councilmember Snyder noted that he campaigned in these apartments in 1996 and 1998; and, advised that they needed serious maintenance at that time. Town Administrator Schiro explained that the applicant was asking that the Town provide letters; and, noted that one of the letters would certify that the area was blighted and deteriorated. He advised that he wanted Council to understand that he would be certifying this in order to get the tax credits. Councilmember Snyder noted that the apartments had received approximately twenty years of use; and, suggested it was time to replace them. Mayor Davis asked whether the Council needed to vote on this matter. Town Administrator Schiro confirmed they did not; and, explained that he just wanted them to see what he would be executing. Council agreed they had no problems with the request.

Closed Session – Consultation with Legal Counsel

Councilmember Murdock moved, seconded by Vice Mayor Kirk, that the Middleburg Town Council convene in closed session pursuant to Virginia Code Section 2.2-3711(A)(7) for consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, regarding the performance of a contract between the Town and Salamander Development, LLC, and thereafter reconvene in open session for action as appropriate.

Vote: Yes – Councilmembers Kirk, Littleton, Murdock, Patterson, Plescow and Snyder
No – N/A
Abstain: N/A
Absent: Councilmember Shea
(Mayor Davis did not vote as there was no tie to require her vote)

Following the closed session, Mayor Davis asked the members of Council to certify that (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. All members of Council so certified. (Town Attorney Whiting left the meeting at 6:58 p.m.)

Council Discussion - FY '10 Budget

Councilmember Snyder expressed his opinion that the revenue summary page was very nice. He asked whether the staff was comfortable that the Town could meet the projections for the meals and lodging taxes; and, noted that he was nervous. Town Administrator Schiro expressed his opinion that this was a legitimate concern; and, noted that he has a similar concern regarding the real estate tax revenue. Councilmember Snyder advised that the other area of risk he saw was the parking meter receipts. He suggested this was optimistic. Mr. Snyder reminded Council that the FY '09 budget projected \$65,000; and, that the Town had only received a little over \$30,000 year-to-date. Mr. Snyder noted that the FY '10 projections were for \$60,000; and, expressed hope that this would occur. Vice Mayor Kirk asked whether the police officers were still walking the streets; and, noted that motorists tend to feed the meter more when this occurred. Town Administrator Schiro reminded Council that the draft budget eliminated \$112,000 from the General Fund.

Councilmember Snyder expressed his feelings that the proposed Administration Budget was good. He noted that this budget was hard on the Town Administrator, not the Council. Vice Mayor Kirk noted that the budget was tight; however, she advised that when she looked at some of the salaries, such as the Town Clerk's, she had a lot of questions. She noted that the Town Clerk worked hard and was present all the time. Mayor Davis asked how many hours the Town Clerk worked per week. Town Clerk North advised Council that she worked an average of thirty-five hours per week. Councilmember Murdock noted that the issues related to part-time employees are benefits such as vacation. Mayor Davis reminded Council that those issues have been resolved for the Town Clerk's position.

Town Administrator Schiro noted that nothing has been proposed to change under the Building Expense Budget. Vice Mayor Kirk expressed concern that the proposed heating expenditures were low. She noted that fuel costs were increasing. Councilmember Snyder and Mayor Davis noted that the Town only spent \$791 in 2008 when fuel costs were high.

Town Administrator Schiro advised Council that the purchase of a police car was eliminated from the Public Safety Budget. He further advised that the budget included the second lease payment for the car that was purchased in this fiscal year. Mayor Davis reminded Council that the goal was to put this purchase back into the budget in a couple of years. Councilmember Snyder reminded Council that if the Town lost a police officer, he would like to consider holding off on filling the position. He noted that there was no reason to start with this elimination; and, suggested the Town should go into the budget fully staffed. Vice Mayor Kirk noted that the Police Chief was very concerned about this proposal; and, explained that he believed that during

tough economic times, the Police Department needed to be at full force. Councilmember Patterson advised Council that she would not support not filling the position if one of the officers were lost. Councilmember Snyder advised Council that he would also not support this unless the budget dictated otherwise. He noted that he would be willing to look at other things.

Vice Mayor Kirk asked whether the Town was receiving a decent price for fuel from Middleburg Exxon; and, noted that the Town was supposed to get a price break. Town Administrator Schiro advised Council that the Police Chief has talked about working out a deal with the Fire Department to use their fuel pumping station. Mayor Davis asked whether it was possible for the Town to have its own gas pump. Councilmember Snyder reminded Council that the Town had one at one time; however, it was eliminated due to the risk of leaks. He noted that this was a DEQ driven decision. Mr. Snyder expressed his opinion that the Town could have an above ground fuel storage tank; however, he noted that it must cover the risk, which was expensive. Mayor Davis reminded Council that the Fire Department had an above ground storage tank. Town Administrator Schiro expressed his opinion that the Town could probably have its own tank. Mayor Davis suggested the staff check with Morgan Oil; and, advised that if the gas were purchased from them, they would probably provide the storage tank. Councilmember Littleton reminded Council that Middleburg Exxon also handled the Town's vehicle maintenance when needed. Vice Mayor Kirk reiterated that the Town used to receive a price break on the fuel. Councilmember Littleton expressed his opinion that Middleburg Exxon was not making a great deal of money on the purchases. Councilmember Murdock noted that Middleburg Exxon did assist residents when needed. Mayor Davis asked whether the Town had an agreement with the Fire Department that would allow the police officers to get gas at night if needed. Town Administrator Schiro confirmed that he was not aware of such an agreement. He expressed hope that they would assist the Town in an emergency. Mayor Davis noted that this was her concern. Councilmember Murdock reminded Council that the officers were at the Middleburg Exxon each night at closing. Town Administrator Schiro reminded Council that there were a lot of regulatory requirements that must be met with regard to storage tanks. Councilmember Littleton suggested the Police Chief talk to the Fire Department about using their pump in an emergency.

Town Administrator Schiro reminded Council that not much was changed in the Street Budget, with the exception of the Street Superintendent's salary. He explained that a portion of his salary has been reallocated to the Health Center Budget. Mr. Schiro confirmed that the Superintendent was not proposed to experience a loss of pay. He reminded Council that the proposed budget also split the Town's Treasurer's salary between the General Fund and the Utility Fund. Vice Mayor Kirk asked why the \$8,000 for the fire/rescue state pass through funds was included in the Street Budget. Town Administrator Schiro reminded Council that this was for the State pass through funds; and, suggested that it didn't matter where they were located as they would just pass through the Town's budget. He noted that these funds were in this budget when he arrived at the Town; and, he simply left them there.

Town Administrator Schiro advised Council that the special projects have been eliminated from the Planning/Zoning Budget. He noted that he has also proposed to reduce the engineering and legal expenses. Mr. Schiro advised Council that the review fees were shown as revenue to off-set expenditures. Councilmember Snyder expressed his opinion that this was reasonably prudent. He noted that he did not see the Planning & Zoning costs increasing, as he didn't see a lot of development occurring.

Councilmember Murdock advised Council that she would like to see the rent and tax expenses go away from the Pink Box Budget; and, noted that they were \$10,000 per year.

Councilmember Snyder asked why the contingency reserve was proposed to decrease in the Health Center Budget to \$1,300. Town Administrator Schiro explained that it was based upon a reduction in income, such as interest and rents. He noted that some of the maintenance expenses were also down. Mr. Schiro explained that the contingency reserve number was what was left to balance the budget. Councilmember Snyder reminded Council that, traditionally, the Health Center Fund has had a relatively large contingency fund; and, noted that this has disappeared. Mayor Davis reminded Council that in the past, the donations from the Health Center Fund totaled \$15,000. She noted that last year the amount returned to \$30,000; and, was kept at this level this year. Ms. Davis reminded Council that the Town was supposed to be giving away as much as it could from this fund. Councilmember Snyder expressed concern that this contingency amount was cutting it close. He questioned whether the Town could afford to make \$30,000 worth of donations. Vice Mayor Kirk suggested the Council may need to make mid-year adjustments to the budget. Councilmember Snyder agreed that he was okay with the contingency as long as mid-year adjustments could be made if necessary.

Town Administrator Schiro reminded Council that the Utilities Budget included a six percent (6%) increase in user's fees, as well as an increase in the availability fees. He noted that the proposed budget also included Salamander reimbursements of \$50,000. Mr. Schiro advised Council that the issue of reimbursements was up for review. Vice Mayor Kirk asked whether the water tower leases were current. Town Administrator Schiro confirmed that two of the leases were now month-to-month. He further confirmed that the collections were current. Councilmember Snyder asked whether the Town was up to date on the maintenance of the water towers. Town Administrator Schiro confirmed it was. Mayor Davis noted that Salamander would use the system for heating and cooling when the resort came on line. Town Administrator Schiro confirmed they would. Councilmember Snyder suggested the Town could establish a construction rate for town water if necessary. Council agreed it was okay with the utility revenues as projected.

Councilmember Snyder asked for a comparison of the water and sewer expenditures based upon last year's employee cost versus the proposed budget using Loudoun Water. Town Administrator Schiro presented a chart comparing the salaries and benefits, overtime cost and money spent for the ESS contract with the projected cost for Loudoun Water. Vice Mayor Kirk expressed her opinion that the estimate for the Loudoun Water contract was not true. Town Administrator Schiro confirmed it would increase. Vice Mayor Kirk reminded Council that the Town received a bill from Loudoun Water each month. She noted that the third month's bill was for \$4,200; and, asked whether checks of a certain amount should be approved by Council. Mayor Davis reminded Council that part of the \$4,200 was for the payment of employee benefits, which the Council did approve. Town Administrator Schiro reminded them that this was approved as a part of the mid-year budget transfer. He advised that the Loudoun Water invoice for January included some review costs for the SCADA system, as well as the sewer back-up costs for Federal Street. Mr. Schiro noted that the Loudoun Water bills were broken out each month to include water and sewer plant operational costs and line maintenance costs. He reiterated that they were also reviewing the submittals for the new treatment plants; and, advised that those charges were broken out separately. Mr. Schiro advised Council that some of these costs were in Loudoun Water's \$190,000 estimate; and, noted that some of the engineering costs would be interchangeable. He expressed his opinion that the Town would have to do a mid-year budget amendment once the new treatment plants were on-line. Councilmember Murdock asked about the period covered by the chart. Town Administrator Schiro confirmed it included the 2008 salaries and what the Town was spending. He reminded Council that nothing was shown for unemployment costs previously, as the Town was not breaking those costs out throughout the budget in 2007. Vice Mayor Kirk asked whether the Loudoun Water cost was a finite number. Town Administrator Schiro confirmed the Loudoun Water billings were based on hourly rates.

Councilmember Snyder expressed concern regarding the Town's utility debt service. He asked when this debt would start to decrease. Town Administrator Schiro advised Council that a lot of the loans were long-term; and, reminded them that the Town restructured its debt two years ago. He noted that for the first two years, the Town was only paying interest, where it was now paying interest and principle. Councilmember Snyder noted that the year-to-date cost was \$185,000. Town Administrator Schiro reminded Council of the mid-year budget amendment. He noted that when the Town restructured its debt service, it had one bond outstanding with the Virginia Resource Authority that was not included in the restructure due to the interest rate. He advised that this bond payment was left out of the budget; and, a mid-year adjustment was approved to add it back. Councilmember Murdock inquired as to the interest rate the Town was paying; and, questioned whether a better rate could be received due to the stimulus funds. Town Administrator Schiro confirmed it was 3-4%, which was a good rate.

Town Administrator Schiro advised Council that the Utility Fund was balanced with a contingency of \$53,000. Councilmember Snyder noted that the sewer testing expenses were proposed to increase from \$7,500 to \$20,000; and, asked whether this was the result of the new treatment plant. Town Administrator Schiro confirmed that some of the costs were related to the new plant and some were the result of new DEQ regulations. Councilmember Snyder asked why a decrease was proposed for the sludge removal costs. Town Administrator Schiro expressed his opinion that there should not be as much sludge as the result of the new plant.

Councilmember Snyder advised Council that the draft ordinance to increase the rate for the cigarette tax showed different rates when comparing the written and numerical figures. Town Administrator Schiro confirmed the proposal was to increase the tax rate to fifty-five cents; and, noted that this was a typographical error. Councilmember Snyder commended the Town Administrator on the proposed budget.

Councilmember Murdock asked whether the real estate taxes for the Salamander land was supposed to change. Town Administrator Schiro confirmed the Town Planner has made an inquiry with the County. Mayor Davis noted that if this occurred, Salamander would owe back taxes. Councilmember Patterson noted that the County could collect back taxes for three years.

Mayor Davis asked whether the Council was ready to advertise the budget for public hearing. Council confirmed it was. Town Clerk North advised Council that due to the advertising requirements associated with the rate fee increases, the public hearing could not be advertised for the regular meeting in May. She suggested it may be possible to advertise it for the work session in May. Mayor Davis asked that the staff move forward with the advertisement. She thanked the Town Administrator for his hard work.

Council Discussion – Reward Program – Promotion of Public Safety

Town Administrator Schiro reminded Council that they asked for information regarding this program; and, advised that the Town Clerk found a copy of the enacting ordinance. It was noted that Councilmember Murdock wrote the first check for the program. Town Administrator Schiro confirmed the staff was setting up the program. Councilmember Murdock challenged the members of the community, including the Council, to contribute to the program regardless of the amount, even if it were only one dollar. Mayor Davis asked whether the checks should be written to the Town of Middleburg. She also asked whether the donations were tax deductible. Town Administrator Schiro confirmed the checks should be written to the Town; and, noted that a separate account was being opened for this purpose. He suggested that individuals check with their accountants to determine whether the contributions were tax deductible.

Discussion

Mayor Davis reminded Council that the issue of the closing of the Middleburg Elementary School has been resolved. She noted that School Superintendent Hatrick has written a letter confirming he would no longer propose the closure. Ms. Davis also noted the letter from Senator Jill Holtzman-Vogel supporting the school.

Mayor Davis reminded Council that she was on the Route 50 Traffic Calming Committee. She further reminded them that there was no money available; therefore nothing was planned for Middleburg. Ms. Davis advised Council that she has repeatedly said that if money were to appear, the only thing she would like to see was that both entrances be improved; however, an individual on the Committee was talking about the dual highway. She reminded Council that the original plans called for the elimination of the dual highway; however, she advised that she personally liked it. Vice Mayor Kirk agreed. Mayor Davis reminded Council that prior to the construction of the dual highway, there were major accidents on this section of the road; and, noted that when the dual lanes were installed, they helped tremendously. She expressed concern about what could happen if a horse trailer were turning west onto Route 50 from Zulla Road. Councilmember Littleton noted that motorists who have been sitting in traffic pass in this area. Mayor Davis expressed her opinion that there was less road rage because of the dual highways. Councilmember Littleton agreed the situation used to be horrible. Councilmember Patterson disagreed; and, noted that she has almost been hit because people want to go around vehicles that are in the left lane to make the turn. She noted that their speeds were 55 mph before they reached the outside of the corporate limits because they were trying to pass. Mayor Davis asked Councilmember Patterson whether she believed the situation would be worse if the double lanes were removed. Councilmember Patterson expressed her opinion that motorists would not pass on a double yellow line. Mayor Davis expressed her opinion that they would; and, noted that they do so now. Councilmembers Littleton and Snyder confirmed they have witnessed motorists passing on double yellow lines. Councilmember Patterson advised Council that she used to live on this corner; and, suggested there were accidents because of the four lanes. Mayor Davis noted that there were even more accidents before they were installed. Councilmember Snyder expressed his opinion that, instead of going 50-60 mph, motorists were going 80 mph. Vice Mayor Kirk noted that, at one time, there was discussion about trading the lanes part way through this stretch. She suggested that if motorists were speeding and had to switch lanes, there would be accidents. Councilmember Patterson suggested the other lane be turned into a local lane for use by residents turning onto Route 50. She noted that there was no plan to eliminate the lanes – they were simply to become local roads. Mayor Davis reiterated that there was a lot of traffic coming from Zulla Road. She asked for Council's guidance in presenting the Town's position before the Committee. Ms. Davis reiterated that nothing would happen anytime soon as there was no money; however, she advised that there has been some discussion of closing the lanes through striping. Councilmember Patterson advised Council that she would be opposed to this; and, noted that whatever changes were made needed to be done correctly. Councilmember Snyder suggested the Committee come back to the Council when they were ready to fund an improvement. He suggested that until that occurred, the road should be left as is. Councilmember Murdock agreed the road should be left as is; and, suggested that any money that became available should be used toward improvements to the Town's entrances. Councilmember Patterson noted that she would prefer that any money be used to install a traffic light at the intersection with the Fire Department.

Mayor Davis advised Council that she received an e-mail from Bob Lazaro, Mayor of Purcellville, regarding the Habitat for Humanity house that was being constructed in the St. Louis area. She explained that Mayor Lazaro noted that the Purcellville Town Council has agreed to dedicate a day toward construction; and, has challenged other localities to do the same. Ms. Davis further explained that he was also encouraging the use of the new Restore, which was a

second chance store for home building materials. She reiterated that Mayor Lazaro has challenged the Council to take a day to construct a house; and, advised that if anyone was interested in doing so, she would ask him to keep her posted on the project.

Vice Mayor Kirk noted that the reason she was late for the meeting was that a citizen, Patricia Thomas, stopped her. She advised Council that Ms. Thomas was pleased with her chat with the Town Administrator; however, she did raise the issue of the portable toilet that was still in public view. Town Administrator Schiro confirmed he would look into that situation.

Councilmember Patterson advised Council that she has spoken with Punkin Lee, of the Middleburg Beautification Committee, regarding the tree planting for Arbor Day. She noted that Ms. Lee believed it was too muddy to do the planting; and, advised that they would instead have a demonstration tree available for the day. Ms. Patterson noted that the Beautification Committee would have a tree spade available for the actual planting; and, advised that if Salamander were willing, the spade could be used to move some of the trees from the Committee's arboretum to Salamander's property. She reiterated that if Salamander could use the trees, the Beautification Committee has offered them. Town Administrator Schiro reminded Council that this could not occur unless Salamander approved it.

Mayor Davis asked about the status of the replacement tree beside the Red Fox Inn. Town Administrator Schiro confirmed the Beautification Committee was supposed to plant a replacement tree. Economic Development Coordinator Pearson explained that they were having trouble finding a properly sized tree given the location constraints. Mayor Davis asked whether the tree would be replaced on the other side of the street. Town Administrator Schiro confirmed this could be done. Economic Development Coordinator Pearson advised Council that she would raise this matter with the Streetscape Committee.

Councilmember Murdock inquired about the details of the Arbor Day program. Economic Development Coordinator Pearson confirmed the ceremony would start at 9:00 a.m. She noted that the Mayor would welcome the guests and read the Arbor Day proclamation. Ms. Pearson advised that she was not sure who was presenting the Tree City USA award. She expressed her opinion that the ceremony would only last twenty minutes. Vice Mayor Kirk noted that she had fourteen small shrubs available if anyone wanted them.

Councilmember Patterson advised Council that there have been a lot of questions from the merchants about the way finding sign that was utilized on Liberty Street, next to the Emmanuel Episcopal Church. Mayor Davis reminded Council that this sign was only supposed to be temporary; and, was supposed to be removed. Councilmember Patterson noted that her business paid \$75 to have its name placed on the sign; and, advised that she was not told it was temporary. She reiterated that the merchants were concerned about way finding signs; and, have asked why they did not exist. Mayor Davis reminded Council of the fox directional signs. Councilmember Patterson noted that some of those signs have been stolen. She reiterated that she was hearing concerns about the lack of way finding signs. Mayor Davis reminded Council that the Town produced a way finding map; and, noted that she kept copies in her store for distribution. She asked whether the other stores also had copies for distribution. Councilmember Patterson expressed her opinion that the merchants would like to see information provided through the use of a kiosk. Mayor Davis noted that the Town has used shadow boxes in the past. Vice Mayor Kirk reminded Council that the Town had the stand built on Pendleton Street, beside the Safeway, to house the newspaper boxes. She expressed an understanding that businesses were hurting; however, she noted that the signs on the streets were making it difficult for pedestrians to access the sidewalks. Councilmember Patterson noted that part of the challenge to way finding signs was the Town's historic district and sign ordinances that do not allow names to be added. She noted that the HDRC refused to let individual businesses brand on these signs; and, required the

use of the same font. Ms. Patterson expressed an understanding of their position; however, she asked, if a business were allowed to brand itself on its business sign, why it should not be allowed to brand on another sign. She noted the need to stay historic; however, she suggested this was something that needed to be discussed. Councilmember Murdock asked who would undertake such a project. Councilmember Patterson suggested the Economic Development Coordinator, in conjunction with the Middleburg Business and Professional Association, should prepare a proposal. She agreed it would be nice to eliminate the a-frame signs as they were in the way of pedestrians; and, were expensive to maintain.

There being no further business, the Council moved to adjourn the meeting at 7:42 p.m.

APPROVED:

Betsy A. Davis, MAYOR

ATTEST:

Rhonda S. North, MMC, Town Clerk