



MIDDLEBURG TOWN COUNCIL
Regular Monthly Meeting Agenda
Thursday, January 8, 2009
Town Office, 10 W. Marshall Street
6:00 PM



REGULAR MONTHLY MEETING

PRESENT: Mayor Betsy A. Davis
Councilmember Trowbridge Littleton
Councilmember Catherine "Bundles" Murdock
Councilmember Lisa Patterson
Councilmember Judith Pryor Plescow
Councilmember Kathy Jo Shea
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
Steven Webber, Chief of Police
David M. Beniamino, Town Planner
Debbie J. Wheeler, Town Treasurer
N. Phil DeLeon, Town Engineer

ABSENT: Vice Mayor Darlene Kirk

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting on Thursday, January 8, 2009 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Mayor Davis called the meeting to order at 6:00 p.m. She led Council and those attending in the Pledge of Allegiance to the flag.

Public Comment

Martha Cotter, of Middleburg Downs, advised Council that the FY '10 school budget that was being offered by the Loudoun County School Superintendent included proposed cuts of 5%, 10% & 15%. She noted that at 10% and above, the Middleburg Elementary School would be closed. Ms. Cotter reminded Council of the previous agreement that no school would be closed without a year's notice; however, she explained that no notice would be needed since this was a budgetary issue. She noted that Council has always been supportive of the Middleburg Elementary School; and, advised that she would keep them informed of the status of the school. Ms. Cotter expressed appreciation for any assistance the Town could offer.

George Lengauer, 22 Chinn Lane, appeared before Council representing Seven Loaves to express appreciation for the Town's generous gift. He reminded them that Seven Loaves was an entirely volunteer organization that was supported by other local organizations, churches and individuals. Mr. Lengauer advised Council that in 2008, eight hundred eleven families visited Seven Loaves, with over two hundred thousand pounds of food being distributed. He noted that these families represented three thousand one hundred ninety-three people. Mr. Lengauer advised Council that over the years, he has found it to be rewarding to volunteer as people have thanked him, blessed him and prayed for him. He extended these same thanks, blessings and prayers to the Council on behalf of the Seven Loaves' patrons.

Eura H. Lewis, 116 N. Madison Street, appeared before Council regarding three items of concern. She advised that the first issue was related to the construction on Washington Street (Chinn's Crossing Project); and, questioned whether the building being constructed was within the thirty-five foot height requirement. Ms. Lewis expressed her opinion that the building appeared to be higher when compared to the adjacent buildings. She also questioned the exterior materials for the building.

Ms. Lewis advised Council that her second concern was related to her vision for a museum in the town. She reminded them that there has previously been discussion of using the Asbury Church building for the museum; however, she expressed her opinion that this would not occur as the renovation would be too expensive. Ms. Lewis noted that she would like to see the church registered as an historical building. She advised Council that she has been doing research and collecting historical items for a museum. Ms. Lewis displayed photographs of former Police Chief Craun, Jerry Wanzer's Blacksmith Shop and the Hollywood Theater. She expressed her opinion that a museum was a necessity; and, requested Council's assistance in finding a suitable location.

Ms. Lewis advised Council that her third concern was the result of a visit to the Town Hall for the Christmas in Middleburg event, during which time members of the Loudoun County Visitors Association asked about the meaning of the Latin phrase (once and always) on the Town seal. She requested permission to donate a gold plaque that could be placed under the Town seal, which would contain the translation.

Ms. Lewis advised Council that she read their draft Rules of Procedure; and from her reading, she would not be able to appear before Council again to discuss the museum for three months. She noted that she has obtained news articles from 1982 about the town; and, was continuing to gather materials for the museum. Ms. Lewis reiterated her request for Council's assistance in finding a location.

Mayor Davis expressed appreciation for Seven Loaves and its volunteers; and, noted that the Council found it easy to donate money to them as they desperately needed assistance. Mr. Lengauer reiterated that they have experienced significant increases in the number of people seeking assistance; however, he noted that food was not the only thing they needed. He explained that most food pantries are taken care of by large food banks such as the Blue Ridge Food Bank Network; and, advised that by purchasing food through them, Seven Loaves can make each \$1 go four to five times further. Mr. Lengauer advised Council that they don't like to go to market to purchase food unless they are in dire straits, which they had to do this year. He expressed his opinion that it was nice to know that they have the funds if necessity dictates a supplement beyond the Blue Ridge Food Bank.

Mayor Davis advised Ms. Lewis that the Town was hoping to secure Preserve America grant money that could be used toward the development of a museum at the Asbury Church. She advised that the staff would keep Ms. Lewis informed on their progress. Ms. Davis expressed her opinion that the donation of a gold plaque would be a lovely gift.

Councilmember Murdock asked whether she understood Ms. Cotter correctly that the School Board could close the elementary school without notice. Ms. Cotter expressed her opinion that the School Board may approve an emergency boundary adjustment that would shift the location of the schools the children attend. She suggested this could occur in September. David Quanbeck advised Council that the School Board previously adopted a policy to require a year's notice before closing a school. He advised that according to the School Board's Information Officer, it would only take a majority vote of the School Board to over-rule the current policy.

Mayor Davis noted that the Council was scheduled to discuss a resolution regarding the Middleburg Elementary School under the action item section of the agenda.

Councilmember Murdock advised Council that she met with Mr. Lengauer regarding the development of a victory garden that would provide Seven Loaves with fresh vegetables. She noted that Sally Bolton told her a garden could be farmed ten months of the year. Mr. Lengauer advised Council that the County's Community Action Board was working on the lease of ten acres of land for that purpose; and, advised Council that fresh produce was always welcome.

Councilmember Murdock thanked Ms. Lewis for her work on the museum.

Approval of Minutes

Councilmember Snyder moved, seconded by Councilmember Littleton, that Council approve the December 8, 2008 Work Session and December 11, 2008 Regular Meeting minutes as amended.

Vote: Yes – Councilmembers Littleton, Murdock, Patterson, Plescow, Shea and Snyder

No – N/A

Abstain: N/A

Absent: Vice Mayor Kirk

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

Staff Reports

Town Administrator Schiro reported the Loudoun Water agreement was complete. He noted that the January newsletter included an after-hours call number for Loudoun Water; and, advised that the after-hours service had a call list of on-call employees. Mr. Schiro advised that Messrs. Garrett and Gartrell were the first two individuals on the call list.

Town Administrator Schiro reported the contractors were back working on the treatment plant projects; and, advised that a revised schedule for the construction of the water and wastewater plants was on Council's desk. He noted that they were now projected for completion in September. Mr. Schiro expressed concern that they have not allowed for enough time; and, suggested they did not understand how involved the Department of Environmental Quality (DEQ) would be in closing the existing wastewater plant and opening the new one. He reminded Council that in order to charge and test the new plant, the Town must channel effluent from the existing one into the new plant. Mr. Schiro noted that the Town's permit only allows for one discharge; and, advised that this would take coordination. He reiterated that he would be surprised if this could be completed by September. Mr. Schiro advised Council that there were issues with the wastewater treatment package; and, explained that the membrane manufacturer has changed the design, which could affect the plant building's design. He reminded Council that the membrane treatment process was elaborate; and, noted that only certain manufacturers specialize in this design. Mr. Schiro reiterated his concern that the design changes may slow progress on the plant. Councilmember Snyder asked whether the Town was reviewing the changes. Mr. Schiro confirmed the staff was; and, explained that this was the reason for his concern. He advised Council that the water treatment plant project was on schedule, with the only issue being electrical. Mr. Schiro reminded them of the requirement to bury the electric lines coming off Stonewall Drive; and, noted that there was a question related to the easements, which the Town Engineer was working on. He reminded Council that the Supervisory Control and Data Acquisition (SCADA) controls for the plant must be built to Loudoun Water standards; and, advised that they would be meeting next week to review the proposed SCADA design.

Mayor Davis asked whether there were any options to advance the progress of the wastewater treatment plant. Town Administrator Schiro confirmed there was not; and, explained that there were a limited number of manufacturers who produce this technology. He expressed optimism that the design changes may not affect the plant. Councilmember Snyder reminded Council that Loudoun Water constructed a wastewater treatment plant using this same technology a year ago. He questioned whether it could be used as a basis for the Town's plant. Town Administrator Schiro confirmed the plant was on-line; however, he reminded Council that the Town's plant was smaller. He advised Council that he didn't understand all of the technology; however, he understood that the manufacturers learn from each system that is installed and tweak the technology. Mr. Schiro confirmed that Salamander had no control over the design changes.

Town Administrator Schiro reported that the Virginia Department of Transportation (VDOT) has issued the permits for the Marshall Street Water Line Replacement Project; and, noted that a pre-construction meeting was scheduled for next week.

Town Administrator Schiro reported that the Town Engineer has prepared an information packet of projects that have been identified as being shovel-ready that could be submitted for consideration for the federal economic stimulus monies that may become available. He noted that a more elaborate packet was available for the Governor's Office, as well as for the Town's federal representatives. Councilmember Snyder asked whether this submission would be coordinated with Loudoun County. Town Administrator Schiro expressed concern that the Town's projects may get lost if they were submitted as a part of the County's package. He suggested it would be better to submit the Town's list independently. Councilmember Snyder recommended the staff notify Loudoun County of what Middleburg was requesting. Town Engineer DeLeon advised Council that most of the County's requests were related to the Brambleton Public Safety building and school and highway projects. Councilmember Snyder noted that Loudoun County was coordinating their request with the Town of Hamilton for their water system. Town Engineer DeLeon noted that the Hamilton system was already funded and under construction. He recommended sending Loudoun County a copy of the materials with a note indicating that these were the items for which the Town was seeking funding. Mr. DeLeon noted that he tried to identify those items that would be beneficial to Middleburg. Councilmember Snyder agreed; and, recommended that an information packet be sent to the County. Town Administrator Schiro confirmed he would copy the County Administrator on his correspondence. Town Engineer DeLeon explained that he tried to identify projects that the Council has talked about in the past, such as houses that are not on public sewer and replacing two-inch lines. He noted that these were dire needs for the Town for which funding was not available; and, advised that they would not take long to get bid ready. Councilmember Snyder expressed his opinion that the identified projects were great examples; and, noted that they were projects the Town has been looking at and struggling to fund each year. Town Engineer DeLeon expressed his opinion that the list would be better received since it contained projects the Council has discussed in the past. He advised Council that he included conceptual plans, including the Marshall/Madison Street Pedestrian Intersection Project which was still not fully funded. Councilmember Snyder expressed his opinion that the items on the list were sorely needed. Councilmember Shea expressed her opinion that the Town Engineer did a good job of identifying projects. Town Engineer DeLeon noted that he did not include a copy of the sidewalk plan in Council's information packet since they recently received a copy.

Councilmember Murdock inquired as to how long the delay would be for bringing the new wastewater treatment plant on line. Town Administrator Schiro advised Council that he received the impression that Salamander did not believe DEQ would be involved in the transfer; and, advised that his experience was the opposite. Town Engineer DeLeon confirmed DEQ would be there to monitor the start-up. Town Administrator Schiro reminded Council that the Salamander Inn would be ready to open in March; however, the plant may not be ready. He reiterated that the

critical component was the membrane package and whether the plant's footprint must be expanded to handle the new technology. Mr. Schiro advised Council that Salamander was aware of the issues; and, suggested that if they could get them resolved within the next couple of weeks and if they had a good construction season, there may not be a problem. Councilmember Snyder noted there was always a risk in the schedule, particularly the risk associated with the existing wastewater treatment plant. He expressed fear that the Town may need to put money into the old plant because the new one could not be brought on-line soon enough.

Councilmember Murdock asked how the residents would be affected if money became available to allow them to connect to the Town's sewer system. Town Administrator Schiro reminded Council that they have mandated connection when the properties are sold. He noted that the problem was that some areas of Town didn't have service mains available that would allow for connection; and, advised that the economic stimulus funding could assist in making those lines available. Town Engineer DeLeon noted that he included the cost of the service laterals in the estimate. Town Administrator Schiro noted that the residents would then have a quarterly utility bill. He reminded Council that this was one of their priorities.

Councilmember Patterson asked whether there has been a response from VDOT regarding the wall at the Federal/Madison Street intersection. Town Administrator Schiro confirmed nothing had occurred as VDOT had been dealing with weather-related issues. He noted that Tony Jenkins of VDOT was pretty responsive. Town Engineer DeLeon reminded Council that the Town prepared a conceptual plan for curb and sidewalk on Federal Street; and, noted that he included funding for the two corners at Madison Street should stimulus money become available.

Chief of Police Webber introduced Owen Heine, the new police officer who came to Middleburg from the Shenandoah County Sheriff's Department. The Council welcomed Officer Heine.

Mayor Davis inquired as to the status of the Town's entrance signs. Economic Development Coordinator Pearson reported that Quail Run Signs was working on their installation; and, noted that they would have been completed today if not for the storm delay. She advised Council that the old signs had been removed; and, the new ones were ready for installation. Mayor Davis inquired as to the status of the solar lights for the signs. Ms. Pearson confirmed the staff would look into those once the sign installations were complete.

Town Planner Beniamino noted that his written report was the same as the previous month's as the board/commission meetings for December were cancelled. He further noted that there was no HDRC meeting in January due to the lack of applications. Mr. Beniamino reported that the members would meet sometime in the month to elect members to the sub-committee on signs. He advised that a number of individuals have made inquiries related to the rehabilitation of properties; however, no applications have been received.

Councilmember Murdock questioned whether it was correct that the Town's meals and lodging tax revenue was down by 8.5% last year. Councilmember Patterson confirmed this figure was for the month of November only; and, opined that the month of December would be worse. Town Administrator Schiro reminded Council that the information in the Treasurer's Report were the mid-year figures; and, expressed his opinion that the Town was in good shape. He noted the need to make changes mid-year, particularly in the utility accounts. Mr. Schiro advised that he planned to identify those areas that required a line item transfer for Council's consideration. Councilmember Snyder requested the transfers be reviewed during the January 22nd work session. Councilmember Murdock noted the State was considering increasing the cigarette tax rate. She inquired as to the tax rate. Town Administrator Schiro confirmed the Town's tax rate was \$.50 per pack. Councilmember Snyder noted the State was proposing to raise their rate to \$.60 per pack.

Town Attorney Whiting reported that the Town Administrator and Town Clerk alerted her to an Attorney General's opinion that arose out of Front Royal related to council members who are appointed by a council to fill a vacancy. She expressed her opinion that there were many things wrong with the opinion; and, that it ignored some areas of law. Ms. Whiting explained that the opinion was essentially a ruling that council members who hold office by vote of the council to fill a vacancy do not have their votes counted on a number of items that are of critical business for a town, including the expenditure of funds greater than \$500. She noted that there are a number of statutes that set a minimum vote at a certain percentage of "elected" members of the governing body. Ms. Whiting noted that this opinion, which was requested by Delegate Athey, has over-ruled prior Attorney General opinions on the same matter. She advised that she has been in discussions with a member of the Virginia Bar who is doing local government work in Richmond, as well as with the Virginia Municipal League (VML) on this matter. Ms. Whiting further advised that Delegate Athey's reported solution was to introduce legislation requiring a special election in the case of a vacancy – a bill which the VML would oppose. She expressed her opinion that a cloud has been created as a result of the Attorney General's opinion; however, her inclination was to say it was just an attorney's opinion. She reminded Council that the State Code currently exempts small towns from holding a special election; and, noted that Middleburg's Charter allowed the Council to make an appointment to fill a vacancy, as did Front Royal's Charter. Ms. Whiting advised Council that she would report to them as this matter progressed. She reiterated that she recommended that the Council treat members by appointment as full members of Council until something more definitive were to arise.

Action Items

Council Approval – Resolution opposing closure of Middleburg Elementary School

Mayor Davis advised Council that the Town Clerk has drafted a resolution for their consideration; and, noted that the old resolution would be attached to the new one.

Councilmember Snyder reminded Council that the Town provided Middleburg Elementary School with free water and sewer. He asked the Town Attorney whether this arrangement could be changed if the use of the building were to change. Mr. Snyder further asked how difficult it would be to cut off the free services. Town Attorney Whiting recommended the Council chart a strategy for doing so. She expressed a recollection that, when approved, the Town made it clear that if the building's use were changed, the Town reserved the right to reconsider the free utilities. Ms. Whiting reminded Council that, at the time, they were concerned about a major expansion that could over burden the Town. She advised Council that she needed to review the records. Councilmember Snyder asked that the Town Attorney commence the review process as a reserve. Councilmember Patterson noted that she spoke with the Town Clerk regarding this matter earlier in the day; and, advised that Ms. North found the file that showed that the Town owned half of the land and the School Board owned the other half. Town Attorney Whiting expressed her opinion that there was an easement in place; and, reiterated that there needed to be some discussions regarding strategies. She reminded Council that the School Board was not free to dispose of its property; and, explained that the Board of Supervisors must be a party to any such discussion. Ms. Whiting expressed her opinion that this would offer the opportunity for dialogue that may protect the Town's interest. Councilmember Snyder advised Council that if the School Board were to close the school, he did not intend to continue to provide free utility services. Councilmember Littleton expressed his opinion that the Council was getting the cart before the horse. Councilmember Snyder explained that he was only seeking knowledge; and, was not advocating change at this time.

Mayor Davis advised Council that the draft resolution talked about the school's strength in terms of longevity and history; and, asked that the Town not have to prove itself every time there was an economic change in the County. She noted that the school has existed in the community for one hundred years, with the community not having changed; and, questioned why the community should keep proving the school's value. Ms. Davis reminded Council that the Town's school-aged population would increase as the result of the Salamander development in the future. She expressed her opinion that there was strength in providing education within the community at an early age; and, noted that this was the only age at which the students did not have to be bused to school for a half an hour or more. Councilmember Snyder suggested the Council wanted the School Board to do whatever was reasonable to keep the school open. Mayor Davis confirmed this was what the resolution said. She expressed her opinion that the cost to operate the Middleburg Elementary School must be less than other larger schools. Councilmember Snyder asked the cost per pupil. Councilmember Patterson advised Council that the Middleburg Elementary School was the most expensive school on a cost-per-pupil basis. Councilmember Shea suggested this would depend upon what was included in calculating the cost. Councilmember Snyder suggested they were not including capital costs. Councilmember Patterson confirmed it depended upon where one took the data. She explained that the budget was not isolated by schools; therefore, it was difficult to get information on specific schools. Ms. Patterson expressed her opinion that the resolution needed to be directed at both the School Board and the Board of Supervisors as the Supervisors were asking for the cuts in the budget. She advised that as much as she was not in favor of closing schools, School Superintendent Hatrick's comments indicated that these cuts would result in a butchering of the school system as the citizens know it; and, would represent a step backwards. Ms. Patterson noted that he was, as was everyone, pushing hard to not have budget cuts; and, advised that Hatrick's recommended FY '10 budget asked for no more local money than has been provided in the past. She reminded Council that Loudoun County has 59,000 students and an \$800 million budget, with \$2.2 million going toward the four schools. Ms. Patterson recommended this money should come from elsewhere before the closing of schools. She recommended the resolution be made stronger and directed toward the right people so the Supervisors could be kept from cutting the school system's funding. Ms. Patterson noted that she would have a child in school next year; therefore, this was important to her on a personal level. She further noted that it was important on a business level as she would lose employees if the school was closed. Ms. Patterson noted that to close the school would result in a loss on so many levels for a small community. Councilmember Shea agreed it would be a social and economic loss.

Councilmember Murdock noted the mention of Salamander in the original resolution; and, recommended it be inserted into the new one. Councilmember Patterson advised Council that the Middleburg Elementary School was projected to experience a 5% increase in population next year. She suggested that with Salamander, there could be another ten students added, which would result in another 12% increase.

Mayor Davis noted that the School Fund had a \$21 million fund balance. She further noted that the cost to operate the four elementary schools was only \$2.2 million. Ms. Davis expressed her opinion that everyone should suffer from the budget cuts, including each of the four schools.

Councilmember Patterson noted that even a 5% cut would result in the loss of 124.4 jobs. She reminded Council that thirty plus positions were lost in the current budget. Ms. Patterson advised Council that the four elementary schools that are proposed for closure are among the top 100 elementary schools in the country; and, noted that only two students did not meet the SOL's at the Middleburg Elementary School. She further noted that the school achieved 95% of its SOLs, which was above the State average. Ms. Patterson expressed frustration at the idea of closing schools that were working. She suggested the resolution needed to support the School Board in their effort to prevent the school closures. Ms. Patterson reiterated that a 5% cut was huge.

Councilmember Murdock asked whether someone from Council should speak at the School Board's public hearing. Councilmember Patterson advised that she would be happy to do so. Councilmember Murdock suggested that rather than using the allotted time to read the resolution, she should speak passionately, hitting the strong points from the resolution.

Mayor Davis asked when the Council wished to adopt the revised resolution. Councilmember Snyder recommended the Council act on the resolution during this meeting. Councilmember Littleton recommended they approve it and authorize Councilmember Patterson and Town Clerk North to tweak it further. Councilmember Snyder agreed. Town Clerk North suggested the Council may wish to consider the adoption of a second resolution that would be directed toward the Board of Supervisors from a funding level standpoint; and, noted that the resolution before Council was directed to the School Board.

Councilmember Patterson recommended a paragraph be added to the resolution to the School Board to indicate the Council was aware of the tier cuts requested by the Board of Supervisors. She also asked that language be included acknowledging that the school's population was growing; and, citing the 5% increase next year, excluding Salamander. Mayor Davis recommended that language be included indicating that this would be a hardship to businesses in Middleburg. Councilmember Shea recommended that it cite the social and economic loss to the Town. Councilmember Snyder agreed. Councilmember Shea recommended the resolution include the SOL statistics on the school; and, noted that many times one hears that small schools don't necessarily mean better education. Councilmember Patterson confirmed that she could get the SOL information from the websites; and, noted that Middleburg knew exactly what child was not passing the SOL test, what the problems were and how they needed to be addressed. Mayor Davis reiterated that the Council should adopt the resolution and allow for the changes as suggested, with Councilmember Patterson and Town Clerk North working on the wording. Council agreed with this recommendation.

Councilmember Patterson moved, seconded by Councilmember Snyder, that Council adopt a resolution opposing the closing of the Middleburg Elementary School and allowing for the changes as suggested to be made with Councilmember Patterson and Town Clerk North working on the wording.

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

Councilmember Patterson recommended the Council consider a second resolution that would be directed toward the Board of Supervisors; and, that would include the library.

Discussion Items

Draft Rules of Procedure

Town Attorney Whiting recommended that Town Code Chapter 3 be amended to basically adopt the administrative provisions from the existing Chapter and to approve the Rules of Procedure. She noted that Town Clerk North took the Lynchburg draft and made it conform with Middleburg's terms and procedures by importing the special rules that apply to the Town. She noted that the Rules contained a number of procedures that the Town already followed – it was

just a matter of putting them in print. Ms. Whiting explained that the suggested changes were based on the underlying goal of allowing the civil and productive conduct of Town business. She noted that these would not be rigid rules; and, advised that Council could make changes to them in a meeting. Ms. Whiting expressed her opinion that the Town would learn from the document. She advised Council that some items were flagged by the staff for discussion. Council agreed to review each section in which changes were recommended or discussion required. It was further agreed that the staff would make the changes and bring the revisions back to the Council for further review.

Section 2-3 – Legal Holidays: Council agreed the language should be written to allow that when the regular meeting fell on a holiday, the meeting date would automatically reschedule to the following Thursday, unless the meeting is cancelled or otherwise rescheduled by a majority vote of the Council. It was noted that the work session preceding the meeting would automatically default to the Monday prior to the new meeting date.

Section 2-7 – Procedure for election of Vice Mayor: Council agreed to change Section B to read “The Vice Mayor shall serve until a successor is elected by the Town Council.”

Section 2-8 – Seating: Council agreed that it wished for a new member of Council to assume the seat of the former member unless Council decided otherwise. They further agreed that the language should be written to require the Mayor to occupy the center seat on the dais; and, that the Vice Mayor could occupy whatever seat he/she normally occupied. It was noted that the Vice Mayor could assume the Mayor’s seat when he/she chaired the meeting.

Section 3-4 – Preservation of Order: Council agreed to change the last sentence in Section B to read “The presiding officer may adjourn the meeting without the Council’s vote or appeal in an emergency or for the purpose of restoring calm.

Section 5-1 – Order of Business: Council agreed the agenda’s order of business should be as follows:

1. Call to Order
2. Pledge of Allegiance
3. Public Comments (maximum of 30 minutes, in the order of sign-up)
4. Public Hearings (if any)
5. Action Items (related to Public Hearings)
6. Special Recognitions by the Mayor or Council (if any)
7. Public Presentations (if any)
8. Approval of meeting minutes
9. Staff Reports
10. Reports of Town Committees (if any)
11. Action Items (non-public hearing)
12. Discussion Items
13. Information Items
14. Closed Session (if necessary)
15. Adjournment

Section 5-3 – Citizen Participation: Council agreed to change the reference to “public presentations” in Section B to “public comment”. They also agreed to clarify Items 8 & 9 under Section B so it was clear that there should be no comment by speakers during Public Comment on a matter related to a public hearing (Item 8) or a matter that has already been the subject of a previous public hearing where no final vote has been taken (Item 9). The Council agreed to change Item 10 to read “Any issue raised by the public which the Council wishes to consider may

be put on the agenda for a future Council meeting or work session by consent of the Town Council.” They agreed to change Item 11 to read “Council members shall not discuss issues raised by the public except by consent of the presiding officer at the conclusion of the Public Comment section.” They recommended that the Town Attorney and Town Clerk work on language to clarify Section 12.

Section 5-4 – Prohibited Conduct: Council agreed to strike Item 1 related to campaigning for public office. They also agreed to change Item 2 to read “Market or solicit business from the Town”.

Section 6-1 – Quorum: Town Attorney Whiting explained that she flagged this section as she was not sure anyone had reviewed the quorum provisions in the Town Charter for a long time as they set the bar higher than needed. She recommended that when the Town sought a charter change in the future, the Council look at changing the quorum provisions as well. Ms. Whiting explained that, typically, a majority of the voting members of Council are considered to be a quorum; and, the Mayor is not included in the count. She recommended that the Town’s quorum not be higher than that required under general rule. Ms. Whiting advised Council that it was too late to pursue a charter change this year; however, she would put a note in her “fix it file” for the future.

Section 6-7(B) – Procedural Motions –

(2) Motion to Adjourn: Town Attorney Whiting explained that under Robert’s Rules a motion to adjourn is required. She noted that since the Council is moving away from Robert’s Rules, they could delete this section if desired. Council agreed to leave it in the Rules.

(11) Motion to Prevent Reintroduction for Six Months: Town Attorney Whiting advised Council that this section must be struck as it was not consistent with Virginia law.

Section 6-9 – Duty to Vote: Town Attorney Whiting explained that there was no legal way to compel a member of Council to vote or to explain the reason for not voting. She reminded Council that the language would require the Town Clerk to note the abstention and reason, if one was offered, in the minutes. Council agreed to leave the language as drafted.

There was some discussion regarding tie votes. Town Attorney Whiting explained that a tie vote was essentially a vote to deny a request.

Town Attorney Whiting advised Council that she and Town Clerk North would revise and clarify the document; and, bring it back to Council for further consideration.

Information Items

Mayor Davis reminded Council that the Town Clerk has distributed the cost information related to the Colandrea case. She noted that in addition to the out-of-pocket costs for the Town Attorney, approximately \$50,000 worth of staff time has been spent on the case to date. Town Attorney Whiting noted that the staff figure was provided by a former Town Administrator; and, advised that she was not sure how he estimated the cost. She advised Council that when the lawsuit first started, there was a great deal of footwork by the Zoning Administrator. Mayor Davis agreed that former Zoning Administrator Martha Semmes spent a huge amount of time on this matter. She questioned whether there was any way to recoup the Town’s expenditures. Town Attorney Whiting confirmed there was not. She reminded Council that such fees are recaptured through a fee schedule, which the Town now has in place. Ms. Whiting further reminded them that the violation occurred before the fee schedule was in place. Councilmember Murdock expressed her opinion that it was best to bring this matter to closure. Mayor Davis inquired as to the status of the case. Town Attorney Whiting reminded Council that the problem

with the appeals has been that the aggrieved party has been happy with the status quo so nothing has occurred. She noted that the appealing party let their last appeal lapse; however, the statute did not preclude them from seeking a reinstatement. Ms. Whiting expressed her opinion that the court did not tend to like reinstating cases; however, she reiterated that they could always ask. She suggested that, at a minimum, the barrier had been removed that prevented her from seeking remedies against the Colandreas for not abiding by the previous court ruling. Mayor Davis reminded Council that if the Town returned to court on this matter, it would incur more legal fees.

Discussion Items (continued)

Volunteer Fair/National Community Service Day

Councilmember Shea advised Council that the Volunteer Fair was the result of President-elect Obama's request for Home Parties. She reminded them that she hosted one, with fourteen people attending. Ms. Shea expressed her opinion that this was good since there was only a three-day notice. She advised Council that she distributed a list of the areas of concern for the citizens who were present. Ms. Shea explained that part of President-elect Obama's request was also to decide on an event for January 19th, which is National Community Service Day. She advised that the community was proposing to host a Volunteer Fair; and, asked that the Town participate by having a display identifying the various committees, along with sign-up slips. Ms. Shea noted that she had about twenty individuals who have said they would participate; and, advised that they would notify residents of the event through churches, the community calendar and the schools. She noted that the group sponsoring the event was now called "Middleburg Citizens in Action". Ms. Shea reiterated that they had a list of topics they would continue to discuss during their monthly meetings.

Mayor Davis asked whether Councilmember Shea had the information she needed for the Town's booth. Councilmember Shea advised Council that she needed volunteers to man the booth as she could not coordinate the event and man the booth. Councilmember Murdock asked what would be involved. Councilmember Shea advised Council that they would need to have a list of the Town's appointed bodies; and, would brief participants on what would be required of the volunteers. Economic Development Coordinator Pearson confirmed that the list of boards was already available for use. Councilmember Shea advised Council that the Go Green Committee would have its own table. Councilmembers Murdock, Littleton and Patterson volunteered to serve for an hour each. Councilmember Plescow noted that she would check her schedule. Mayor Davis asked the Council members to e-mail their availability to Councilmember Shea.

Councilmember Shea expressed her opinion that there was an amazing group of people working on this event; and, noted that they have organized it in a short period of time. She recognized Jeannie Ford as the driving force behind the event.

Information Items (continued)

Councilmember Patterson questioned whether the Health Center office space had been rented; and, suggested using it for the museum. Economic Development Coordinator Pearson confirmed it had been rented.

Jeannie Ford announced that Books & Crannies would hold a Mystery Lover's Saturday on January 24th; and, would have nine or ten authors spread throughout town businesses for the day. She advised Council that she was mailing a flyer to over 4,096 people.

Councilmember Murdock inquired about the Inauguration Party listed on the Town's Calendar of Events. Economic Development Coordinator Pearson confirmed that an Inauguration Party would be held on January 20th at Briar Patch. She noted that they continued to accept reservations. Ms. Pearson advised Council that the cost was \$75/person for dinner and drinks, with the proceeds going to Seven Loaves.

There being no further business, there was a motion to adjourn the meeting at 8:35 p.m.

APPROVED:

Betsy A. Davis, Mayor

ATTEST:

Rhonda S. North, MMC
Town Clerk