



**MIDDLEBURG TOWN COUNCIL
Monthly Work Session**



**Monday, February 9, 2009
Town Office, 10 W. Marshall Street**

8:00 a.m.

PENDING APPROVAL

PRESENT: Mayor Betsy A. Davis
Councilmember Catherine "Bundles" Murdock
Councilmember Lisa Patterson
Councilmember Judith Pryor Plescow
Councilmember Kathy Jo Shea
Councilmember Mark Snyder

STAFF: Jerry M. Schiro, Town Manager
Rhonda S. North, MMC, Town Clerk
David M. Beniamino, Town Planner
Cindy C. Pearson, Economic Development Coordinator
Steven L. Webber, Chief of Police

ABSENT: Vice Mayor Darlene Kirk
Councilmember Trowbridge Littleton

The Town Council of the Town of Middleburg, Virginia held their regular work session on Monday, February 9, 2009 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Mayor Davis called the meeting to order at 8:00 a.m.

Council Discussion with County Supervisor Jim Burton - Concern regarding County's proposed FY '10 Budget

Mayor Davis thanked Supervisor Burton for attending the Council meeting. She explained that, basically, the Council had concerns with regard to the Middleburg Elementary School and the Library – in particular, that small town must always prove themselves. Ms. Davis noted the need to constantly fight for what small towns have during troubled economic times. She advised Supervisor Burton that the Council would be interested in whatever information he could offer, as well as any suggestions for what the Council could do.

Supervisor Burton advised Council that the County's budget process would begin later this day when County Administrator Bowers presented his proposed draft budget to the Board. He further advised that the Supervisors would begin a six week deliberation on the budget, starting with a work session tomorrow. Mr. Burton expressed his opinion that the County's budget would be smaller than last year's; and, explained that part of the difficulties lie in the fact that certain obligations, such as debt service, have increased. He further explained that the revenues may not be present as they have been in the past.

Supervisor Burton reminded the Council that the decision with regard to the Middleburg Elementary School was a School Board decision; and, noted that the Supervisors only give them a lump of money. He noted that they could make suggestions; however, it was up to the School Board to determine how the money was spent. Mr. Burton advised Council that the same process

existed with the library; and, noted that it was operated by an independent authority. He reminded Council that he was a non-voting member of the Library Board of Trustees; and, has made his views known that he would rather not close facilities, but instead would support cuts across the board. Mr. Burton suggested that if the County Board decided to implement the County Administrator's recommendations, the communities would see reductions in service hours system-wide and the elimination of programs such as the Teen Center. He noted that he has not detected a desire to close any library branches; however, he advised that he could not promise this to be the case. Mr. Burton expressed a belief that the majority of the Library's Board of Directors was opposed to any closings. He advised that opposition was strong, particularly in Sterling, to closing branches.

Supervisor Burton noted that, with regard to the closing of the four schools, this argument has always hung over the heads of the small jurisdictions. He expressed his opinion that it would be difficult to justify their closing when three-quarters of these schools made the Governor's List of Outstanding Schools; and, two of the four made the Washington Post's list of top schools. Mr. Burton suggested the strongest argument that could be made to the School Board was that if the student population of all four schools were added together, it would amount to over four hundred students or basically half of a new elementary school. He reminded Council that these closures would force the School Board to build a new elementary school early at a cost of \$40 million. Mr. Burton stressed that the School Board would have to spend \$40 million in order to save \$2.2 million. He expressed his opinion that there were members of the School Board who would like to see the small schools close as they believe they are inefficient; however, he suggested they have a problem with the consistency of their message. Mr. Burton explained that the School Board argues for small class sizes when they appear before the Board of Supervisors for funding; and, noted that the four schools proposed for closure have the small class sizes. He advised that, for the first time, the School Superintendent put the options on the table that have made the school's priorities surface. Mr. Burton encouraged the Council to share their concerns with the School Board.

Mayor Davis questioned whether the School Board was trying to incorporate pay raises for teachers in the upcoming budget. Supervisor Burton advised Council that it was his understanding that they were not; however, he noted that the School Board was waiting to finalize their budget until the Supervisors set the total school funding.

Mayor Davis noted that some of the new school construction costs would be lower cost as the result of reduced bids. Supervisor Burton confirmed this was correct; however, he reminded Council that the monies saved could not be spent on anything else as it was bond money. He explained that the low bids reduced future debt service. Mr. Burton noted that \$6.5 million in cash was allocated for the new high school outside of Purcellville, with much of it spent for engineering. He advised Council that the County could move toward construction bids; however, he noted that they have an obligation to help the Upper Loudoun Youth Football League with the payment of tap fees to Purcellville. Mr. Burton advised that the School Board would return some of their savings to the County, which would be used to help pay the tap fees.

Supervisor Burton noted that he owed Councilmember Murdock answers to some previous questions. He confirmed the County was advancing the Middleburg Fire Department building renovations; and, noted that this was one of two projects the County Board voted to advance. Mr. Burton advised Councilmember Murdock that he encouraged the Fire Department's members to use silent lights and alarms; however, they declined to do so as they did not want to put money into internal alarms that would be destroyed during the renovation. He noted that the siren would be removed as a part of the renovation project. Mr. Burton noted that the Fire Department would move into trailers during the renovation.

Councilmember Patterson advised Supervisor Burton that she has spoken with several families in Middleburg who were concerned about the uncertainty should they enroll their children in the Middleburg Elementary School. She explained that they do not want to put their children in a school and then have it close. Ms. Patterson advised that she was aware of families that would move if the school closed. She reminded Mr. Burton that, based on the 2000 Census, the average age of Middleburg's population was over fifty; and, advised that the Town was finally getting young families. Ms. Patterson expressed concern that if they were lost, Middleburg would not have much of a town. She noted that the Town suffered as a weekend community for a long time; however, it now had a lot of solid families. Ms. Patterson expressed her opinion that the threat of closing the school and the other County facilities was a threat to the health of the community and would not leave much to offer families. She noted that many individuals were asking why they were being double taxed if the County was taking away its services; and, have suggested the Town build a school. Supervisor Burton reminded the Council that the Town of Hillsboro does not impose a town tax on its residents; and, noted that they were facing the same problems as Middleburg, such as failing utility systems and no money. He noted that town residents receive a lot of County services that were not readily apparent, such as social services, human resources and the Sheriff's Department. Mr. Burton further noted that although Middleburg has its own police department, the County still provided services such as the jail and the human resources (dispatch). He expressed his opinion that the threat to close the school was one that ran in cycles; and, noted that years ago Aldie had forty-two students and was threatened with closure. Mr. Burton reminded Council that after the community raised its concerns, the threat went away; and, Aldie now has one hundred students. He recommended the need for the community to pay attention to what was occurring and to stay engaged.

Councilmember Patterson noted that this was the third time in five years that the Town has fought against the closure of the school. She further noted that she recently attended School Superintendent Hatrick's budget presentation in Potomac Falls. Ms. Patterson advised that she heard him candidly express his opinion about the four schools; and, explained that he stated that they were niceties in the best of times and administratively redundant. Supervisor Burton noted that this has been a problem for a long time. Councilmember Patterson advised Supervisor Burton that she has talked with her School Board representative about how to have more involvement in the processes. She expressed her opinion that they need to understand that Middleburg's citizens are also County citizens; and, suggested they have forgotten this. Ms. Patterson noted that Middleburg represented seven hundred people – a number which could increase to one thousand as the result of the Salamander Project. She reminded Supervisor Burton that the Town residents paid a tremendous amount in taxes - \$3.1 million, seventy percent of which went to the schools. Ms. Patterson noted the need to fund the middle and high schools; however, she noted that a child spent fifty percent of his/her education in an elementary school. She advised that she was frustrated to know the County has a School Superintendent who didn't appreciate the diversity of the County. Supervisor Burton suggested the Council work with the members of the School Board, as opposed to the staff. He further suggested they stress the argument that if the four schools were closed, the School Board would have to build a new one; and, expressed his opinion that the Board would not look favorably upon that. Mr. Burton advised Council that it has been difficult to find school sites, as they were no longer being proffered. He noted that finding suitable land was problematic; and, explained that the open, public process made it difficult to purchase land. Mr. Burton reiterated his suggestion that the Council argue that if the schools were closed, a new one would have to be built at a time when the County could not afford it. He noted that the School Board's Capital Improvement Program (CIP) for the coming year contained no projects; and, advised that they have been shifted back one year, with a doubling of projects the following year. Mr. Burton suggested the Council and citizens needed to stay involved in the budget process.

Councilmember Murdock noted that the School Board's CIP did not include population growth as a result of the Salamander Project. She further noted the need to include that growth in the data. Town Clerk North advised Council that she spoke with Director of Planning Dr. Amado regarding this matter. She further advised that he indicated no interest in identifying the growth of Salamander in their CIP; and, instead shared his views that education was about the money. Ms. North reiterated that there was no support for including the Salamander growth in their data. Councilmember Murdock noted that Salamander anticipated hiring two hundred employees. She asked Supervisor Burton at what point would contacts with the School Board annoy them so they would vote against the Town's position. Supervisor Burton noted that this would vary with the individual; however, he suggested that if the Town were quiet, the Board would believe they were accepting of what was being proposed. Mayor Davis noted that she spoke with School Board Chairman DuPree who expressed an appreciation for those speakers who were calm. She expressed her opinion that members were less likely to listen when someone was angry.

Supervisor Burton expressed his opinion that Middleburg had a good base of people who have been through the threats of closure before. He recommended using them to make a good solid argument before the School Board in an objective matter. Mr. Burton reiterated his belief that the proposed savings from closing the schools were false savings. He expressed his opinion that the proposal punished success and rewarded failure, as the four schools that have been proposed for closure have been successful by all measures. Mr. Burton reminded Council that the School Board has argued to keep their budget high in order to keep class sizes small; however, now they want to close those schools with small class sizes. Mayor Davis reminded Council that these schools have been in existence long before the large schools.

Councilmember Shea advised Supervisor Burton that she would like to see the County and the towns strengthen their relationships. She expressed concern that towns would not necessarily receive monies from the economic stimulus as it would be focused on metropolitan areas. Ms. Shea asked how the towns could interface better with the County in order to assure their needs were met. Supervisor Burton reminded Council of the coalition (COLT) consisting of the seven towns that met regularly. He noted that the town/County relationships have not been the best, especially recently; and, agreed there needed to be more communication between COLT and the Board of Supervisors. Mr. Burton advised Council that he was open to ideas as to how that could be accomplished. Mayor Davis asked whether there was a way for the Supervisors to meet with the mayors periodically. Supervisor Burton suggested this was an excellent idea; and, noted that the Board tended to focus on eastern Loudoun due to the problems that exist in that area. He described the foreclosure situation that was occurring, particularly in that area of the County; and, noted that the Board was focusing its attention on stabilizing that situation. Mr. Burton agreed with the Mayor's suggestion; however, he noted that the Board would be busy until April 1.

Councilmember Shea suggested it was important to recognize that punishment shouldn't happen on other levels. She acknowledged the huge needs that exist in some areas; however, she noted that Middleburg's residents were working hard to stay involved, including on the national level.

Supervisor Burton suggested Middleburg had a unique problem in that the "Town of Middleburg" was not the same as the "Middleburg community" in that it was not wealthy. He noted that Middleburg's residents' income was modest; and, suggested that many of his colleagues had trouble understanding that fact. Mr. Burton suggested that while Middleburg may have received offers of assistance from the wealthy in the past, those offers were fading. He noted that the last time the County closed a library, the Town of Leesburg took over its operation. Mr. Burton expressed his opinion that the Middleburg Library, as well as the Middleburg Elementary School, would not be closed; however, he could not make that guarantee.

Mayor Davis noted that last year, the assessments for most of the County went down; however, Middleburg's did not. She further noted that Middleburg residents paid more in taxes. Ms. Davis advised that many business assessments did not go down this year; and, advised that if the tax rate increased, this would hurt businesses that were already hurting. She asked whether there was some way to have a different tax structure for certain areas if a rate increase were approved. Supervisor Burton advised Mayor Davis that the State Code determined the tax rate categories; and, noted that this was not something the Board of Supervisors could decide. He agreed the average residential assessment was down this year, but commercial assessments were basically level. Mr. Burton explained that in order to raise the same amount of revenue, the County would have to increase its tax rate from \$1.14 to \$1.25; and, suggested the votes did not exist to do that. He noted that the County Finance Committee was devoting time to looking at revenues and expenses; and, advised that they began tightening their belt last summer, including imposing a hiring freeze. Mr. Burton expressed hope that the County would get through the budget with minimum pain; however, he confirmed there would be pain. He expressed his opinion that a tax rate increase would hurt commercial more than residential property owners. Mr. Burton reiterated his belief that the County would not end up with a tax rate of \$1.25, but more likely would approve a four to five cent increase. He noted that this would amount to a tremendous revenue reduction; therefore, some services would be eliminated. Mr. Burton explained that they would try to reduce those services that could recover when things got better. He reiterated his concerns that the County was about to experience another wave of defaults in the area of interest-only loans. Mr. Burton noted that these defaults would occur in the larger, more expensive homes. He reminded Council that in 1990-91, the County lost one-third of its tax base; and, advised that while they were not at that point yet, there were a lot of pink slips this year. Mr. Burton advised Council that he would do his best to keep the tax rate as low as possible and to keep facilities open, as he was aware that once closed, they were not likely to re-open.

Councilmember Murdock thanked Supervisor Burton for understanding that the Town doesn't have the resources the "Middleburg" name suggests. Mayor Davis noted that the Town received sixty to seventy percent of its revenues from business taxes, which was why it could keep the residential rate lower. She further noted that this was getting harder to do. Ms. Davis thanked Supervisor Burton for attending the Council meeting; and, for his assistance.

Council Discussion – Public hearing dates for County's budget input sessions

Mayor Davis questioned whether each member of Council should speak during the public hearing. Councilmember Patterson expressed her opinion that they should all speak in order to have a block of individuals who could express what the Council wanted to express. Councilmember Murdock agreed that each member of Council could present a couple of strong points. Councilmember Patterson suggested it would be more effective to have as many speakers as possible; and, would provide for a stronger statement. She noted that she hadn't seen the County Administrator's proposed budget; therefore, she did not know what was on the chopping block. Councilmember Snyder noted that he would like to see the budget before going to the Board; however, he agreed with the need to plan something before the School Board. Councilmember Patterson noted that the last opportunity to comment on the School Board's budget was tomorrow evening. She explained that they would adopt their budget and then wait for the Board of Supervisors to present a funding amount.

Councilmember Shea recommended the Town get the budget public hearing information to the citizens and ask them to appear. She expressed her opinion that it would be impressive for the Council to attend; however, she asked what could be done to get the citizens involved.

Councilmember Patterson noted that she already had citizens who have agreed to come and support the Council, as well as businesses that want to be vocal. She further noted that the Middleburg Business and Professional Association would like to become involved; and, advised that the question was where was the appropriate place for them to do so. Ms. Patterson reminded Council that Supervisor Burton stated that the County Board of Supervisors did not understand the financial status of Middleburg's residents; and, suggested the need to get the message across to them that Middleburg was not rich. She noted that she has heard this thought expressed by parents in other jurisdictions who are saying Middleburg should lose its school because it was Middleburg; and, as an incorporated town, could take care of itself. Ms. Patterson reiterated the need to get the message out and to deal with the image problem that was associated with Middleburg. She expressed a desire for the Council to show a united front at the Supervisors' meeting. Ms. Patterson suggested that Council may also want to address the need for better communication since the County's budget affects town residents just as much as any other County resident. Councilmember Murdock agreed; and, noted that she would like to see talking points developed and distributed among the individual members. Councilmember Patterson volunteered to do so. She suggested the Mayor speak first, followed by individual Council members; and, noted that it was important for all, or as many as possible, to be present. After some discussion, the Council agreed to attend the public hearing scheduled for Wednesday, February 25 at 6:00 p.m. Councilmember Shea asked the Economic Development Coordinator to send an e-mail to the Town's citizens alerting them of the public hearing dates. Councilmember Patterson noted that Planning Commissioner/HDRC member Clites was willing to speak; and, asked that he be added to the line-up of speakers.

Council Review – Status report on utility items related to Salamander Project

Town Administrator Schiro explained that the issues associated with the sewer connection fees for the trailer are the result of the contractor's belief that the fees were paid by the previous contractor. He advised Council that there was no record the connection fee was paid. Mr. Schiro explained that most of the issues arose when the Town found out that the contractors were using water out of a Town hydrant, using a Loudoun Water meter, which was no good to the Town from a billing standpoint. He advised Council that he billed the contractor for a three-quarters inch meter connection; and, has retroactively billed for the water used. Mr. Schiro noted that he has also set up a mechanism to bill for future water from the hydrant.

Town Administrator Schiro explained that this issue was brought to his attention when Salamander asked to use Town water prior to the completion of the new water treatment plant. He noted that, based upon the proposed demand of 4,000/gallons/day, he would not recommend approval as the Town's existing system was too fragile. Mr. Schiro reminded Council that last summer, the Town experienced a problem with its well levels. He further reminded them that the thrust of requiring the construction of the water treatment plant was that the Town's current system could not provide the needed water. Mr. Schiro recommended the Town keep the systems separate; and, that Salamander use its own wells. He noted, however, that they could not use non-potable water for the cooling towers. Mr. Schiro advised Council that there was a question as to how the contractors were using well water, which was essentially non-treated water, at the construction trailers. He noted that they were providing bottled water for the occupants; however, he suggested there was no guarantee someone wouldn't drink the water from the faucet. Mr. Schiro advised Council that he has requested verification from the Health Department that they have approved this system.

Councilmember Snyder inquired as to which Salamander wells the Town would own and when they would own them. He further asked what would trigger the conveyance. Town Administrator Schiro confirmed the Town would own Well L, which was a major well, through an outright fee simply conveyance that would be triggered by the treatment plant facility's acceptance. He noted that Well L was located in the northwest quadrant of the property. Mr. Schiro advised Council that the well located adjacent to the treatment facility would also be conveyed to the Town, as well as the treatment plant and the distribution lines.

Councilmember Shea asked whether the Town received a response from the Health Department. Town Administrator Schiro confirmed he has not. He noted that he has also not heard a response from Salamander to the invoice.

Councilmember Snyder asked whether the Town only had one water rate. Town Administrator Schiro confirmed there was a separate contractor rate for water that was taken from a hydrant. He reiterated that he estimated the water usage based upon the fixtures and number of people in the trailers, which he believed was fairly accurate. Mr. Schiro reiterated that the rate for water that is taken from a hydrant was higher. Councilmember Snyder asked whether this was an automatic rate. Town Administrator Schiro confirmed it was in the rate schedule.

Mayor Davis noted that the invoice was dated December 2009; and, should have been December 2008. She thanked the Town Administrator for handling these issues; and, noted that they were the result of changes and some misinformation. Town Administrator Schiro confirmed there were a lot of projects associated with the overall project, including the resort, water treatment plant, wastewater treatment plant and infrastructure. He further confirmed that this involved a lot of people, including the project management group, the general contractor and sub-contractors. Mr. Schiro advised that at any given time, there were one hundred twenty to one hundred thirty people on the site, including thirty to forty in the trailers on a daily basis. Mayor Davis noted that there was also a different contractor in the past. Town Administrator Schiro expressed his opinion that these issues were not intentional; and, were the result of contractors that were not familiar with municipal projects. He noted that he would continue to work to keep the issues resolved; and, was meeting with them on a regular basis to keep the lines of communication open.

Councilmember Shea asked whether Salamander would use their own well if they could not use the Town's system. Town Administrator Schiro advised Council that he was not sure they could without a temporary treatment package. He noted that the other option was to use a large tanker truck. Mr. Schiro confirmed it would be a big help if they could use the Town's system; however, he reiterated that the system was fragile. He noted that he didn't know the ramifications of allowing that kind of demand on the system; and, suggested there were too many questions to allow Salamander to tie into it.

Council Review – February 12th Meeting Agenda

Mayor Davis asked whether Council had any questions related to the FY '09 budget amendment. Councilmember Snyder noted that he had no comment related to that item; however, he reminded staff of the need to look at future budget items that impact the Planning Office so the Town was charging appropriately in the coming year.

Mayor Davis asked whether Council had any questions related to the referral of the Ramsey rezoning request to the Planning Commission; and, noted that it appeared to be pretty straight forward. No questions were raised.

Town Administrator Schiro noted the agenda item related to the additional engineering fees for Whitman, Requardt for services during construction and additional design costs incurred as the result of VDOT issues on the Marshall Street Water Line Replacement Project. He noted that the Town was aware of the additional charges associated with VDOT's review, as well as the charges associated with the Virginia Department of Health's requirement for some demand modeling.

Councilmember Snyder inquired as to the details of the rain garden project for which the Middleburg Beautification Committee has solicited a site plan fee waiver. Mayor Davis reminded Council that this involved the construction of a bridge and rain garden on the end of Pendleton Street. Councilmember Snyder asked why there were site plan fees associated with the project. Town Planner Beniamino explained that the project would involve the changing of grades, which required a site plan. He noted that the staff did not have the ability to waive the site plan fees. Mr. Beniamino advised Council that the Beautification Committee has already paid the fees; therefore, they would need to be refunded if the Council approved the request. Councilmember Snyder noted that he had no problem with the request.

Discussion

Town Administrator Schiro updated Council on the two properties on Federal Street that were damaged as the result of sewer back-ups. He advised that the Town's insurance carrier, VML Insurance, would cover the claim for the auto parts store under the no-fault insurance coverage, which meant the Town would admit no fault but the insurance company would pay up to \$10,000 in claim damages. Mr. Schiro further advised that the second claim would fall under the Town's fault-claim policy; however, the limits of the Town's insurance would not cover all of the damages to the house. He asked whether the Council was interested in covering the difference, which he estimated to be around \$7,000. Mr. Schiro explained that the total cost to repair the damage was \$24,000; however, VML Insurance was only willing to pay up to \$17,000. He further explained that this was because they have a standard they go by; and, believe \$17,000 was the extent of the damage in their view. Mr. Schiro noted that the homeowner may see if her homeowner's insurance would cover the difference; however, he anticipated she would ask whether the Town would pay it. Councilmembers Snyder and Murdock noted that they would be willing to consider and discuss it. Town Administrator Schiro noted this was adequate for now.

There being no further business, a motion was made to adjourn the meeting at 9:06 a.m.

APPROVED:

Betsy A. Davis, Mayor

ATTEST:

Rhonda S. North, MMC
Town Clerk