



**MIDDLEBURG TOWN COUNCIL**  
**Regular Monthly Meeting Minutes**  
**Thursday, February 12, 2009**  
**Town Office, 10 W. Marshall Street**  
**6:00 PM**



**PENDING APPROVAL**

**PRESENT:**

Mayor Betsy A. Davis  
Vice Mayor Darlene Kirk  
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  
David M. Beniamino, Town Planner  
Debbie J. Wheeler, Town Treasurer  
Steven Webber, Chief of Police (arrived late)  
N. Phil DeLeon, Town Engineer  
Cindy C. Pearson, Economic Development Coordinator

**ABSENT:**

Councilmember Trowbridge Littleton  
Councilmember Catherine "Bundles" Murdock

The Town Council of the Town of Middleburg, Virginia held their public hearing and regular monthly meeting on Thursday, February 12, 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** – FY '09 Budget amendment

Town Administrator Schiro explained that this was a mid-year budget exercise in which the staff evaluated the line items to see where each was and to identify areas that require additional appropriations. He noted that, in addition to a series of line item changes, \$20,500 in additional appropriations have been requested to cover the visioning session costs, the engineering costs for developing the economic stimulus request package, police over time expenses, changes in workers compensation costs, and the Planning Department's professional development expenses for the Certified Planning Commissioner's training.

No one spoke and the public hearing was closed.

**REGULAR MONTHLY MEETING**

Mayor Davis called the regular meeting to order. She led Council and those attending in the Pledge of Allegiance to the flag.

Mayor Davis announced that while Chairman York was scheduled as an agenda item, his appearance was not guaranteed due to his father's health. She noted that when the staff spoke with Chairman York's assistant this afternoon, he indicated it was doubtful the Chairman would be able to attend the Council meeting.

**Public Comment**

Martha Cotter appeared before Council regarding the Middleburg Elementary School. She advised them that during the recent School Board meeting, the Blue Ridge area representative made a motion to move the closing of the four small schools from Tier 2 to Tier 3; however, the motion was defeated. Ms. Cotter noted that other budget related motions were defeated as well. She expressed her opinion that the School Board did not want to address cuts at this time. Ms. Cotter advised that she was trying to work within the system and get support for keeping the schools open. She expressed her gratitude for the Council’s past support. Ms. Cotter suggested the matter was getting more serious; and, expressed concern that the Middleburg Elementary School could be closed. She suggested that there could be a proposal to leave three of the four schools open, with Middleburg’s school proposed for closure; and, expressed her opinion that, for some reason, this issue has become almost personal. Ms. Cotter advised that she would like to have a dialogue with the staff and Council in order to think outside the box on what could be proposed and what could be worked on together.

Councilmember Patterson noted that she spoke with Ms. Cotter earlier; and, shared the Council’s proposed process and its plans to speak as a group during the Board of Supervisors February 25<sup>th</sup> public hearing. She further noted that she shared with Ms. Cotter that the Council was looking at this matter from the perspective of the entire County budget, not just from the perspective of the school, even though it was important. Ms. Patterson advised Council that she was trying to get businesses involved; and, recently attended the Middleburg Business & Professional Association meeting to encourage them to do so. She noted that, during the meeting, she explained the status of the budget; and, many said they would speak or write letters. Ms. Patterson advised Council that she stressed that the Council understood how important businesses were; and, she asked them to please participate in the budget process. She recognized and expressed appreciation for Ms. Cotter’s hard work on behalf of the school.

Mayor Davis advised Council that she recently met with Congressman Frank Wolf regarding small towns in general, how they get pushed aside more and more, and how they must always fight just to keep their existing services. She further advised that Congressman Wolf agreed to write letters to the School Board and Board of Supervisors on the importance and strength of small towns. Ms. Davis reminded Council that these were not issues that were within his decision-making authority; however, she expressed hope that someone of a more influential level could assist the towns so they were not always fighting.

Councilmember Patterson advised Council that she would develop some talking points for each member so the Town could present a united front.

**Approval of Minutes**

*Councilmember Snyder moved, seconded by Councilmember Plescow, that Council approve the January 5, 2009 Work Session; January 8, 2009 Regular Meeting; and January 22, 2009 Work Session meeting minutes as amended.*

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

## **Staff Reports**

Town Administrator Schiro noted that the majority of the items he needed to report upon fell under the heading of utilities; therefore, he would defer his report until that time.

Economic Development Coordinator Pearson reported that one business recently closed – Felton Jewelers; however, they would continue to operate their branch in Warrenton. She announced new business openings, including The Mixed Bag and Four O'clock Fox. Ms. Pearson noted that Country Way has moved to a new location; and, Salon Allure recently changed ownership.

Town Planner Beniamino reminded Council that he recently sent them an e-mail on the public input sessions regarding the McMansion issue. He further reminded them that he was proposing to hold four or five meetings, during various times and days, in order to attract as many people as possible. Mr. Beniamino proposed the meetings be held at the Town Hall, Community Center and American Legion Hall. He reported that Tim Yeomans, the Planning Director for the City of Winchester, has agreed to facilitate the process from an independent perspective so the best comments could be received. Mr. Beniamino advised Council that he planned to contact the newspapers; and, would either issue a press release or ask them to write a story once he has finalized the meeting dates. He noted that he was also proposing to place flyers throughout the community. Mr. Beniamino advised Council that the Mayor has also suggested a mailing to all residents; however, there would be a cost involved. He asked whether the Council was interested in using some form of a mailer. Mayor Davis expressed her opinion that the Council has already indicated a desire to send information regarding this issue to all homes. She suggested the staff could still utilize the other forms of advertisement; however, she advised that given the importance of this item, she did not want someone to say they didn't know about the meetings. Town Planner Beniamino noted the letters could be sent utilizing the utility account data; and, suggested the cost would be \$250-300 for a letter generated on the copy machine. Council agreed it wished to send the letters. Mayor Davis suggested they be made noticeable. She further suggested the use of postcards. Town Planner Beniamino noted that he has not researched the cost of printing postcards, but rather was suggesting the use a copy paper type announcement. Councilmember Shea noted that the Town Planner has used the term "McMansion". She suggested the issue be explained rather than using that term. Town Planner Beniamino confirmed he would do so; and, noted that he used the term for the Council as a form of expediency. He asked that Council respond to his e-mail regarding their availability; and, noted that he would like to have at least one member of Council, one member of the Planning Commission and one member of the HDRC at each session. Mr. Beniamino advised Council that he planned to meet with the facilitator at the end of the week; and, asked for receipt of their availability dates by that time.

Town Treasurer Wheeler noted that the Council has received her written report; and, she was happy to answer any questions they may have. Vice Mayor Kirk and Councilmember Snyder thanked her for her work.

Town Administrator Schiro reminded Council that he was trying to bring the design issues related to the SCADA (Supervisory Control and Data Acquisition) system to a close by next week. He presented them with a drawing of what the SCADA system would accomplish; and, explained that it would allow the new water sources, the vault, the controls for the existing and new systems, the two existing stand tanks, the treatment plants and the west end pump station to be monitored and would allow for some system controls. Mr. Schiro explained that despite asking for the design for some time, Salamander's engineers did not provide it until late December. He advised that, once received, they expected an immediate approval. Mr. Schiro reiterated that a SCADA system was a computerized control system for the utility system that provided for the monitoring and some control of the valves, pumps and chemical feeds. He advised that this was

what he has been holding out for; and, explained that there has been some dialogue with Salamander regarding what they were responsible for with regard to the new versus old system. Mr. Schiro advised that his position was the Town wanted the industry standard; and, explained that in the long run, the system would allow the Town to operate the utility system more efficiently and less expensively as electronic controls and monitoring require fewer bodies. He reiterated that he was asking for a system that would allow for the connection and communication between the various systems from a central monitoring point at the treatment plant.

Town Administrator Schiro reported that the shaft of the RBC unit at the existing wastewater treatment plant broke; and, he was working with Loudoun Water to secure parts so it could be welded and patched until the new plant was complete. He expressed his opinion that the Town was looking at \$5,000-8,000 in repair costs; and, advised that he would have more information later. Mr. Schiro advised Council that the work on the treatment facilities was advancing as well as weather permitted. He noted that the issues associated with the treatment package for the plant had been resolved. Councilmember Snyder asked whether the Town was agreement with the design engineers on the treatment plant issues. Town Administrator Schiro confirmed he was.

**Action Items**

**Council Approval** – FY '09 Budget Amendments

*Councilmember Shea moved, seconded by Councilmember Snyder, that Council approve the FY '09 mid-year budget amendments in the amount of \$20,500.*

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

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**Council Approval** – Referral of rezoning application to Planning Commission – Ramsey property

*Councilmember Patterson moved, seconded by Councilmember Plescow, that Council refer the request from Nina B. Ramsey to rezone her property at 100 W. Marshall Street to the Planning Commission for their review and recommendation.*

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

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**Council Approval** – Contract for services during construction – Marshall Street Water Line Replacement Project – Whitman, Requardt & Associates

*Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council authorize the Town Administrator to sign a contract with Whitman, Requardt & Associates, in the amount of \$18,740, for services associated with the construction of the Marshall Street Water Line Replacement Project.*

Councilmember Snyder expressed disappointment that the engineering costs that were originally projected to be \$32,760 now included an additional \$18,740. He noted that while he was present for the work session discussion, he was dumb struck by the amount. Mayor Davis asked whether the additional costs were related to the rock. Town Administrator Schiro confirmed the original contract included the rock work; however, he explained that once the amount of rock was determined, he asked the engineers to look at other alternatives that were less expensive than drilling. He noted that the Town also encountered additional design review and work as the result of VDOT's issues with the trees – one of which blew over today. Mr. Schiro further noted that the Virginia Department of Health required demand modeling, which resulted in additional engineering work. Mayor Davis noted the Council was aware of the extra costs. Town Administrator Schiro expressed his opinion that this was a fair price for the amount of extra design work that was required. He confirmed that, had it not been for some of these issues, Councilmember Snyder would be correct. Mr. Schiro reiterated that these were unforeseen requirements; and, noted that they amounted to another set of unfunded State mandates. Councilmember Snyder clarified that he was not admonishing the staff.

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

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Council Approval – Request to waive site plan fees for rain garden project – Middleburg Beautification Committee

*Councilmember Snyder moved, seconded by Councilmember Plescow, that Council approve a request from the Middleburg Beautification Committee for reimbursement of the \$750 in site plan fees for the rain garden project proposed for the southern end of Pendleton Street.*

Mayor Davis clarified that this was a project that was being done for the Town. Town Planner Beniamino noted that the Committee was only seeking a waiver of the site plan fees; and, would pay any engineering charges that arose as a result of the review.

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

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Mayor Davis asked the Chief of Police whether the Town experienced any issues as the result of the recent weather. Chief Webber confirmed there was some tree damage. He reported that he just checked the Littleton house; and, determined that while there was a broken tree limb, the house was not damaged.

**Discussion Items**

Draft Rules of Procedure

Councilmember Snyder recommended the removal of Section 5-3(B)(9) pertaining to citizen participation. He questioned whether it was previously proposed for elimination. Council agreed to strike this item.

Councilmember Snyder recommended the amendment of Section 5-4(B) pertaining to prohibited conduct; and, noted that, as written, anyone could be expelled from a Council meeting including the Mayor and members of Council. After some discussion, Council agreed to amend this paragraph to clarify that the Town Council was not subject to expulsion.

Councilmember Snyder recommended the amendment of the first sentence in Section 5-5(C)(2) pertaining to public hearings; and, suggested it was not clear. Town Attorney Whiting recommended the recognition occur by the Presiding Officer as opposed to the Town Administrator. Council agreed with this suggestion.

Councilmember Snyder expressed his opinion that the Council had agreed to strike the reference to the Mayor and Vice Mayor in Section 6-1(A) related to quorums. Town Attorney Whiting explained that this language mirrored the Town Charter; and, could not be changed without a charter amendment. Councilmember Snyder asked how the charter could be amended. Town Attorney Whiting explained that the Council would have to hold a public hearing; and, submit the amendment to the General Assembly for their consideration. She advised that it could not be done until next year at the earliest. Ms. Whiting asked the Town Clerk to put the charter amendment in her tickler file.

Councilmember Shea expressed her opinion that the language in Section 7-1(C) related to appointments to boards and committees was awkward. She suggested the substitution of the sentence "In addition to appointments to standing committees, the Mayor shall make appointments to other appropriate committees." Town Attorney Whiting agreed this would make the section clearer. Council concurred with the substitution.

Mayor Davis asked the staff to make the requested changes; and, to place this item on the next meeting agenda. Councilmember Snyder recommended the Council be prepared to vote on the Rules of Procedure at the next meeting.

#### FY '10 Budget

Councilmember Snyder asked when the Council would start work on the upcoming budget. Mayor Davis confirmed it was scheduled for the next work session (February 26<sup>th</sup>). Councilmember Patterson reminded Council that the County's budget would impact the Town's; and, suggested the Council needed to think about providing some services if County funding was lost. Councilmember Snyder agreed; however, he noted the need to look closely at revenues. Town Administrator Schiro suggested the first budget meeting be used to set parameters and to get an idea of what the Council would like to include in the budget. Councilmember Patterson advised Council that if the County removed the parks/recreation satellite office in Middleburg, this would affect the Community Center. She suggested the Council needed to consider funding for the Center if it did not receive rental income from the County. Ms. Patterson expressed her opinion that these were the type of issues the Council needed to consider. She recommended the budget process start as normal; however, she suggested that as the Council went through the budget, it may find a need to fund some services. Councilmember Snyder reminded Council that the Town's tax assessments were also down. Councilmember Patterson expressed an understanding that the Town would experience a loss of funds as well. Town Administrator Schiro suggested that, in terms of building a budget, he present an overview of the anticipated revenues and expenditures rather than giving an actual detailed line item budget. He expressed his opinion that there were questions that needed to be answered, such as if the Town supplemented services, was the Council willing to raise taxes. Councilmember Shea suggested the need to hear from the Community Center's Board of Directors; and, to understand their budget position before the Council discussed funding. Councilmember Patterson agreed. She

noted that she has not looked at the County Administrator's proposed budget; however, she knew the parks/recreation department was looking to eliminate and/or reduce services. Ms. Patterson reminded Council that the Community Center was privately funded, with the parks/recreation department being a renter. Councilmember Snyder agreed the Council needed to look at the potential impacts of the County's budget on services provided in the Town.

### **Information Items**

Economic Development Coordinator Pearson announced that the Boy Scouts would hold a Pancake Breakfast on February 22<sup>nd</sup> at the American Legion Hall. Councilmember Shea announced that the Middleburg Area Citizens in Action Committee would host an environmental forum in the Town Hall on March 4<sup>th</sup> as a follow-up to the Go Green movie "Crimes against Nature". Mayor Davis noted that the movie would be presented on February 20<sup>th</sup> at the Community Center. Economic Development Coordinator Pearson reported that the movie's director, Angus Yates, would be present during the movie. She noted that it would start promptly 7:00 p.m.

### **Public Comment**

Chris Turner, 110 E. Federal Street, reminded Council that she was the recent victim of a sewer back-up. She described how upsetting this situation has been for her and her family; and, noted that she even postponed her back surgery due to the condition of her house. Ms. Turner advised Council that she was told that the back-up was the result of the restaurants refusal to install grease traps – noting that the traps were not mandatory. She questioned how the Town could make it mandatory for her to connect to the Town's sewer system that ended up contaminating her house. Ms. Turner asked what the Town planned on doing to address this problem; and, asked that the response not be that "we'll watch it". She expressed her opinion that the back-up reduced the value of her property. Ms. Turner advised Council that if there is a repeat of the back-up, she would institute a lawsuit against the Town. Mayor Davis advised Ms. Turner that the Council discussed the need for grease traps; and, the staff was asked to seek prices. Town Administrator Schiro advised Council that he was working with Ms. Turner on this problem; and, confirmed the Town was monitoring the line. He noted that the Council has discussed that the contributing factor to the back-up was that there was a lot of grease in the line that jelled during the cold weather, creating a blockage and the resulting back-up. Mr. Schiro advised that when the Council discussed making grease traps mandatory, they indicated they would look at an ordinance in the future. He further advised that Council indicated that due to the economy, this was probably not the best time to put a mandate on businesses. Mr. Schiro advised that he was happy to gather information if this was the desire of Council. Councilmember Snyder expressed his opinion that the Council would like for the staff to gather information on grease traps. He confirmed that the Council was hesitant to act now due to the economic climate, as it does not want to lose businesses. Mr. Snyder advised that in the long-term, the Council wanted to prevent this from occurring again to Ms. Turner or any other sewer customer. He further advised that when the Council could do so, they wanted to make sure they prevented a re-occurrence.

Ms. Turner advised Council that she had a foot of raw sewage in her basement, resulting in the loss of heat in her home. She further advised that she just spent \$45,000 renovating her kitchen; and, must now replace the grout, tile and areas under the cabinets. Mayor Davis apologized to Ms. Turner; and, noted that the Town has not experienced sewer back-ups in the past. She expressed hope that the Town was past the point of bitter cold; and, that this would not happen again before the grease traps were installed. Town Administrator Schiro noted that there could also be other causes; and, advised Council that the Town was televising the line to ensure there were no breaks or other contributing factors. Ms. Turner asked why the main backed up by Snyder's Plumbing. Town Administrator Schiro explained that this area contained a gravity line

with a lift station. He further explained that once clogged, the sewer could not pass through the main and the pump forced it to the path of least resistance – that being a manhole and Ms. Turner’s house. Ms. Turner confirmed the sewage lifted the top off the manhole. Mayor Davis reiterated the Town’s apologies; and, confirmed it would help restore her property.

There being no further business, a motion was made to adjourn the meeting at 6:50 p.m.

APPROVED:

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Betsy A. Davis, MAYOR

ATTEST:

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Rhonda S. North, MMC, Town Clerk