



**MIDDLEBURG TOWN COUNCIL/  
PLANNING COMMISSION  
JOINT WORK SESSION  
MINUTES  
Tuesday, January 11, 2011**



**PENDING APPROVAL**

**PRESENT:** Mayor Betsy A. Davis  
Vice Mayor C. Darlene Kirk  
Councilmember Kevin Hazard (arrived late)  
Councilmember Trowbridge Littleton  
Councilmember Catherine "Bundles" Murdock  
Councilmember Kathy Jo Shea  
Councilmember Mark T. Snyder (left early)  
Councilmember David B. Stewart  
Stephen Plescow, Planning Commission Chair  
Kathleen Ribaldo, Planning Commission Vice Chair  
Tim Clites, Planning Commission Member  
Donald Woodruff, Planning Commission Member

**STAFF:** Martha Mason Semmes, Town Administrator  
Rhonda S. North, MMC, Town Clerk  
David M. Beniamino, AICP, Town Planner

The Town Council and the Planning Commission of the Town of Middleburg, Virginia held a joint work session on Tuesday, January 11, 2011 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Mayor Davis called the meeting to order at 6:36 p.m. She welcomed the participants to the meeting; and, expressed her appreciation that each took the time to attend, particularly given the bad weather. Ms. Davis noted that she hoped both bodies would come away with a better understanding of each other.

Town Administrator Semmes noted the short amount of time available to complete the agenda. She expressed her opinion that it would be useful to have a few brainstorming sessions in the beginning of the session, with the staff recording the ideas that were presented. Ms. Semmes noted that there would also be an opportunity for the Planning Commission to make a presentation to the Council, without there being any immediate judgment or comment. She explained that the Council planned to take the information provided by the Commission and talk amongst themselves in a later work session. Ms. Semmes further explained that they would then schedule a follow-up session with the Commission, at which time there should be more give and take.

**Differing Roles and Responsibilities of Council, Commission and Staff**

Town Administrator Semmes reminded the attendees that both town councils and planning commissions were created by the General Assembly the way they were for a reason. She advised that town councils were a municipal corporation with powers to legislate (enact laws). Ms. Semmes noted that councils took different actions, including legislative acts from which planning commissions were free. She expressed her opinion that it was wonderful to have the two different perspectives.

Town Administrator Semmes noted that councils performed other discretionary acts besides legislative ones. She advised that those other acts could be taken by a council or they could be delegated to the staff or planning commission. Ms. Semmes noted that an example would be a subdivision waiver. She explained that in that case, the council would adopt a process through an ordinance that would allow the planning commission or staff to grant waivers under certain specified conditions.

Town Administrator Semmes advised that the last type of act that could be taken was a ministerial act, which would involve the adoption of an ordinance that enacted specific standards that must be met. She cited as an example the approval of a site plan. Ms. Semmes explained that if all of the standards identified in the ordinance were fulfilled, regardless of who was reviewing the site plan, its approval was no longer discretionary. She further explained that once the standards were met, approval was mandatory.

Town Administrator Semmes advised that a town council's main role was to run a town, prepare a budget and make sure the staff was implementing its policies as intended. She noted that town councils also appointed planning commissions and other bodies. Ms. Semmes advised that councils were elected, whereas planning commissions were appointed. She noted that this allowed for different perspectives, which was good for the process.

Town Administrator Semmes advised that planning commissions primarily worked on land use, growth and development issues. She noted that those issues often involved politics; however, she explained that a planning commission could be very valuable in sorting out the issues, conducting back ground research on the facts and securing citizen input. Ms. Semmes advised that planning commissions presented recommendations to councils. (Councilmember Hazard arrived at the meeting at 6:43 p.m.) She noted that planning commissions must do certain things, such as make an annual report to the council and review the comprehensive plan and recommend amendments as necessary. Ms. Semmes reminded those present that councils then adopted the comprehensive plan. She advised that planning commissions offered councils advice on legislative matters, such as zoning text amendments. Ms. Semmes noted that by code, commissions could propose such amendments; and, did not have to wait for councils to do so. She expressed her opinion that this was important as planning commissions saw things in their work that councils did not. Ms. Semmes noted that in Middleburg, the Planning Commission did have responsibility for some ministerial acts, such as subdivision and site plan reviews. She advised that this did not used to be the case; and, noted that some time ago, the Council did everything. Ms. Semmes noted that they have delegated this responsibility to the Planning Commission. She advised that in Purcellville, the professional staff performed ministerial acts, with their Planning Commission only getting involved if a waiver or exception was needed.

Town Administrator Semmes advised that zoning administrators had specific powers that no one else could do; and, noted that he was the only person who could interpret the zoning ordinance. She explained that if a council did not like the zoning administrator's determination, they needed to clarify the ordinance. Ms. Semmes advised that in Middleburg, Mr. Beniamino served as both the Zoning Administrator and Town Planner; and, noted that it was his job to provide professional support. She expressed her opinion that in some places, planning commissions believed the town planner worked for them; and, were insulted when the planner gave his/her own professional recommendation to the council in addition to the planning commission's. Ms. Semmes noted that there was a distinction; and, advised that the staff was charged with giving a council the best advice it could. She reminded those present that the staff in general, performed whatever duties the council may assign. Ms. Semmes advised that the staff's role, once a council approved a comprehensive plan, ordinances, vision and policies was to help implement them on a day-to-day basis.

### **Cooperation/Communication/Efficiency**

Town Administrator Semmes suggested that the Town Council and Planning Commission brainstorm. She expressed her opinion that they have come to this meeting because there were concerns that the two bodies were not communicating well or enough. Ms. Semmes suggested the two bodies may want to meet on a regular basis to flesh out ideas for communicating. She noted that the idea was to have everyone working on the same thing. Ms. Semmes expressed her opinion that everyone has bought into the vision; and, suggested the Town wanted to get it implemented in the most effective way it could to benefit the most people in the community. She noted that the staff would record the ideas as they were presented.

Councilmember Shea expressed her opinion that it was difficult for the Council to tell what was a priority when the Planning Commission's recommendations came to them. She suggested, as an example, that if there was an entire plan coming to the Council and there were some items in it that were really important to the Planning Commission that they should find a way to let the Council know which elements really needed to be considered.

Chairman Plescow advised that when the Commission reviewed a site plan, they presented a recommendation. He noted that sometimes the Commission would identify conditions associated with that recommendation. Mr. Plescow expressed his opinion that the Council saw those recommendations on the application. He noted that the Commission strongly relied upon the Town Planner and Councilmember Hazard to serve as their liaison. Mr. Plescow confirmed that the Commission could share its dialogue and concerns.

Councilmember Shea noted that she read the Commission's discussions in the minutes; however, she suggested that, like the Council meetings, a lot was discussed and there could be the shaking of heads that would not be recorded in the minutes. She suggested that there have been some things in the past that she knew the Commission spent time on; however, they did not get conveyed to the Council. Ms. Shea cited the example of the Chinn's Crossing Project in which all of the trees but one was diseased. She expressed her opinion that the Commission recommended that the one tree that was not diseased should not come down. Ms. Shea suggested that this message was not completely conveyed to the Council.

Commissioner Clites advised Council that the Commission started the plan review with the intention of saving the tree; however, in reviewing the Town Code, it was determined that the Town had no legal standing to require the property owner to leave it. He explained that, as a result, the decision was made to go for the best long-term street frontage for the project, which involved bringing the buildings to the street. Mr. Clites noted that this idea came out of the HDRC's discussions. He reiterated that, by right, the Town could not require the property owner to keep the tree. Mr. Clites suggested the Commission may not have put this in writing so the Council understood.

Councilmember Shea suggested that the Council needed to be aware of those items that stood out for the Commission.

Chairman Plescow advised Council that in the example cited by Councilmember Shea, the Commission did not agree with the HDRC. Commissioner Clites noted that the Planning Commission was saying save the tree; however, the staff advised the HDRC that the Town could not require that it be saved. He suggested it was an interesting project. Chairman Plescow noted that the boards did not always agree on their recommendations.

Town Planner Beniamino noted that he pressed the HDRC to recap the reasons when they denied a request. He suggested the Planning Commission could do the same. Mr. Beniamino agreed that sometimes there was a lot of head nodding that did not get recorded in the minutes.

Commissioner Clites noted that some projects involved multiple committee reviews. Chairman Plescow noted that, in those cases, the Planning Commission relied upon the liaison with the HDRC (Tim Clites). He explained that while it has been great working with Mr. Clites, there was a point in time when this liaison did not exist. Mr. Plescow expressed his opinion that it has helped a lot to have this liaison.

Commissioner Clites suggested that recapping the Planning Commission's discussions of items could be helpful for the Commission as well. Chairman Plescow advised Council that if they saw something that was controversial, the Commission could come to the Council meeting. He suggested that if it was important, he would come to the meeting in order to provide more background. Vice Mayor Kirk expressed her opinion that if something was important to the Planning Commission, they should feel free to come to the Council meeting.

Commissioner Woodruff suggested the need for feedback. He noted that the Planning Commission felt very strongly about the issue of sidewalks, particularly around the National Sporting Library. Mr. Woodruff reminded Council that they rejected the Commission's recommendations; however, they were not sure why. He explained that, for the Commission, pedestrian safety was paramount even if it cost the National Sporting Library some additional money. Mr. Woodruff reiterated that the Commission was not sure why the Council rejected their recommendation, as they received no reflection as to why this occurred.

Mayor Davis expressed hope that if the Commission needed to know something that they could ask the Council's liaison (Councilmember Hazard). She expressed her opinion that it was important that this individual be used in both directions. Ms. Davis suggested the Council should also be getting those same reports from the Planning Commission meetings. She noted that this was the point of having that individual in that position.

Commissioner Woodruff noted that the Planning Commission consisted of volunteers. He further noted that they walked the sidewalks and looked at the plan. Mr. Woodruff asked that when the Council considered the Commission's recommendation on something, that their decision be reflected back to them, even if this occurred in a written statement. Councilmember Hazard expressed his opinion that this was in line with what Councilmember Shea was saying, in that he didn't know if the Council knew this was a priority for the Planning Commission.

Councilmember Littleton noted that the Council also had to think about the economic issues associated with the National Sporting Library's project; and, could not look at it just from a planning perspective. He explained that the economic impact of the project weighed into the Council's decision. Councilmember Snyder noted that he was aware that sidewalks were a priority for the Commission, as the Council was told this by numerous members.

Councilmember Shea suggested the Planning Commission get into the habit of recapping their discussions.

Vice Chairman Ribaldo expressed her opinion that what Councilmember Shea was saying was that the Commission needed to tell the Council why it was making its recommendations so they had a better picture. She expressed her opinion that when the Council said that it did not like something the Commission recommended that the Commission would benefit from knowing why.

Vice Mayor Kirk encouraged the Planning Commission members to stop the members of the Council on the street to ask questions.

Councilmember Murdock suggested the Council be given bullet points from the Planning Commissions' meetings rather than pages of minutes. She further suggested that the bullet points contain the Commission's recommendation and the top three reasons for them. Ms. Murdock further suggested that the Council indicate why it voted the way it did. Councilmember Snyder expressed his opinion that both bodies would not always get that information. Councilmember Murdock suggested they try. She expressed her opinion that it was important to have this in the archives.

Town Planner Beniamino noted that the Town Clerk e-mailed the Planning Commission's meeting minutes to the Council. He suggested that it may be helpful to put the Council meeting minutes in the Planning Commission's agenda packet. Town Clerk North noted that she could simply add the Planning Commission to her list of those individuals who received the Council meeting minutes electronically. Commissioner Woodruff noted that he would prefer to receive the minutes electronically.

Commissioner Clites advised that as to the issue of efficiency, it seemed to him that it would behoove everyone to try to meet once a year. He noted that the meetings did not have to be long. Mr. Clites suggested that if an issue such as signs came up, the Commission should meet with the Council before getting too far into revamping the ordinance in order to make sure that doing so was a priority for the Council and to get their input. Mr. Clites expressed his opinion that there were some things that the Planning Commission put a lot of work into, with those recommendations gaining little traction because they were either headed in the wrong direction or the Council was not aware of what the Commission was doing. He suggested the need to identify the top three priorities for the Planning Commission, outside of their regular duties. Mr. Clites further suggested the need to get an update from the Council on whether the Commission was headed in the right direction.

Chairman Plescow advised the Council that the Commission was pro-active due to the nature of the individual member's businesses. He noted that, as individuals, they saw trends or issues elsewhere; and, tried to cut them off in Middleburg. Mr. Plescow cited the Ridgeview Subdivision as an example. He expressed concern that when Salamander's property developed, there would be pressure for the neighborhood to change. Mr. Plescow suggested that the Town wanted to keep Ridgeview as a part of the town. He noted that he has seen firsthand in Arlington how conversions occurred that resulted in large houses in small neighborhoods. Mr. Plescow advised Council that the Commission spent a lot of time working in public meetings, only to have their recommendation "evaporate". He noted that the Commission had no closure on that subject.

Mayor Davis expressed her opinion that the Commission was never made aware of the reasons as to why this item faded away. She noted that Council assumed they received the information; however, she now knew they did not. Ms Davis explained that there were reasons this item as put on hold; however, she reiterated that they were not passed along to the Commission. She suggested the need for communication.

Commissioner Clites noted that he was a planner by trade. He advised that he was not concerned at the time when this recommendation was delayed as the land in the Ridgeview Subdivision was so expensive. Mr. Clites noted that the land values were now plummeting; and, he was scared that a change in the landscape could occur due to the low values. He reminded Council that once this change occurred, it would be too late to address. Mr. Clites suggested that as to the sidewalk issue, it was a bad time to consider it when there was an applicant. He noted that the Commission still felt that a sidewalk ordinance was necessary; and, questioned whether it was a priority for the

Council. Mr. Clites inquired as to the Council's priorities for the Commission for the coming year. He noted that all of the items on the list were important. Mr. Clites expressed frustration that some items have neither been rejected or adopted. He suggested the need for feedback from the Council so the Commission would be allowed to work better.

Town Administrator Semmes suggested that rather than saying "don't pursue this" that the Council remand the item back to the Planning Commission for further review.

Councilmember Shea advised that, in cases in which the Planning Commission felt strongly, it would be helpful for her when the Commission recommended an ordinance change that they tell the Council that this ordinance needed to occur even if it was not addressed as a part of the immediate issue.

Town Planner Beniamino expressed his opinion that a year was a long time for the two bodies to not meet. He suggested that it may be helpful to have the Chairman of the Planning Commission attend the Council meeting at the mid-year point to give a status report on the Planning Commission's progress on their goals. Mr. Beniamino further suggested that a presentation be given to the Council by the Chairman and Town Council representative on the Planning Commission. Councilmember Murdock suggested this occur during a work session. Councilmember Shea agreed with the need for an annual meeting of both bodies and a mid-year report by the Chairman. Vice Mayor Kirk noted that the annual meetings did not have to be as long as this one. Commissioner Clites noted that the Commission could come to the Council meeting if an item was important. Mayor Davis invited the Planning Commission to attend any Council meeting if they wanted.

Town Administrator Semmes asked that if anyone came up ideas for improving cooperation, communication or efficiency after leaving the meeting that they please send them to the Town Planner so he could add them to the list.

### **Division of tasks**

Town Administrator Semmes noted that there was discussion amongst the members of Council during work sessions about how the Council and Commission acted on things; and, the amount of time involved for the applicants. She asked whether this was a concern; and, suggested the two bodies talk about ideas for addressing it if it was.

Chairman Plescow noted that everyone in the room lived in town; and, suggested that they knew what was going on with regard to the economy. He expressed his opinion that the Planning Commission has tried to be helpful during the processes as they knew it was important to maintain business on the main street. Mr. Plescow reminded the Council that the Commission worked with them seven or eight years ago to adopt a policy to keep retail on the main floors. He noted that this was during a point in time when the town was starting to see the conversion of first floors to office uses. Mr. Plescow expressed the Commission's appreciation to the Council for backing them up and setting up that policy. He noted that this was one of the reasons the Town won the Great Streets in America Award.

Chairman Plescow noted that it was not that the Planning Commission was not cognizant of the economic impacts; however, he encouraged Council to remember that they were very clear when reaching their decisions that they did not discriminate based upon economics. He reminded Council that his background was in development; and, noted that if he had a project, the economics of it was his problem. Mr. Plescow suggested the developers must negotiate a good price with their contractors; and, should not look to the municipality to solve their problems. He noted that this was the Planning Commission's attitude. Mr. Plescow suggested that if a business

wanted to come to Middleburg, they must understand that the Town had rules; and, that as long as the business played by them, the Commission would help them get through the process quickly. He noted that the Commission was thorough. Mr. Plescow explained that because the Town did not receive that many applications for new projects, the Commission felt they were all big projects and they sweated the details. He expressed his opinion that any building that came to town would be here for fifty to one hundred years. Mr. Plescow advised Council that the Commission spent a lot of time working with the applicants; and, even encouraged them to have a pre-application meeting. He noted that they looked at the site plans. Mr. Plescow suggested the need to get a dialogue going between the Town and the applicant as soon as possible as a good project benefited both parties.

Chairman Plescow advised Council that the Commission took the economic issues out of the equation; and, looked at the Comprehensive Plan, safety and other goals for Middleburg, as well as what made it special. He explained that this was why the Commission jumped on the Ridgeview issue. Mr. Plescow asked whether the Council wanted Ridgeview to become like Arlington with large McMansions located next to small ranch houses. He noted that this was also why the Commission jumped on the sidewalk issue. Mr. Plescow advised Council that the Commission was not picking on the National Sporting Library; and, reminded them that when the Library came in with their site plan, they were required by the Town Code to install sidewalk on both frontages. He noted that the Commission tried to work with them. Mr. Plescow expressed his opinion that they did not want to install sidewalk on Route 50. He reminded the Council that the Commission said they must install it on The Plains Road because this area was unsafe for pedestrians. Mr. Plescow noted that the Library asked for a waiver for their construction access due to safety concerns. He asked how safe this area was for pedestrians if it was unsafe for trucks. Mr. Plescow advised Council that he even drew up a detailed sidewalk plan for the National Sporting Library that would allow for the sidewalk without affecting the visual aspect of the project; however, they simply said they did not want to do it. He expressed disappointment as the National Sporting Library was a huge asset for the Town. Mr. Plescow noted that this building would be here for two hundred years; and, reiterated his disappointment that the Town was not able to get a nice sidewalk link from the town's core to the site. He expressed his opinion that the Town would not get another shot at that sidewalk for another two hundred years.

Commissioner Clites advised Council that he attended the Certified Planning Commissioners training. He noted that the biggest thing that he took away from that training was that the Planning Commission was not really political. Mr. Clites explained that they could be used as the "under dogs" and "bad guys" as they could be hard-nosed with the developer to get what the Town needed. He further explained that the Council could then be the "give back" body that said "we don't want all of what the Commission identified, but we do want some". Mr. Clites suggested the need for the Commission to be clearer about what they were recommending so the Council could understand; and, expressed his opinion that it was a lot to ask one member to remember that level of detail. Town Planner Beniamino noted that sometimes two people could be at the same meeting and hear different things.

Mayor Davis expressed her opinion that there were some areas where stream lining could occur. She suggested that there were some items that the Planning Commission currently reviewed that could be handled by the staff. Town Planner Beniamino confirmed the staff could handle some ministerial acts. He cited as an example that he must put a zoning location permit request on an upcoming Council agenda. Mr. Beniamino noted that the applicant could not get their building permit from the County without the zoning location permit. He advised that the Town Code required the Council to approve the zoning location permit even though the Planning Commission had already reviewed and approved the site plan. Mr. Beniamino explained that even though the Council could not deny the permit, he must still put it on the agenda. He suggested that if this were a task assigned to the staff, he could have issued the permit already.

Town Planner Beniamino noted that he had discussions regarding this transfer of responsibilities with the Planning Commission; and, advised that they asked what would happen if he left the Town's employ. He suggested the Commission not be removed from the site plan review process. Mr. Beniamino advised that in some communities, the Planning Commission was responsible for the pre-application review, with the staff approving the site plan as a ministerial act. He noted that the Town Engineer also looked at site plans from an engineering perspective; and, VDOT looked at them from a traffic aspect. Mr. Beniamino advised that Whitman Requardt was involved in any water and sewer issues.

Town Planner Beniamino suggested that the ordinance be amended so approval did not require the applicant to wait for a meeting. He noted that the Planning Commission currently issued a lot of conditional approvals. Mr. Beniamino advised that Town Administrator Semmes asked him why they were doing so; and, he explained that it was a band-aid to help the applicants.

Councilmember Shea noted that she was not into planning and development; and, advised that when the staff talked about specifics, she got lost. She recommended that the Town streamline the process and look at what needed to be changed. Ms. Shea suggested the staff recommend what they could and should be doing. Councilmember Snyder expressed his opinion that this was the Council's job. Town Administrator Semmes recommended the staff identify what they were capable of handling. Councilmember Shea explained that she was suggesting that the staff and Commission bring ideas forward to which the Council could respond.

Chairman Plescow advised Council that the Commission was open to streamlining the processes. He further advised that they were opposed to too many conditional approvals; and, explained that the Commission only recommended conditional approval if a couple of minor items were needed. Mr. Plescow reiterated that the Commission "sweated the details"; and, advised that if they were not happy with a proposed plan, the developer must come back and do it right. He noted that no ordinance was perfect; and, advised that two people may not interpret it the same way. Mr. Plescow explained that the Commission's attitude was that it was not opposed to a project as long as the applicant was playing by the rules. He noted that they have had instances in which this has not happened. Mr. Plescow reiterated that the Commission was okay with streamlining the process; and, noted that they have discussed instances in which there could be a change. He cited the example of a change of use; and, noted that the regulations required a site plan, which was a waste to do. Commissioner Clites noted that it hung the applicant up for months. Chairman Plescow agreed that this would be a good item for a change in the process.

Councilmember Hazard advised the Council that the reason the Commission asked the applicants to come in for a pre-application meeting was so they could address any issues before they prepared the site plan. He suggested that government, at any level, could go down a path with great intentions, only to find unintended consequences. Mr. Hazard expressed his opinion that something needed to be put together that was clear.

Town Administrator Semmes noted that after looking at how the Town's processes worked, she was concerned about whether the ordinances were being followed. She advised that she did not want to find herself in front of a judge because the Town did not follow its own regulations.

Chairman Plescow suggested that this happened because Middleburg was a small town. He advised that the Commission tried to help the applicants; and, noted that sometimes they got in trouble by doing so.

Town Administrator Semmes suggested the need to build flexibility into the ordinance without giving away discretion. She noted the need for balance. Ms. Semmes agreed with the need to maintain Middleburg's small town flavor; and, suggested the Town wanted to work with people.

Councilmember Hazard expressed his opinion that even though Middleburg was a small community, items went through the process in a very expedited fashion. He advised that something that took two months to complete in Middleburg, took a minimum of six months in Fairfax County.

Town Planner Beniamino expressed his opinion that from an economic development perspective, the Town could become more efficient and the processes more streamlined in order to attract more development. Councilmember Hazard expressed his opinion that businesses were not declining to invest in Middleburg because of the processes. Town Planner Beniamino advised that he received calls from prospective businesses that did not come when they were told of the processes, such as a change of use. He noted that the staff tried to be creative; however, he advised that doing so opened the Town to a lawsuit.

Town Administrator Semmes expressed her opinion that when the Planning Commission saw these stumbling blocks that it would be a great role for them to make a recommendation for change to the Council. She noted that the staff had the same responsibility. Ms. Semmes suggested that another easy thing to do to ensure that the quality of the plans that were submitted was good was to develop a check list. She further suggested that before the plans were accepted, they would have to meet the check list. Ms. Semmes explained that this kept the clock from starting when someone submitted "garbage" plans. She noted that when the Town took the developer's fee that often this started the clock ticking. She reminded those present that there were statutory time limits under the State Code for acting on some items. Ms. Semmes noted that the Town could save time at the beginning of the process if it insisted that the plans meet the minimal requirements before they could be accepted. She expressed her opinion that this process was lacking in Middleburg.

Town Planner Beniamino suggested the need for a major and minor site plan review process. He noted that currently everything was looked at under the same microscope. Councilmember Hazard asked for an example of a small project that took too long. Town Planner Beniamino cited the addition that Dominic Mingonie added to his building on Hamilton Street. He noted that Mr. Mingonie paid the in-lieu-of-parking fee in order to turn his commercially zoned property into a commercial building. Mr. Beniamino advised that Mr. Mingonie went through the same process as the Chinn's Crossing Project. He asked whether someone like Mr. Mingonie should be able to save money on an engineer by having less detailed plans for a small addition.

Councilmember Hazard expressed his opinion that this was a bad example. He noted that there were historical questions related to Mr. Mingonie's property. Mr. Hazard explained that this was where he had concerns about stream lining the processes. He noted that Mr. Mingonie had to install parking; and, the project involved demolition on a historical property. Mr. Hazard expressed his opinion that a project of that nature needed to stay at the Planning Commission level so the items that were needed could be checked. He advised that all of the things required by that project, such as a soil analysis, were needed. He explained that if Mr. Mingonie was to construct a parking lot, a soil analysis was needed to ensure that parking was not constructed on a swamp.

Town Planner Beniamino expressed his opinion that different requirements should exist for different developments. He suggested that a better example was the subdivision process. Mr. Beniamino reminded those present that Salamander must follow a rigid process for their forty-nine lot subdivision. He advised that Betsy Allen had to follow this same process to subdivide

her property into two lots. Mr. Beniamino explained that it would take Ms. Allen three months to subdivide her property. He suggested that under a minor subdivision process, this application could be handled administratively. Mr. Beniamino noted that major subdivisions could still be approved by the Planning Commission. Councilmember Hazard suggested that the development of these processes needed to be done carefully.

Councilmember Shea expressed her opinion that the Council needed a list of what could be assigned elsewhere. Councilmember Hazard expressed an understanding of the desire to streamline the processes; however, he noted that this was a “bone of contention” for him. He advised that he did not see anything being done administratively as he believed things would get missed.

Chairman Plescow expressed his opinion that three months to subdivide a property was “lightening fast”. He noted that elsewhere, this would take a year. Councilmember Hazard noted that the staff was trying to help the applicant; however, he expressed his opinion that things needed to be done and the processes needed to be done right.

Chairman Plescow expressed his opinion that part of the issue was setting expectations. He agreed that Middleburg was a small town; however, he noted that he volunteered his time because he loved the way the town was developed and wanted to keep it that way. Mr. Plescow advised that he felt strongly that the Commission must look at every site plan; and, “sweat the details”.

Councilmember Snyder took issue with the Planning Commission’s position. He expressed his opinion that they were turning themselves into a building department.

Vice Chairman Ribaldo reminded Council that the jurisdiction of the Planning Commission was set forth in the Town’s ordinances and the State Code.

Town Administrator Semmes expressed her opinion that those present were not on the same level to continue to discuss this item equally. She suggested it would be better if the staff was allowed to present options. Ms. Semmes noted that this was a policy matter; and, reiterated that in order for everyone to be able to discuss it equally, more information was needed from the staff. She explained that there were lots of ways to address this issue. Ms. Semmes advised that the staff was happy to provide this information. She clarified, however, that the Council had the authority to take all actions under the State Code; therefore, these items were theirs to delegate. Ms. Semmes stressed that in terms of development review, the Council could keep it to themselves or they could give the authority to the Planning Commission or staff.

Councilmember Snyder expressed his opinion that there was a balance that would make both bodies happy. Vice Chairman Ribaldo noted that she looked at the Planning Commission as an advisory board.

Town Administrator Semmes reminded those present that the State Code discussed the purpose of planning commissions. She advised that the State Code stated that local planning commissions served in an advisory capacity to the governing body. Ms. Semmes noted that it was up to the Town Council to determine what it wanted the Commission to spend its time on. She suggested the staff offer some ideas for discussion by the two bodies, to which those present agreed.

Chairman Plescow noted that the Commission members understood that they were advisors. He explained that the problem was that they were receiving no feedback. Mr. Plescow expressed an understanding that just because the Commission recommended something, it did not mean the Council would agree. He noted that the Commission did not always agree with the staff.

Town Planner Beniamino advised those present that he has worked in communities where taking items to the planning commission was futile; however, he noted that this was not the case in Middleburg. He suggested that from a staff perspective, there was a need to find ways to streamline the process.

Councilmember Murdock advised that, having served on the Planning Commission, she was overwhelmed by the amount of work they had to do. She expressed hope that the Council could take away work from the Commission that they did not think was necessary. Ms. Murdock expressed her opinion that they were important in the areas of development and advice. She noted that the Ridgeview Subdivision was a huge issue. She suggested the need to eliminate having the Commission serve as a “rubber stamp” so they could spend their time more efficiently. Ms. Murdock reiterated that the Planning Commission had long meetings; and, did a lot of work.

Commissioner Clites advised Council that he has never served on a committee in which its members complained about the amount of work required. He noted that the Council donated their time and did not complain. Mr. Clites advised that, for him, doing routine work was a part of what he agreed to do. He noted that what really interested him were those items that went beyond the day-to-day work. Mr. Clites advised that he had no problem spending time on the extra effort; however, he hated to spend it only to find that the “baby was thrown out with the bath water”. He cited the example of sidewalks, the zoning ordinance, and the other things on the Commission’s list as things that were exciting. Mr. Clites noted that they involved identifying ways to preserve Middleburg’s character, which the Commission felt was important. He advised Council that the Commission did not mind spending time on items as long as they were going in the right direction.

Chairman Plescow explained that sometimes the challenge was the applicant, as they did not want to follow the process. He noted that others made the job easier. Mr. Plescow explained that the Commission has had applications where they worked with the applicant, only to have the applicant “vaporize”. He noted that some applicants would not show up for the Commission meetings for months; and, advised that in those cases the Commission must disapprove the request due to time limits. Mr. Plescow expressed his opinion that in larger jurisdictions, they would have been denied immediately.

Vice Chairman Ribaldo advised Council that the biggest frustration for her was to show up for a specially called meeting only to find that the applicant didn’t show. She noted that her frustration was not with the amount of work required. Ms. Ribaldo advised Council that in other jurisdictions, the application would be denied, with the applicant being required to re-file and pay a new fee. Town Administrator Semmes confirmed that a resubmission fee did usually reduce the number of submissions.

Town Administrator Semmes noted that it helped her as the new Administrator to hear the Commission’s concerns and ideas.

### **Discussion of priorities proposed by Planning Commission**

Town Planner Beniamino reminded those present that when the Council and Commission first started to talk about a joint meeting, the Council asked the Commission for a list of the things they wanted to tackle. He suggested that the Commission go through each priority to explain where they were coming from so the Council had the benefit of their input when they set their priority list for Commission.

Councilmember Shea noted that the items were numbered. She asked whether they were numbered by priority. Chairman Plescow confirmed they were not. He explained that the numbers were simply a means of differentiating the ideas. Mr. Plescow advised Council that all of the items on the list were important to the Commission.

### Comprehensive Plan

**Pedestrian Plan:** Chairman Plescow noted that Middleburg was a small town; however, he expressed his opinion that it was more of a village. He suggested that as such, it needed to be pedestrian oriented. Mr. Plescow advised Council that the Commission spent time this past summer observing pedestrians; and, expressed his opinion that there were an unbelievable number of them. He suggested that walking was the number one recreational activity in Middleburg. Mr. Plescow explained that pedestrian circulation was important to the Commission. He noted that this was complicated by the fact that the sidewalks were owned by VDOT; and, advised that this issue would not be easy to address. Mr. Plescow noted that, to the Commission, pedestrian access fell into “a couple of buckets”. He explained that the first was safety. He noted the need for safe sidewalks for both the residents and visitors. Mr. Plescow advised that the second consideration was connectivity between the residential areas and the core downtown district. He expressed his opinion that pedestrians should be able to safely walk between these areas. Mr. Plescow advised that the third consideration was economics. He suggested that visitors should be able to go from the municipal parking lots using a loop to get to all of the town’s businesses without having to make detours. Mr. Plescow expressed his opinion that from a village planning perspective, people came to Middleburg not for an hour, but for half a day. He suggested the need to make the sidewalk system conducive to allowing guests to park and make a loop. Mr. Plescow expressed his opinion that part of the fun of going to a village was having the ability to explore; and, noted that this was the charm of Middleburg. He suggested it was important to make sure the sidewalk system was good. Mr. Plescow explained that when a site plan came before the Commission, if there was a deficiency in the sidewalk system, they asked the applicant to address it.

**Historic District Expansion:** Chairman Plescow noted that this item has been on the Commission’s plate for a long time. He explained that they were concerned about having the ability to control architecture and construction. Mr. Plescow reminded Council of the controversy surrounding the house that was built on Route 50. He noted that a lot of people did not like it because they felt it was out of scale with the area. Mr. Plescow reminded Council that the Town only had influence over properties within the Historic District; and, suggested that the question was how the Town could address the concerns. He expressed his opinion that this was one of the biggest issues that the Commission should work on with the Council.

Chairman Plescow expressed his opinion that growth was coming in the Ridgeview area; and, suggested the Town would see pressure to expand and modernize the houses when Salamander came. He asked whether the Council wanted to see a glass house next to a colonial one next to a ranch house. Mr. Plescow suggested that if they did, this was fine; however, he advised that if they wanted to control it, the Town needed to do something different. He noted that the options were to adopt a zoning ordinance or to expand the historic district. Mr. Plescow expressed his opinion that it was not uncommon for an entire historical town to be in a historic district. He acknowledged that it would be controversial as putting properties in a historic district influenced property rights. Mr. Plescow further acknowledged that it would be a burden for the property owners. He advised, however, that from a sales point of view, being in a historic district helped to preserve property values. Mr. Plescow noted that this was a difficult issue; and, suggested the need for help from the Council. He advised that the Commission could make recommendations and identify the pros and cons of placing the town in a historic district; however, he noted that the Council must be the body to enact it.

Mr. Plescow suggested that if the Commission could not use that as an option that it at least be allowed to focus on the expansion of the entrance corridors on Route 50. He noted that this would allow the Town to control the appearance of properties coming into Middleburg.

Chairman Plescow expressed his opinion that these were the hottest concerns from a planning perspective that the Town would see when the economy came back.

Mayor Davis asked whether the expansion would apply mostly to the west end of Town. Town Administrator Semmes expressed her opinion that the entire east end of Town was in the Historic District. Town Planner Beniamino confirmed the Historic District stopped at the wastewater treatment plant. He noted that there was a small area on the east side that needed to be included. Mr. Beniamino advised that, to the west, the District ended at the Community Center. He reminded Council that the Windy Hill Foundation agreed to a Historic District review; however, they were not required to do so. Mr. Beniamino further reminded Council that the Fire Department also asked for a Historic District review, even though they did not have to.

Councilmember Shea asked whether The Plains Road was in the Historic District. Town Planner Beniamino advised that part of it was. He noted that Lincoln Road was not; and, reminded Council that the houses in that location were very old. Mr. Beniamino expressed his opinion that people would buy them for investments and do something with them. Councilmember Shea advised Council that the huge corner lot would be sold soon.

Chairman Plescow advised Council that those were the three items that were high on the Commission's priority list. He further advised that they would like input from the Council on them. Mr. Plescow noted that these issues could not be solved overnight; however, he reiterated that they were "hot" items for the Commission, in particular the pedestrian plan. He suggested that if the Town did not do a good job developing a pedestrian plan, it would not be good for the residents or visitors.

Commissioner Woodruff suggested the need to look at how the Town could implement a program that addressed the issue retrospectively. He expressed his opinion that, at some point, something needed to be done for the people who lived and visited Middleburg in order to ensure the sidewalks were safe. Mr. Woodruff suggested that when a sidewalk needed to be reconstructed, someone needed to look at this. He advised Council that this concern was the one that he heard the most about from the public.

Councilmember Hazard advised that the safety aspect was important; and, noted that getting to the Middleburg Elementary School was a problem. Councilmember Snyder expressed his opinion that addressing pedestrian safety has been a goal of the Council's for decades. Town Planner Beniamino confirmed that the Town was working on this area.

Town Administrator Semmes expressed her opinion that the Town needed to have a plan in order to qualify for grants. She expressed hope that there would be additional stimulus money forthcoming.

Chairman Plescow advised Council that the Commission had the information necessary to develop a plan, including an inventory. He noted that they were working on a plan for prioritization.

Commissioner Clites advised Council that when the Commission talked about the expansion of the Historic District or some other overlay, they wanted to meet with the Council before they went too far. He suggested the need to have Council's opinion sooner rather than later; and,

expressed his opinion that the two bodies needed to navigate the big picture issues early. Mr. Clites explained that one question was whether the Town would regulate these areas as it currently did or whether a separate historic district would be created. He suggested the need for an additional meeting once the Council decided whether this would be a priority item.

Town Planner Beniamino advised that the staff hoped the Council would get together to discuss their opinions and concerns so they could then be relayed to the Planning Commission.

Chairman Plescow expressed his opinion that between the staff and the Commission members' experience, they could identify a lot of ways and tools to address the concerns. He noted the need to decide what the Town wanted to do and to what extent it would regulate development. Mr. Plescow expressed his opinion that the issue in historic towns was how far to go with the regulations.

Councilmember Shea noted that there were regulations forthcoming that would limit the Town's authority to regulate growth. Town Planner Beniamino confirmed there were State regulations that required all municipalities to take a share of growth. He noted that the State was now saying that municipalities must plan for growth over the next twenty plus years. Mr. Beniamino expressed his opinion that even though Middleburg wanted to be a small town, it must plan for growth in the area. He explained that the State was not saying what must be done; however, they were saying the Town must designate areas for growth to occur. Mr. Beniamino suggested that this was easy to do in Middleburg due to Salamander.

Commissioner Clites noted the issues associated with the zoning ordinance. He suggested the need to look at areas of the town in which the zoning ordinance worked and didn't due to the economic climate. Mr. Clites expressed his opinion that there were opportunities to plan for growth and to help the land owners see the direction they may want to take. Town Administrator Semmes confirmed that creative things could be done. She suggested the use of planning charrettes and the development of ideas for design guidelines for areas that were under developed.

### Zoning Ordinances

Review zoning location permit process: Chairman Plescow expressed his opinion that the zoning ordinance issues were more of technical approval processes. He suggested that if a property was simply changing uses, the Town should stream line the process as long as the change of use did not trigger a required improvement. Mr. Plescow reminded Council that the Town went through a period where projects involved the expansion of parking lots. He noted that the Town had new parking regulations with which the developers were made to comply. Mr. Plescow reminded Council that this was the only way to fix things, as the Town did not have the funds to retroactively fix them itself.

Town Planner Beniamino expressed his opinion that this was difficult when dealing with an old structure which had no room to expand. He suggested the need for careful consideration of this issue by the Council and Planning Commission. Mr. Beniamino expressed his opinion that he could find something wrong with every lot in town that would require an upgrade. He suggested that the question was what would be the tipping point to require a full site plan review. Mr. Beniamino asked what could be done in-house.

Demolition of Structures by Neglect: Chairman Plescow suggested this was something the Commission needed help with. He advised Council that the Town had already had one bad experience.

Town Administrator Semmes confirmed that it was difficult to get the County Building Department to work on this. She noted that the Town of Purcellville did something creative so that not only was it addressed through the historic district but also through a spot blight abatement ordinance. Ms. Semmes suggested that the staff return with ideas for addressing this problem.

Town Planner Beniamino explained for those present that property owners could not knock down structures in a historic district; therefore, some let their buildings fall apart to the point where the building inspector declared them a danger. He further explained that in those cases, the Town did not have the ability to stop the demolition. Mr. Beniamino noted that a demolition by neglect ordinance said that before a building reached that point, the property owner must repair it.

Town Administrator Semmes noted that most ordinances typically identified the kinds of deterioration that needed to be addressed. She explained that if the property owner did not do so, the local government could perform the work and place a lien on the property.

Town Planner Beniamino suggested the need to partner with the County. Town Administrator Semmes noted that there was training available for zoning administrators to handle the inspections.

Housing to Scale Ordinance: Chairman Plescow noted that this would affect the Ridgeview Subdivision and other parts of town.

Revision to Current Zoning Ordinance Definitions: Chairman Plescow expressed his opinion that this was a routine housekeeping item. He suggested the Town's zoning ordinances were not perfect and that they could always be better. Mr. Plescow noted that the Town learned by its mistakes and when it did, it tightened the ordinances. He suggested that this was an on-going goal for any planning commission.

Town Planner Beniamino cited the example of the AC District Ordinance. He explained that when the Salamander Project came in, the Town developed a detailed section in the ordinance to address it. Mr. Beniamino advised Council that the other sections of the zoning ordinance did not have that same level of detail.

Future Development of Federal Street: Chairman Plescow suggested this was a special area from a planning perspective. He noted that this area could be converted to something else; and, suggested that as a community, the Town should encourage it. Mr. Plescow advised that in cities, there would be a program to proactively encourage redevelopment through the use of incentives. He noted that an individual could buy a block and do a mixed use project; and, suggested that the jurisdiction could encourage this if the developer did certain things that benefited the town.

Town Planner Beniamino reminded those present that in 2003, the Town took steps to remove offices from first floors in the C-2 District. He noted that they also took steps to encourage retail and restaurant uses in this same district. Mr. Beniamino reminded those present that Federal Street, between Jay Street and The Plains Road, was zoned C-3, which was for traditional industrial uses. He advised that while the Millwork and White properties were these types of industrial uses, the remainder was primarily what the Town should want for commercial uses. He noted that this area, however, did not have the same benefits as were found in the C-2 District. Mr. Beniamino reminded Council that Marshall Street, where the Town Office was located, was zoned C-2, which did not require parking; however, he noted that it was located far from the two municipal parking lots. He noted that the Federal Street areas were zoned C-3; and, even though they were located near the public parking areas, they did not enjoy the same parking protections as the properties on Marshall Street. Mr. Beniamino suggested the need to look at this area more comprehensively.

Chairman Plescow advised Council that the Commission was thinking about the long-term redevelopment of this area; however, he noted that the community must be behind the concept. He reminded them that things would change over time; and, suggested that the Town could not say “we want Middleburg to stay the way it is”. Mr. Plescow suggested that if the Town was smart and stayed ahead of the development, it could maintain property values and what kept Middleburg special. He expressed his opinion that the Commission did not have to think so much about politics; and, suggested that it could “dream” so the town would stay special. Mr. Plescow suggested that the Planning Commission give the Council its recommendations, with the hope that they would help when the Council made their decisions. He noted that this was where the Commission was coming from. Mr. Plescow expressed the Commission’s preference to look at and sweat the details. He reminded Council that the Town did not receive that many applications. Mr. Plescow advised that he wanted to make the sure the Commission looked over them.

Town Planner Beniamino suggested that a discussion between the two bodies would be helpful to the staff, especially when they talked to applicants. He further suggested that it would be helpful if the staff could say “this was what the Council and Planning Commission discussed and decided the process should be”.

Chairman Plescow suggested the need to set expectations in order to keep Middleburg special. He further suggested that applicants needed to know that if they wanted to do a project here, they must follow the rules. Mr. Plescow noted that he did not want to see something that would negatively impact the town. He expressed his opinion that the Town could not control development by telling the developers exactly what to do; however, he suggested that it could guide them and set up expectations. Mr. Plescow noted that he has personally worked in jurisdictions where he gave up on a project because meeting the regulations was too tough or the project’s economic model would not work in that community. He suggested there was nothing wrong with setting high expectations for Middleburg; and, expressed his opinion that the Town should not be ashamed to say “this is the rule”.

Mayor Davis expressed her opinion that people needed to do their homework before they bought property in Middleburg. She noted that people have come to the Town and said that “they must do xxx in order to get their money back”. Chairman Plescow expressed his opinion that sometimes the Town simply had to say “that’s too bad”. (Councilmember Snyder left the meeting at 8:09 p.m.)

Town Planner Beniamino expressed his opinion that having this conversation allowed everyone to feel confident about saying they were “all in agreement”. Councilmember Littleton agreed that everyone thought Middleburg was a special place.

Councilmember Murdock noted that Chairman Plescow said something about community backing. She advised that what she found so disheartening about the Ridgeview charrettes was the lack of citizen involvement. Ms. Murdock noted that this lack of presence was something the Council must deal with as it must deal with the voters. She reminded the Commission that the only time the Council heard about something was when the citizens did not like it. Ms. Murdock noted that this could be very frustrating.

Vice Chairman Ribaudo expressed her opinion that this lack of participation was everywhere. She suggested that there was only a small nucleus of individuals that cared.

Councilmember Littleton noted the Chinn’s Crossing Project, which was two years in the planning. He advised that he heard from five hundred people when the first shovel went into the ground. Town Planner Beniamino noted that those same individuals were now saying that they

liked the way the project looked. Councilmember Hazard noted that he has heard people who turned their opinion around. Councilmember Murdock noted that she also heard from both sides. She advised, however, that the Ridgeview Subdivision was a different story. Vice Chairman Ribaldo agreed this would be the case until something happened next door to them.

Councilmember Shea expressed her opinion that this still needed to be done. She suggested the need to train the community by continuing to hold meetings and inviting the citizens to come. Ms. Shea agreed that many may not show; however, she suggested the need to keep doing them.

Commissioner Clites expressed his opinion that the Commission and Council must first be together on the issue. He noted that everyone in the room talked to people as individuals. Mr. Clites suggested that they should be together on these issues when they represented them to the community. He further suggested that they should suggest that the public come to any meetings that were held.

Councilmember Shea noted that individual members of the Council and Planning Commission were not the body. She encouraged those present to send the message to the citizens that they should call everyone. Ms. Shea suggested that if a citizen told one member something, they needed to tell the whole body. She expressed her opinion that part of the frustration associated with why things were not completed was because the member that the citizen talked to may not have told everyone of their conversation.

Town Administrator Semmes advised that the Loudoun Planning Commission started their meetings by saying "I talked to XYZ about these issues and this was what they said". She explained that when making decisions, this allowed them to make decisions based upon the same information. Ms. Semmes noted that everyone may not agree about what to do with the information; however, at least everyone would have heard it. She suggested that if the information the individual members learned was not shared with the entire group, they may not receive the benefit of information that may be good.

### **Future actions**

Mayor Davis thanked everyone for their hard work. She expressed hope that by holding these meetings once a year, there would be better communication. Ms. Davis further expressed hope that each body understood the value of the other. She noted the need to be on the same page as far as goals were concerned. Ms. Davis expressed her opinion that the Council respected what the Planning Commission did. She noted that they were planning to digest what was said during this meeting; and, would discuss it during a work session. Ms. Davis advised that the Council would then like to hold a follow-up meeting with the Commission.

Town Administrator Semmes advised the two bodies that the staff would have information available on the items that could be streamlined for the next joint meeting.

Chairman Plescow suggested that if the Council wanted to hold individual sessions on the more complicated items, the Planning Commission would be happy to do so. Mayor Davis advised that there was no reason the Commission could not add an item to the Council's agenda if they felt strongly that they would like to do so.

Councilmember Shea asked that the Town Clerk send the Council meeting agendas electronically to the Planning Commission.

Vice Mayor Kirk expressed her opinion that the Council was very proud of the Planning Commission. She noted that they were aware of how much work they did; and, advised that they were lucky to have such a diverse and dedicated group. Ms. Kirk reiterated her appreciation for the work the Commissioners did.

Chairman Plescow agreed that the Town had a great Planning Commission. He noted that professionally he has worked in a lot of jurisdictions; and, advised that Middleburg had some “super stars” on the Commission.

There being no further business, a motion was made to adjourn the meeting at 8:19 p.m.

APPROVED:

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Betsy A. Davis, MAYOR

ATTEST:

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Rhonda S. North, MMC, Town Clerk