



MIDDLEBURG TOWN COUNCIL
Regular Monthly Meeting Minutes
Thursday, February 10, 2011



PRESENT: Mayor Betsy A. Davis
Vice Mayor C. Darlene Kirk (arrived late)
Councilmember Trowbridge Littleton
Councilmember Catherine "Bundles" Murdock
Councilmember Kathy Jo Shea
Councilmember Mark T. Snyder
Councilmember David B. Stewart

STAFF: Martha Mason Semmes, Town Administrator
Rhonda S. North, MMC, Town Clerk
Elizabeth D. Whiting, Town Attorney
David M. Beniamino, AICP, Town Planner
Cindy C. Pearson, Economic Development Coordinator
Debbie J. Wheeler, Town Treasurer
Mike Prince, Police Officer

ABSENT: Councilmember Kevin Hazard

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, February 10, 2011 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Mayor Davis led Council and those attending in the Pledge of Allegiance to the flag.

Public Comment

Huntington Lyman, a twenty-six year resident of Middleburg, appeared before Council. He advised that a few weeks ago, he was hit by car while he was running through town. Mr. Lyman explained that a car that was going eastbound on Washington Street stopped to allow him to cross the street; and, while doing so, another car passed the first vehicle on the right, striking him. He expressed his opinion that the driver was a nice lady, despite their inauspicious meeting. Mr. Lyman expressed his opinion that the danger from cars was not an anomaly in Middleburg.

Mr. Lyman expressed his opinion that it was difficult to run, walk or bike in Middleburg without crossing Washington Street. He noted that he has run in the town for many years; and, advised that while many drivers stopped when he was in the crosswalk, others did not. Mr. Lyman expressed his opinion that he often waited a long time to get the right-of-way at a crosswalk. He advised that while he drove east to work, he often had to head west and circle around the block as drivers would not let him in. Mr. Lyman further advised that when he turned into his driveway, sometimes drivers would blast their horn and pass him.

Mr. Lyman advised that he did not want a by-pass as they promoted "cheap" development, nor did he want a series of traffic lights. He suggested the need to balance decisions against the awareness of safety. Mr. Lyman expressed his opinion that for many motorists, Middleburg was a traffic inconvenience on their way to Washington, DC. He noted the traffic calming efforts in Upperville; and, suggested they have made a difference. (Vice Mayor Kirk arrived at 6:03 p.m.) Mr. Lyman expressed his opinion that his car was a visitor to a town; and, suggested that the town was not an inconvenience for him and his car.

Mr. Lyman expressed his opinion that the beauty and heritage of Middleburg were its greatest assets; and, noted that people came here to visit. He expressed his opinion that Middleburg welcomed those visitors; however, he suggested that those in cars should be reminded that Route 50 was also Washington Street. Mr. Lyman suggested the design of the road and sidewalks should have pedestrians in mind; and, that the road should force commuters to have consideration for pedestrians.

Mr. Lyman advised Council that he lived on one side of Washington Street and worked on the other. He suggested that residents should not have to take their lives into their hands to get to the other side.

Dan Morrow, publisher of the Middleburg Eccentric, noted that many people were aware of the event that occurred on November 30, 2010 when the editor of his newspaper was “perp walked” down Federal Street by the State Police, escorted by Chief Webber. He advised that other than a closed session meeting to discuss the incident, as far as he knew, no action had been taken and none was being contemplated until after the Hubbard case cleared the courts. Mr. Morrow noted that he could not find out why no action would be taken until after the court heard the case; and, suggested that the policies of the Police Department had nothing to do with whether the accused was guilty. He suggested the issue was whether the Police Department had guidelines that gave them reasonable guidance on how to handle the arrest of non-dangerous felons.

Mr. Morrow advised Council that he had spoken with representatives from other police departments, as well as town managers, regarding this matter. He noted that he could not find anyone who could justify what happened to Ms. Hubbard other than if she was a flight risk or dangerous; if the police did so to enhance their reputation; or if someone wanted to make an example of the editor. Mr. Morrow expressed his opinion that the Council should act on his concerns. He noted that doing so would be difficult as Middleburg was a small town. Mr. Morrow further noted that political campaigns were going on. He suggested appointing an independent commission to objectively look into and to develop a set of guidelines for police behavior. Mr. Morrow expressed his opinion that when the Council discussed whether to discipline or not, they needed objective advice. He noted that, otherwise, the only investigation that would be done would be by people like him and the other newspapers; and, suggested that the Council would not want it to happen that way.

Eura Lewis, a resident of Middleburg, appeared before Council to share some observations she has made since she last met with the Council regarding the Middleburg Museum. She reported that she has toured the Health Center building; however, she did not think it was conducive to a museum. Ms. Lewis further reported that she toured the Pink Box; and, found there was an “extra” room on the first floor that was currently used for storage. She suggested this would be a more feasible location for a museum. Ms. Lewis advised that she would like to put the idea of using the Health Center for the museum on hold and instead move forward with the idea of using the Pink Box. She noted the need to work with the National Sporting Library’s Board of Directors. Ms. Lewis explained that she wanted to bring this to the Council’s attention; and, expressed her opinion that it would be best to combine the visitor’s center and the museum in one location.

Ms. Lewis noted that it would take a long time to secure a 501(C)3 designation. She advised that she was continuing to work on names for the committee. Ms. Lewis noted that she has not yet established the committee; however, she would as soon as she found a location for the museum. She reported that she has written to other museums; and, was receiving materials.

Ms. Lewis asked for the Council’s opinion with regard to putting the museum in the Pink Box. She noted that she has confirmed her thoughts with the Economic Development Coordinator. Ms. Lewis proposed to have the committee meetings on the third Thursday of each month at 5:00 p.m. She noted that the staff left for the day at 4:30 p.m.; and, advised that she would need a key to the Town Office. Vice Mayor Kirk noted that, as a member of the Committee, she could lock and unlock the building.

Paul Eden, a resident of Middleburg, appeared before Council in support of Chief Webber. He expressed hope that the Council would not let the case be tried in the media. Mr. Eden suggested this would be easy to do when the stories were controlled by the media.

Public Presentations

Mayor Davis introduced Janet Clarke, a candidate for the Blue Ridge District of the Loudoun County Board of Supervisors. She noted that Ms. Clarke previously served on the Purcellville Town Council.

Ms. Clarke advised that she would like to have an open discussion with the Council. She noted that they had their own interests for the community and residents; and, advised that she would like to give them the opportunity to ask her how she felt. Ms. Clarke expressed a love for both Middleburg and Western Loudoun County.

Ms. Clarke noted that her campaign literature contained a biography. She reported that in addition to serving on the Purcellville Town Council, she served three years on the Loudoun County Community Services Board; and, has worked off and on for the Loudoun County Public School System for eleven years. Ms. Clarke noted that she was not currently working so she could run her campaign. She advised that she has worked quite a bit on grass roots efforts, working to support the people of the community. Ms. Clarke expressed her opinion that the people needed representation on the Board. She reiterated that she would like to hear any questions the Council may have.

Councilmember Littleton asked Ms. Clarke why she was running for office. Ms. Clarke noted that there were several reasons. She explained that she did not feel that Western Loudoun had adequate representation on the Board of Supervisors. Ms. Clarke advised that she wanted to be an advocate of recognizing and fulfilling people's interests and needs. She noted that she had no particular agenda. Ms. Clarke advised the Council that what she was hearing was not consistent with the actions that were being taken by the Board. She expressed her opinion that the towns' levels of governance were not being recognized as they should. Ms. Clarke advised the Council that she wanted to foster a level of community conductiveness between Eastern and Western Loudoun County.

Councilmember Murdock expressed her opinion that Western Loudoun was different from Eastern Loudoun; and, advised that the Town wanted to keep it that way. Ms. Clarke expressed an understanding of this; however, she advised that she wanted respect and recognition for Western Loudoun. She explained that she wanted both sides to understand, recognize and appreciate the best of each other. Ms. Clarke noted that everyone traveled to the east for certain things; and, suggested those living in the east should travel to the west. She expressed her opinion that more could be done to promote tourism and help the economic values in the west. Ms. Clarke suggested that Western Loudoun's image needed to be positive; and, expressed her opinion that it had positive things to offer.

Mayor Davis noted that she owned a small business. She expressed her opinion that small businesses carried the County; and, suggested this was being understood more now. Ms. Davis noted that the County was trying to beef up its Economic Development Department. She asked whether Ms. Clarke was on the same page of having the County help small businesses, not only promoting them but financially assisting them. Ms. Davis expressed her opinion that there has been nothing to benefit small businesses. Ms. Clarke noted that she looked into what Fairfax County did; and, advised that they had items in place that she would be in support of in Loudoun County.

Approval of Minutes

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve the January 10, 2011 Work Session; January 11, 2011 Joint Meeting; January 13, 2011 Regular Meeting; and, January 27, 2011 Work Session Meeting Minutes as amended.

Councilmember Snyder reported that he has asked the Town Clerk to attach lists to the meeting minutes, even when no vote was taken on them. He explained that he was looking for this not only to help the Council, but also to “hold their feet to the fire”. Town Clerk North advised Council that she would attached the goals list that was developed for the Planning Commission to the January work session meeting minutes.

Vote: Yes – Councilmembers Kirk, Littleton, Murdock, Shea, Snyder and Stewart

No – N/A

Abstain: N/A

Absent: Councilmember Hazard

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

Staff Reports

Town Administrator Semmes reported that the Town received the bill, totaling \$11,000, for the first snow storm of the season. She reminded Council that the budget contained \$14,000 for snow removal. Mayor Davis noted that she has heard numerous compliments on the job the contractor did. The remainder of Council confirmed they had as well. Town Administrator Semmes noted that this was the first time the Town had used that particular contractor. Councilmember Murdock asked who cleared the sidewalks. Town Administrator Semmes confirmed the contractor did some and Superintendent Simms did some.

Town Administrator Semmes reported that the Town had not received a response letter from Salamander yet, although she had heard it was being prepared. She noted that she has not been able to set up a meeting with the Town’s consultants as she has not received a punch list from Loudoun Water. Ms. Semmes expressed her opinion that the water treatment plant was close to completion. She advised that the Town has received an estimate on the electrical work needed at the wastewater treatment plant so the power pole could be removed; and, was waiting on another.

Town Administrator Semmes reported that Joe Mason, of Davenport, would have a summary of how far the Town has come financially for discussion during the next work session. She noted that this would assist in moving forward with the new budget. Ms. Semmes advised Council that she would have a draft General Fund budget for the work session.

Town Administrator Semmes reported that the staff was continuing to follow the General Assembly’s actions.

Town Administrator Semmes noted that the front door was missing from the Health Center building. She explained that the screen was broken so Superintendent Simms removed the door in order to install plexi-glass in it. Ms. Semmes noted that the trim on the door must now be painted; and, advised that it should be returned soon. She reported that Mr. Simms was also looking at the hall lights in the building. Ms. Semmes advised Council that the Town has secured a new tenant for the apartment; however, it was losing another tenant - Solstice - effective March 1st. She asked that the members let her know if they knew of a potential tenant.

Town Administrator Semmes reported that she met with Town Engineer DeLeon and Jim Zeller, of VDOT, regarding the Marshall/Madison Intersection Improvement Project. She expressed her opinion that the Town may be able to get some additional reimbursement from VDOT for this project. Ms. Semmes advised that the staff was creating a “marching order” list in order to advance it.

Town Administrator Semmes reported that she recently toured the National Sporting Library; and, expressed her opinion that it was an amazing facility. She noted that it housed seventeen thousand volumes and beautiful artwork. Ms. Semmes advised that she would get a tour of the new wing when the weather was better. She noted that the Library was hoping to open it in the fall. Mayor Davis advised Council that Rick Stottlemeyer hoped to have the ribbon cutting ceremony during the second weekend in October. She asked Council to put this on their calendar.

Councilmember Snyder expressed his opinion that the utility report was a terrific start on identifying the Town’s water issues. He advised Council that he would like to explore it during the next work session in order to refine the details and further review the data.

Mayor Davis inquired as to how the Pink Basketball Tournament went. Economic Development Coordinator Pearson advised that while there were no players from the Mystics present, there were players from the schools. She expressed her opinion that it was a nice event.

Councilmember Murdock reported that the house beside Tim Clites’ was abandoned. She further reported that there was an enormous tree on the property that was down, with the branches coming into the street. Ms. Murdock asked whether there was anything the Town could do about it. Town Planner Beniamino reported that he would look into it.

Town Attorney Whiting reported that the proposed bill related to the cigarette tax board has morphed substantially since it was first circulated. She further reported that it was now a study; and, noted that the cigarette tax board would be one of the stake holders. Ms. Whiting expressed her opinion that the localities got someone’s attention as the bill was reported out of the Senate 99-0 in that form. She noted that things could happen during the cross over period; and, advised that she would keep the Council posted on the bill’s status.

Councilmember Snyder reiterated that he believed the revised utility report, which included new graphs and information, was a step in the right direction. Town Administrator Semmes reported that Loudoun Water has provided an estimate on the amount of water lost during the two water line breaks; and, advised that they projected it at 360,000 gallons. She noted that in removing this from the percentage of unaccounted for water, the loss dropped to 48%. Councilmember Snyder suggested the need for more information.

Town Administrator Semmes noted that in talking to Bob Krallinger, of Whitman Requardt, she had questions related to whether this number included only what was billed or whether there were accounts that were not billed that were not included. Councilmember Snyder confirmed that the Middleburg Elementary School was metered, but not billed. Town Administrator Semmes advised that the Town Treasurer confirmed that the billed number included all the water that was measured by meters, even if the user was not charged. Councilmember Snyder explained that he wanted to see the data organized so he could see the details at a glance. Town Administrator Semmes expressed her opinion that the Town’s water loss was consistent with the auditor’s reports. She noted that the loss dropped in 2007; and, suggested the staff needed to see what happened. Ms. Semmes explained that one year the amount billed was up to 70%; however, it dropped again. Councilmember Snyder expressed his opinion that the Town needed to get a handle on the amount of water that was produced, where it was going and how it was accounted for. Town Administrator Semmes expressed her opinion that it was all billed; however, it was not all paid for. Councilmember Snyder reiterated the need to discuss the water loss and how it should be addressed. He suggested the need to review this information and to take actions based upon the numbers.

Reports of Town Committees

Councilmember Murdock reported that she received a call from Paul Draisey, of the Middleburg Volunteer Fire Department, advising her that they would test turning off the siren the first week of May. She explained that if the test proved the siren was not needed, it would only be used for public safety issues, such as tornado alerts. Mayor Davis reported that, if the tests went well, the siren at the Fire Department would be removed, with the one behind the Town Office being reactivated for emergencies. Councilmember Murdock noted that the siren would still need to be tested monthly; however, she advised that the siren that woke up everyone would be gone.

Action Items (non-public hearing related)

Council Approval – Ordinance – Middleburg Meandering Trail Committee

Councilmember Murdock asked the Town Planner to brief the Council on the ordinance, after which she would present a list of the Committee members. Town Planner Beniamino recommended that she hold off on presenting the list until after the members from Fauquier and Loudoun Counties were designated. Councilmember Murdock asked what those individuals would do; and, why they must serve on the Committee. Town Clerk North reminded Council that the agreement with VDOT required that the committee include members from other jurisdictions. She noted that the ordinance before Council included such appointments. Town Planner Beniamino expressed his opinion that the Loudoun County representative would not be a member of the Board of Supervisors, but would be a member of the planning staff.

Town Planner Beniamino explained that the ordinance would establish an ad-hoc committee. He expressed hope to have the proposed committee membership list available by Council's next regular meeting, following meetings with Loudoun County Supervisor Burton and Fauquier County Supervisor Trumbo, so they could formally make the appointments. Councilmember Murdock reminded Council that the trail would go into Fauquier County.

Town Planner Beniamino reiterated that the ordinance before Council would establish the committee; and, met VDOT's guidelines for how the money was to be distributed. He reported that the Committee would send out an RFP (Request For Proposals) for legal service work within the next month. Mr. Beniamino expressed an assumption that the Council would not want to be the body that disbursed the money from the grant; and, advised that the staff would suggest that this authority be given to the Town Administrator. He noted that the draft RFP was currently written to give the Committee the authority; however, the staff and Councilmember Murdock did not think this was proper. Councilmember Murdock expressed her opinion that the Town needed to sign off on paying the bills; and, noted that she has explained this to the Committee.

Councilmember Murdock moved, seconded by Councilmember Snyder, that Council adopt an ordinance to establish the Middleburg Meandering Trail Committee as an ad-hoc committee of the Town of Middleburg.

Vote: Yes – Councilmembers Kirk, Littleton, Murdock, Shea, Snyder and Stewart

No – N/A

Abstain: N/A

Absent: Councilmember Hazard

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

Vice Mayor Kirk asked whether a similar ordinance was needed to establish the museum committee. Mayor Davis confirmed it was at some point.

Discussion Items

Proposed Amendments to the Tree Preservation Ordinance

Town Clerk North reminded Council that during their December meeting, they quickly adopted a tree preservation ordinance so the Town could submit its Tree City application. She further reminded them that, at that time, they recommended the ordinance be forwarded to the Streetscape Committee for their review. Ms. North reported that the Committee has recommended some minor changes that were outlined in her cover memo.

Councilmember Murdock asked why the term “bushes” was removed from the ordinance. Town Planner Beniamino explained that the Streetscape Committee felt it should be removed as the zoning ordinance identified issues associated with trees and shrubs. He noted that bushes were not a category already contained in the Town Code.

Councilmember Snyder noted that the term “home owner” was introduced for the first time in Section 105-14. He further noted that the term “property owner” was previously used. Mr. Snyder recommended that the term be changed to “property owner” in order to be consistent. He advised that, otherwise, the ordinance looked good.

Mayor Davis asked the Town Attorney whether this was an appropriate change. Town Attorney Whiting confirmed it was fine.

Mayor Davis asked whether the Council was to vote on the ordinance during this meeting. Town Clerk North advised that they could if they wished or it could be placed on the next regular meeting for formal action. Councilmember Snyder advised that he would like to act on it.

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve the revisions to the Tree Preservation Ordinance dated February 4, 2011 as amended.

Vote: Yes – Councilmembers Kirk, Littleton, Murdock, Shea, Snyder and Stewart

No – N/A

Abstain: N/A

Absent: Councilmember Hazard

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

Draft Solid Waste Ordinance

Town Clerk North reminded Council that during their October work session, they raised a number of issues associated with the draft solid waste ordinance. She reported that the staff has reviewed the CSI contract and made changes to the ordinance so it was in conformance with the contract as it currently existed. Ms. North advised that changes were proposed to the ordinance to clarify that recycling materials could be co-mingled. She reminded Council that a question arose as to the issue of dog waste on public and private property. Ms. North noted that the original draft only addressed the issue of dog waste on public property, with someone questioning what happened on private property. She advised Council that she looked at Leesburg’s ordinance and discussed the issue with the Town Attorney. Ms. North reported that language has been added to the draft ordinance to address dog waste on private property as well. She reminded Council that, during the work session, one of the members of Council questioned whether it was appropriate for the Town to regulate dog waste on private property. Ms. North advised that this would be an issue for the Council’s debate; and, reiterated that the language was available should Council wish to include it.

Councilmember Murdock noted that the ordinance required recycling to be “covered”. She further noted that the recycling bins that the Town distributed did not have lids. Ms. Murdock read Section 87-12 as proposed.

Councilmember Snyder suggested the Council move this item to a work session. Mayor Davis reminded Council that they already discussed this in a work session. She noted that this agenda item consisted of “fixes” to the questions previously raised. Ms. Davis suggested that unless the Council felt there was a lot more to discuss, they could finish up the ordinance.

Councilmember Murdock asked what the Council previously agreed upon with regard to a covering. Town Clerk North advised Council that Section 87-12(C) was revised to state that the recycling receptacles should be “provided with some means of closing so as to prevent the scattering of contents”. She suggested that this same language be added to Section 87-12(A).

Councilmember Snyder questioned whether this applied to recycling items. He further questioned why the Town should care whether recycling materials were covered. Councilmember Shea explained that, otherwise, they would blow all over town. Councilmember Snyder suggested that the materials should just be “contained”; and, noted that this was what the Council cared about. Councilmember Murdock suggested that the language read “shall be provided with some means of closing or contained”. She noted that it could be contained with a piece of string.

Mayor Davis asked how the new language would read. After some discussion, it was agreed that the language in Section 87-12(A) should read “All occupants of premises in the Town whose recycling items were removed by the town or by a contractor with the town shall provide a sufficient number of recycling bins or may place recycling loose in a contained manner marked specifically for recycling”.

Mayor Davis asked whether this would apply to Section 87-12(C). Town Clerk North advised Council that this section read “... shall be provided with some means of closing so as to prevent scattering”. Mayor Davis suggested that the term “contained” be used as opposed to “closure”. After some discussion, the Council agreed that Section 87-12(C) should read “All receptacles, as provided for herein, shall be suitable for and shall be strong enough to withstanding handling and emptying, and shall be contained to prevent the scattering of contents”.

Town Administrator Semmes suggested the term “loose” be removed from Section 87-12(A).

After some discussion, the Council agreed that this section should read “All occupants of premises in the Town whose recycling items were removed by the town or by a contractor with the town shall provide a sufficient number of recycling bins or may place recycling in a contained manner marked specifically for recycling”.

Mayor Davis asked whether the Council wanted to make any other changes. Councilmember Snyder noted the need to discuss Section 87-17 pertaining to dog waste on public and private property. Vice Mayor Kirk noted that the Council discussed this during the work session. Mayor Davis reminded Council that the previous discussion ended with the question of whether the Town could insert conditions related to private property into this section. She noted that the Town could legally do so. Vice Mayor Kirk expressed her opinion that if someone walked their dog and the dog defecated on private property, the Town would want that individual to clean it up.

Councilmember Snyder asked whether this was what the section was talking about or whether it was talking about cleaning up waste on a dog owner’s own property. Town Clerk North reminded Council that Section 87-16 (accumulation of animal refuse on private property) addressed the latter concern. Councilmember Snyder advised that he could go along with trying to get people to clean up dog waste that they left on his property.

Councilmember Snyder asked about the requirement to clean up dog waste on one's own property. Town Administrator Semmes noted that this was covered in Section 87-16; and, read the language. Vice Mayor Kirk noted that this would require property owners to clean up the dog waste in their back yards within one week. Councilmember Snyder noted that he no longer had a dog; however, he asked whether the yards should be cleaned once a week. He advised that he liked the idea; however, he asked whether it was too restrictive. Councilmember Murdock expressed her opinion that no one was going to check the properties to determine if they had been cleaned each week. Town Clerk North explained that this section would be enforced when the Town received a call from someone who said that "they had a problem next door with a neighbor who was not cleaning up after their dog". Councilmember Snyder expressed his opinion that this was reasonable.

Vice Mayor Kirk moved, seconded by Councilmember Snyder, that the Middleburg Council repeal Chapter 50 of the Town Code entitled "Garbage, Rubbish and Refuse" and to enact Chapter 87, entitled "Solid Waste", as set forth hereafter, with an effective date and time of 12:01 A.M. February 11, 2011.

Vote: Yes – Councilmembers Kirk, Littleton, Murdock, Shea, Snyder and Stewart

No – N/A

Abstain: N/A

Absent: Councilmember Hazard

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

Councilmember Murdock asked that the staff put an article in the next newsletter highlighting the changes to the ordinance. She noted that she has witnessed trash on the street the day before collection. Mayor Davis asked that the article stress that residents should not put their garbage out for collection before 3:00 p.m. on Tuesdays. She noted that there may be times when people were going away and needed to put it out sooner. Ms. Davis advised that Town was not going to enforce this on a weekly basis; and, noted that it would apply to habitual problems. Councilmember Murdock suggested the newsletter also include information about cleaning up dog waste.

Proposed Amendments to the Town Code pertaining to financial services on the first floor in the C-2 District

Town Planner Beniamino reminded Council of the recent request for a special use permit to allow office uses on the first floor of the Noble House. He advised that since then they asked for a zoning determination letter related to the definition of "street level"; and, reported that he determined that the ordinance did apply to that space. Mr. Beniamino noted that this determination was still within the appeal period; and, advised that he was not sure whether they would do so. He explained that in the meantime, Washington Wealth Management moved into the first floor of the Noble House, as they fell under the definition of a "financial service institution". Mr. Beniamino read the definition; and, explained that he considered them to be an investment company. He advised that he received a complaint from a member of Council who thought that an office use had moved in to the space. Mr. Beniamino expressed his opinion that for all purposes, it was an office; however, he advised that it was a specialty office that was considered to be a financial institution. He explained that a member of Council asked him to place an item on the agenda so this could be discussed. Mr. Beniamino reminded Council that they have agreed that the Planning Commission should update the zoning ordinance, which would address this issue. He asked whether the Council wanted the Commission to address it quickly.

Councilmember Snyder confirmed that he did not. He noted that he was not talking about this particular applicant when he raised the issue, he was only talking about how broad a definition the Town wanted for financial institutions for future applicants. Town Planner Beniamino expressed his opinion that when the Town wrote the ordinance, they wanted banks on the street. Councilmember Snyder explained that it

wanted retail banks. Councilmember Murdock explained that it wanted the kind of banks where the customers walked in the door and received service. Town Planner Beniamino expressed his opinion that this was the same reason that real estate offices were allowed on the first floor. He advised that if the Council was in agreement, he would put this on the list of issues the Commission needed to address as a part of the zoning ordinance update.

Town Planner Beniamino advised Council that he has written a determination letter to let the applicant know of the policy on extending non-conforming uses. He explained that unless they moved another conforming use into the space or they let it be vacant for more than two years, they could continue to put a financial institution into the space until it lost its non-conforming status. Mr. Beniamino advised Council that they may have to deal with having this use in the space for a period of time. Councilmember Snyder advised that he wanted to clean up the ordinance for the long term.

Mid-year Budget Review

Town Administrator Semmes reported that while the Town was not doing “gang busters”, it was in the black. She expressed her opinion that there was no reason to believe this trend would not continue. Ms. Semmes reminded Council that the Town still needed to collect the BPOL tax revenues; however, they were not due until March 1.

Town Administrator Semmes reported that the real estate assessment numbers have been received. She advised that they were not great; and, explained that overall, they were down in all of the categories except townhouses and tax exempt property. Ms. Semmes reported that the Town was “saved” as a result of the construction supplement that occurred as the result of the Salamander Inn Project and some other infill construction that provided a ten million dollar increase in the total real estate value. She advised that, as a result, the Town was in an overall positive category for the total assessed value. Ms. Semmes reported that the values for single-family homes went down on average; and, expressed hope that this was not a continuing trend as the Town could not build its way out of that. She reminded Council of the further supplements that would be received once Salamander resumed its building project.

Town Administrator Semmes expressed her opinion that the Health Center Fund was not doing great on the revenue side. She noted that the Town would receive revenue from the apartment; however, she noted that it was losing a large office tenant. Councilmember Murdock questioned the amount of rent paid for that space. Councilmember Shea confirmed it was just under \$1,700 per month.

Town Administrator Semmes reminded Council that as to the Utility Fund, the question was how much it would cost to operate the new facilities. She expressed her opinion that the Town already had a good idea as to the cost for the wastewater treatment plant; and, noted that the Loudoun Water bills were averaging \$21,500 per month. Ms. Semmes noted that this included some engineering for the review of the plants. She explained that once the engineering was cleared, the only additional costs would be for the operation of the water treatment plant, which would involve more chemicals, electricity, etc. She advised Council that Loudoun Water has promised to provide some numbers. Vice Mayor Kirk encouraged Ms. Semmes to push Loudoun Water to provide the numbers; and, noted that she would like to see them.

Town Administrator Semmes reported that as to the Virginia Retirement System (VRS) costs, the recent update from the Virginia Municipal League indicated that the House and Senate budgets did not agree. She reminded Council that the Governor’s budget would require employees to pay the employee 5% share of VRS. Ms. Semmes advised that the House of Delegates budget agreed with this concept; however, the Senate budget did not. She noted that they were also on opposite sides when it came to the 599 money that localities received for law enforcement.

Vice Mayor Kirk noted that the Council was scheduled to discuss the FY 2012 budget during its February work session. She asked whether this agenda was full of items related to the Planning Commission.

Town Clerk North advised Council that the only Planning Commission related item was the follow-up discussion of the development review processes. Councilmember Snyder suggested the Council also needed to discuss the utilities; however, he expressed his opinion that it would not take long to do so. Councilmember Shea reminded Council that they were scheduled to discuss their goals during the meeting. Town Clerk North reminded Council that the deadline for getting the individual member's goals to her was February 15th.

Redistricting

Mayor Davis reminded Council that Councilmember Snyder sent a note to the Board of Supervisors regarding his concerns about the redistricting; and, asking that they please keep in mind that Middleburg was rural. She noted that the latest map stopped the district half way through Loudoun County and over to South Riding. Ms. Davis advised that because of that, there were comments from the Council that they were in agreement that they wanted to keep the district rural. She reported that she recently attended a COLT meeting during which the redistricting issue was discussed, with a map being sketched that would keep all of the western towns in one district, minus Leesburg because it was too big. Ms. Davis noted that Bob Lazarro was going to pass the map around to the towns.

Councilmember Snyder advised Council that he would like to see and endorse the map. Mayor Davis reiterated that it caught all of the towns in one district. She noted that in reviewing the proposed redistricting maps on the County website, Map 3 was very similar to what Mr. Lazarro proposed. Ms. Davis advised, however, that the Supervisors have thrown that map out. She reminded Council that each of the districts must contain 26-29,000 residents.

Councilmember Snyder reminded Council that the message he sent to the Board of Supervisors was that this was a rural district with a rural identity and rural issues; and, that he did not want to be blended in and diluted with a highly suburban area with suburban issues and suburban concerns. He suggested that doing so could be at cross purposes; and, expressed his opinion that there was no reason to create such a district. Mr. Snyder reported that he received responses from Lori Waters, Scott York and Jim Burton that were fairly supportive of his position; although, each of them prefaced their letters by saying how difficult it was to redistrict. He noted that he responded to each; and, asked that they not lose sight of his concerns.

Mayor Davis advised that she would like to send a letter to the Board of Supervisors from the Council stating that they would like to see the rural communities kept as one district. The reminder of Council agreed.

Mayor Davis noted that she did not know why Map 3 was thrown out. Councilmember Snyder expressed his opinion that it was due to politics.

Mayor Davis reiterated that she would like to send a letter to the Board of Supervisors reiterating Councilmember Snyder's position. She asked the Town Clerk to draft one for the Council's review and comment. Town Attorney Whiting advised that for legal reasons, she would like to comment on the letter as well. She expressed her opinion that it may be fruitful for the towns to have two rural supervisors; and, explained that if there was only one for six or seven towns, the towns' effectiveness may be marginalized. Ms. Whiting suggested that the towns should aspire to have their supervisor be the swing vote in as many cases as possible so his/her vote would matter.

Councilmember Snyder noted that the 2010 Census data should be coming out soon. He advised that he would be very interested in seeing the population changes in the towns. Town Administrator Semmes reported that the Town should receive the data soon. She noted that the VML thought the Town had a population of nine hundred seventy-six residents based upon the 2000 Census.

Information Items

Vice Mayor Kirk announced that the Upperville Volunteer Fire Department would hold a breakfast on February 13, 2011.

Mayor Davis announced that the Middleburg Volunteer Fire Department would hold a Chili Dinner on Tuesday, February 22nd.

There being no further business, a motion was made to adjourn the meeting at 7:13 p.m.

APPROVED:

Betsy A. Davis, MAYOR

ATTEST:

Rhonda S. North, MMC, Town Clerk