



MIDDLEBURG TOWN COUNCIL
Regular Monthly Meeting Minutes
Thursday, March 10, 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
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
Steven L. Webber, Chief of Police

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, March 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

Michael Bernard, of Foxcroft Road, advised Council that he has read articles regarding the Middleburg Police Department and Chief Webber. He noted that he was a second generation of law enforcement; and, was employed by overseas heads of state to provide security. Mr. Bernard expressed his opinion that Chief Webber had done an outstanding job; and, noted that it was not easy to deal with politics and law enforcement at the same time. He reiterated that he has read the articles and seen both sides of the issue. Mr. Bernard advised Council that once an investigation was handed off to a higher authority such as the State Police, they did not have to let the local agency know what was going on. He expressed his opinion that it was through the good relationships that Chief Webber has formed that the local police department was kept abreast of what was happening. Mr. Bernard advised that the Town was very well off to have Chief Webber, who was well-respected in the community and throughout other local enforcement agencies in the State.

Mr. Bernard advised Council that it was hard to make decisions in split seconds that took courts years to do adjudicate. He noted that he has used ruses in order to bring people in, including being given money by councils to get people to come in so they could be arrested. Mr. Bernard expressed his opinion that not everyone liked what went on or how it was done; however, he explained that they were trying to keep the public safe. He noted that anytime citizens called, police officers would show up; and, advised that they were the first ones to step in front of someone. Mr. Bernard advised that when the average person heard gun fire, they would run the other way; however, a police officer would run toward it.

Mr. Bernard advised Council that he had a friend who was killed when someone did not handcuff a lady who was over sixty years old. He noted that in that case, she stabbed the officer with a knife. Mr. Bernard advised that officers did not take suspects out in handcuffs because they did not like them, but rather did so for safety reasons, including the security of the suspect. He suggested that in the case he had described, if the police had followed procedures, the officer would not have been killed.

Sally Bolton, a business person in Middleburg for twenty-eight years, expressed her opinion that sometimes people forgot how important it was to stand up for everyone. She noted that Middleburg was a small town that had its difficulties; however, she noted that all small towns did. Ms. Bolton suggested that sometimes when other things were not going well, bad things seemed to be worse. She advised that she was proud of the village; and, its willingness to listen. Ms. Bolton noted the employees of the police department; and, expressed her opinion that their work has not gone unnoticed. She advised that she was not saying something nice about them as a way of saying something bad about someone else. Ms. Bolton noted that she has had problems in her business periodically; and, advised that the police department have always handled them with courtesy and diplomacy. She noted that she was proud of how they presented themselves to the public. Ms. Bolton advised Council that her dogs have gotten loose; and, noted that the police officer caught and returned them to her. She suggested there were a number of things that they did right, including dealing with robberies and settling private issues between neighbors. Ms. Bolton expressed her opinion that the police department made issues go away without a problem; and, advised that she stood behind them.

Public Presentations

Update on Expansion of Middleburg Library

Dennis Cotter, President of the Middleburg Library Advisory Board, appeared before Council to report on the progress to expand the library. He noted that Mike Morency was also present; and, advised that he was now a member of the Board, who joined specifically to work on the expansion project. Mr. Cotter reminded Council that the last time he appeared before them was November 18th. He noted that, at that time, he provided information on a proposed project to double the size of the library. Mr. Cotter reminded Council that due to the geographic area served by the Middleburg Library, it would not meet the growth projections needed for this project to be listed on the Loudoun County Capital Improvement Program; therefore, it must be funded privately. He noted that the Library Advisory Board planned to raise the funds to build and furnish the library expansion; and, would manage the construction project privately. Mr. Cotter expressed his opinion that by doing so, the Board was confident that it would expedite the construction process, while achieving quality at the best price.

Mr. Cotter advised Council that there were principally four stakeholders associated with this project – Loudoun County, the Middleburg Community Center, the Town of Middleburg, and the Middleburg Library Advisory Board. He noted that the Board was a 501(C)3 organization; and, was the voice of the Middleburg community on public library matters. Mr. Cotter further noted that the Board was the bridge between the community and the County government.

Mr. Cotter advised Council that the Loudoun County Public Library System, of which Middleburg was a branch, was operated under a Board of Trustees system. He noted that Dan Morrow served on that Board. Mr. Cotter explained that the expanded library would be turned over to the County, with the Trustees and Library Director having operational responsibilities.

Mr. Cotter expressed the opinion of the Advisory Board that a Memorandum of Understanding was necessary to set forth the understandings between the four stakeholders. Mr. Cotter reminded Council that he asked for their support in expanding the library in November, to which they agreed. He asked that they formally adopt a resolution of support to help drive the project forward through a Memorandum of Understanding.

Mr. Cotter advised Council that in November, the Advisory Board met with the Town staff to go over the applications that needed to be filed for the expansion, including the approval of a site plan, a zoning exception and HDRC review. He further advised that in December, they held a preliminary meeting with four architects; and, identified potential contractors and civil engineers for the project. Mr. Cotter noted that they also met with the commercial banking officer of Middleburg Bank to discuss bridge financing if necessary. He reported that they have added members to the Advisory Board who had special capabilities.

Mr. Cotter expressed his opinion that the next step was to have a Memorandum of Understanding in place before the Advisory Board spent money or asked citizens to commit time and money to the expansion. He suggested that the next step was to formalize the support of the key participants. Mr. Cotter reiterated his request for a formal resolution of support from each key player, which he hoped would lead to the County Board of Supervisors approval of a Memorandum of Understanding. He advised that, once signed, the Advisory Board would issue a RFP for architectural services; hire an architect and civil engineer; and, submit the necessary applications. Mr. Cotter further advised that they would also initiate a capital campaign. He read a portion of the draft resolution regarding the Town's support of the Library; and, expressed the Advisory Board's gratitude for this support.

Approval of Minutes

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve the February 10, 2011 Regular Meeting and February 24, 2011 Work Session Meeting Minutes 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)

Staff Reports

Town Administrator Semmes reported that she has been informed by Loudoun Water that they would be doing three periods of water line flushing in April. She advised that the staff would notify the citizens. Councilmember Murdock asked that Loudoun Water put out signs alerting the residents of the flushing. Town Administrator Semmes noted that the flushing would occur on April 12, 14, 19, 21, 26 and 28. She advised that notices would be placed in the Town's newsletter and on the Friday E-mail Blast.

Town Administrator Semmes advised Council that she received a question from Councilmember Murdock about yard waste collection; and, noted that the yard waste bags were being put into the trash truck. She explained that Councilmember Murdock was under that impression that the yard waste was being recycled; however, she reported that this was not the case. Ms. Semmes noted that there were no provisions in CSI's contract to separate yard waste.

Councilmember Murdock noted that the residents went to the trouble of separating out the yard waste, only to have it go in with the regular trash. Town Administrator Semmes advised Council that if the yard waste was placed in a paper bag, it would compost more quickly.

Councilmember Murdock asked whether this was something that Go Green could help with. She expressed her opinion that it was a “crime” to handle yard waste in this manner. Town Administrator Semmes advised Council that she could find out what could be done in the way of recycling at the County landfill. She further advised that she would find out what they would allow by large scale collectors.

Councilmember Snyder noted that this collection was done through a contractor; and, suggested this did not make it easy.

Councilmember Murdock noted that the Town has experienced major storms; and, as a result, had huge branches that were down. She reminded Council that several months ago, the Town held a special pick-up when this occurred. Town Clerk North reminded Council that the residents could place the debris out for collection with their Wednesday trash, provided it was properly bundled. She confirmed that the Town made arrangements for a special collection through the contractor during the last major storm. Ms. North noted that this collection cost the Town money; however, she did not recall it being a huge amount. Town Administrator Semmes reported that the Street Superintendent did cut some branches that he was worried about that were located in the right-of-way. She noted that the tree service was in town anyway on another service call.

Vice Mayor Kirk noted that the Town also provided a spring and fall clean-up. She asked that the details of the clean-up be put in the Town’s next newsletter.

Town Administrator Semmes reported that the staff negotiated a total bond amount of \$175,000 with Salamander for the wastewater treatment plant bond, which was \$60,000 more than proposed. She advised that the Town’s consultant was comfortable with this amount. Ms. Semmes advised that Salamander did put money back into the bond for the SCADA system and GE control panel, as recommended by Bob Krallinger, for the operation of the plant. She reported that the Town has signed an escrow agreement. Ms. Semmes advised that there was a last minute glitch on the agreement, which the Town Attorney was working to resolve.

Town Administrator Semmes advised Council that the unaccounted for water study has been delayed due to the rain. She reported that the consultant would come May 17-19, unless an earlier date became available.

Vice Mayor Kirk asked Ms. Semmes whether she spoke with Loudoun Water in reference to their not responding to Salamander. Town Administrator Semmes confirmed she did; and, advised that they have promised they would provide the necessary information.

Town Administrator Semmes reported that the Town’s application to renew its VPDES permit for the wastewater treatment plant was due the end of February; and, noted that the Town received a letter to this effect last August. She expressed her opinion that this application fell through the cracks due to personnel changes. Ms. Semmes reported that the Town’s permit did not expire until the end of August; and, advised that she was working with DEQ and Loudoun Water on the application. She noted that Loudoun Water would prepare it for the Town. Ms. Semmes reported that three years worth of data on the operation of the plant was needed for the application. She noted that the Town may receive a warning letter.

Town Administrator Semmes reported that rather than stating “system loss” in the utility report, she identified the unaccounted for water as a “difference”. Councilmember Snyder advised Council that he planned to send in a request for a work session agenda item to receive a report on analyzing the water.

Town Administrator Semmes reminded Council that the Town was receiving the leak detection study for free from the Virginia Rural Water Association. She advised that Water Management, Inc. was also doing some free work for the Town; and, has selected some billing records and were looking for things that did not make sense. Ms. Semmes reported that they would have something to the Town shortly; and, advised that they felt there would be “a lot” on that side.

Councilmember Snyder reported that his goal was to get together a list of questions for Loudoun Water before the Council started to concentrate on the budget. He expressed hope to have answers to the questions before the Council wrapped up their budget discussions.

Reports of Town Committees

Councilmember Murdock reported that she met with Chief Webber regarding the development of an emergency plan. She noted that he provided her with the information that came from a meeting in 2008 on establishing emergency procedures. Ms. Murdock advised that Town Administrator Semmes also gave her a copy of the disaster preparation and recovery plan that has been developed for Purcellville; and, noted that she would study it.

Councilmember Murdock reported that she met with Fauquier County Supervisor Holder Trumbo, who was submitting an eighteen wheeler truck ban on the roads in Fauquier County. She explained that Fauquier County has found that eighteen wheelers were using the back roads to by-pass the larger roads and the scales. (Councilmember Hazard arrived at the meeting at 6:26 p.m.) Ms. Murdock further explained that Supervisor Trumbo wanted Middleburg to know about the ban, as it would affect trucks coming into Middleburg on Landmark School, Zulla and The Plains Roads. She noted that anyone doing business within a twenty-five mile area would be able to make deliveries. Ms. Murdock explained that they would not be able to use the local roads as a highway. She reiterated that Supervisor Trumbo wanted to make sure that Middleburg knew what was happening; and, advised that she told him that she felt the Council would support it.

Vice Mayor Kirk reported that the Middleburg Museum Committee has met several times. She reported that it consisted of a group of dynamic people, who were excited to get the project going. Ms. Kirk noted that the Committee has asked for a change to the proposed ordinance; and, explained that they wanted to reinsert the phrase “General Fund”. She reported that the Committee was looking at possible locations. Ms. Kirk advised that they would meet again on March 16.

Councilmember Shea reported that she would also like to propose an amendment to the Museum Committee ordinance. She asked whether the Council would like to talk about this now or when the agenda item came up. Mayor Davis recommended the Council wait to discuss the amendments until they got to that agenda item.

Councilmember Shea reported that she has been attending both the Loudoun County Community Action Committee and the Fauquier County Community Action Committee meetings. She expressed her opinion that there was a lot of disorganization associated with the Fauquier County Committee. Ms. Shea advised that for accounting reasons, they were behind financially. She noted that while this may not affect the Town directly, it would mean that the funding for Loudoun County would be greatly decreased next year. Ms. Shea reminded Council that it appeared that CAP monies would be cut from the federal budget.

Action Items (non-public hearing related) –

Council Approval – Resolution of Appreciation – Lynne Galbreath

Councilmember Littleton moved, seconded by Councilmember Snyder, that Council adopt a resolution extending its appreciation to Lynne Galbreath for her service on the Historic District Review Committee from January 2005 through December 2010.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Mayor Davis noted that Ms. Galbreath would attend next month's meeting so the Council could present the resolution to her.

Council Approval – Resolution of Support – Expansion of Middleburg Library

Vice Mayor Kirk moved, seconded by Councilmember Snyder, that Council adopt a Resolution of Support for the expansion of the Middleburg Library.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Councilmember Murdock noted that Mr. Cotter indicated that he needed a resolution of support from the Council, Community Center and Board of Trustees. She asked whether he has been able to secure one from the other two organizations. Mr. Cotter advised Council that the Town was the first organization he approached. He noted that he would approach the Community Center second; and, the Trustees third.

Dan Morrow, a member of the Loudoun County Public Library's Board of Trustees, advised Council that his interpretation of the sense of the Trustees was that they were totally in support of the expansion.

Council Approval – Town Council Goals for Planning Commission

Town Planner Beniamino reminded Council that they held a joint meeting with the Planning Commission in January; and, then met in a work session to discuss the goals. He advised that the staff then got together; however, they were not in agreement as to what they heard the Council say. Mr. Beniamino explained that the staff has put together a list; and, wanted to find out what the Council actually wanted.

Town Planner Beniamino advised Council that the first topic on the list was a zoning ordinance update. He explained that he and the Town Clerk felt the Council was talking about a complete ordinance revision; however, the Town Administrator heard that the revisions would only apply to the three items that were discussed (entrance corridor overlay district, housing-to-scale

ordinance and demolition-by-neglect ordinance). Mr. Beniamino advised Council that the staff wanted clarification on exactly what the first item involved. He reported that he has spoken with the Planning Commission, who did not feel that a second joint meeting was needed as long as the staff could figure out what the Council wanted.

Vice Mayor Kirk expressed her opinion that the development of a pedestrian circulation plan, which was identified as goal number three, was at the bottom of the Council's list.

Councilmember Murdock advised Council that her issue with this being the third goal was that the Town Planner has told the Commission about a possible \$50,000 grant from VDOT that could be used to work on the development of a pedestrian trail plan within the town. She noted that this grant would be based upon the Middleburg Meandering Trail Project and the use of the existing sidewalk network.

Town Planner Beniamino explained that VDOT would not give the Town \$50,000, but rather would give \$50,000 worth of consultant's time. Councilmember Murdock asked why the staff's time should be spent on the development of a pedestrian plan if the Town could get professional consultants to do so. She suggested there was no point in having this as a goal on the Planning Commission's list. Ms. Murdock expressed her opinion that it should either be removed or the plan should be reviewed by the Commission once it was completed by the professional consultants. Councilmember Littleton expressed his opinion that the Planning Commission's role would be in a review capacity.

Councilmember Hazard expressed his opinion that these were separate issues. He suggested that one goal was to tie the Meandering Trail to the town.

Town Planner Beniamino reminded Council that there was no guarantee that the Town would receive the "money"; however, there was a likelihood that it would as this would be a logical step for which the VDOT staff felt the Town could lobby. He reiterated that it was not set in stone that the Town would get the grant. Mr. Beniamino explained that if it did, the grant would be for the development of a circulation plan in town that would look at the trail network, as well as the network that was available in town in general.

Councilmember Snyder and Vice Mayor Kirk agreed that this goal should be removed from the list. Councilmember Shea advised Council that she needed more of an explanation before removing it from the list. She suggested that this was something the Commission should work on anyway.

Councilmember Snyder expressed his opinion that it was not a priority for this year. He noted that the Commission has already spent a lot of time on it. Mr. Snyder advised that while he appreciated their doing so, they did not do so at the direction of the Council. He expressed his opinion that by doing so, it got in the way of the Council's other goals.

Vice Mayor Kirk agreed. She expressed her opinion that the Council wanted the Commission to focus on updating the zoning ordinance. Ms. Kirk further expressed her opinion that the Council wanted the Commission to focus on the three big items, as well as the overall ordinance.

Town Planner Beniamino reiterated that he heard that the Council wanted a complete update, with some large scale changes. Councilmember Snyder suggested the Commission focus on the points that were appropriate. Town Planner Beniamino noted the need to focus on the ordinance overall.

Councilmember Hazard expressed his opinion that the Council said that it did not want the Commission to wait to bring the entire document back, but rather wanted them to bring it back in pieces. He suggested that the Council not say that it wanted to see the entire zoning update this year, but rather say that it wanted the Commission to bring it in pieces for the Council's consideration.

Mayor Davis noted that the revisions would take several years to complete. Councilmember Snyder suggested this was the reason he would like to give the Commission a directive on what pieces they should focus upon. He further suggested that as they went through the zoning ordinance, it made sense to look at each item on an issue-by-issue basis.

Councilmember Hazard noted the need to look at the Comprehensive Plan as well. He suggested that if changes were needed, they should be done with the zoning ordinance update. Mr. Hazard recommended that every couple of months, the Commission should bring the updates to the Council for their review.

Mayor Davis reiterated that the Council said that it would take years to go through the ordinance.

Town Attorney Whiting recommended that the Commission not bring updates to the Council unless it was an emergency fix. She cited an example in Lovettsville where they were asked by an applicant to raise the maximum height requirement in one section of the zoning ordinance, which inadvertently affected three other sections. Ms. Whiting cited a second example in Hillsboro regarding conflicts in the State Code and State regulations with regard to advertising public hearings. She recommended the Town not do the zoning ordinance update in a piece meal fashion, but rather make sure that the entire ordinance was read before adopting changes. Ms. Whiting noted that she has been keeping a fix-it file; and, advised that there were major problems with the sign, fence and encroachment ordinances that need to be fixed. Councilmember Littleton noted that the Town Attorney would be looking at the proposed updates.

Town Administrator Semmes agreed that over time, amendments could result in disconnects. She noted, however, that Middleburg's zoning ordinance was not that long. Ms. Semmes recommended that if there were areas that the Council felt should not wait to be fixed due to concerns about development, the Town should address it. She noted that a fix-it list could get so long that a locality must revise the entire ordinance. Ms. Semmes recommended that the Council put a time frame on the Commission's goal list; and, suggested that it be made clear that this was an annual goal. She further suggested that if the Council had an area for priority, they should say priority was given to xxx. Ms. Semmes advised that it was up to the staff, in looking at the ordinance, to ask whether anything else would be impacted if something was changed.

Town Planner Beniamino expressed his opinion that there were items that would cross other sections of the ordinance. He noted that the Town Attorney and Administrator were saying the updates would take years; however, he suggested that it did not have to if the Commission met more frequently. Mr. Beniamino advised Council that in Hamilton, they did their update in a little over nine months because they met every two weeks. He noted that the Town did not need to re-write the entire ordinance.

Town Attorney Whiting reiterated the need to read the entire ordinance. Councilmember Snyder reported that during the last zoning ordinance update, there was a lot of back and forth. He noted that, at that time, they examined some of the zones and verified that they made sense. Mr. Snyder suggested that one of keys to the update was to look at issues such as height; and, noted the need to cross reference items.

Councilmember Shea expressed her opinion that the Council was attempting to do two things at once. She noted that they were trying to set the goals for the Planning Commission; and, suggested the Council needed to decide if the items on the list were what the Council wanted to tell them to do. Ms. Shea advised that the Council then needed to look at the process of how the Town could start to apply the work they were doing. She suggested that the Council could recommend that the Commission cross index the zoning ordinance updates as well as it could, with the staff and Town Attorney also looking at them. Ms. Shea expressed her opinion that this had nothing to do with setting the goals for the Commission.

Councilmember Murdock asked what the Town Administrator meant about putting a date on the goals. Town Administrator Semmes noted that these were not long-term goals; and, asked whether the Council wanted them to be one-year goals. Councilmember Murdock expressed her opinion that there was too much on the list to be completed in a year. Councilmember Shea suggested that if the Council prioritized the goals, they would not take too long. Councilmember Snyder noted that the list was prioritized. Vice Mayor Kirk asked whether the items on the list were in the priority that the Council wanted. Town Planner Beniamino expressed his opinion that it would be easy to create a demolition-by-neglect ordinance; however, he suggested that the housing-to-scale issue was large and would take a lot of analysis.

Councilmember Snyder suggested that the housing-to-scale ordinance would address the biggest issue; therefore, it should be the first one done. Councilmember Murdock expressed her opinion that there was no conclusion on what the Council wanted to do the last time this issue was raised. Town Planner Beniamino expressed his opinion that the Council wanted to hear the Planning Commission's recommendation on what needed to be addressed.

Councilmember Murdock reminded Council that the Town went through the charrettes; however, no decision was made. Town Planner Beniamino reminded Council that they were talking about preventing large houses on small lots; and, noted that this may require the creation of more districts to match what currently existed in the R-2 District.

Councilmember Snyder expressed his opinion that the R-2 District needed to be defined as a legacy zone; and, suggested it should not be used to encourage new development in an area that was previously zoned under another classification. He expressed his opinion that the purpose of the R-2 District was to bring existing construction into compliance with the zoning ordinance.

Town Planner Beniamino advised that he was hearing the Council say that the goal was to update the entire zoning ordinance; however, the Commission should concentrate on the three identified items first. He suggested the Commission review their proposed solutions with the Council; and, then as those issues were settled, work on the rest of the document.

Councilmember Shea suggested the wording be changed to state "Update the zoning ordinance, with priority given to items A, B, C". She further suggested that the development of an entrance corridor overlay district be made to be item D under the zoning ordinance update.

Councilmember Snyder asked whether an entrance corridor overlay district would be a part of the zoning ordinance. Town Administrator Semmes confirmed it would. She noted, however, that the expansion of the Historic District was different. Town Planner Beniamino advised that it was not as the Historic District boundaries were identified in the zoning ordinance. He reminded Council that the idea to expand the district was "shot down"; and, advised that he heard that the entrance corridor overlay district would be a workable solution to the Council.

Councilmember Hazard recommended that the development of the entrance corridor overlay district be kept as a separate item; and, noted that the other items on the list were revisions. He reminded Council that the development of an entrance corridor overlay district would be a new ordinance.

Councilmember Shea suggested that the development of the pedestrian circulation plan and the Federal Street Plan be put on the goals list only as time allowed or that they be taken up only when the others goals were done.

Councilmember Snyder and Vice Mayor Kirk advised that they wanted the development of the pedestrian circulation plan to be stricken from the list.

Town Planner Beniamino noted that he has given Go Green the environmental issues section of the Comprehensive Plan to work on. He reminded Council that the Middleburg Meandering Trail Committee was working on the trail. Mr. Beniamino recommended that when the Trail Committee no longer had work to do, they could address the pedestrian circulation plan. He suggested this goal not be removed from the list.

Councilmember Shea reminded Council that these were the goals for the Planning Commission. She suggested the Council did not want to take them away from the Commission forever; and, noted that they were issues that needed to be addressed. Ms. Shea noted, however, that it was not reasonable for them to do so this year. Councilmember Snyder explained that this was why he suggested it be struck from the list.

Councilmember Hazard asked whether the VDOT consultants would work on a pedestrian plan using a blank slate or whether they would use the work that has already been done by the Planning Commission. He suggested that if it was the latter, it would be good to have them work with the Commission.

Vice Mayor Kirk noted that when the Commission considered this, they dropped everything else. She further noted that it has become a “big thing” for them. Ms. Kirk suggested the consultants work would eventually go to the Planning Commission; however, she did not want the Commission to become so invested in the pedestrian plan that other items fell by the wayside.

Councilmember Shea noted that just because an item was not identified as a goal, this did not mean the consultant would not work with the Commission. She further noted that the Council was not saying the Commission could not address other issues as they arose. Ms. Shea expressed her opinion that if the VDOT grant was received, the Planning Commission would be the body to review the pedestrian plan. She explained that the Council was not saying that they should not do so, they were just saying this was not a goal that the Council wanted them to address. Councilmember Snyder explained that the Council did not want this goal accomplished this year.

Councilmember Murdock expressed suspicion that VDOT would look at the work that has been done; and, would then go out and come back with a report. She noted that she would expect that this report would be given to both the Planning Commission and the Town Council. Ms. Murdock advised that she did not see it as a goal, but rather saw it as an action. She further advised that she would like it off the goal list. Councilmember Snyder agreed that just because it was not a goal, this did not mean the Commission was forbidden from working on the project.

Mayor Davis summarized that the pedestrian plan would be removed from this year’s goal list.

Councilmember Murdock asked whether the Council planned to leave the development of the entrance corridor overlay district on the list as a separate item. Councilmember Snyder confirmed that he would like to do so as it dovetailed nicely with the zoning ordinance update.

Councilmember Murdock asked whether the Federal Street Plan would be the third goal. Town Planner Beniamino advised Council that the Town could potentially work with Virginia Tech to have their planning students do a studio project in Middleburg. He explained that the idea for this studio would be to bring the students in to look at Federal Street and develop alternatives.

Mayor Davis asked whether this would fall under item C of the zoning ordinance update goal (C-3 parking). Town Planner Beniamino noted that the two were related, but they were not. He explained that item three was an issue for the long-term, whereas item C was for the short-term. Mr. Beniamino further explained that in the short-term, the staff was looking at under-utilized properties whose use could be improved simply by changing the parking requirements so they were akin to the C-2 regulations. He reminded Council that there were properties on Federal Street that were located across the street from public parking.

Councilmember Shea asked whether this had to be a goal for the Planning Commission or whether it was something the staff could work on, with the Commission serving in an advisory capacity. Town Administrator Semmes recommended it be left as a Commission goal. Councilmember Shea suggested that working with the Commission was different than being a goal for them. Councilmember Littleton recommended that they basically look at it. Councilmember Hazard recommended that the Commission begin the development of a plan.

Councilmember Shea advised Council that she did not have heart burn about the development of a Federal Street Plan, which she strongly supported. She suggested that the Council must be clear about what they were directing the Commission to do and what projects they wanted to be handled on another level that the Commission would be involved with. She asked whether the Council was directing the Commission to work on a Federal Street Plan. Town Planner Beniamino suggested it be taken off the list as well. He expressed his opinion that the Commission had enough work to do with the first two goals.

Town Administrator Semmes noted that the timing of a studio, if it occurred, would be late August. Councilmember Snyder expressed his opinion that the Council would probably meet with the Planning Commission again in January to present a new list of goals.

Councilmember Shea asked that the Commission be given clear direction; and, that they not be overloaded. Councilmember Littleton agreed. Town Administrator Semmes suggested the Council add a time frame for when the goals should be completed. Councilmember Snyder expressed his opinion that the Commission would have until this time next year before they would get a new goals list.

Councilmember Littleton moved, seconded by Vice Mayor Kirk, that Council approve the goals for the Planning Commission as follows: (1) update the Zoning Ordinance, with priorities given to items A, B and C; and (2) the development of an Entrance Corridor Overlay District for the next year.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Council Approval – Town Council Goals/Objectives – 2011

Councilmember Shea advised Council that when she read over the goals/objectives list, she thought it included more than what the Council wanted to take on. She suggested the need for a couple of clear goals. Vice Mayor Kirk suggested the Council discuss the goals again in a work session. The Council agreed to table this agenda item.

Council Approval – Proclamation – Arbor Day

Vice Mayor Kirk moved, seconded by Councilmember Snyder, that Council adopt a proclamation declaring April 30, 2011 as Arbor Day in the Town of Middleburg; and, urging all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Councilmember Murdock asked about the location of the Arbor Day Celebration. Economic Development Coordinator Pearson confirmed it would be held at The Hill School. She noted that the County was joining in the celebration this year.

Council Approval – Ordinance to Establish the Middleburg Museum Committee

Councilmember Shea expressed concern about the wording in the section that dealt with “Terms of Office”. She noted that the proposal was to have the Committee expire upon the creation of a 501(C)3 organization. Ms. Shea suggested the wording be changed to say that “The Council may decide to eliminate this committee at their recommendation should a 501(C)3 be organized”. She noted that this would return the responsibility for ending the Committee back to the Council.

Vice Mayor Kirk asked whether this language was saying that the Committee could go off on its own and establish its own committee. Councilmember Shea explained that her concern was that the Town may still want to have its own museum committee to work with the 501(C)3 organization. She suggested this was the responsibility of the Council to decide, not the Committee.

Councilmember Snyder asked whether this was germane to setting up the Committee. He further asked whether the decision needed to be made now. Mr. Snyder suggested the entire sentence be struck.

Councilmember Shea noted that the Committee wanted to have the ability to form a 501(C)3 organization. She advised that they wanted to make sure their commitment to the museum would be continued through that action.

Councilmember Snyder asked whether this decision was the Committee’s or the Council’s. He reiterated his question as to whether a decision was needed now. Mr. Snyder suggested that if the Committee said it had a 501(C)3 organization to take over the museum, the Council would not argue. He asked whether the Council needed to decide now if a 501(C)3 organization would dissolve the Committee set up by the Council. Mr. Snyder further asked whether this decision could be deferred until the organization was set up.

Vice Mayor Kirk expressed her opinion that the 501(C)3 organization would be separate from the Town. Councilmember Snyder noted that most were.

Town Attorney Whiting advised Council that she did not see any legal peril. She suggested that if there was an intent to create a 501(C)3 organization that would own the artifacts and operate a Middleburg Museum, this should be acknowledged in the ordinance. Ms. Whiting suggested the need for a goal line. She expressed her opinion that Councilmember Shea's point was well taken, in that once stated, this called into question what happened to the Committee. Ms. Whiting noted that the Town was making it an ad-hoc committee. She advised that when they have created other ad-hoc committees, they have done so by identifying the time or event that ended the committee's mission. Ms. Whiting reminded Council that they had the authority to amend the ordinance in the future. She noted that the revisions being considered would make this ordinance different from the model that the Town has been following on the establishment of ad-hoc committees. Ms. Whiting recommended that the Council address whether they wanted to include a sunset clause or not; and, noted that they have always done so in the past.

Councilmember Snyder recommended the Committee be able to sever its relationship with the Council once a 501(C)3 organization was set up. He expressed his opinion that this was their decision.

Town Attorney Whiting reminded Council that they were appointing the Committee; and, noted that it was a Town committee. She recommended this issue be resolved. Councilmember Murdock expressed her opinion that the Town needed to dissolve the Committee.

Councilmember Shea asked whether the Committee could decide, if the 501(C)(3) organization was formed, that they were ready to take over and run the museum. She noted that the Council may not object; however, she suggested that the question needed to come back to the Council, with the Council making the decision to relieve the Committee of their responsibility.

Councilmember Shea recommended the last sentence be changed to read "The Town Council may decide to eliminate the Committee at the request of the Committee if it formed a 501(C)3 organization."

Councilmember Hazard noted that the Town could decide it would not to give up the Committee even if a 501(C)3 was formed. Councilmember Shea confirmed it would always be at the discretion of the Council.

Town Attorney Whiting expressed her opinion that if a 501(C)3 organization was created with the mission to own artifacts and operate the museum; and, if the Council refused to dissolve the Committee and the organization refused to meet with them, the organization may never get a grant from the Town. She suggested that having a liaison made the Town an asset to the 501(C)3 organization; and, expressed her opinion that it would be foolish of the organization to turn down that relationship. Ms. Whiting noted that the organization would be asking to become stewards of the Town's history; and, suggested that it would be foolish if the two groups did not talk. She suggested the need to keep the lines of communication open. She expressed her opinion that to have the Committee automatically expire would be unfortunate.

At the request of Mayor Davis, Town Clerk North read the proposed amendment. Councilmember Hazard noted that he did not like the proposed language. Town Attorney Whiting recommended that it say that "If a 501(C)3 was formed to own and operate a Middleburg Museum, the Council could decide to eliminate the Committee." She noted that the organization's intent would be to own artifacts, design the museum's mission, put on programs, and to find donors and real estate.

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council adopt an ordinance to establish the Middleburg Museum Committee as an ad-hoc committee of the Town of Middleburg as amended.

Town Administrator Semmes recommended that the last paragraph under “Duties and Responsibilities” be changed to read “Unless and until...” Councilmember Snyder and Vice Mayor Kirk agreed to this amendment.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Council Approval – Ordinance to Amend the Committee Structure and Council Appointments - Middleburg Meandering Trail Committee

Councilmember Murdock moved, seconded by Vice Mayor Kirk, that Council adopt an ordinance to amend the ordinance to establish the Middleburg Meandering Trail Committee of the Town of Middleburg. Councilmember Murdock further moved, seconded by Vice Mayor Kirk, that Council appoint the following individuals to the Middleburg Meandering Trail Committee: Missy Janes; Jim Carr; Tim Clites; Mike Kane; Scott Kasprovicz; Bundles Murdock and Fatemeh Allahdoust. Councilmember Murdock further moved, seconded by Vice Mayor Kirk, that Council appoint a representative from Loudoun County (to be named later); a representative from Fauquier County (to be named later); and, David Beniamino, who shall serve as ex-officio members.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Council Appointments – Streetscape Committee

Vice Mayor Kirk moved, seconded by Councilmember Snyder, that Council appoint the following individuals to the Middleburg Streetscape Committee: Punkin Lee; Susan McCaskey; Bonnie Deahl; Peter Deahl; Kathy Ribauda; Linda Wright; and, David Beniamino who shall serve as an ex-officio.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Information Items

Vice Mayor Kirk announced that the Upperville Fire Department would hold a pancake breakfast on March 13.

Closed Session – Personnel

Councilmember Shea moved, seconded by Vice Mayor Kirk, that Council go into closed session as allowed under the Virginia Freedom of Information Act Section 2.2-3711(A)(1) to discuss a personnel matter related to the Chief of Police. Councilmember Shea further moved, seconded by Vice Mayor Kirk, that the Council thereafter reconvene in open session for action as appropriate.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Mayor Davis asked that Council certify that to the best of each member’s knowledge (i) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the closed meeting, which each member so did.

There being no further business, a motion was made to adjourn the meeting at 7:37 p.m.

APPROVED:

Betsy A. Davis, MAYOR

ATTEST:

Rhonda S. North, MMC, Town Clerk