



MIDDLEBURG TOWN COUNCIL
Regular Monthly Meeting Minutes
Thursday, April 14, 2011



PENDING APPROVAL

PRESENT: Mayor Betsy A. Davis
Vice Mayor C. Darlene Kirk
Councilmember Kevin Hazard
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
David M. Beniamino, AICP, Town Planner
Cindy C. Pearson, Economic Development Coordinator
Debbie J. Wheeler, Town Treasurer

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, April 14, 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

Police Officer Mike Prince appeared before Council, along with other officers from the Police Department, to assure the Council and citizens that the Department was very well managed. He expressed his opinion that Chief Webber has led the department well; and, that the well being of the community was in his heart. Officer Prince advised that it has been an honor to work with Chief Webber; and, noted that he has always made sure the officers had the equipment they needed to protect the citizens. He commended him for a job well done and for his upcoming retirement. Officer Prince noted that Middleburg had a good track record of being a safe community; and, advised that the officers intended to maintain this same level of service.

Officer Owen Heine reminded Council that he has been a police officer in Middleburg since 2009. He noted that he was speaking on his own time because he felt strongly about his experience in working with Chief Webber. Officer Heine reported that Chief Webber was a "lead from the front supervisor"; and, noted that he often would show up to assist on traffic stops, arrests and other crimes in progress. He advised that the Chief made himself available on his days off for advice or to be made aware of happenings; and, never expressed annoyance at being called no matter the time of day. Officer Heine noted that Chief Webber worked shifts himself; and, expressed his opinion that this was rare for a supervisor. He advised Council that this was important, particularly since he recently experienced a death in the family as well as the birth of his new daughter. Officer Heine expressed his opinion that Chief Webber has done a fine job enforcing the law; and, advised that he was effective, fair and courteous. He advised that if he had sensed any form of injustice, favoritism or prejudice, he would not be wearing his uniform. Officer Heine reported that he has worked in law enforcement since 1997; and, has worked for both good and bad supervisors. He expressed his opinion that Chief Webber was a true and respected leader; and, noted that he wished him the best in his retirement.

Mayor Davis noted that Dr. Falkenstein has written a letter to the Council regarding Chief Webber; and, asked that it be entered into the record.

“Dear Mayor and Council Members:

If possible, I would like to have this record recorded into the public comments portion of the official record of the town at the next public town meeting.

First of all, I would like to thank Mayor Davis and the Council for your efforts on behalf of our community. I have been here for 23 years, working here in town, and either living in town or within the town’s sphere of influence. I realize that you have difficult and demanding work. You do it, though, because you care about your community. I genuinely appreciate your efforts.

I would also like to express my appreciation for our retiring Chief of Police, Steve Webber. As he gets closer to his planned retirement, I would like to join the others in expressing my gratitude for his fine and dedicated service to this community for the past 15 years, 11 of which he has served as our police chief. He has worked conscientiously and diligently to provide our police force with what they have needed to do their job safely and effectively. As a consequence of his efforts, we now have a first-rate police department, well equipped and well trained, to handle our community’s needs. He has also worked to enhance relations with other area law enforcement services – County Sheriffs, State Police and FBI, in particular. This has also helped to make our community a safer place.

Chief Webber’s job, and those of our police officers, is a difficult, often thankless, and sometimes dangerous job. We depend on our police to face the difficult and dangerous situations that the rest of us are not prepared to handle. They put their lives at risk for us, every day, because they never know what might happen. The thought of what they might have to face makes me shudder – to think of the risks they take for our protection. We are all aware of the numbers of law enforcement men and women killed and injured during the performance of their duty. I marvel at the courage they must have. And, I am thankful for their training and expertise. I have nothing but respect and admiration for our law enforcement officers – and, also our firefighters and ambulance and rescue crews. The sacrifices they make on behalf of their fellow citizens is touching and beyond reproach. These men and women are well worthy of our gratitude, and I applaud Chief Webber and these good people.

I will certainly be sorry to see Chief Webber leave our police force. But, he has left a legacy of excellence and professionalism that will endure. I wish him well.

Most Sincerely, Richard C. Falkenstein, M.D.”

Eura H. Lewis reported that the Museum Committee was continuing their work. She noted the agenda item related to their appointments; and, asked that she be referred to as “Eura H. Lewis”.

Public Hearing - Amendment to FY 2011 Budget

Town Administrator Semmes explained that the projection for the real estate tax revenues was under-estimated; and, reported that the staff was proposing to revise them to reflect what the Town expected to receive. She advised that she was proposing to place the additional money into the contingency fund. Ms. Semmes reminded Council that they were required under State law to hold a public hearing on the increase. She noted that the increase in the real estate revenues amounted to \$25,000.

No one spoke and the public hearing was closed.

Action Items (related to public hearing) - Amendment to FY 2011 Budget

Vice Mayor Kirk moved, seconded by Councilmember Snyder, that Council approve a FY '11 mid-year budget amendment in the amount of \$25,000 as advertised.

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)

Special Recognitions by Mayor and Council

Mayor Davis read and presented a Resolution of Appreciation to Lynne Galbreath for her service on the Historic District Review Committee between January 1, 2005 and December 31, 2010. She thanked Ms. Galbreath for her hard work.

Ms. Galbreath advised Council that serving was an honor. She noted that her involvement with the Town started as the result of the Salamander charrette. Ms. Galbreath reminded Council that she first came to the HDRC to fill an unexpired term; and, then went on to serve two additional terms. She expressed her opinion that it was a great introduction to the Town. Ms. Galbreath advised Council that the HDRC worked hard on the Certificates of Appropriateness; and, expressed her feelings that it was wonderful to then see the projects come to fruition.

Councilmember Littleton advised Ms. Galbreath that she was already missed. Mayor Davis noted that it was volunteers like Ms. Galbreath who made the Town so special.

Approval of Minutes

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve the March 7, 2011 Work Session, March 10, 2011 Regular Meeting and March 24, 2011 Work Session Meeting Minutes as amended.

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)

Staff Reports

Town Administrator Semmes reported that the Town has submitted an application for the renewal of the wastewater treatment plant permit. She noted that the application process was a long one. Ms. Semmes reminded Council that the Town's current permit would expire the end of August. She noted that the permit renewal must go through an EPA review, as well as a State review. She reported that public hearings for the permit renewal would be advertised in the Loudoun Times Mirror. Ms. Semmes advised Council that Loudoun Water helped to complete the application.

Town Administrator Semmes reported that the Town has received thirteen applications to date for the Police Chief position. She further reported that three were former Chiefs of Police and three were current Deputy Chiefs. Ms. Semmes advised that almost all of the applicants had management experience. She expressed her opinion that the Town would have a good range of applicants from which to choose.

Councilmember Murdock noted that the newly planted landscaping has died at the water treatment plant. She asked why this occurred. Town Administrator Semmes noted that the plantings were not planted right away; and, sat in pots too long. She advised Council that she has spoken with the contractor regarding this matter. Ms. Semmes noted that he explained that they needed to wait to plant them until someone was at the plant. She advised Council that they could replant them now, otherwise they must wait to plant them in the fall. Ms. Semmes reiterated that the contractor planted dead plants. She expressed her opinion that they if they did not replant them soon, they would have to replant them this fall.

Town Administrator Semmes advised Council that the monthly utility report was on their desks. She noted that the Town experienced a surplus for a change in that the wastewater treatment plant flows exceeded the water production; and, explained that this was the result of I&I.

Town Administrator Semmes advised Council that she would talk to them during the April 28th work session regarding the utility budget. She presented a comparison, based upon a recent survey completed by Purcellville, of area water and sewer rates. Ms. Semmes reported that Middleburg did not have the highest rates in the County, much less in the State. She noted that Purcellville was proposing to increase its water rates by fifteen percent and its sewer rates by twenty-five percent; and, advised that this followed a series of large increases over the past few years.

Councilmember Snyder noted that Berryville, Hamilton and Purcellville all had higher rates than Middleburg. Mayor Davis noted that Middleburg has been cited as having the second highest rates in the State. Town Administrator Semmes noted that this was the result of the Draper Aden Report; however, she advised that the report did not compare apples-to-apples. She confirmed that Middleburg was not the second highest rate in the State.

Councilmember Murdock asked who had the lowest rates on the chart. Town Administrator Semmes advised Council that Lovettsville had the lowest rates in the County; however, they were not included on the chart. She noted that Round Hill's rates were the lowest shown on the chart. Ms. Semmes expressed her opinion that Middleburg was doing well considering its debt service. She advised Council that Davenport was talking with the Town's auditors to understand the accounting in the Utility Fund. Ms. Semmes reported that she would have a draft utility budget to the Council on April 28th. She noted that if she received Davenport's report ahead of time, she would send it out sooner. Ms. Semmes expressed her opinion that this coming fiscal year would be a funny one due to the new facilities. She noted that Davenport was questioning some of the numbers as they were very different for the coming year than in the past. Ms. Semmes reminded Council that the new treatment plants contained different technology. She advised that while the amount of chemicals used at the wastewater treatment plant were down, they were up for the water treatment plant. Ms. Semmes reported that the good news was that Loudoun Water's labor costs were leveling out. She expressed her opinion that while they would have to spend a little extra time at the new facilities, it was not as large an increase as former Town Administrator Schiro had projected. Ms. Semmes expressed her opinion that the Town would see a reduction in engineering costs in the coming year. Councilmember Snyder noted that the Town replaced technology at the old plant, which was mid 1900s era, with something that was current.

Mayor Davis expressed her opinion that it was nice to see the rate comparison chart; and, to know that Middleburg's rates were in line with everyone, regardless of their size.

Town Administrator Semmes reminded Council that the Virginia Rural Water Association would be doing a leak detection check starting April 18.

Councilmember Snyder asked whether the Town had received any word on the hydrant flushing. Town Administrator Semmes confirmed the Town had received no complaints due to the first flushing. She reminded Council that the Ridgeview Subdivision flushing would occur next week. Ms. Semmes noted that this flushing would begin with the Fire Department's hydrant, as this hydrant tended to stir up debris in the lines. She explained that Mr. Triplett wanted to get rid of that debris quickly.

Police Officer Prince reported that the Police Department's numbers were down for the month; and, explained that this was the result of a combination of the weather and being a man short. He reported that all was quiet.

Mayor Davis thanked the officers for keeping things going; and, expressed her opinion that the Town was well protected. She thanked the officers for stepping up and working harder.

Vice Mayor Kirk expressed her opinion that the police officers were doing a great job.

Councilmember Shea commended them on the relationships they have developed with the businesses. She expressed her opinion that they have done a good job.

Mayor Davis congratulated the following individuals for winning Visit Loudoun's Tourism Awards for 2010: George Lengauer, Seven Loaves Food Bank, winner of the Distinguished Service Award; the Town of Middleburg, winner of the Tourism Volunteer of the Year Award in recognition of all of the volunteers in Middleburg; Marvin Simms, winner of the Home Town Star Award; Robin Cavanagh, of Duchessa, winner of the Humanitarian Award; Emily Tabaka of the Goodstone Inn for the Visit Loudoun Partner of the Year Award; and, Childs Burden, of the Conference on the Art of Command of the Civil War, winner of the Tourism Award for Attendance up to 3,000 people. She noted that Kristine Paliasani was nominated for an award as Chair of the Annual Summer Sidewalk Sale. Ms. Davis advised that the Town was proud of everyone.

Councilmember Shea asked about the National Dog Day Celebration. Economic Development Coordinator Pearson reported that this would be held in conjunction with the Farmers Market. She explained that Wylie Wagg and the Middleburg Humane Society would join the Market for the day. Ms. Pearson advised that this event was not being held through the Town, but rather was a national celebration that was being held at the Farmers Market.

Town Administrator Semmes reported that the Town Treasurer has assisted her in providing the information that Davenport needed to conduct their review. She expressed gratitude for her help.

Town Administrator Semmes advised Council that Mr. Triplett was introducing a new staff member from Loudoun Water into Middleburg. She explained that this individual would be working on the weekends.

Action Items (non-public hearing related) –

Council Appointments – Middleburg Museum Committee

Vice Mayor Kirk moved, seconded by Councilmember Murdock, that the Council appoint the following individuals to the Middleburg Museum Committee: Eura H. Lewis, Veronica Bonfanti, Mary Kay Garwood, Christina Schinner, Punkin Lee, Darlene Kirk as Council representative and Cindy Pearson 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)

Discussion Items

Fire Department Update

Paul Draisey, Treasurer of the Middleburg Volunteer Fire Department, appeared before Council to update them on the status of the Department’s building project. He reminded Council that several weeks ago, the County accepted bids to renovate and expand the Fire Department’s building. Mr. Draisey advised that they had a budget of \$3.1 million; however, the low bid was \$800,000 above that figure. He explained that the County called a halt to the project and deployed their engineers and architects to go back to the drawing board to return the project to its original \$3.1 million estimate. Mr. Draisey advised that until that happened, everything else was put on hold, including the plans to move and to silence the siren.

Mr. Draisey advised Council that he has since spoken with Fire Chief Brower who reported that he planned to put forth a recommendation to the Finance Committee, which would then go to the Board of Supervisors in May, that the \$800,000 be taken from another project that was nowhere near ready for construction. He noted that this money would then be replaced in the future. Mr. Draisey reiterated that the recommendation that would be presented was that the \$800,000 be provided so the project could advance as proposed. He advised that he has been told that the County staff presented its recommendation to the Finance Committee earlier in the day; and, noted that they were expected to approve it. Mr. Draisey reiterated that the request would then be submitted to the Board of Supervisors in May. He noted that he did not know whether they would ratify the construction contract then. Mr. Draisey advised that while he was more optimistic than was he was twenty-four hours ago, there could be a thirty to forty day delay in the Fire Department’s move.

Councilmember Murdock asked whether the staff’s recommendation would be rubber stamped or whether the Department needed the Council to ask the Supervisors for the money. Mr. Draisey advised Council that it was his understanding that the Department had all the endorsements it needed. He reminded them that the funding for the project was part of a ten million bond issue. Mr. Draisey reported that the Lucketts and Sterling Projects, which were also included in the bond, were nowhere near ready for bidding. He explained that the thought was to take the \$800,000 from the bond issue; and, to replace it with CIP money in the coming years.

Councilmember Hazard inquired as to how long the bids were good. Mr. Draisey expressed a belief that they were good for ninety days. Councilmember Hazard advised Mr. Draisey that if the project must be re-bid, the bids would be higher; and, explained that contractors were coming to him to say if he could not let their contracts, there would be a fifteen to twenty percent increase in the prices, mostly related to metal costs. He advised that construction costs have increased by ten percent from October through March. Mr. Hazard noted that he has told his project owners that if they were waiting to get a better bid, they would not.

Mayor Davis noted that the Fire Department's bid was a twenty-five percent increase over the estimate. Mr. Draisey explained that the reason the County staff was recommending accepting the bid was that they did not want to rebid the project. Councilmember Hazard expressed his opinion that the County needed to know the bid would not get better.

Mayor Davis asked whether the Fire Department needed anything from the Council. She advised that if they needed the Council to speak to the Supervisors individually or during public comments, they would do so. Mr. Draisey advised Council that he would let them know if this was needed. He noted that a lot of work has already been done at the site; and, advised that they were already trying to figure out how to get the beds through the trailer doors. Mr. Draisey advised that even after the County stopped the project, the work continued for a couple of days as the cabling and support system work was already scheduled.

Councilmember Murdock asked whether there was any way to turn off the siren on May 1 as scheduled. Mr. Draisey advised that he would check. He noted that he has discussed this issue with the Mayor. Mr. Draisey explained that over the last week, he had to change his focus from the siren to putting the project back on track.

Councilmember Murdock expressed appreciation of the need to address the project. She noted, however, that residents now had their windows open; and, advised that the siren needed to be turned off. Mr. Draisey reiterated that he was working on it. He noted that he had not heard the siren that much lately. Councilmember Shea confirmed it was still operating. Mr. Draisey reiterated that he was diligently working on it; and, noted that he has given the Council his word. He explained that part of the problem was that the Department did not want to put money into a replacement system that would be demolished. Mr. Draisey reported that they had a pager alert system; however, the alerts have been scrambled beyond recognition, not just for Middleburg but for all the County departments. He explained that Middleburg was getting alerts for Falls Church, but was not getting its own.

Councilmember Murdock expressed her opinion that an iPad could page better. Mr. Draisey reported that another option was to give each member a \$5,000 handheld unit. He advised Council that he was working on a permanent solution. Mr. Draisey noted that the siren in the new building would not be heard in the adjacent houses. Councilmember Murdock asked whether this would affect the residents at Windy Hill. Mr. Draisey advised Council that the Department has never received a comment from the residents in Windy Hill or the Levis Hill House; and, noted that this was where they ran the majority of their calls.

Mr. Draisey advised Council for the record that when the siren came down, it would not go back up as it was antiquated. He noted that the manufacturer no longer made the parts to repair it. Mr. Draisey advised that the Department's membership has discussed replacing the house siren after the building was finished. He reported that the architect has found a location for the replacement siren; however, the cost would be \$25,000. Councilmember Murdock asked the purpose of replacing the siren. Mr. Draisey confirmed it would be a back up. He noted that firemen liked sirens. Mr. Draisey advised that, in his personal opinion, the town needed to have some sort of a warning siren for tornadoes and other emergencies, regardless of whether it was the one behind

the Town Hall or another one. He expressed his opinion that the use of such a siren would involve an educational process; and, suggested that as opposed to ignoring it or getting mad, the residents needed to know that when it went off that something serious was occurring. Mr. Draisey noted that the siren could be tested during the middle of the day. He advised Council that he could not look them in the eye and say “it would not come back” as his vote was not the only one that counted; however, he noted that the Department did not have the \$25,000 to replace the siren. Mr. Draisey suggested the town should have some sort of an alert device for emergencies. He thanked the Council for their patience; and, noted that it was not the Department’s goal to alienate their neighbors. Mr. Draisey reminded Council that career personnel were currently helping at the station; therefore, the siren only went off when they were going out on a fire versus rescue call. He advised Council that he would keep them informed as to the progress of removing the siren.

Zoning Text Amendment 11-01 pertaining to Outdoor Lighting Standards

Town Planner Beniamino advised Council that the Planning Commission held public hearings on two zoning text amendments last month. He noted that there was no time to advertise the hearings for this month; therefore, he wanted to give the Council updates. Mr. Beniamino reminded Council that Zoning Text Amendment 11-01 was based upon a Go Green recommendation received in 2010. He advised that it was brought to the Planning Commission; and, put in an ordinance form. Mr. Beniamino expressed his belief that this would be a good outdoor lighting ordinance within the Town.

Councilmember Snyder noted that Section 265 exempted sports field outdoor lighting from the ordinance. He expressed concerned about the impact of doing so for the Salamander Report. Mr. Snyder noted that there were no lighting standards proposed for sports field outdoor lighting; and, suggested they provided a lot of light. He advised Council that he disagreed with this exemption. Councilmember Murdock noted that she could see the Mickey Gordon field lit up for miles; and, advised that it was really bright. Councilmember Snyder noted that when lighting sports fields the users went for lumens.

Town Administrator Semmes advised Council that this issue arose in Purcellville. She noted that there were some standards that could be included in the ordinance. Ms. Semmes reminded Council that these lights would be brighter; and, could not meet the standards that other lighting did. She noted that there was technology available that would allow the lighting to be downcast.

Town Planner Beniamino asked whether the Hill School’s fields were lit. Councilmember Shea confirmed they were not.

Councilmember Snyder recommended the Town have more flexible standards. He expressed an understanding of the safety issue associated with sporting events; however, he asked that this lighting not be exempt from the ordinance.

Councilmember Snyder advised Council that he could not parse Section 266(A). He expressed his opinion that if he hooded a light, he could point it anywhere he wanted. Councilmember Murdock suggested that if the light was hooded, it would not go up. Councilmember Snyder noted that the language indicated that the lighting must be “and/or” aimed downward. He suggested the language be made clearer. Town Administrator Semmes recommended the removal of the word “or”. Councilmember Snyder reiterated his suggestion that the language should be clear. He noted that he had other mark ups that he would present to the staff so the Council did not waste time discussing them. Councilmember Shea asked that Councilmember Snyder share his other amendments with the Council

Councilmember Snyder recommended that Section 266(B) be re-worded to say “the light must be aimed so that the illumination is only pointing downward onto the ground surface”. He noted that the ordinance is not insuring anything; and, was only directing how to do so.

Councilmember Snyder recommended that Section 266(C) be changed to read “Any light which is determined to meet the standard for light trespass on an adjacent property shall be considered a violation and must be brought into compliance”. He suggested the removal of the term “with this article” as it was redundant.

Councilmember Snyder recommended that Section 266(E) be changed to read that “All outdoor lighting fixtures shall be designed, installed, located and maintained such that nuisance glare onto adjacent properties or streets is minimized and all direct illumination kept within the boundaries of the fixture owner’s property”. He explained that the term “shall” was a future tense. Town Planner Beniamino noted that he would discuss this issue with the Town Attorney; however, he suggested the word “shall” was stronger. Councilmember Snyder noted that the word “shall” already appeared in the beginning of the sentence. Town Planner Beniamino reiterated that he would review this change with the Town Attorney. Councilmember Snyder expressed his opinion that the ordinance would be no more enforceable if it included the word “shall”.

Councilmember Snyder recommended that Section 267 (Submittals) be changed to strike the comma after the word “type”. He further recommended that the term “and Zoning” be stricken from Section 267(A)(4); and, noted that the Town did not have a Planning and Zoning Commission.

Mayor Davis recommended that Section 266(E) be amended to state that the direct illumination “is kept within”. Councilmember Snyder agreed.

Town Planner Beniamino asked whether the Council wanted to strike sports field outdoor lighting from the exemption entirely or add standards. Councilmember Snyder recommended it be addressed as these fixtures provided so much light that the Town needed to pay attention to them. Town Planner Beniamino asked whether the Council wanted to include standards in the ordinance. Councilmember Snyder confirmed he did. He recommended that these lights be put into their own section with their own standards.

Councilmember Murdock recommended the word “nighttime” be separated into two words in Section 262 (Purpose & Intent). Councilmember Shea noted that the word was not even needed. Town Administrator Semmes recommended it be eliminated.

Town Planner Beniamino advised Council that he would make the changes; and, would advertise the ordinance for public hearing next month.

Zoning Text Amendment 11-02 pertaining to definition of “financial institution”

Town Planner Beniamino advised Council that the Planning Commission looked at a change to the definition of a “financial institution” based upon Councilmember Hazard’s request. He further advised that the Planning Commission recommended the definition be changed to read “An establishment in which customers frequent the site for the purposes of state-regulated businesses as banking, the buying and selling of securities, obtaining loans, and depositing and withdrawing money”. Mr. Beniamino noted that the Town Attorney has recommended two alternate versions; and, was asking to eliminate the phrase “in which” and that it be replaced with the term “an establishment” or “a business frequented by customers”. Councilmember Snyder advised that either was fine. Town Planner Beniamino recommended the Council go with the term “establishment”.

Town Planner Beniamino advised Council that the Town Attorney believed the definition, as proposed, could embrace activities such as pawn shops or precious metal dealers. He noted that she wanted him to look at a way to correct this; however, he advised that he just received the Town Attorney's comments yesterday. Mr. Beniamino explained that she has indicated that a pawn shop was a State regulated business and could be frequented for loans. Town Administrator Semmes recommended the definition state "not including..." Town Planner Beniamino advised Council that he would look at those types of establishments as retail. Councilmember Snyder suggested that the point was that the Town would not want to define them as financial institutions. Town Planner Beniamino recommended the insertion of the term "excluding pawn shops and precious metal dealers".

Town Administrator Semmes questioned the difference between the current definition and what the Planning Commission has proposed. Town Planner Beniamino explained that it removed investment companies from the definition. Town Administrator Semmes noted that the definition still allowed for the buying and selling of securities. She asked about the difference in the characteristic of the use between investment companies and the buying and selling of securities; and, noted that an individual could have an office to buy and sell securities. Ms. Semmes asked what the Commission was trying to regulate. She further asked whether they were regulating the number of customers.

Town Planner Beniamino explained that the Council recommended moving businesses that did not have customer traffic off the first floors and putting them upstairs. He noted, however, that they did not want to completely discount what a modern financial business did. Mr. Beniamino cited the example of an Edward Jones office; and, noted that individuals could get loans and withdraw money from their accounts. He advised that this was something the Planning Commission felt they would want to allow. Mr. Beniamino explained that while they were not a traditional bank, they did provide for customer interaction and for the payment of a business license tax. He expressed his opinion that they would not provide dead spots.

Councilmember Snyder expressed his opinion that the Council was looking for retail establishments in terms of financial institutions. He suggested the businesses needed to offer old fashioned banking; and, expressed his opinion that the Town should not give upscale banking establishments a first floor exemption.

Town Planner Beniamino asked whether the Council was aware of a business that just bought and sold securities. Councilmember Snyder expressed his opinion that most were "fly-by-night" operations; however, he noted that some were legitimate. Councilmember Murdock expressed her opinion that Akre was a legitimate business; however, it did not have walk-in customers. Town Planner Beniamino explained that, under the proposed definition, the business must be frequented by customers. He further explained that they could not just buy and sell securities.

Mayor Davis asked whether there was a difference in that people could come in off the street. Councilmember Shea recommended adding a requirement that the business must be similar to a retail site in terms of traffic. Mayor Davis recommended the ordinance require that walk-in customers could come in without an appointment.

Councilmember Snyder advised Council that he would be more comfortable addressing this matter with the Town Attorney present. Town Administrator Semmes suggested the Council did not want an office that had no customers entering or exiting.

Town Planner Beniamino recommended the Council not make the definition so closed that it would not allow for someone that they would want to see locate in town.

Councilmember Shea expressed her opinion that the issue was about where a business would locate, not whether they would come to town. Councilmember Snyder advised Council that he was not willing to give up first floor space in the C-2 District for an appointment-only financial institution.

Town Planner Beniamino recommended the removal of the reference to the buying and selling of securities.

Councilmember Snyder reiterated that he preferred to have this discussion with the Town Attorney present. Councilmember Murdock agreed. Mayor Davis recommended the staff speak with the Town Attorney before the next work session. She suggested they try to develop a definition that would allow people to walk in off the street, like a bank. Councilmember Snyder noted that the industry referred to that as retail banking.

Councilmember Shea noted that a securities institution may not be open to the general public, only to customers. She advised that a bank was open for everyone. Ms. Shea expressed her opinion that a financial institution that was selling and buying securities had a client base.

Councilmember Murdock asked about the business that started this discussion. Town Planner Beniamino advised that it was an investment company that did not have walk-in customers. Councilmember Murdock asked whether this was the kind of business the Council wanted on the ground floor. Town Planner Beniamino reminded the Council that this was what started this discussion. He noted that the Town could not move that business from its current location. Councilmember Snyder noted that the Council was trying to raise the bar.

Councilmember Murdock suggested that if a business did not have walk-in customers, the Town needed to determine what type of business it was; and, to move it upstairs in the future.

Mayor Davis noted that the Town could not put a limit on the number of financial institutions allowed in the town limits. She expressed her opinion that it was “scary” that even with a revised definition, the town could turn into one of banks and investment companies. Ms. Davis suggested the need to think about a tool that could be used to encourage more retail.

Councilmember Shea noted that some towns were finding that retail was not the only thing that they wanted on their main street. Mayor Davis noted that there was nothing the Town could do to prevent it; however, she advised that other towns have become a street of banks. She reminded Council that those businesses were bringing in funds; however, they were not bringing in visitors to walk down the street.

Town Planner Beniamino noted that he recently talked to a resident who suggested that what would be good for Middleburg would be for it to become the financial hub of Loudoun County. He explained that this individual’s concept was that people would come to Middleburg to eat and do their financial business. Mr. Beniamino noted the benefit to the Town from a tax standpoint. He reminded Council that he has previously discussed how the Town could supplement, either through local or other businesses, businesses’ primary income. Mr. Beniamino noted that the question was how to get a back up in order to provide a healthy balance in town.

Mayor Davis expressed her opinion that it would be nice if the Town could impose a percentage on the number of businesses that were allowed to locate here. She suggested this was something the Town needed to consider.

Town Planner Beniamino advised Council that he would talk to the Town Attorney about the definition. He expressed hope to return to next month’s meeting prepared for further discussion.

Councilmember Hazard noted that a lot of banks were going to on-line services, with no walk-in customers. Town Planner Beniamino suggested the Town would not want that either. Councilmember Littleton noted that such banks could be located anywhere. Mayor Davis recommended the Council discuss this more at the next meeting.

Status of Go Green Committee

Town Clerk North advised Council that during a recent discussion related to quorums and meeting notification requirements related to the Middleburg Museum and the Middleburg Meandering Trail Committees, Councilmember Shea asked that she share this information with the Go Green Committee. She explained that in researching their quorum requirements, she found that while the Council approved the formation of an ad-hoc committee, the resolution did not address issues such as the number of members. Ms. North advised Council that she has prepared a resolution clarifying these issues in the event the Council would like to address this situation. She noted that she forwarded a copy of the draft resolution to the Chairs of the Go Green Committee; and, they have asked that the duties and responsibilities section be amended. Ms. North noted that the original draft language was based upon the 2007 resolution; and, advised that a revised draft has been prepared based upon the language proposed by Go Green.

Councilmember Murdock asked whether a Council representative could be appointed to the Committee. She noted that such a representative served on the Museum Committee. Town Clerk North confirmed that it could if this was the desire of the Council. Councilmember Snyder asked why the Council would want such a representative. Councilmember Shea expressed her opinion that this person would serve as a liaison between the Council and the Committee. She noted that this would be the same as with other committees. Councilmember Murdock expressed her opinion that it was important that there be a voice of the Council on the committee. Councilmember Shea expressed her opinion that it was important that all of the Town's committees have a Council liaison. She explained that if the committee had an issue it wanted to advance to the Council and needed advice in doing so, there would be someone who was familiar with the details and how the Council functioned. Ms. Shea reiterated her opinion that all of the Town's committee's should have a Council liaison.

Councilmember Murdock asked where this language would be added in the ordinance. She noted that the Town Planner was an ex-officio member. Councilmember Shea recommended this individual be added as a non-voting member. Councilmember Murdock noted that she did not want to affect the quorum by adding this seat.

Councilmember Snyder expressed his opinion that the ordinance looked good.

Mayor Davis asked the Town Clerk to revise the ordinance. She asked whether it would be on the next agenda for approval. Town Clerk North recommended she revise the ordinance for the Council's consideration during the next regular meeting, with the Council making the Committee appointments at the same time.

Councilmember Murdock asked whether Councilmember Shea wished to serve as the Council liaison. Councilmember Shea noted that she has been serving as a citizen; however, she would be happy to serve as the Council liaison.

Town Clerk North explained that the April 28th work session agenda was already full due to the utility budget discussions. She recommended this item be placed on the regular meeting agenda in May.

Town Council Goals

Councilmember Shea noted that she sent the proposed goals (Exhibit A) to the Council; however, she received no responses. Councilmember Littleton expressed his opinion that Councilmember Shea did a great job. He suggested that she got to the point of what the Council discussed. Councilmember Snyder expressed his opinion that the fewer words, the better. The members of Council noted that they were all in agreement with the goals as proposed.

Information Items

Councilmember Murdock distributed a handout from the Mare Center, which was located just outside of Middleburg. She noted that it was operated by Virginia Tech; and, expressed her opinion that it was an incredible resource. Ms. Murdock asked that the Council, staff and public read the newsletter. She reiterated her opinion that the Mare Center was a wonderful institution. Councilmember Littleton agreed that Middleburg was very lucky to have it. Councilmember Murdock suggested the need to support the Center. Councilmember Littleton noted that they have turned out some good horses. Mayor Davis agreed they did a lot; and, suggested the Town needed to know more about what they did. Councilmember Shea recommended that a representative from the Mare Center attend the Middleburg Business & Professional Association meeting to make announcements rather than just sharing them with the Council.

Town Clerk North reminded Council of the VML Town Section meeting that would be held in Purcellville on May 5. She asked that if any members of Council were interested in attending, they please let her know. Councilmember Shea advised that she would attend. Mayor Davis noted that she was already registered.

Dan Morrow, representing the Loudoun County Library Board of Trustees, reminded Council of the resolution they adopted in support of the expansion of the Middleburg Library. He reported that this resolution has resulted in the appointment of a joint committee consisting of members of the Middleburg Library Board and the Board of Trustees. Mr. Morrow advised that a resolution has been drafted that would formally support expanding the library; and, expressed his opinion that it would be approved. He explained that a second resolution would be considered that would encourage the County to draft a formal Memorandum of Understanding to build the addition.

There being no further business, a motion was made to adjourn the meeting at 7:12 p.m.

APPROVED:

Betsy A. Davis, MAYOR

ATTEST:

Rhonda S. North, MMC, Town Clerk

EXHIBIT A

2011 Middleburg Town Council Goals

1. The council will focus on the acquisition and operation of the new Water and Waste Water plants, the integration, monitoring and improvement of the water and waste water treatment systems. Including, but not limited to, the delivery of utility services at the lowest cost possible to maintain services; repair of mains where leaks are found; accurate metering, accounting and billing procedures; and the conservation and protection of the ground water.
2. With the assistance of the Town Administrator, the Council will develop a CIP plan with funds to be reserved for future replacement and improvement.
3. Throughout this year the Town Council will support, encourage and assist Town Committees, Town staff and citizens in reviewing and updating: policies & procedures, ordinances and other information pertinent to the Comprehensive Plan review, Zoning Ordinances and organizational guidelines for the Town. This will include but not be limited to reports from and special meetings with designated committees and the appropriate staff.
4. The Town Council will establish and support the development of the Middleburg Museum Committee.
5. The Council will review the goals established for 2011 and will set goals for 2012.