



MIDDLEBURG TOWN COUNCIL
Thursday, April 22, 2010
Town Office, 10 W. Marshall Street



6:00 p.m.

REGULAR WORK SESSION

PRESENT: Vice Mayor Darlene Kirk
Councilmember Catherine "Bundles" Murdock
Councilmember Lisa Patterson
Councilmember Judith Pryor Plescow
Councilmember Kathy Jo Shea
Councilmember Mark T. Snyder

STAFF: Jerry M. Schiro, Town Administrator
Rhonda S. North, MMC, Town Clerk
David M. Beniamino, AICP, Town Planner
Cindy C. Pearson, Economic Development Coordinator
Steven L. Webber, Chief of Police

ABSENT: Mayor Betsy A. Davis
Councilmember Trowbridge Littleton

The Town Council of the Town of Middleburg, Virginia held their work session on Thursday, April 22, 2010 in the Town Hall Council Chambers, located at 10 West Marshall Street. Vice Mayor Kirk called the work session to order at 6:00 p.m.

Council Discussion – Request for waiver of site plan – 101 West Federal Street

Town Planner Beniamino explained that this was an application for the waiver of a site plan. He noted that his written report contained the application and a letter from the owners of the restaurant, Mark Manly and Carol Robert, as well as a letter from the owner of the building.

Vice Mayor Kirk expressed her opinion that this application was similar to one the Council received a while back for the same building. Councilmember Snyder confirmed it was for a different building.

Town Planner Beniamino explained that he met with the applicants about relocating Annie's Restaurant to 101 West Federal Street. He reminded Council of the provisions in the Town Code that allowed them, upon receipt of an application, to waive the site plan requirements when no improvements were proposed to the property. Mr. Beniamino noted that this was the building that formerly housed the Treasure Hound, which was a retail use. He explained that the proposal was to change the building from retail to restaurant use. Mr. Beniamino read the Town Code section related to site plan waivers; and, explained that the waiver could only be granted if it would not affect those items listed in the ordinance. He advised Council that the change in use would not affect most of the items listed; however, it would require site improvements in the form of parking. Mr. Beniamino explained that retail uses were parked at a lesser rate than restaurants; and, advised that because this space was located close to public parking, it would require parking at 1/300 feet of floor area. He noted that the property currently had two parking

spaces for this space; and, advised that five were needed for the restaurant use. Mr. Beniamino expressed his opinion that it would be difficult to grant the site plan waiver due to the need for three additional parking spaces.

Town Planner Beniamino noted that the Council had three options to consider. He explained that the first option was to deny the request for a waiver and to require site plan approval. Mr. Beniamino further explained that the second option was to approve the site plan waiver with the condition that the applicant pay the \$15,000/space in-lieu-of-parking fee, for a total payment of \$45,000. He explained that by paying the fee, this would bring the building into compliance with the parking requirements; and, thus allow the Council to grant the site plan waiver. Mr. Beniamino advised that the final option, if the Council was inclined to approve the waiver, was to state the reasons for doing so and to ask the Planning Commission to make ordinance changes that would resolve these types of situations in the future. He noted that this could involve reducing the parking requirements when the property was close to public parking.

Town Planner Beniamino advised Council that he spoke with Councilmember Littleton regarding this item. He further advised that Councilmember Littleton raised the issue of the space formerly considered by the French Hound (referred to as the “French Hound building”). Mr. Beniamino reminded Council that in that case, the Town required the building owner to pay for four parking spaces in 2005, for a total of \$60,000. He noted that this building and the one in question were in close proximity to one another; and, suggested they involved similar situations. Mr. Beniamino advised that in the case of the French Hound building, the applicant did not seek a site plan waiver, but rather paid the parking fee in order to get an on-site parking waiver. He reiterated that the parking situations were similar for both buildings.

Councilmember Murdock asked about the amount of money paid by the French Hound building owner. Town Planner Beniamino reiterated that the owner paid \$60,000 for four parking spaces. He reminded Council that ultimately the French Hound Restaurant did not go into that building; however, the owner still paid the fee. Mr. Beniamino reminded Council that the spaces did not go away once the fee was paid; and, advised that those spaces existed in perpetuity.

Councilmember Shea asked whether one or both stories of the building would be used for Annie’s Restaurant. She further asked whether the entire building would be a restaurant use. Mr. Manly confirmed both stories would be used. Councilmember Shea asked whether Annie’s was expanding into a larger restaurant or whether it would still serve sandwiches. She further asked whether they would offer evening hours. Mr. Manly confirmed they would remain a sandwich shop, with no evening hours. He reiterated that they would offer the same operations as they have in the past. Mr. Manly explained that they were proposing to use the upstairs for seating.

Councilmember Snyder expressed his opinion that the fee-in-lieu-of-parking system was not working. He explained that he did not see any money going toward providing parking in the future. Mr. Snyder suggested it was more realistic for the Town to think of a smaller fee; and, to use that revenue to alleviate parking problems. He noted that he and the Town Planner have talked about extending the C-2 Commercial District along the south side of Federal Street; and, suggested it was a good idea as it would provide more space for retail use. Mr. Snyder suggested there were not industrial uses in this area, which was what the C-3 District was for. He reiterated that it made sense to expand the C-2 District into this area.

Vice Mayor Kirk asked whether Councilmember Snyder was thinking about having the Planning Commission do something. Councilmember Snyder advised that he was not sure of the process needed; however, he noted that those were his thoughts on the direction the Town should go. He explained that in terms of process, he would like suggestions from the staff.

Councilmember Patterson advised that she legally had no conflicts related to this matter. She noted, however, that personally she did since she was in the same business. Ms. Patterson advised that she did not want anyone to construe her consideration of the application as a conflict. She advised that ethically, it was tough to balance the two; however, she reiterated that she did not want anyone to think her comments came out of malice. Ms. Patterson noted that legally she could speak on this issue; however, she would probably abstain from the vote. She advised that under Virginia law, she had no conflict since she had no financial interest in whether Annie's succeeded or failed; however, she expressed concern that someone could interpret her actions as something that was done to protect her own business. Ms. Patterson reminded Council that she has been vocal about the need for more restaurants; however, she noted that she was wary about acting on this item.

Councilmember Murdock explained that her problem was that there was a restaurant two to three doors down from this space; and, the Town made them pay \$60,000 to waive the parking. She advised that she was fine with looking at changing the zoning to C-2 in the future. Ms. Murdock explained, however, that she could not support what was currently before Council and still look the other property owner in the face after he paid \$60,000 for parking. She expressed her opinion that this was not fair; and, suggested the Council must follow the rules that have been set.

Councilmember Plescow noted that she was a big fan of Annie's; however, she tended to agree with Councilmember Murdock. She expressed concern about requiring one restaurant to do something; and, suggested the Council needed to require the others to do the same. Ms. Plescow advised that she had no problem with the suggestion to look at rezoning this area to C-2; and, noted that she would like to see that advanced. She expressed a need for businesses like Annie's; and, advised that they brought a lot to the town. Ms. Plescow suggested the need to make the property a friendly site; however, she noted that it was a problem for her if the Council granted a waiver for them when it did not do so for someone else on the same block.

Councilmember Snyder noted that the same thing occurred in the existing C-2 District; and, explained that this was when the Council started waiving the site plan requirements for everyone. He expressed his opinion that it was not wise to waive them in the C-3 District. Mr. Snyder suggested that now that more businesses were looking at the area of South Federal Street, it was wise to ask the Planning Commission to see if it made sense to rezone the area.

Councilmember Shea expressed her opinion that there were a lot of unresolved issues on this street. She noted that it contained no sidewalk or barriers in front of the buildings; and, parking was an issue. Ms. Shea suggested that getting through on the street was also an issue. She expressed her opinion that this was a bigger issue than a waiver for one restaurant.

Councilmember Murdock advised Council that if she based her decision on what happened with the French Hound application, she would have to go with Option B (payment of in-lieu-of-parking fee). Town Planner Beniamino noted that this would take away any concerns about the applicability of the site plan waiver provisions. He advised Council that the renters were not expected to pay the fee; and, suggested that if the owner wanted to invest in the building, it would take away this conflict.

Mr. Manly expressed his opinion that there was a difference between his application and that of the French Hound. He reminded Council that his building had two dedicated parking spaces, whereas the French Hound building had none. Mr. Manley noted the economics of opening a business anywhere; and, advised that it was not easy. He read an excerpt from the site plan waiver provisions; and, noted that the Town Code allowed for waivers in cases of substantial injustice or hardship. Mr. Manly expressed his opinion that a substantial injustice or hardship existed in his case due to the reasons he had to vacate his former restaurant space. He advised Council that the building he was proposing to locate in was under-utilized. Mr. Manly noted that public parking existing within three hundred feet; and, expressed his opinion that people could get to the property. He suggested that his restaurant would attract clientele from all over that would bring shoppers into the area.

Ms. Robert noted that the French Hound chose not to locate in the building that has been mentioned, even after the owner paid the parking fee. Vice Mayor Kirk noted that another couple also looked at that building as well. Town Planner Beniamino reminded Council that another property owner paid \$90,000 recently to open his building. He advised that it was not a restaurant; however, he explained that the Town has been charging a parking fee for some time. Mr. Beniamino noted that he has talked to Mr. Manly from a planning perspective; and, expressed his opinion that he made a good point that the building was closer to public parking than other buildings in the C-2 District, which have a waiver provision. He advised that they talked about this situation and how the building's proximity to public parking might come into play. Mr. Beniamino explained that as the Zoning Administrator, he must advise the Council to follow the law. He noted, however, that as the Town Planner, the suggestion to rezone the property was a good one. Mr. Beniamino reminded Council that it would take a long time to rezone it; and, suggested it may be longer than Annie's had to reopen their business.

Councilmember Shea expressed an understanding of the need for a quick decision for Annie's Restaurant; however, she noted that the Council must make decisions for all cases. She suggested that if they began to give waivers to the site plan requirements and parking fees, they would set a precedent the Town could not afford.

Ms. Robert reminded Council that her business was not a new one; and, asked for Council's understanding of their situation. She noted that she moved her family here; and, had no attachment to any town but Middleburg. Ms. Roberts advised Council that due to a situation that was totally out of their control, they lost their previous building. She reiterated her request for Council's understanding of the situation. Ms. Robert further reiterated that they were not a new business, but were an established one. She asked that Council waive the site plan requirement in order to help them reopen their business. Ms. Robert expressed her opinion that the building's owner was a nice man; and, advised that he came forward to help put Annie's into his building. She advised Council that they were not trying to harm the town; and, noted that they were trying to get people to understand that they lived here. Ms. Robert advised that if they did not receive help, it would be the end of their business.

Mr. Manly asked whether the question before Council was related to the site plan waiver or the change of use. Town Planner Beniamino explained that the Town's subdivision ordinance required a site plan in the case of a change of use that required additional improvements. He noted that it would be easier to waive the site plan if the change of use was to a less intensive one. Mr. Beniamino explained that in this instance, they were going from a less intensive use to a more intensive one. He reminded Council that under the ordinance, restaurant parking was required at 1/150 square feet, which was the highest parking standard. Mr. Beniamino further reminded them that due to the building's proximity to public parking, the requirement was 1/300 square feet.

Ms. Robert asked why it was decided that their use was more intensive. She expressed her opinion that retail uses were more occupied than restaurants. Councilmember Shea noted that this was not an issue of whether or not the ordinance was good. She further noted that this was what the existing ordinance said; and, the Council must abide by those rules or change them. Ms. Shea explained that the Council has expressed a willingness to make changes; however, she noted that the process was very time consuming. Vice Mayor Kirk expressed her opinion that it would not help Annie's to change the rules as it would take time. She explained that the Council must decide if it would follow the staff's recommendation. Town Planner Beniamino advised Council that it was standard zoning practice that restaurants were the most intensive use due to the amount of turn-over. He further advised that the most common parking standard for restaurants was 1/100 square feet; however, he noted that Middleburg's regulations were softer at only 1/300 square feet.

Councilmember Murdock advised Mr. Manly and Ms. Robert that she could not vote for something that could put the Town at risk for a lawsuit.

Allen Strama appeared before Council representing the owner of the building. He expressed his understanding that the bottom line was how the Council could ask another restaurant to pay \$60,000 in parking fees. Mr. Strama advised that when he moved here five years ago, he paid for his house and made some improvements. He noted that he has been informed that his house was now worth \$250,000 less than when the restaurant opened. Mr. Strama expressed his opinion that the building owner would not be willing to come up with the money to pay for parking. He asked whether the amount of parking needed was based upon the square footage for two or three floors. Mr. Strama expressed his opinion that the town was not growing; and, that businesses and leased spaces were disappearing. He asked how the Council could look the citizens in the eye knowing that it would not allow waivers to take place that would give the town new businesses. Mr. Strama suggested it was good to be politically correct; however, he asked whether doing so was smart for the town. He reiterated that property values were going down; and, suggested the need for more restaurants. Mr. Strama expressed his opinion that the Council needed to find reasons to put businesses in place more than it needed to find reasons not to have them here. He suggested that if this was about money, everybody that had a business knew that revenues were down but taxes were up. Mr. Strama asked how businesses would survive.

Town Planner Beniamino advised Council that he used the numbers provided by Mr. Manly when calculating the number of parking spaces needed. He noted the need for a floor plan to calculate the exact numbers. Ms. Robert advised Council that the third floor of the building was not usable. She suggested they had less square footage than was listed on the application. Ms. Robert advised that the application contained the total square footage for the building. Town Planner Beniamino confirmed that they only had to park the usable space. He suggested the use would still require more parking; and, advised that the issue remained the same. Mr. Beniamino suggested that if the Council said the applicant had to pay the parking fee, he could calculate the exact amount. He noted that it may be less than he once calculated; however, he doubted it was less than nine hundred square feet.

Councilmember Snyder advised Council that he was comfortable doing several things. He suggested that the first was to look at rezoning the property in this area as a long-term solution. Mr. Snyder recommended that the Planning Commission look at the in-lieu-of-parking fee. He noted that this fee was designed to replace parking spaces; however, he suggested there was no place to put new spaces in town. Mr. Snyder expressed his opinion that it made more sense to have an in-lieu-of fee for something that would immediately erase the parking issues in town. He suggested that, in light of the circumstances, he did not have much trouble approving this waiver. Mr. Snyder explained that the reason was that the C-2 District did not require parking for restaurants; and, noted that this area that should be zoned C-2. He advised that if the property

was in the C-2 District, there would not be an issue. Councilmembers Shea, Murdock and Plescow noted that the property was not located in the C-2 District. Councilmember Snyder noted that this was the worst economy he had lived through; and, advised that he was willing to look at opportunities as they arose. He reiterated that he was willing to entertain a waiver for this applicant.

Councilmember Murdock asked how long it would take to rezone this area. Councilmember Snyder noted that it would take a minimum of three months. Councilmember Patterson noted that this proposal would “open a can of worms”. She reminded Council of the amount of office space on the first floor in the C-3 District; and, explained that rezoning the area would put those spaces into a situation of being non-conforming. Ms. Patterson further explained that if the property owners wanted to do anything to their buildings, they would have to secure a special use permit. She advised that this was not a simple issue; and, suggested it needed to be studied. Ms. Patterson asked where the Council would draw the boundary line. She further asked whether the rezoning would involve a street or the whole area.

Town Administrator Schiro recommended the Council seek legal advice before they considered waiving the parking fee to ensure they were not putting the Town at risk of reimbursing others from whom the fee had been collected. He reminded Council that they have a policy in place with a purpose. Councilmember Snyder noted that the Council was not going to do anything at this time.

Councilmember Murdock expressed sorrow; however, she noted that she had an obligation to the Town and its taxpayers. She noted that this was not her money; and, explained that she must make decisions for the Town. Ms. Murdock advised that she had to look at the good of the Town and any potential lawsuits or precedents that could arise. She noted that if she had to make a decision, she would have to go with Option B (pay parking fee) as she could not vote to waive the site plan and fees.

Town Planner Beniamino noted that absent Councilmember Patterson’s points, the Town could still explore a rezoning; however, he advised that the first step was a change to the Comprehensive Plan. He explained that the Council was talking about designating the area west of Madison Street that fronted the street. Councilmember Patterson advised that even if there were no issues, it would take a minimum of two to three months to rezone the property. She expressed her opinion that this would be a problem for Annie’s. Councilmember Snyder agreed that this timeline did not anticipate the discussions that would occur.

Vice Mayor Kirk reminded Council that they must address the application before them. Councilmember Snyder recommended the Council defer action until it heard from legal counsel. He suggested the Town could lower its parking fee quickly. Vice Mayor Kirk agreed with the need to hear from legal counsel. Councilmember Snyder noted that the Council could not take action during this meeting. He suggested that it would be good to have the Planning Commission look at a possible rezoning.

Councilmember Shea expressed her opinion that the question before Council was whether it would waive the site plan. Town Planner Beniamino suggested the Council could table action to its next meeting; and, allow the staff to discuss the matter further with the Town Attorney.

Mr. Manly expressed his opinion that the Council was saying there was no escape from paying the parking fee. He reiterated his opinion that what occurred to them at their previous location was a substantial injustice or hardship. Councilmember Murdock explained that the Council could not take what happened to the owners of Annie's at another location into consideration. Councilmember Snyder asked that Mr. Manly give the Council a chance to meet with the Town Attorney to discuss this issue. He expressed his opinion that it would be ill-advised for the Council to do something rash during this meeting.

Mr. Manly expressed his opinion that the people associated with the French Hound request would not point fingers as they knew what happened to him.

Vice Mayor Kirk asked whether this item would return to Council during their April 10th work session or their April 13th meeting. She advised that she would like to consider this item during the work session if possible.

Vice Mayor Kirk recognized David Stewart, a write-in candidate for the Town Council, who was in the audience. She expressed appreciation that Mr. Stewart was willing to "step up". Ms. Kirk noted that Mr. Stewart was a Baptist Minister, was married and had grandchildren. She advised Mr. Stewart that the Council looked forward to having him as a member. Ms. Kirk noted that she and Councilmember Snyder were running for re-election; and, advised that they would be happy to introduce him to people as they came to the polls and to give him support. She expressed sorrow at the loss of Councilmembers Patterson and Plescow. Mr. Stewart advised that he was glad to come home and for this to happen. He expressed his opinion that it was a blessing. Vice Mayor Kirk suggested it was a blessing for the Council. She noted that Mr. Stewart was officially registered as a candidate.

Council Discussion - Renewal of Middleburg United Methodist Church parking lot lease

Town Administrator Schiro reminded Council that the current lease was a short one; and, advised that it was up for renewal on June 30th. Councilmember Snyder asked whether the document included in the agenda packet incorporated the lease changes previously approved by Council. Town Administrator Schiro confirmed it did; and, noted that the lease amount was now a flat \$5,000.

Vice Mayor Kirk asked whether the Town was losing money on the lease. Councilmembers Shea and Patterson confirmed the Town had not yet collected \$5,000 in parking meter receipts. Councilmember Patterson suggested that it would be nice if the Town broke even. Councilmember Shea reminded Council that when the lease was negotiated last year, Mr. Armfield indicated they would come back this year and seek an increase.

Town Administrator Schiro reminded Council that they must make a decision on the lease renewal by the end of June. He suggested they be thinking about the terms.

Council Discussion – Request to hold Cobra Cruise on October 9th

Chief Webber explained that the Town received a letter from Mr. Jack Goehring; and, he had a lengthy conversation with him regarding the request. He noted that the second paragraph of the letter referred to spots on Madison and Federal Streets; and, advised Council that Mr. Goehring has also asked about shutting down South Madison Street. Chief Webber advised that he explained to Mr. Goehring about VDOT and the emergency management issues; and, told him they would probably not be allowed to do so.

Chief Webber advised that Mr. Goehring then asked if it was possible to block thirty to thirty-five parking spaces; and, was asking that the Town bag meters in the areas of Madison Street and East/West Washington Street. He reported that he told Mr. Goehring that he could not make that decision without consulting with the Council. Chief Webber noted that he explained to Mr. Goehring that if the Town did so, the meters would have to be bagged at 6:00 a.m. and the spaces could not be used the entire day.

Councilmember Murdock asked whether Mr. Goehring inquired about the use of the municipal lots. Chief Webber reminded Council that the Cobra Car Classic event was held in the Liberty Street Parking Lot last year. Vice Mayor Kirk asked how the event went in the parking lot. Chief Webber reported that he received no negative comments last year – only positive ones. Economic Development Coordinator Pearson reminded Council that last year was a rainy day, with the event date being changed at least once. Councilmember Shea expressed her opinion that the weather was okay on the day the event was held.

Councilmember Snyder advised Council that he was not comfortable bagging meters on a weekend. Vice Mayor Kirk agreed. Councilmember Patterson noted that the event did cause people to stop to look at the cars. She expressed her opinion that they would not do this if the event was in the Liberty Street Parking Lot. Councilmember Murdock suggested the event take place in the Methodist Church parking lot. Councilmember Shea noted that the event's rain date was a Sunday. Councilmember Patterson reminded Council that the Town did not pay to lease the parking spaces in the church lot on a Sunday. She noted that the participants in the Cobra Car Classic liked parking in groups and wanted their cars together as they were a club. Ms. Patterson reminded Council that the spouses came along; and, had lunch. She advised that when some older cars were parked on Zulla Road, people stopped to see them. Ms. Patterson reminded Council that people also followed the clubs. Councilmember Plescow noted that the events also brought in the club's members. Councilmember Snyder agreed the event was a good idea; however, he noted that the question was where to put them. Councilmember Murdock asked whether the participants did not like the Liberty Street Parking Lot last year. Economic Development Coordinator Pearson expressed her opinion that they did not receive the "gawk" factor. Councilmember Murdock advised Council that she would be fine bagging the meters for two hours; however, she noted that the trouble was that the bags must go on first thing in the morning, which meant the Town lost almost a whole day's parking. She advised that it was not a matter of money, but visitors that she was worried about.

Councilmember Shea recommended that the Town only give the participants xxx number of parking spaces per street so they would not use the entire block. Councilmember Plescow agreed this would allow the cars to be spread throughout the town, which would cause visitors to walk from one end of town to the other. Chief Webber advised Council that their goal was to leave together as a group so they could then hit the wineries in the area. He suggested that the cars could be placed on the same side of the street on East/West Washington Street so they could leave at the same time. Councilmember Murdock noted that this would involve thirty-five parking spaces. Councilmember Shea suggested that if the cars were placed on the east end of town, they would not interfere with the businesses. Councilmember Murdock advised Council that there was a wedding at the Community Center this same day; and, suggested the Town should not bag the meters in front of the Center. Vice Mayor Kirk suggested the Chief check with the Methodist Church to see if they had an event planned for this same day. Councilmember Shea noted that if the Town approved the use of the spaces on the north side of the street, there were not a lot of them in the block. Councilmember Murdock expressed her opinion that there were not thirty-five spaces available.

Councilmember Patterson asked about the number of parking spaces on North Madison Street. Chief Webber confirmed there were seven or eight spaces. Vice Mayor Kirk suggested there were more on South Madison Street. Councilmember Murdock suggested that, if approved, the elementary school parking lot could also be used in conjunction with North Madison Street. She reminded Council that they were talking about thirty-five spaces. Chief Webber expressed his opinion that this number was an estimate. Vice Mayor Kirk asked about the number of parking spots available in the Liberty Street Parking Lot. Chief Webber advised Council that last year, the Town put up barricades in the morning to block access to the lot; and, then stacked the cars within it. Vice Mayor Kirk suggested that Mr. Goehring be offered five spaces along Route 50 and some down the side street, with the rest being in the Liberty Street Parking Lot. She noted that this would result in some of the cars being parked in the lot, with some on the street.

Councilmember Murdock asked what would happen if the Emmanuel Episcopal Church had a wedding planned; and, wanted to use the lot. Councilmember Snyder suggested the Council could not commit to the use of the church parking lot due to the rain date falling on a Sunday. He further suggested that all the Council could commit to was what was done last year. Councilmember Murdock agreed that the Council could approve the use of the Liberty Street Parking Lot. Councilmember Snyder advised that he was not comfortable offering any more unless it was coordinated with the businesses. Councilmember Shea advised that she was not opposed to offering one or two spots on the street, with signs directing guests to the parking lot. She expressed her opinion that all of the cars could not be parked on the street. Vice Mayor Kirk recommended the Chief check with the churches to see if they had an event scheduled. Councilmember Murdock reiterated that there was a wedding reception at the Community Center on this day; and, advised that she did not know where the wedding would take place.

Councilmember Patterson advised that from a business perspective, if the event were held in the Liberty Street Parking Lot, it would bring the Cobra participants here. She suggested, however, that if the event was visible, it would bring another level of traffic, including foot traffic, into town. Ms. Patterson reminded Council of the potential exposure to businesses. She advised that she did not know if they would respond to that business due to the loss of parking spaces.

Councilmember Murdock agreed with Councilmember Shea's suggestion to place two cars at the intersection of Washington and Liberty Streets as a sample; and, to encourage the remainder to park in the parking lot. Councilmember Snyder suggested that any more than that would require coordination with the area businesses. He agreed that the Cobra Car Classic participants would want visibility; however, he noted that to get that, the Town must have coordination with the businesses, which it did not currently have.

Councilmember Patterson expressed her opinion that the use of North Madison Street could work; however, she noted the impact on the Red Fox Inn, which was the only business in this area. Councilmember Murdock reminded Council of the real estate office in this area; and, noted that Saturday was a bad day for a real estate agent to lose parking spaces. She suggested it was also a bad day for the Pink Box to lose spaces. Chief Webber suggested that if the Council was considering the area of North Madison Street, the parking lot for the Mosby Tavern building may be an option. He noted that the building owner was a "car guy"; and, suggested he may allow them to park in his gravel lot. Councilmember Snyder agreed this was something worth exploring. Councilmember Patterson noted that having the cars in the center of Town gave the event walk ability. Councilmember Murdock asked the difference between that lot and the Liberty Street Parking Lot. Chief Webber suggested that some cars could be parked on North Madison Street, with the rest in the parking lot, which would keep them together. Councilmember Shea noted that this location would not interfere with parking in the remainder of the town.

Vice Mayor Kirk noted the need to do some more homework. Chief Webber advised Council that he would work with the Economic Development Coordinator and check event schedules. He advised that he would make something work. Councilmember Shea noted the need to make the Cobra Car Classic participants feel welcome. She advised that she did not want to discourage them; however, she noted that losing thirty to thirty-five spaces on Washington Street on a Saturday would not work.

Councilmember Patterson asked what Mr. Goehring meant by the use of Federal Street; and, noted that it did not contain that many parking spaces. Chief Webber advised that he did not know; and, explained that he talked to Mr. Goehring about the possibility of using South Madison Street and the immediate downtown area. Vice Mayor Kirk suggested the Chief and Economic Development Coordinator speak to the owner of Mosby's Tavern about the use of his lot. Economic Development Coordinator Pearson noted that the Saddlery Liquidators was open on Saturday. Councilmember Murdock reminded Council that people come to town to shop there.

Councilmember Patterson asked about the use of South Pendleton Street. Economic Development Coordinator Pearson noted that the church could have an event that day. Town Planner Beniamino noted that there was a garden being planted in the abandoned right-of-way in this area. Councilmember Murdock asked about the use of the Middleburg Bank's parking lot. Chief Webber noted that they would be open that day. Vice Mayor Kirk suggested the Chief tell Mr. Goehring that the Council wanted the event to come to Middleburg; and, that they were exploring the options.

Council Discussion – Yard waste debris/proposed collection

Vice Mayor Kirk explained that she started thinking about this item after the last meeting; and, did not believe it was fair that the twenty-two property owners that were being "bad" should get a special pick up that no one else in town would have the opportunity to use. She suggested the Town send a letter to those in violation expressing an understanding of the bad winter; and, explaining that the Town was scheduling a special day for yard waste collections. Ms. Kirk further suggested that the letter include instructions on how the yard waste should be bundled for collection. She noted that the special collection information could also be put on the Town's website so the collection would not be a special collection just for the violators. Ms. Kirk explained that she did not want someone to say the Town was doing a special pick-up because the violators included a former Mayor and Councilmember. She recommended that the special pick-up should only be for yard waste; and, not for the collection of junk or old items.

Chief Webber advised Council that he and the Town Planner drove around Town and made a list of what they could see from the road. He expressed his opinion that they may not have done a thorough job of identifying the violators. Town Planner Beniamino disagreed. Chief Webber suggested that some individuals may have debris behind their houses that could not be seen. He advised Council that some people who were on the initial list have taken care of their debris. Chief Webber reminded Council of the Town Administrator's suggestion to possibly do a clean-up day for the entire town; and, suggested that some property owners may want to trim their bushes that were not planning to do so. He expressed his opinion that this did not involve just twenty people; and, suggested the Council think of the town as a whole. Chief Webber reiterated that some property owners have cleaned up their debris. He suggested a public awareness campaign to educate the community and provide the entire town with the opportunity to have their debris removed.

Vice Mayor Kirk asked whether the staff was saying that they did not want to send a violation letter. Chief Webber advised Council that he would do whatever they told him to do. Vice Mayor Kirk suggested the Town Planner send the letters. Town Planner Beniamino explained that the reason the Chief was involved in this matter was that the ordinance required it. He noted that in other jurisdictions, the Zoning Administrator handled property enforcement. Chief Webber advised that he would like to change this violation over to a zoning one.

Councilmember Murdock advised Council that she was in favor of being pro-active. She suggested that in doing so, the Town should offer a pick-up day and that it should educate the citizens on how the yard waste should be bagged. Councilmember Plescow suggested that after the clean-up day, if anyone remained in violation, they should be cited. Councilmember Shea recommended that this not be said. She suggested that the day after the pick-up, the Town send letters to those that did not take care of the problem.

Vice Mayor Kirk asked if the violators could be fined. Town Planner Beniamino confirmed that violations were punishable by a fine; however, he noted that the violation would have to go to court. Chief Webber explained that the judge would have to impose the fine. Vice Mayor Kirk expressed her opinion that one or two property owners would not comply.

Councilmember Murdock asked whether the Council was saying to send letters to the property owners throughout Town. Vice Mayor Kirk suggested the Town avoid a mass mailing, but instead post the collection date on the Town's website. Town Administrator Schiro noted that it could be posted on the website; however, he suggested it would not be effective. Town Planner Beniamino recommended that notices be placed in the bank, post office and Safeway. Councilmember Murdock noted that the Town did not want to receive an excessive amount of garbage from such a posting. Chief Webber suggested the Town may see a dishwasher or refrigerator set out for collection.

Councilmember Murdock asked where the yard waste was going that was being collected. Town Administrator Schiro advised Council that he could not answer that question. Councilmember Murdock reported that she watched the yard waste bags go in with the regular trash. She expressed her opinion that the brush should not be mingled with the garbage. Councilmember Shea noted that Loudoun County took brush and turned it into mulch. Councilmember Murdock noted that the Town paid for the collection services; and, suggested the contractor was supposed to sort the items. She noted that she could not imagine that they could sort garbage from twigs. Town Administrator Schiro expressed his opinion that it was to the contractor's benefit to sort and separate the recycling. Councilmember Shea explained that there would be no objections if they were picking up the yard waste with the recycling. She further explained that they were picking it up with the garbage. Town Administrator Schiro asked whether the yard waste was placed in garbage cans. Councilmember Murdock confirmed it was not; and, advised that it was in yard waste bags.

Councilmember Patterson recommended that the Town offer two collection dates a year to pick up brush. She further recommended that it be collected by a separate truck. Councilmember Murdock advised that she did not want to wait twice a year to clean up her yard.

Town Administrator Schiro advised Council that the contractors should not be collecting the yard waste with the garbage. He further advised that he would say something to them. Mr. Schiro suggested that, realistically, unless the Town paid more than it was currently paying, the contractor would not run a truck into Town for yard waste. He noted, however, that they should be putting it in with the recycling.

Town Administrator Schiro asked the Council how they wished to proceed with this item. Councilmember Shea suggested the Council was saying the staff should go ahead with the plans for a clean-up day. Vice Mayor Kirk recommended that a notice be placed on the Town's website, but that there be no special mailing. Councilmember Shea recommended the date be placed on the events calendar.

Vice Mayor Kirk suggested the staff secure a price for the clean-up day. Town Administrator Schiro reminded Council that the Town would use a different contractor for this collection. He noted that they would use the landscaping contractor that the Town has previously used; and, advised that they only charged \$35/hour. Mr. Schiro expressed his opinion that the clean-up should not take more than a day.

Council Discussion – Appointment to Board of Zoning Appeals

Town Clerk North reminded Council that Phyllis Cook-Taylor resigned her position on the Board of Zoning Appeals as she moved out of Town. She advised that the position was advertised, with one application received.

Councilmember Shea moved, seconded by Councilmember Snyder, that Council recommend to the Judge of the Circuit Court that Eura Lewis be appointed to the Middleburg Board of Zoning Appeals to fill the unexpired term of Phyllis-Cook Taylor.

Vote: Yes – Councilmembers Kirk, Murdock, Patterson, Plescow, Shea and Snyder
No – N/A
Abstain: N/A
Absent: Mayor Davis and Councilmember Littleton

Council Discussion - Piedmont Foundation

Councilmember Shea expressed her opinion that the representatives from the Piedmont Foundation made a nice presentation; however, the Council held no discussion on what it would like to do. She expressed her opinion that the Health Center funds needed to stay with the Health Center. Ms. Shea recommended that the Council discuss the Middleburg Foundation with them and see what the Piedmont Foundation could do to help put together a foundation that would assist with projects the Town could not do itself. Vice Mayor Kirk agreed the Piedmont Foundation may be a good starting point for the Middleburg Foundation. Councilmember Murdock agreed with the need for a foundation; and, suggested the Town probably needed help setting one up and determining who would run it. She expressed her opinion that this may be a role that was perfect for the Piedmont Foundation. Ms. Murdock suggested it would be nice for the Town to thank them for coming and giving their presentation. She further suggested that they be asked to help set up the Middleburg Foundation. Ms. Murdock expressed her opinion that if the Town received money for the foundation that it could purchase buildings. Councilmember Shea suggested it could be expanded to cover capital improvements in the Town. She noted that she had a dream of developing a park. Councilmember Snyder reminded Council that these funds could not be co-mingled with the Town's funds. Councilmember Shea suggested the funds would all be from private donations.

Vice Mayor Kirk expressed her opinion that working with the Piedmont Foundation made sense. She recommended the Mayor send them a letter thanking them for coming before the Council. Ms. Kirk advised that she has spoken with Howard Armfield, of the Health Center Advisory Board, who liked the idea of putting some of the Health Center money into the Piedmont Foundation. She explained to him that the Council was looking to do a lot of work in the Health

Center building, as the tenants have the right to windows that didn't leak air and to normal heat in the winter. Ms. Kirk noted that she explained that the time was not right to look at investing the money when it needed to be invested in the building. She advised that if the Council wished, she could get the Advisory Board together to discuss the matter further. Councilmember Shea expressed her opinion that it was a good idea to keep the Board advised of what the Council was doing. Vice Mayor Kirk confirmed she would get the Board together.

Councilmember Snyder expressed his opinion that there were no current plans to take the Health Center funds and disburse them through the Piedmont Foundation; and, suggested there was no benefit to the Town to do so. Councilmember Shea suggested the Council only talk to them about the formation of the Middleburg Foundation. Councilmember Murdock reminded Council that this was a part of the Council's vision. Councilmember Shea noted that it was a goal for this year. Vice Mayor Kirk expressed her opinion that the Mayor would be willing to sign a letter. Councilmember Shea noted that she would be happy to work on it.

Discussion

Vice Mayor Kirk noted that the Upperville Fire Department stopped doing their monthly breakfasts due to the lack of volunteers. She reported that they have now secured volunteers; and, would start holding the breakfasts again.

Economic Development Coordinator Pearson reminded Council of the Arbor Day celebration on April 24th at the Middleburg Elementary School. She noted that the Vice Mayor would officiate.

Vice Mayor Kirk noted that this was Town Administrator Schiro's last official meeting. She thanked him for his work over the past three years; and, noted that it was hard to say enough kind words about him. Ms. Kirk advised that Mr. Schiro helped the Town in so many ways, including helping to get back it back on track and make it financially viable. She noted that at some point, the Council would like to organize a going away party for him. Town Administrator Schiro noted that it has been his pleasure to serve the Town.

Vice Mayor Kirk announced that she received a letter from the Middleburg Elementary School seeking donations. She noted that it also identified their upcoming events. Ms. Kirk advised Council that she would leave the letter with the Town Clerk for anyone who was interested.

Councilmember Shea announced that she received an e-mail regarding the Virginia Energy Efficient Appliance Rebate Program for the purchase of energy efficient appliances. She noted that interested individuals could apply starting April 28th. Ms. Shea advised that she would send the information to the Town Clerk for distribution.

Closed Session - Personnel

Councilmember Murdock moved, seconded by Councilmember Shea, that Council go into closed session as allowed under the Virginia Freedom of Information Act Section 2.2-3711(A)(1) pertaining to the discussion, consideration or interviews of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of the public body. Councilmember Murdock further moved, seconded by Councilmember Shea, that this discussion be limited to the hiring of a Town Administrator. Councilmember Murdock further moved, seconded by Councilmember Shea, that the Council thereafter reconvene in open session for action as appropriate.

Vote: Yes – Councilmembers Kirk, Murdock, Patterson, Plescow, Shea and Snyder
No – N/A
Abstain: N/A
Absent: Mayor Davis and Councilmember Littleton

Vice Mayor Kirk asked the members of Council to 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 they so did.

There being no further business, a motion was made to adjourn the meeting at 7:35 p.m.

APPROVED:

Darlene Kirk, VICE MAYOR

ATTEST:

Rhonda S. North, MMC, Town Clerk