



**MIDDLEBURG TOWN COUNCIL**  
**Regular Monthly Meeting Minutes**  
**Thursday, June 11, 2009**  
**Town Office, 10 W. Marshall Street**  
**6:00 PM**



**PENDING APPROVAL**

**PRESENT:** Mayor Betsy A. Davis  
Vice Mayor Darlene Kirk  
Councilmember Trowbridge Littleton  
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  
Elizabeth D. Whiting, Town Attorney  
David M. Beniamino, AICP, Town Planner  
Steven Webber, Chief of Police  
Cindy C. Pearson, Economic Development Coordinator  
Debbie J. Wheeler, Town Treasurer

**ABSENT:** Councilmember Catherine “Bundles” Murdock

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting on Thursday, June 11, 2009 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Mayor Davis called the meeting to order at 6:00 p.m. She led Council and those attending in the Pledge of Allegiance to the flag.

Mayor Davis noted that she just returned from the funeral for Eura Lewis’ daughter, Carla Gregory, which was well attended and very moving. She advised Council that Ms. Lewis and Mr. Gregory thanked the Town for their support and kindness.

Council Approval – Appropriations Ordinance – FY ’10 Budget

*Councilmember Littleton moved, seconded by Councilmember Snyder, that Council adopt a resolution approving the budget, adopting the tax rates and making annual appropriations for the fiscal year ending June 30, 2010.*

Councilmember Snyder noted that the Council benefited from the staff’s work on the budget. He further noted that he pushed the Council to discuss and review the document several times. Mr. Snyder thanked the staff for developing a budget that was easy to approve. Mayor Davis agreed.

Vote: Yes – Councilmembers Kirk, Littleton, Patterson, Plescow, Shea and Snyder

No – N/A

Abstain: N/A

Absent: Councilmember Murdock

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

**Approval of Minutes**

*Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve the May 14, 2009 Regular Meeting and May 28, 2009 Work Session meeting minutes as amended.*

Vote: Yes – Councilmembers Kirk, Littleton, Patterson, Plescow, Shea and Snyder  
No – N/A  
Abstain: N/A  
Absent: Councilmember Murdock  
(Mayor Davis did not vote as there was no tie to require her vote)

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**Staff Reports**

Town Administrator Schiro advised Council that he met with representatives from VDOT this week to kick-off the Marshall/Madison Street Intersection Improvement Project. He further advised that he was told during the meeting that Phase 2 of the project has been approved; and, that the Town would receive an additional \$118,000, bringing the total grant to \$358,000. Mr. Schiro noted that the preliminary survey work has been done; and, the staff would now begin work on the final project design. He advised that the community and Planning Commission would be brought into the design phase. Councilmember Patterson inquired as to the amount of the Town’s match for the grant. Town Administrator Schiro confirmed it was 20%; and, explained that the Town could use a portion of the Marshall Street Water Line Project costs, as well as his time, toward the match.

Town Administrator Schiro reported that the parking lot lease with the Middleburg United Methodist Church would expire this month. He advised that he contacted Howard Armfield, Chairman of the Church’s Finance Committee, who didn’t realize it was about to expire. Mr. Schiro reminded Council that the lease negotiated in 2004 was a five-year one. He advised that the Church’s Finance Committee has briefly discussed the lease; and, proposed that the rent be increased to \$5,500/year, up from \$4,900/year; and, that the lease be for a three-year period, as opposed to five. Mr. Schiro noted that they were proposing that all other conditions remain the same. He reminded Council that the lease called for the Town to split its revenue from the parking meters. Councilmember Snyder suggested the need to change the parking meter split if the rent were to increase. He advised that he would prefer a five year lease if possible. Town Administrator Schiro advised Council that Mr. Armfield was sending something in writing; and, noted that he would put it on a work session agenda once received. He expressed an assumption that the lease could go month-to-month until the details of the new lease were worked out.

Town Administrator Schiro reported that the connections to the new Marshall Street water line have been made at the Pink Box, PNC Bank, Long & Foster office, and Verizon office. He further reported that the connection for the dentist office would occur later this week. Mr. Schiro advised that the water has been terrible this week for those still connected to the old line; and, explained that when making the tap at the Pink Box, there were issues that stirred up the debris in the old line. He noted that the tap did not require extreme measures; and, advised that the contractor did not even shut off the main. Mr. Schiro reiterated that there were problems with black water at the Town Hall and the dentist office. He reported that the work should be completed next week, weather permitting. Mr. Schiro advised that the water at the Pink Box was clear; and, the pressure was better. He expressed his opinion that the new line should make a huge difference. Councilmember Patterson asked whether the Town was replacing the service laterals. Town Administrator Schiro confirmed it was not. Councilmember Snyder suggested the staff determine where the Town could make improvements to the system that would provide the most benefit for the money available. He further suggested that the worst lines be replaced.

Mr. Snyder reiterated his desire to get the biggest impact for the money. Town Administrator Schiro confirmed that he has already prioritized the improvement needs; and, advised that the Ridgeview area was where improvements were most needed. He suggested the need to do what was necessary to connect the system. Councilmember Snyder asked that the Town Administrator project the costs. Town Administrator Schiro confirmed that he had some pretty firm numbers. Councilmember Snyder suggested this be revisited each year. Town Administrator Schiro confirmed the Town would receive the greatest benefit for its dollar by connecting the new water line with the connection that was made earlier in the year at the Levis Hill House. He reiterated that this would transition the entire Town; and, would provide the Town with the biggest bang for the buck. Councilmember Snyder noted that the customers were complaining about the rates; and, advised that he would like to give them some improvement for their money.

Town Administrator Schiro advised Council that the CSI contract for garbage/recycling collection was up for renewal; and, noted that they have agreed to the same terms. He expressed his opinion that CSI has been good to work with; and, noted that they have been helpful with the recycling program. Town Attorney Whiting expressed her opinion that Middleburg received the best rates in the area. Mayor Davis noted that she was expecting a rate increase. Town Administrator Schiro noted that he was as well. He advised that CSI initially proposed gas increases; however, after talking with them, they removed the increase. Councilmember Shea noted that in the Town Administrator's written report, he talked about providing recycling services to the Llewellyn Village. She reminded Council that this was the result of the Go Green Committee's efforts as they brought this need to the Town's attention. Town Administrator Schiro confirmed they did.

Vice Mayor Kirk asked whether any of the police officers were scheduled for training. Chief of Police Webber reported that one was in training this month; and, one was scheduled for training next month. Councilmember Shea noted that the number of traffic control complaints was up. She asked whether this was due to a policy change. Chief Webber noted that this category covered complaints ranging from directing traffic from funerals to lookouts requested by the Sheriff's Department to reckless driving to illegal parking. Councilmember Snyder noted that this category was only up by one.

Mayor Davis read a letter to Chief Webber from David Crandall, of the Loudoun County Sheriff's Office, commending the Middleburg Police Department for their assistance in solving the March 2009 commercial burglaries, which resulted in further investigations that produced other local and possibly federal charges being filed against the accused. She thanked the Police Department; and, noted that while the Town was aware of the talents of the Department, it was nice to have someone else recognize them.

Economic Development Coordinator Pearson advised Council that photographs of the Town entrance sign have been placed on their desks; and, suggested that they be used to create a framed picture for those who donated toward the cost of the sign. She noted that she tried to create a note card using the photos; however, her equipment would not allow her to do so. Ms. Pearson advised that she has also placed a drawing of a proposed way-finding sign on the Council's desk. She reminded them that this sign would replace the old way-finding sign on the Home Farm building. Ms. Pearson reported that a pocket would be added to the sign for Town maps that people could take. Mayor Davis asked whether the sign would be mounted on the building. Economic Development Coordinator Pearson confirmed it would; and, noted that the mounts from the older sign were still on the building. She suggested that those mounts be used for the new sign. Mayor Davis expressed her opinion that the old sign had been free-standing at one time. Councilmember Littleton confirmed it was for a period of time. Mayor Davis asked whether there was a chance the new sign could also be free-standing. Economic Development Coordinator Pearson confirmed that she would check into this with John Ralph, of Quail Run

Signs. She reminded Council that there was not a lot of space at this location. Ms. Pearson reiterated that she would look into a free-standing sign. She advised Council that there was also a design for a memorial plaque on their desk; and, noted that it would be a nice wood sign, with small clear name plates. Ms. Pearson noted that she would continue to pursue the memorial trees as well. Mayor Davis noted that the plaque would be permanent, whereas trees were not. Economic Development Coordinator Pearson suggested the plaque be placed on the wall of the Council Chambers. Councilmember Snyder asked who would be a candidate for listing on the plaque. Ms. Pearson suggested that mayors, council members and former employees of the Town be recognized; and, noted that she would research those names.

Mayor Davis noted that she understood that the Town would not hold a Tomato Festival this year. Economic Development Coordinator Pearson advised Council that the five people who recently attended the planning meeting agreed this would be the case; however, she noted that it would be discussed again next week. She explained that no one was willing to coordinate the event this year; although, they do have someone who may be interested in advancing it next year. Ms. Pearson invited Council to attend the planning meeting on June 17<sup>th</sup>, at the Community Center, to discuss the festival further.

Vice Mayor Kirk expressed sorrow at the reduction in the bank franchise fees received by the Town; however, she noted that there was nothing the staff could do about that. She expressed her opinion that the Treasurer's report looked good.

Town Attorney Whiting reported she was in court last week on the motion of counsel to withdraw from the Colandrea litigation; and, advised that the Colandrea's no longer had counsel in any pending litigation. She expressed her opinion that the sole surviving suit would be dismissed soon; and, advised that she would need to watch the clock for when that order was entered and would then advise Council accordingly. Councilmember Snyder noted that the property in question contained a for sale by owner sign. Vice Mayor Kirk noted that their other property contained a for rent sign. She asked whether "by dismissed", the Town Attorney meant there would be no further challenge; and, that the decision on the removal of the wall would be upheld. Town Attorney Whiting confirmed this was correct; and, advised that once final, there would be estoppels against challenging the violation. She reiterated the need to watch the clock.

Town Attorney Whiting reported that, as a member of the Advisory Committee for the Institute of Government, she was participating in a meeting later this week to explore economic opportunities in hard times. She noted that Delegate May was originally scheduled to attend this meeting; however, he has now said he could not. Ms. Whiting expressed disappointment as she had hoped to discuss local initiatives with him.

Town Attorney Whiting advised Council that she would be in Maine from June 28<sup>th</sup> through July 5<sup>th</sup>.

Councilmember Littleton asked whether there was a cloud on the Colandrea title in the event that the property was sold. He further asked whether the Town could put a cloud on the title. Town Attorney Whiting confirmed it could not. Councilmember Littleton expressed his opinion that the Town needed to let potential purchasers know of the violation. Town Attorney Whiting explained that the violation would follow the land. She reminded Council that the title report should consist of a check of the court cases, with any cases being reported to the purchaser as a part of the settlement. Ms. Whiting explained that, at this point, the purchaser would have to accept or reject the sale; and, would be bound by the conditions of the land. Councilmember Plescow asked what would happen if there was no title search. Town Attorney Whiting confirmed the purchaser would be bound by what they knew legally. She reminded Council that because there was no monetary remedy being sought, there was nothing the Town could do to

give notice to the world. Ms. Whiting advised that she would review the statute; however, she did not believe it had been modified to allow for such a notification. Councilmember Littleton asked whether there was anything the Town could do to ensure that this issue was definitely brought to the attention of the purchaser. He further asked whether there was a way to get the violation on the record so a title researcher would know of the problem and what needed to be done to fix it. Mr. Littleton agreed this was not an issue of money, but was a simple adjustment to a fence. Town Attorney Whiting suggested the Town contact the realtor for the property. Vice Mayor Kirk noted that the sale was being handled by the owner. Mayor Davis asked whether the fence violation was related to the house in which the Colandrea's resided or their rental property. Town Attorney Whiting confirmed that the major issue was related to their house. She reminded Council that there were height violations on at least three of the four sides of the fence. Ms. Whiting further reminded them that there was an issue with either the removal of the core of the fence or they left what was supposed to be removed. She noted the need to review the materials.

Town Planner Beniamino reported that he was scheduled to meet with Mr. Colandrea next week regarding some non-lawsuit related violations. Vice Mayor Kirk asked whether Mr. Beniamino needed the Town Attorney's assistance. Town Planner Beniamino expressed his opinion that he did not; and, advised Council that he contacted Mr. Colandrea regarding the violations. He explained that Mr. Colandrea wanted to show him what he was doing. Mr. Beniamino explained that one of the complaints was about a possible illegal business in one of the homes; and, advised that Mr. Colandrea has explained that he renovated the house, with the pipes subsequently bursting and requiring more work by the contractor. He advised that Mr. Colandrea has asked for the opportunity to take him through the house to show him that it was not being operated as a business. Mr. Beniamino expressed his opinion that he did not need the assistance of the Town Attorney for this matter. Vice Mayor Kirk encouraged the Town Planner to use caution. Town Attorney Whiting suggested the Town Planner confer with her on what was discussed; and, that he follow-up his conversation with Mr. Colandrea in writing.

Vice Mayor Kirk inquired as to the status of the Town Code updates that were needed as the result of last year's session of the General Assembly; and, noted that more would be forthcoming from this year's session. Town Attorney Whiting advised Council that they have been in limbo; and, advised that she would get rolling on them.

**Action Items** (non-public hearing related)

**Council Approval** – Zoning Location Permit – National Sporting Library

Town Planner Beniamino reported that the Planning Commission was working on the fee-in-lieu-of-sidewalk ordinance. He reminded Council that the National Sporting Library's site plan contained a trail, with the assumption that the site plan would be amended to remove it upon approval of the ordinance. Councilmember Snyder asked whether this item would return to the Planning Commission. Town Planner Beniamino confirmed it would. He reminded Council that they would have to adopt the ordinance; and, suggested that the ultimate decision on whether to accept the payment-in-lieu-of would rest with the Council, before the Planning Commission could approve amendments to the site plan.

*Councilmember Littleton moved, seconded by Councilmember Plescow, that Council approve Zoning Location Permit 09-14 with associated Site Plan 08-05 for the National Sporting Library Project, located at 102 The Plains Road.*

Vote: Yes – Councilmembers Kirk, Littleton, Patterson, Plescow, Shea and Snyder  
No – N/A  
Abstain: N/A  
Absent: Councilmember Murdock  
(Mayor Davis did not vote as there was no tie to require her vote)

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**Information Items**

Vice Mayor Kirk announced that the Upperville Fire Department would hold its monthly breakfast on June 14th. Councilmember Patterson announced that June 12<sup>th</sup> was the first in the series of the 2<sup>nd</sup> Annual Doc Saffer “It was Mostly Fun” Summer Series planned for the Community Center. Economic Development Coordinator Pearson noted that the rain date was June 18th. Mayor Davis announced that there would be a bingo night on June 29<sup>th</sup> to benefit Kathy Humphrey Collette, a long-time resident who was suffering from cancer. She expressed her opinion that it would be a fun evening, which would include hotdog and hamburger sales; and, advised that they have asked businesses and individuals to donate prizes. Councilmember Littleton thanked Councilmember Murdock for matching Councilmember Snyder’s donation toward the Community Center’s fireworks display.

There being no further business, a motion was made to adjourn the meeting at 6:35 p.m.

APPROVED:

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Betsy A. Davis, MAYOR

ATTEST:

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Rhonda S. North, MMC, Town Clerk