



**MIDDLEBURG TOWN COUNCIL**  
**Thursday, August 13, 2009**  
**Town Office, 10 W. Marshall Street**  
**6:00 PM**



**REGULAR MONTHLY MEETING MINUTES**  
**PENDING APPROVAL**

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

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting on Thursday, August 13, 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.

**Approval of Minutes**

*Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve the July 9, 2009 Regular Meeting minutes as amended.*

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

No – N/A

Abstain: N/A

Absent: N/A

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

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**Staff Reports**

Town Administrator Schiro noted that his written report included updates on the water and wastewater treatment plant construction projects. He reported that the Marshall Street Water Line Project was completed; and, advised that VDOT has repaired some sections of the curb adjacent to this project. Mr. Schiro advised Council that he and the Town Engineer attended a VDOT meeting regarding grant funding for the Madison/Marshall Street Intersection Improvement Project. He noted that they also met with the affected stakeholders who were, by and large, happy with the plans. Mr. Schiro reported that the plans have been presented to, and comments received from, the Planning Commission. He noted that those comments were currently under

review by the staff. Mr. Schiro expressed hope to present the intersection improvement plans to the Council during their August 27<sup>th</sup> work session. He noted that the staff intended to apply for an additional grant for this project; and, advised that the application was due in December.

Councilmember Murdock thanked the Police Department for their speed enforcement efforts; and, noted that she has been seeing them on Route 50 a lot. She expressed her opinion that these efforts have slowed traffic. Ms. Murdock reported that, as the head of the Public Safety Committee, Chief Webber was good about keeping her updated on public safety related items.

Councilmember Patterson noted the recent landing of a medical transport helicopter at the Hill School. She advised that she has received complaints that the school was not notified of the landing; and, that there were children playing on the fields when it occurred. Ms. Patterson noted that she was not aware of the protocol for landing the helicopter; and, asked whether this issue needed to be addressed with rescue squad personnel. Chief Webber advised Council that he was not aware of this concern. He confirmed that the helicopter was called due to an accident that occurred in the middle of the day; and, advised that the rescue personnel called for the helicopter. Chief Webber advised Council that he knew the helicopter landed at the Hill School; however, he did not know there were children on the field. Councilmember Patterson reiterated that the school was not alerted to the landing; and, noted that they heard the helicopter and moved the children off the field. Mayor Davis asked that Chief Webber speak with the Fire Department about developing a protocol to alert the Hill School of future landings. Councilmember Patterson noted that two individuals raised the concern with her. Chief Webber reiterated that he was not aware of the situation; and, would look into it. Mayor Davis noted that the Hill School has allowed helicopters to land on their property in the past; and, expressed her opinion that there was a break down in communications. Chief Webber noted that the accident occurred during the summer when school was out; and, suggested that the emergency personnel may not have thought there were children there. He asked whether the children were part of a summer camp. Councilmember Snyder suggested that emergency personnel should coordinate with the school regardless of the time of year in case children were present. Councilmember Patterson noted that she would hate to lose the school as a place to land the helicopter. Councilmember Murdock noted that the Town Administrator was in contact with the District Fire Chief; and, suggested that Mr. Schiro contact him. Town Administrator Schiro confirmed that the District Fire Chief has been very responsive.

Economic Development Coordinator Pearson noted that she e-mailed her report to Council; and, placed copies on their desk. Vice Mayor Kirk expressed her opinion that the report was a good one. Councilmember Murdock asked whether the Council was going to discuss the plaque to be hung in the Town Office identifying Town officials who have passed away. Economic Development Coordinator Pearson suggested the Council consider the matter further; and, that it be discussed later. Mayor Davis suggested it be placed on a work session agenda.

Mayor Davis advised Council that, from what she saw, the 3<sup>rd</sup> Annual Sidewalk Sale was a great success. Economic Development Coordinator Pearson confirmed that folks were very happy, with some enjoying that the event was held for two days. She noted that some people looked at an item, didn't purchase it, but came back the next day to get it. Mayor Davis noted that the business owners that she spoke with had a great day; and, expressed her opinion that the customers also had a great time. She advised Council that some business owners indicated that they would be willing to consider holding the event for three days next year; and, noted that she suggested they raise this idea with the Middleburg Business & Professional Association.

Town Planner Beniamino reported that Salamander Development has submitted plans for review; and, suggested this was a sign that the resort was moving forward.

Town Treasurer Wheeler noted that Councilmember Snyder asked her about the negative amount shown on her monthly report for police overtime. She explained that it was the result of the bill backs to Windy Hill; and, advised that they have now paid those bills.

Town Attorney Whiting reported that she has received draft easement plats for the wastewater treatment plant, which she hoped to review next week. She advised Council that the square footage of the proposed easement has been reduced by more than 90%; and, suggested that the Town's earlier protests were good. Ms. Whiting advised Council that she would review the plats, offer any changes that may be necessary; and, then discuss the easements with the affected property owners.

Councilmember Snyder reminded Council of the plan to discuss utility issues during the August 27<sup>th</sup> work session.

**Reports of Town Committees**

Councilmember Shea reported that the Loudoun County Community Action Board met last night. She explained that after July 1, 2010, the Department of Social Services would not house the LCCAB; and, they were looking at the options to continue services for Loudoun County. Ms. Shea expressed her opinion that this would be a long process; and, advised that once completed, the Council would have to see how Middleburg would participate.

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

**Council Approval** – Declaration of Covenants – Salamander Development

Town Planner Beniamino reminded Council this was an agreement between the Town and Salamander Development that came out of the Fire Marshall's request to place no parking signs or large boulders on Salamander Lane in order to keep cars from parking there. He explained that the covenants would prohibit parking; and, advised that, from an aesthetic standpoint, Salamander had no desire to have parked cars on their entrance road. Mr. Beniamino noted that they have agreed to enforce this prohibition themselves.

*Councilmember Snyder moved, seconded by Councilmember Plescow, that Council authorize the Mayor to sign a Declaration of Covenants between Salamander Development, LLC and the Town related to the prohibition of parking on Salamander Lane and the entrance to the Salamander Resort.*

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

No – N/A

Abstain: N/A

Absent: N/A

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

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**Council Approval** – Municipal Parking Lot Lease Agreement – Middleburg United Methodist Church

Town Administrator Schiro reported that the staff has prepared and transmitted the draft lease to Howard Armfield, of the Middleburg United Methodist Church. He further reported that Mr. Armfield has approved the lease. Mr. Schiro advised that unless the Council had issues with the lease, they could approve it.

Councilmember Murdock asked who would get the parking meter revenue under this lease agreement. Mayor Davis confirmed the Town would. Mayor Davis and Councilmember Snyder noted that the Church would receive compensation in the amount of a flat \$5,000. Town Administrator Schiro noted that the lease was for a one-year period.

*Councilmember Littleton moved, seconded by Councilmember Snyder, that Council authorize the Town Administrator to sign an agreement between the Town and the Middleburg United Methodist Church for the one-year lease of their parking lot located at the intersection of Pendleton and Federal Streets.*

Councilmember Murdock reminded Council that, in the past, the Town has shared the parking meter receipts. She asked whether the lease needed to include a statement indicating that there would be no payment of meter receipts. Town Attorney Whiting advised Council that the lease before them would supersede the old one; and, noted that the new lease contained a flat rental rate to be paid at the end of the lease term. Mayor Davis noted that the old lease has expired. Councilmember Snyder expressed his opinion that this lease would take effect in the next fiscal year. Town Attorney Whiting recommended that it be approved nunc pro tunc. Town Administrator Schiro advised Council that the lease would be effective July 1, 2009; however, the rent would not be paid until the end of the fiscal year. He noted that Mr. Armfield understood that the check would not actually be issued until July 1, 2010, even though it would be due on June 30<sup>th</sup>.

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

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### **Information Items**

Councilmember Patterson advised Council that she received a letter from a vineyard in Fauquier County regarding the County's proposal to change how vineyards are treated – specifically to end wine tastings at 6:00 p.m. She expressed concern that this could have a huge impact on tourism. Ms. Patterson advised Council that she spoke with the Town Planner regarding this proposal; and, he has recommended that the Middleburg Planning Commission look at what was being considered; and, make a recommendation to the Council as to whether the Town should make a statement to the Fauquier County Board of Supervisors. She noted that this restriction, if approved, would apply to all of Fauquier's vineyards; and, would prohibit wine tasting after 6:00 p.m. without a special use/event permit for each event. Town Attorney Whiting asked whether anyone has suggested the Fauquier County Attorney review the state law; and, noted that the General Assembly has conferred by-right rights on vineyards. Councilmember Patterson advised Council that she could only speak to what was contained in the letter from the vineyard. She further advised that the letter indicated that the vineyards were told they could sue the County. Town Attorney Whiting reminded Council that the state legislation regarding wineries was pretty expansive. Councilmember Patterson noted that while this regulation would not apply to Loudoun County, it would impact visitors who travel to the various vineyards. Town Attorney Whiting suggested that she have an informal conversation with an attorney who has strong ties in Fauquier County. Vice Mayor Kirk suggested the Council ask the Town Attorney to call the Fauquier County Attorney. Town Attorney Whiting expressed her opinion that it would be better to utilize her contact. She reminded Council of the difficulties in dealing with the Fauquier County Attorney on the issue on co-holding the open space easement with the Potomac Conservancy. Councilmember Murdock asked whether this legislation would impact the

Boxwood's Tasting Room. Councilmember Patterson confirmed that it would not as they were located in Loudoun County; and, have an ABC permit. She noted that vineyards fell under different regulations. Councilmember Murdock inquired as which vineyards the regulation would affect. Councilmember Patterson reminded Council that Swedenburg and Chrysalis Vineyards were located in Loudoun County. She further reminded them that Boxwood was located partially in Fauquier County and partially in Loudoun County. Ms. Patterson noted that this regulation would impact the Piedmont Vineyard and any others located in Fauquier County. Ms. Patterson reiterated that her concern was from a tourism standpoint. Town Planner Beniamino recommended that this matter be turned over to the Planning Commission for review and recommendation. He noted that the Town Attorney's contact may address this issue; and, suggested that if it did not, the Planning Commission should review the matter. Mr. Beniamino reiterated that a request to the Planning Commission to review the matter should come from the Council. He suggested that the Commission could do so during their meeting on August 24<sup>th</sup>, with the recommendation being available for Council on the 27<sup>th</sup>. Town Attorney Whiting expressed her opinion that this would be appropriate. Councilmember Shea suggested that the Council get more information before advancing further. Councilmember Snyder agreed; and, noted that it was not premature for the Planning Commission to gather information and offer a report. He suggested that the Council could direct the Planning Commission to look at the matter by consent, unless they wanted a vote. Councilmember Littleton expressed his opinion that an informal discussion by the Town Attorney was a good idea; and, noted that there may be nothing to the issue. Town Attorney Whiting confirmed she would make the contact. Mayor Davis asked the Council how they wished to proceed. Councilmember Murdock suggested the Council wait on the Planning Commission review until the Town Attorney could find out more information. Town Attorney Whiting reiterated that she would do so. Councilmember Murdock suggested that Councilmember Patterson also see what else she could learn. Councilmember Patterson advised Council that the vineyards were asking people to speak to the Fauquier County Planning Commission and Board of Supervisors as there was talk about making a decision on this regulation in September. Town Planner Beniamino suggested that if this were a time sensitive issue, the Council should consider a motion to have the Planning Commission review it. Mayor Davis asked whether the Council was in agreement that if the Town Attorney determined that there was something to this item, that they would like the Planning Commission to review it. The members of Council agreed they did.

### **Information Items**

Vice Mayor Kirk announced that the Unison Methodist Church would hold a beef barbeque dinner on August 15<sup>th</sup>. Councilmember Patterson announced that the Middleburg Community Center would hold Family Swim Night at the pool on August 14th. Mayor Davis noted that the swim night was free.

There being no further business, a motion was made to adjourn the meeting at 6:25 p.m.

APPROVED:

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Betsy A. Davis, MAYOR

ATTEST:

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Rhonda S. North, MMC, Town Clerk