



**MIDDLEBURG TOWN COUNCIL  
Regular Monthly Meeting Minutes  
Thursday, August 19, 2010**



**PENDING APPROVAL**

**PRESENT:** Vice Mayor Darlene Kirk  
Councilmember Kevin Hazard  
Councilmember Trowbridge Littleton  
Councilmember Catherine "Bundles" Murdock  
Councilmember Mark T. Snyder  
Councilmember David B. Stewart

**STAFF:** Rhonda S. North, MMC, Town Clerk  
Elizabeth D. Whiting, Town Attorney  
David M. Beniamino, AICP, Town Planner  
Cindy C. Pearson, Economic Development Coordinator  
Debbie J. Wheeler, Town Treasurer

**ABSENT:** Mayor Betsy A. Davis  
Councilmember Kathy Jo Shea

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, which was rescheduled due to the power outage, beginning at 6:00 p.m. on Thursday, August 19, 2010 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Vice Mayor Kirk led Council and those attending in the Pledge of Allegiance to the flag.

**Approval of Minutes**

*Councilmember Snyder moved, seconded by Councilmember Littleton, that Council approve the July 6, 2010 Work Session; July 8, 2010 Regular Meeting; and July 22, 2010 Work Session meeting minutes as amended.*

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

-----  
**Staff Reports**

Councilmember Murdock expressed her opinion that the police officers have done an outstanding job as evidenced by the parking meter receipts in June. She noted that the Town collected more than in the previous year. Vice Mayor Kirk noted that Street Superintendent Simms collected the money from the meters. Councilmember Murdock noted that the officers were giving tickets, which encouraged motorists to feed the meters. She further noted that they have been doing a lot of enforcement. Vice Mayor Kirk noted that the Town received \$1,000 in parking violation fines.

Vice Mayor Kirk noted that the Economic Development Coordinator's report indicated that there was an arts district attachment; however, there was none. She asked whether this was something the Council needed to see. Economic Development Coordinator Pearson advised Council that she would check into this; and, if necessary, would e-mail the attachment to Council.

Economic Development Coordinator Pearson reported that she attended a Virginia Downtown Development Association workshop earlier in the day, as did Planning Commission Chairman Plescow. She advised that they had a good speaker. Vice Mayor Kirk noted that she was hearing good comments from the citizenry regarding Ms. Pearson; and, thanked her for her good work.

Town Planner Beniamino reported that the HDRC did not meet in August as it had no applications. He noted that applications have been received for the September meeting. Mr. Beniamino reported that the Planning Commission was busy; and, advised that they would hold two public hearings next week. He noted that the first public hearing was related to office use on the first floor of the Noble House; and, the second was related to a special use permit for the Middleburg Fire Department. Mr. Beniamino advised Council that he has also received the site plans for the Fire Department's renovation project. He reported that Salamander Development has submitted a subdivision and easement plat for the water treatment plant property.

Councilmember Murdock noted that the Treasurer's report indicated that the July meals tax revenues were up by over \$1,000 when compared to last year's receipts. She further noted that the occupancy tax revenues also went up.

Jerry Schiro noted that the Council did not have a utilities report yet; and, explained that it was due to the transition at the wastewater treatment plant. He reported that he would combine the July and August information into next month's report. Mr. Schiro advised Council that the well production numbers were consistent; and, that the flows at the wastewater treatment plant were fine. He reminded Council that the sewer flows were now being transferred into the new plant.

Councilmember Snyder reported that the Town received just under five inches of rainfall for the month thus far.

### **Reports of Town Committees**

Vice Mayor Kirk advised Council that the Health Center Advisory Board met to discuss the proposal to locate the Middleburg Museum in the Health Center apartment. She reported that the Board recommended renting the apartment since there was no organized effort yet on the museum. Ms. Kirk advised that the Board thought the apartment space would be a good place for the museum. She noted that Ms. Lewis had a list of items that were needed for the museum, including volunteers. Ms. Kirk reiterated that the board recommended renting the apartment; and, advised that she may know someone who may be interested in doing so.

Councilmember Murdock inquired as to the amount of rent charged for the apartment. Economic Development Coordinator Pearson reported that it was \$850/month. Town Treasurer Wheeler reported that it was \$650/month. Mr. Schiro reminded Council that the Town tried to rent it at a higher amount, but had to lower it. Vice Mayor Kirk noted that the apartment consisted of two floors; and, expressed her opinion that it was in a good location.

Vice Mayor Kirk reported that she distributed information regarding last year's Health Center Fund donations; and, asked the Board members to think about this year's donations. She noted that Messrs. Swain and Armfield were present for the meeting.

Vice Mayor Kirk reported that the Board received the Town Planner's note; and, did not feel the Health Center needed formal guidelines on the use of the rear of the building as they did not believe the incident that happened would occur again. Town Planner Beniamino advised Council that he sent a note to the individual who complained; however, she was unable to attend the meeting.

Action Items (non-public hearing related)

Council Approval – Acquisition of Tax Billing Software – Logics

Town Treasurer Wheeler reported that the newest contract, which was sent to Logics last week, was on the Council's desk. She further reported that the Town Attorney has reviewed the proposed contract.

Town Attorney Whiting expressed her opinion that the original Logics contract did not offer the Town much in the way of concessions. She explained that at the end of the contract, Logics could not perform the contracted work other than the utilities billing system so the remainder of the system was sub-contracted. Ms. Whiting reported that the Town has experienced problems with the service end of the sub-contracted system.

Town Attorney Whiting advised Council that Logics' proposed contract contained standard verbiage which was unfair for a software vendor. Councilmember Snyder recommended that the qualifier be removed. Town Attorney Whiting advised Council that Logics' proposed contract indicated that they would attempt to give the Town a product; however, the Town must send payments to Logics no matter what. She noted that the contract did not expressly disclaim the warranty of good faith; however, the language protected Logics from any liability for bad faith. Ms. Whiting advised Council that the contract followed what has become a fairly standard practice in professional service contracts in which their liability was limited to \$50,000 or whatever was paid on the contract, which limited their liability to \$50,000 in this case. She expressed her opinion that the Town would not get any more from any other vendor. Ms. Whiting reported that the Town of Lovettsville was also procuring a tax billing package; and, advised that she compared the verbiage in their contract to this one. She expressed her opinion that the Lovettsville contract was not as "outrageous". Ms. Whiting advised Council that Maureen Gilmore, the Town Attorney for three of the involved towns, undertook to substitute a deliverable based schedule in the contract in order to get something that could be tested before the vendor was paid other than the first payment. She expressed her opinion that there were some items in Ms. Gilmore's version of the contract to which Logics would not consent. Ms. Whiting advised that she re-drafted Ms. Gilmore's version of the contract; and, noted that this version was what went out. She noted that she did not know what to expect from Logics in terms of acceptance of the changes.

Councilmember Snyder advised that he saw three big "holes" in the contract from the standpoint of someone who worked on software contracts for government customers. He suggested that the contract should state what operating systems, including version and release, they support. Mr. Snyder reiterated that Logics should document the systems that would be necessary to support their software. He expressed his opinion that they were ducking liability by saying they were not providing the hardware. Mr. Snyder reiterated that the contract should include what operating systems they support, including versions and releases. He advised that he wanted the same related to the data base; and, he wanted mapping, including views. Mr. Snyder noted that he also wanted assurances in the contract that their software would encrypt personally identifying data so the Town would not be liable for accidentally leaking the data. He advised that these were the three items he saw that were not included in the current draft. Mr. Snyder expressed appreciation for the work that Town Attorney Whiting and Ms. Gilmore have done.

Town Attorney Whiting advised Council that some of these same issues were lurking when the Town entered into its off-site data storage contract. She noted that the Town Clerk assisted in editing that standard package contract to protect the Town. Ms. Whiting expressed gratitude to Councilmember Snyder for sharing his expertise. Councilmember Snyder noted that these were

the types of things that could “come back to bite you”. He explained that if the software would only support Windows 2003, this would be a problem when the support from Microsoft ran out. Mr. Snyder advised that he wanted to see enough operating system support to know the Town could use the software for more than two or three years.

Town Attorney Whiting advised Council that she would revise the contract and sent it to Councilmember Snyder for editing. Town Treasurer Wheeler reported that Logics has given the Town information on the hardware that was needed to run their software. She further reported that she contacted Shenandoah Technology Services, who told her the Town would not need a new server. Councilmember Snyder explained that he did not want to know that the hardware the Town had was fine; and, reiterated that he wanted to know, in writing, what hardware they supported.

Vice Mayor Kirk expressed her opinion that the staff needed approval to enter into a contract. She inquired as to what the next step would be. Town Attorney Whiting suggested the Council approve entering into a contract based upon her approval of it. She reported that she would not approve the signing of the contract until the Council was satisfied with it. Councilmember Littleton expressed his opinion that Councilmember Snyder and Town Attorney Whiting were doing a good job in developing the contract.

*Councilmember Snyder moved, seconded by Councilmember Littleton, that Council authorize the Town staff and Town Attorney to execute a contract with Logics, LLC to purchase the Total Revenue Management System at a cost of \$13,000 subject to approval and form by the Town Attorney.*

Town Attorney Whiting reiterated that she would not approve the signing of the contract until the Council saw the final verbiage.

Vice Mayor Kirk asked whether \$13,000 was enough; and, noted that there were maintenance costs associated with the contract. Town Attorney Whiting advised Council that the maintenance charges would not be incurred in this fiscal year; therefore, they did not need to be included in the motion.

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

-----

Council Approval – Request for Site Plan Waiver – Graham Companies

Town Planner Beniamino introduced Ben Graham, the owner of 15 South Madison Street; and, noted that this building used to house Nobel Nielson Shoes.

Ben Graham advised Council that his prior tenant had a lease that was not fulfilled. He noted that retail in the town was “a very difficult business”; and, explained that as a result, he let the previous tenant out of her lease a year early. Mr. Graham reported that the building has been vacant since December of 2009. He advised that he has been working with Tom Sweitzer, who was getting a masters degree in music therapy. Mr. Graham reported that Mr. Sweitzer worked with people with disabilities, ranging in age from early teens to forty years old. He expressed his opinion that Mr. Sweitzer had a gift with children and young adults that brought them out of their shells through music therapy. Mr. Graham noted that Mr. Sweitzer had a piano and taught music, which broke open people with disabilities. He expressed his opinion that this was a

phenomenal skill to which he had witnessed children and young adults react. Mr. Graham advised that he has also seen Mr. Sweitzer's productions done with children in Loudoun County; and, noted that he cast all seventy-five individuals who applied for his production of Cinderella. He noted that he recently wrote, produced and directed a musical that was shown at the Smithsonian Institute. Mr. Graham advised that Mr. Sweitzer received a call from President Obama inviting him to perform during the White House Disabilities Theater Day; and, noted that it would be on HBO this fall.

Mr. Graham advised that he had an empty building he could not rent that was not suitable for anything other than retail or restaurant uses. He reiterated his opinion that the restaurant business was "dying" in town. Mr. Graham noted that he had no serious inquiries; and, advised that he offered Mr. Sweitzer the space if he could use it in accordance with the Town's ordinances.

Mr. Graham advised Council that when he first talked with the Town Planner, he talked about child care and school types of uses; however, they did not capture what Mr. Sweitzer would be doing. He reiterated that Mr. Sweitzer or an art therapist would be working with the children and young adults; and, advised that there could also be a theater person to teach theater skills. Mr. Graham explained that in doing this, he was trying to create activity on a street that was "dying on the vine". He advised that he was willing to support this endeavor financially and has offered to give Mr. Sweitzer the building to get the center started. Mr. Graham reported that Mr. Sweitzer already had twenty clients, along with a back log of another twenty. He explained that because Mr. Sweitzer was still working on his master's degree, he only had a few hours a week in which he could offer therapy. Mr. Graham noted the hours listed in the agenda packet; and, advised that it would probably be closer to 4:00 – 9:00 p.m. three days a week and from 9:00 a.m. to 5:00 p.m. on Sundays. He noted that on Fridays, they would offer a movie night. Mr. Graham reminded Council that individuals with Asbergers could not have a lot of stimulation; and, noted that United Artists Studios made versions of popular movies with less stimuli. He explained that the studio has offered these movies, which would be shown to fifteen to twenty kids a couple of times a month. Mr. Graham expressed his opinion that the parents of the children would look to have cocktails and dinner; and, reiterated that this project could generate activity in the town. He advised that since he has been involved in this project, he was amazed to learn the number of people in the country who have been touched by learning or disability issues. Mr. Graham suggested that, from a business model, there were a phenomenal number of people who could be reached by music, art or drama therapy.

Mr. Graham noted the issues raised by the Planning Commission, including the noise factor raised by Commissioner Woodruff. He advised that eighteen years ago, he was involved in the design of the Hill School. Mr. Graham further advised that the room currently used as a music room was designed as an office, not a theater. He expressed his opinion that Mr. Woodruff heard music next door because the room was not planned for music. Mr. Graham advised that his building contained walls that were a foot thick; and, noted that there was nothing connected to them on either side. He advised that the front entry was sloped, which made it wheel chair accessible. Mr. Graham noted that the building also contained a handicapped access on the lower level. He advised Council that the building was also not located on a corner as was suggested, but rather was located in the middle of the block.

Town Planner Beniamino advised Council that this request did not have to go to the Planning Commission; however, he brought it to their attention and they raised some issues. He explained that this was a request for a site plan waiver. Mr. Beniamino suggested that this was the same type of request as the Town received from Annie's Restaurant, with the only difference being that Annie's was proposing to locate in the C-3 District, which did not contain the same parking requirements as the C-2 District. Mr. Beniamino reported that there were no conflicting issues with this application since parking was not required for existing buildings.

Town Planner Beniamino advised Council that when he and Mr. Graham spoke, he thought of an office use since this was a therapist office. He explained that as Mr. Graham described it more, the category of personal service seemed to apply. Mr. Beniamino reported that he made the determination that this was a personal service, which would allow this use in the building. He reminded Council that the zoning ordinance did not require parking for this use as it was an existing building on an existing lot. Mr. Beniamino referred Council to Section 3.4 of the subdivision ordinance; and, opined that a waiver was appropriate. He recommended approval of the request.

Town Planner Beniamino reminded Council that the Planning Commission had issues with noise. He advised that he met with Mr. Graham on the site; and, expressed his belief that the two foot thick walls would be a good buffer to the noise. Mr. Beniamino noted that there was also space on either side of the building; and, reiterated his opinion that noise would not be an issue. He reported that he has spoken with a nearby restaurateur who was very excited about the activities and the fact that parents would be in town after normal business hours.

Councilmember Murdock inquired as to parking. She noted that the applicant was not required to provide it; however, she asked what the parents would do for parking. Mr. Graham advised that he envisioned that they would use the municipal lot. He further advised that his building had five spaces behind it. Mr. Graham expressed his opinion that parents would drop their children off in front of the building or at the down stairs entrance and park in the municipal lot. He reported that he had twenty-five parents in the building for a meeting to see if what was being proposed made sense to them; and, advised that they all agreed the building would work fine. Mr. Graham noted that the first attendee was wheel chair bound; and, advised that he had no problem getting into the building.

Town Planner Beniamino expressed his opinion that the clients would be more developmentally disabled than physically. Vice Mayor Kirk asked how they would enter the basement. Councilmember Murdock noted that there was a rear driveway and door. Vice Mayor Kirk asked whether the lower level would contain an office and the waiting room. Mr. Graham confirmed the basement level would contain a waiting room, as well as a kitchen.

Councilmember Murdock asked about the window displays. She noted that when the Town lost Mosby's Tavern to office space, this area became a "dead space with no life". Ms. Murdock asked whether Mr. Graham could work with Mr. Sweitzer to do something with the windows so they would look "alive". Mr. Graham noted that they had African drums and flowers in the windows for the reception; and, people came into the store to ask what was happening. He expressed his opinion that the windows would contain merchandise so they would not look like an office. Mr. Graham advised Council that Mr. Sweitzer has already designed curtains to look like a stage to frame the front windows. Town Planner Beniamino suggested that the applicant could also do a small retail component for music and arts in the future. Mr. Graham noted that they have discussed the music component. He explained that autistic children could pick up an instrument and play it immediately; and, noted that one of Mr. Sweitzer's clients could play instruments but could not talk. Mr. Graham suggested that Mr. Sweitzer's clients could buy instruments; and, suggested this proposal could result in some strong synergy. He noted that the clients required a high demand on people's needs; and, suggested the parents did what they could to make things better. Mr. Graham advised that for those parents on the other end of the spectrum, Mr. Sweitzer wanted to offer scholarships. He noted that once he was a licensed therapist, the parents could put the therapy on their insurance.

Councilmember Littleton expressed his opinion that this was a great idea. He noted that the town had plenty of empty building space; and, suggested this center could help bring people into the town. Mr. Littleton expressed his opinion that it also gave a message that the town wanted to participate in things that helped people. He thanked Mr. Graham for donating his building and for bringing this idea forward.

Councilmember Hazard agreed; and, expressed his opinion that it was a wonderful idea. He noted, however, that he did have a concern. Mr. Hazard reminded Council that the Town had zoning regulations in place; and, suggested that this proposal could “bend and twist” those regulations. He asked how the Town could allow this center to occur so that someone else did not take this as a precedent. Mr. Hazard advised that this was his question to the staff. He noted that Mr. Sweitzer was wonderful; and, suggested the center would change the town for the better. He expressed his opinion, however, that it must be done in way that did not take the zoning regulations and make them non-existent. Town Planner Beniamino advised Council that the zoning ordinance gave the Zoning Administrator the authority to make determinations on certain issues. He explained that after talking with Mr. Graham and looking at the use, he felt it made more sense to define the center as a personal service. Mr. Beniamino further explained that a professional office was defined in the ordinance as being more oriented toward doctors, lawyers and occupations that had more standard hours, were closed on the weekends and employed a large numbers of professionals. He expressed his opinion that a personal service leaned more toward music lessons. Mr. Beniamino advised Council that if he was asked how he would define music lessons, eliminating the clientele from the determination, he would look at a music instructor as a personal service. He expressed his opinion that he was not bending the zoning ordinance but rather was making a determination. Mr. Beniamino noted that anyone who disagreed could challenge his interpretation to the Board of Zoning Appeals. He suggested that if a future applicant cited this case as a precedent, he would have to make a determination on that application, which could then be challenged to the BZA.

Councilmember Hazard asked how the Town Attorney considered this use from a zoning perspective. Town Attorney Whiting expressed her opinion that it was not a professional office as it was more of a hands-on service. She suggested this use was closer to a massage therapists practice than a law office. Ms. Whiting advised Council that she could defend the classification if required. Town Planner Beniamino noted that making such determinations was one of the few authorities he had. He advised that he stood behind his determination; and, would fight for it.

Councilmember Murdock noted that thirty years ago, she served on the board of directors for the Musicians Emergency Fund for New York. She advised that, at that time, they needed to find work for the musicians and there were wounded service men returning from the war. Ms. Murdock further advised that as a board member, she watched the autistic programs and found them to be very moving. She expressed her opinion that many people have benefitted from music therapy. Ms. Murdock thanked Mr. Graham for offering to do this.

*Councilmember Murdock moved, seconded by Councilmember Littleton, that Council approve a request from The Graham Companies, Ltd. for a waiver, as allowed under Section 3.4 of the Subdivision Ordinance, to the requirement for a site plan associated with a change of use for the property located at 15 South Madison Street.*

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

---

Council Approval – Reduction of performance bonds - Water & Wastewater Treatment Plant  
Projects – Salamander Development, LLC

Town Planner Beniamino reminded Council that they have reduced these performance bonds several times; and, noted that the ordinance allowed such reductions up to four times a year. He further reminded them that the most recent bond reduction occurred in May, at which time the bonds were reduced to \$855,000 for the water treatment plant project and \$1.683 million for the wastewater treatment plant project. Mr. Beniamino reported that Bob Krallinger, of Whitman, Requardt & Associates, has recommended the bonds be reduced to \$400,000 for the water treatment plant project and \$1 million for the wastewater treatment plant project. He noted that Salamander has submitted pay requests indicating that the remaining amounts on the contracts were significantly less; however, he explained that since a significant amount of testing remained to be done, as well as the site subdivision, before the Town could accept the plants, he wanted to keep the higher amounts.

Mr. Schiro reminded Council that the wastewater treatment plant project was the more complex of the two; and, noted that there were more details to work out with it. He reported that the flows into the plant were up, allowing the Town to meet the bacterial levels necessary to test the effluent. Mr. Schiro noted that the Town had not achieved its permit limits as of this time. He advised that the majority of the issues at the wastewater treatment plant had to do with the controls, including fine tuning the SCADA system. Mr. Schiro reminded Council that the plant was designed to operate with two membranes; however, the Town altered the system to operate on one. Councilmember Snyder asked whether the plan was to alternate the trains. Mr. Schiro confirmed it was, which may require tweaking with the DEQ. He advised Council that the Town had made a lot of progress in the last couple of months in terms of getting the levels up.

Councilmember Snyder asked whether the “tweaks” would be worked out before the Town received DEQ’s acceptance. Mr. Schiro confirmed they would. He noted that they would be worked out before the Town accepted the plant. Mr. Schiro expressed his opinion that the issues would be worked out within the next week or so; and, reiterated that the majority dealt with the controls for the membranes and the piping. He advised that once the plant met its limits, a request would be submitted to DEQ. Mr. Schiro further advised that once DEQ issued the certificate of compliance to operate the new plant, the old one would be taken off line.

Mr. Schiro reported that the water treatment plant was working fine. He noted that there were valve issues with the pipes in the distribution system, which Bob Krallinger and Earl Southerland were working to resolve. Mr. Schiro advised Council that this issue was easily identified and correctable. He expressed his opinion that these projects have come a long way in the past three or four weeks; and, noted that the Town had a hard time getting the flow levels up for the wastewater treatment plant.

*Councilmember Snyder moved, seconded by Councilmember Hazard, that Council approve a request from Salamander Development, LLC to reduce the performance bond held for the water treatment plant project to \$400,000. Councilmember Snyder further moved, seconded by Councilmember Hazard, that Council approve a reduction in the performance bond held for the wastewater treatment plant project to \$1,000,000.*

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

---

## **Discussion Items**

Councilmember Murdock asked whether the Town had any indication that it would receive financial assistance once the plants were on line. She noted that the Town did not have the funds to operate the plants. Prem Devadas, of Salamander Hospitality, advised Council that he has not been engaged in conversations within the last couple of months on this subject; however, he would be happy to do so. He suggested that in addition to himself and Mr. Schiro, a couple of members of Council join in the conversation. Councilmember Murdock expressed concern about the operating bills the Town would face in the next two years. Mr. Devadas reminded Council that he previously stated that while he did not believe Salamander was legally responsible for the operating costs, they were sensitive to the need to find a solution. He noted that they offered the Town a “loan”, which he was willing to discuss. Mr. Devadas advised Council that the Town’s response was to try to get as favorable terms as possible, which meant it wanted a zero interest loan with extended payment terms. He noted that this was where he left the discussions; and, advised that he was not sure what other conversations have taken place. Mr. Devadas advised Council that Salamander was committed to helping the Town in any way it could.

Vice Mayor Kirk asked when the Salamander Inn would open. Mr. Devadas advised Council that it was scheduled to open in 2012; and, advised that there was some question as to whether this would occur in the spring or summer. He reported that the good news was that he had gained more confidence from a seasonal standpoint on how the inn could operate. Mr. Devadas explained that the question of the spring opening was related to the construction; and, advised that it was not continuing at a fast pace. He advised Council that they were punch listing the inn’s exterior, which was now sealed. Mr. Devadas advised that addressing the punch list items was something that was “in the process”. He explained that as with any new construction project, there were deficiencies that arose that had to be remediated. Mr. Devadas suggested that if there was anything good about what the economy caused him to do, it was that the interior finishes were not installed before the exterior was tested, which often happened when a project was on a fast pace. He reported that this testing was taking place and any remediation would follow; and, advised that this may push the opening past the April date.

Mr. Devadas reminded Council that hotel resort trends trailed the economy by six months to a year. He expressed his opinion that everyone understood that the state of the economy continued to be a trial despite last year’s forecasts. Mr. Devadas advised that hospitality experts were now projecting that 2011 would only show minor improvement over 2010; and, noted that 2010 was not showing any improvement over 2009. He suggested this was a “scary time” for the hospitality industry; and, expressed hope that 2011 would be better than the experts were predicting.

Vice Mayor Kirk asked when construction would resume if Salamander stuck with an opening date of 2012. Mr. Devadas confirmed it would resume next year.

Mr. Schiro noted that Mr. Devadas used the term “loan”. He stressed that the Town has been talking about the pre-payment of Salamander’s future utility bills.

Mr. Devadas asked whether the Town had any feedback on how retail business has been in the town. Councilmember Hazard noted that the Town’s tax revenues were up for the month of July. Mr. Devadas asked how the revenues were for previous months. Vice Mayor Kirk suggested this information be obtained from the Town Treasurer. Councilmember Hazard reported that revenues at the Middleburg Country Inn were up 15% over the previous year. Councilmember Snyder noted that the Town paid attention to its tax receipts.

Vice Mayor Kirk noted that the Town Clerk has provided Council with a memorandum related to the board and commission appointments. Town Clerk North reminded Council that in December of 2009, they expressed a desire to advertise for any board or commission seat that was expiring. She advised that this December, seats on the HDRC, BZA, Health Center Advisory Board and Pink Box Advisory Board would expire; and, noted that she has prepared an ad to solicit letters of interest for those positions. Ms. North advised that in doing so, a couple of questions have arisen for her. She noted that she has worked with Council's who handled these issues either way; and, asked whether the Council wanted the existing board/commission members whose terms were expiring to also submit a letter of interest if they were seeking re-appointment or whether she could simply call them. Vice Mayor Kirk expressed her opinion that they did not have to submit a letter; and, that the Town Clerk could call them.

Councilmember Snyder advised that he did not necessarily want to advertise the positions if the Council was happy to re-appoint the existing members as this could raise an expectation on both sides. Vice Mayor Kirk agreed; and, suggested that if the boards were full, they should not be included on the list. Town Clerk North reminded Council that last year, the Mayor suggested advertising the positions even if the existing occupant was seeking re-appointment; and, at that time, the Council agreed they wanted such an advertisement. She explained that based on this conversation, she was pursuing that course of action. Vice Mayor Kirk expressed her opinion that this was not fair. Councilmember Littleton agreed.

Town Clerk North noted that she has been involved in such a system in the past. She suggested that if Council wished to pursue this direction that the member of Council who served on each board have an advance conversation with that board's members. Ms. North noted that she has experienced situations in which individuals became upset when the Council switched to an advertisement system; and, those individuals would no longer consider re-appointment. Councilmembers Littleton and Snyder agreed that they did not wish to upset the people who were volunteering their time.

Councilmember Hazard asked whether the appointees whose terms were about to expire have been contacted about re-appointment. Town Clerk North confirmed that she had not; and, reiterated that she started this process based upon the direction set last year. She noted that if the Council was changing its direction, she would change the manner in which she was following through. Vice Mayor Kirk expressed her opinion that the Council was saying to change course. She directed the Town Clerk to contact the individuals whose terms were expiring; and, if they were interested, to bring those re-appointments back to the Council.

Councilmember Murdock asked what would happen if an individual(s) were not interested in re-appointment. Vice Mayor Kirk noted that, in that case, the position would be advertised.

Councilmember Snyder suggested the Council may wish to advertise a position if they had a problem with a particular board member; however, he noted this was not the case as the Council liked its existing board members.

Town Clerk North confirmed that she would follow-up on this item with the appointees and if they were interested in re-appointment, would bring that to Council. She advised that if anyone was not interested in re-appointment, she would advertise the position(s).

Town Clerk North advised Council that the terms of three members on the Planning Commission were due to expire in December 2011. She noted that at some point, the terms were more staggered; however, this staggering fell out of place when two seats were eliminated. Ms. North suggested the Council may wish to consider, for next year, whether they wanted to re-establish a stagger system or leave the terms so that three expired in one year.

Councilmember Snyder noted that he was hoping that the Town could eventually get back to having the two additional seats when it made sense to do so.

Vice Mayor Kirk asked whether there were five seats on the Planning Commission. Town Clerk North reminded Council that Councilmember Hazard's seat on the Planning Commission ran concurrent with his appointment by Council. She reiterated that of the four remaining seats, three expired next year and one the year after. Ms. North suggested that the easiest way to address this matter, if the Council wished to have a staggered system, was next year to appoint someone to a four year term, someone to a three year term and someone to a two year term; which would allow one term to expire each of the four years. She noted that this would allow the Town to avoid losing multiple board members in a given year. Councilmember Littleton expressed his opinion that this made sense. Councilmember Snyder suggested that this be discussed next year during the re-appointments. Councilmember Littleton noted that the Planning Commission worked on in-depth items; and, suggested the Town did not want to risk losing three people at once. Councilmember Snyder noted that the Town was at risk of losing continuity and comprehension.

Town Planner Beniamino reminded Council that the Planning Commission was now down to five individuals, which was the minimum allowed by State Code. He noted that if someone declined to seek re-appointment and there was no volunteer ready to step in to the seat, the Town would have a serious problem in that it would not have a functioning Planning Commission. Mr. Beniamino suggested that if the Council was aware of someone who was interested in appointment to the Planning Commission that they let the staff know; and, noted that the plan was always to increase the membership if interested individuals could be found.

Vice Mayor Kirk asked whether Mr. Schiro had the information he needed from Council related to the hiring of a Town Administrator. Mr. Schiro confirmed that he did; and, noted that a closed session discussion has been scheduled for August 26<sup>th</sup>.

There being no further business, a motion was made to adjourn the meeting at 7:04 p.m.

APPROVED:

\_\_\_\_\_  
Darlene Kirk, VICE MAYOR

ATTEST:

\_\_\_\_\_  
Rhonda S. North, MMC, Town Clerk