



MIDDLEBURG TOWN COUNCIL
Regular Monthly Meeting Minutes
Thursday, October 14, 2010



PRESENT: Mayor Betsy A. Davis
Vice Mayor Darlene Kirk
Councilmember Kevin Hazard (arrived late)
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
Steven L. Webber, Chief of Police
Debbie J. Wheeler, Town Treasurer

ABSENT: Councilmember Kathy Jo Shea

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, October 14, 2010 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Mayor Davis led Council and those attending in the Pledge of Allegiance to the flag.

Public Comment

Eura Lewis noted that she has been an active member of the community for many years. She explained that she has observed conditions; and, tried to bring things about to enhance the town. Ms. Lewis reported that she has observed the need for a museum to collect and preserve the town’s historic artifacts. She expressed her opinion that this would take a lot of planning and work; and, asked for an opportunity to discuss this project with the Council to determine what they had in mind in order to bring it to fruition. Ms. Lewis noted the plan to rent the Health Center apartment; and, reminded Council that this would be a one-year lease. She suggested that during that year, they draw up the plans for a museum so that within a year or two, it would be ready to open. Ms. Lewis noted the need to establish a plan and develop a mission and goals. She asked the Council to schedule a date when they could meet to write a plan, including the development of a budget; identifying funding sources; determining who would serve on the museum’s board of directors; and, identifying what capital items may be needed. Ms. Lewis reiterated her request to set a date for a meeting to discuss this project. She reminded Council that her request to use the apartment space for the museum was denied based upon the lack of a plan; and, suggested that now was the time to develop one.

Mayor Davis confirmed that the Council would get together with Ms. Lewis in order to start working on museum ideas.

Approval of Minutes

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve the September 9, 2010 Regular Meeting; September 16, 2010 Closed Session; September 21, 2010 Closed Session and September 23, 2010 Work Session Meeting minutes as amended.

Vote: Yes – Councilmembers Kirk, Littleton, Murdock, Snyder and Stewart

No – N/A

Abstain: N/A

Absent: Councilmembers Hazard and Shea

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

Staff Reports

Vice Mayor Kirk noted that the Police Chief’s report used to include information on the training courses the officers had taken. She asked whether they were taking any classes. Chief Webber confirmed the officers were still taking training. Vice Mayor Kirk suggested it would be nice to see this included in the monthly report.

Economic Development Coordinator Pearson reported that Books & Crannies would be closing on October 27th. She encouraged the community to visit them before they did so. Ms. Pearson reported that two new businesses were opening – SVEA Antiques & Accessories and the Fox’s Den Tavern.

Mayor Davis noted that the Treasurer’s report indicated that the Health Center Fund revenue was at 8%; and, asked whether this was low. Town Treasurer Wheeler confirmed that it was normal. Vice Mayor Kirk noted that the Town was only two months into the fiscal year.

Jerry Schiro advised Council that he and the Town Treasurer met with the auditors last week; and, noted that they would present the audit report during the work session on October 28th. He reported that the auditors would advise Council that the Town was experiencing a decline in its fund balance as the revenues did not come in as projected. Mr. Schiro further reported that the Town also spent money on snow removal and other projects. He advised that on the utility side of the budget, the Town was spending money as a result of the new treatment plants. Mr. Schiro reiterated that the Council would hear about the decline in the Town’s fund balance.

Vice Mayor Kirk noted that this was the reason the Town had a fund balance. Councilmember Snyder noted that the Council usually looked at making mid-term corrections. Mayor Davis expressed her opinion that it was no surprise that the revenues were not as healthy as was projected.

Mr. Schiro reminded Council that the fund balance had been increasing and was stable in the past. He reiterated that it decreased this year. Councilmember Murdock asked about the snow removal budget. Mr. Schiro reminded Council that he did not increase the snow removal budget this year; and, explained that municipalities could not budget for extremes. He reiterated that the budget was the same as the previous year; and, expressed hope for a “normal” winter. Councilmember Snyder noted that the Town received an extreme snow season every decade or two.

Town Attorney Whiting reported that with help from the Town Treasurer and Councilmember Snyder, the Logics agreement was complete. She advised that it was signed and ready to be sent to Logics. Ms. Whiting noted that she worked closely with Maureen Gilmore in drafting the agreement. She expressed her opinion that Logics, LLC was “first class” in terms of

responsiveness; and, noted that they listened to the Town's concerns. Ms. Whiting advised that they could not have been more cooperative, which was different from what the Town experienced when it originally contracted with them. She reported that this experience was also different than those that she has witnessed with other software companies. Ms. Whiting advised that as she received answers to the Town's questions, she realized that she was working with people who knew what they were doing and wanted to deliver the product the Town was seeking.

Councilmember Snyder reminded Council that his concern was that personally identifiable information, such as social security numbers, be protected. He explained that he was pushing Logics to encrypt the data like the federal government required. Mr. Snyder reported that the Town Attorney incorporated language into the agreement to address this issue. Town Attorney Whiting expressed her opinion that it was an important issue; and, advised that Logics took it seriously. Councilmember Murdock thanked Councilmember Snyder for his assistance.

Town Attorney Whiting reminded Council that they had an item on the agenda related to the refunding of a bond. She reported that she had an extremely useful discussion with the bond counsel. Ms. Whiting noted that Hunton & Williams explained their reasons for proposing the bond resolution as it was structured; and, reported that she was satisfied with what they were presenting to the Council.

Town Attorney Whiting reported that she would be unavailable on October 22-23 and October 28-30 as she would be attending conferences. She noted that she would not be checking e-mail during this time.

Mr. Schiro reported that the new water treatment plant was, for all practical purposes, ready to go. He noted the need to get the chemicals in and to put the final touches on the SCADA system. Mr. Schiro reported that the wastewater plant was presenting additional problems, mainly due to its design. He reminded Council that the plant was designed to function at a certain capacity; and, noted that the Town's flows were much lower. Mr. Schiro explained that the Town was trying to get the plant to operate at the lower flows and still work efficiently with the SCADA system. He reported that having the SCADA system recognize problems was a challenge. Mr. Schiro noted that GE and Mark Albright were working hard to iron out the problems.

Mr. Schiro noted that Loudoun Water was on the site more as a result; therefore, their bills were higher. He reminded Council that the construction contract was with Salamander and that the plant had not been turned over to the Town; however, he explained that the old plant was operating under DEQ permits and must stay in compliance so the Town had no choice but to have Loudoun Water on the site. Mr. Schiro reiterated that they were working through the issues that have arisen; and, expressed hope that within the next several weeks, they would be resolved. He noted that these issues were challenging; and, were taking longer than thought to address.

Town Attorney Whiting advised Council that the Town of Lovettsville has contracted with Loudoun Water for many years. She noted that Middleburg's experience with them was shorter. Ms. Whiting advised that Loudoun Water has been invaluable during Lovettsville's construction process; and, suggested that without their experience, they would have been in much worse condition. She noted that it was one thing to engineer a plant; however, she expressed her opinion that there was an art to operating one.

Councilmember Murdock asked when the plants would be turned over to the Town. Mr. Schiro expressed his opinion that Salamander would love to turn them over now; however, he expressed his opinion that the Town should not accept the wastewater plant until it met the discharge limits and the punch list items were addressed. He noted that the Town was constantly updating the punch list. Mr. Schiro reminded Council that the plant was constructed as designed; however, he

explained that issues came to the forefront when it was put into actual use. He noted that a lot of the issues were related to the components not talking to one another properly. Mr. Schiro reminded Council that the plant was designed to operate at a capacity of 250,000 gallons/day; however, the Town was barely producing 80,000 gallons. He advised that the plant was being operated using a different configuration than the way it was designed. Mr. Schiro noted that he was hesitant to give a date for when the plant would be transferred to the Town.

Councilmember Snyder noted that in his job as a test manager for Northrop Grumman, he looked at new systems, shook out the bugs and identified as many issues as possible before something was put into production. He advised that he has been asked how long it would take to test a system; and, his response was to ask whether they meant between issues that he found. Mr. Snyder explained that every time he found something, it must be fixed and he must then retest the system. He noted that if he then found something else, that needed to be fixed. Mr. Snyder expressed his opinion that it was good to find the problems; and, advised that one could not put a time limit on doing so.

Councilmember Murdock explained that she was trying to think about this from a financial standpoint. She asked whether the old system was still holding up. Mr. Schiro confirmed it was. He explained that the flows were being run through the new plant; however, they were also going through the old plant in terms of final discharge. He explained that the operators were pulling samples from both the new and old plants in order to make sure they were within permit levels before discharging into the stream. Councilmember Snyder noted that the Town's discharge permit was for the old plant; and, explained that the Town could not certify the new plant until it met DEQ requirements.

Vice Mayor Kirk encouraged the staff to continue updating the punch list as needed. Mr. Schiro reported that there were fewer issues each week. He advised Council that the recent heavy rainfall washed out the system as it produced three times the normal flows. Mr. Schiro explained that it was not unusual in a start-up for problems to arise. He advised that the contractor wanted to get the plant done, as did Salamander and the Town. Councilmember Snyder encouraged diligence.

Action Items (non-public hearing related) –

Council Approval – Resolution approving bond refinancing

Mr. Schiro reminded Council that the resolution would allow the Town to refinance its existing debt service. He further reminded them that the bond would front load the savings in the first three years of repayment in order to allow the Town to have a cash flow advantage until the Salamander Resort was on line. Mr. Schiro noted that the bonds would provide for a lower interest rate.

Councilmember Snyder asked how long this action would extend the Town's debt. Town Attorney Whiting reported it could potentially be extended to 2035.

Vice Mayor Kirk moved, seconded by Councilmember Snyder, that Council adopt a resolution providing for the issuance, sale and award of a taxable general obligation refunding bond, Series 2010, of the Town of Middleburg, Virginia, in a principal amount not to exceed \$3,535,000 heretofore authorized, providing for the form, details and payment thereof and providing for the refunding of certain outstanding bonds.

Town Attorney Whiting reported that she had a draft copy of the refinancing agreement, which was referenced in the resolution; and, noted that there would be changes to it. She expressed her opinion that the final version would be available next week. Ms. Whiting advised that she would be happy to forward a copy to anyone who would like to see it. She reported that she liked the Town's bond counsel as he was happy to respond to her requests for change; and, noted that if he believed her requests were reasonable, he forwarded them to VRA's bond counsel. Ms. Whiting noted that she was frustrated during the last bond refinance as the bond counsel would not return her calls; therefore, her suggested changes were not evaluated. She advised Council that the resolution allowed for changes to the agreement as long as they fit within the parameters of the resolution. Ms. Whiting explained that the resolution authorized the execution, delivery and sale of the bonds. She noted that the draft agreement looked like the one from 2007, which was also a VRA bond. Ms. Whiting expressed her opinion that the document was the same, it just had different dates and amounts.

Vote: Yes – Councilmembers Kirk, Littleton, Murdock, Snyder and Stewart

No – N/A

Abstain: N/A

Absent: Councilmembers Hazard and Shea

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

Councilmember Snyder expressed a desire to pay down the debt sooner during better budget times.

Council Appointments – Boards & Commissions

Mayor Davis noted that the Town Clerk North contacted each of the board/commission members whose terms expired the end of this year; and, all were interested in reappointment with the exception of one individual. Town Clerk North explained that Lynne Galbreath, of the HDRC, was moving from the area; therefore, she was not available for future service. She noted that this seat had been advertised. Vice Mayor Kirk asked whether anyone has expressed an interest in serving on the committee. Town Clerk North confirmed that no one had as of this time.

Councilmember Snyder moved, seconded by Councilmember Littleton, that Council re-appoint Bill Turnure and Punkin Lee to the Historic District Review Committee for a three-year term, said terms to expire December 31, 2013. Councilmember Snyder further moved, seconded by Councilmember Littleton, that Council re-appoint Howard Armfield and Edward "Snooks" Swain to the Health Center Advisory Board for two-year terms, said terms to expire December 31, 2012. Councilmember Snyder further moved, seconded by Councilmember Littleton, that Council re-appoint Andrew Bergner, Wendy Duling, Terri Kitchen, Mary Bell Peters and Mimi Stein to the Pink Box Advisory Committee for two-year terms, said terms to expire December 31, 2012. Councilmember Snyder further moved, seconded by Councilmember Littleton, that Council recommend to the Judge of the Circuit Court the re-appointment of Kathy Fisher to the Board of Zoning Appeals for a five-year term, said term to expire December 31, 2015.

Vote: Yes – Councilmembers Kirk, Littleton, Murdock, Snyder and Stewart

No – N/A

Abstain: N/A

Absent: Councilmembers Hazard and Shea

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

Council Approval – Employment Agreement – Town Administrator

Mayor Davis noted that the Council was thrilled to have Martha Semmes on board as the Town Administrator. She expressed her opinion that Ms. Semmes was excited and anxious to get going. Ms. Davis noted that Ms. Semmes was invited to attend the meeting; however, she was wrapping up items in Purcellville.

Vice Mayor Kirk moved, seconded by Councilmember Snyder, that Council ratify the Mayor's signature on an Employment Agreement with Martha Mason Semmes for the position of Town Administrator, said agreement dated October 6, 2010.

Vote: Yes – Councilmembers Kirk, Littleton, Murdock, Snyder and Stewart

No – N/A

Abstain: N/A

Absent: Councilmembers Hazard and Shea

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

Council Approval – Proclamation - Red Ribbon Week

Mayor Davis noted that Private Thaddeus Edwards, of the Shenandoah Valley Young Marines, was in the audience.

Councilmember Murdock moved, seconded by Vice Mayor Kirk, that Council adopt a proclamation declaring the week of October 23-31, 2010 as "Red Ribbon Week" in the Town of Middleburg.

Vote: Yes – Councilmembers Kirk, Littleton, Murdock, Snyder and Stewart

No – N/A

Abstain: N/A

Absent: Councilmembers Hazard and Shea

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

Mayor Davis presented Private Edwards with a signed copy of the proclamation. Private Edwards explained that Red Ribbon Week was a national event remembering Enriquee "Kiki" Camerena, a fallen Marine and Drug Enforcement Agency officer who was abducted and killed in the line of duty. He further explained that by wearing a red ribbon, individuals showed their support and remembrance of Agent Camerena's dream that America be drug free. Private Edwards presented red ribbons to each member of Council.

Discussion Items

Council Discussion – Request to adopt resolution opposing changes to BPOL legislation –
Town of Mineral

Mayor Davis advised Council that the Town has received a request from the Town of Mineral asking that it adopt a resolution opposing changes to the business professional occupancy license tax legislation that have been discussed by the General Assembly. She noted that the Town Clerk has drafted a resolution for the Council's consideration. Ms. Davis reported that the Town Association of Northern Virginia (TANV) has also talked about adopting a resolution as well. She expressed her opinion that it would not hurt for the Council to adopt one. (Councilmember Hazard arrived at the meeting.)

Mr. Schiro noted that he attended the Virginia Municipal League Conference last week. He reported that this was a big issue across the Commonwealth. Mr. Schiro noted that the General Assembly was looking at changing the collections to net from gross receipts, which would have an astronomical affect on localities. Mr. Schiro expressed his opinion that the more resolutions adopted opposing the changes, the better.

Mayor Davis noted that she sent an e-mail to the TANV Chair regarding this issue; however, she had not heard back from him. She expressed her opinion that they would pass a resolution as well that would include Middleburg. Ms. Davis suggested the Town should pass and send the resolution. She noted that during the TANV meeting, everyone was in agreement that small towns survived on this revenue. Councilmember Snyder expressed his opinion that it was unlikely that localities would be given other sources of revenue to replace it. Mayor Davis expressed her opinion that the draft resolution as well written.

Vice Mayor Kirk moved, seconded by Councilmember Snyder, that Council adopt a resolution encouraging the General Assembly to carefully consider changes to the Business Professional Occupancy License Tax Provisions as written.

Vote: Yes – Councilmembers Kirk, Hazard, Littleton, Murdock, Snyder and Stewart

No – N/A

Abstain: N/A

Absent: Councilmember Shea

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

Council Discussion – Great Places in America Award

Town Planner Beniamino announced that Washington Street has been named one of the ten best streets in America through the Great Places in America Program, offered by the American Association of Planners. He noted that the Town received three framed plaques – one for the office, one to present to the Mayor and one for a civic organization. Mr. Beniamino proposed that Punkin Lee be asked to attend a Council meeting so the plaque could be presented to the Middleburg Beautification Committee.

Town Planner Beniamino presented a photograph of a bronze plaque associated with the award. He noted that it could be put on a post, in a monument, on a building or inserted into a sidewalk. Mr. Beniamino reported that the cost for the plaque was \$700. He noted that the Mayor asked him to bring this to the Council’s attention to see if they wanted to buy one. Councilmember Snyder noted that he did if the Council could agree on where to put it. Mayor Davis suggested that one of the Town’s committees be asked to make a recommendation on the location.

Town Planner Beniamino asked whether the Council wanted to spend the money to purchase the plaque. He noted that it was the same plaque regardless of where it was placed. Mayor Davis noted that the Town had a framed resolution that would hang in the Town Office. She further noted that if the Council chose to purchase the plaque, it would be located in a public place.

Councilmember Snyder expressed his opinion that it would be a good idea to purchase one. He suggested the need for advice on where to place it. Mr. Snyder further suggested that one of the committees make a recommendation. Councilmember Littleton suggested the HDRC make the recommendation.

Mayor Davis asked whether there was a deadline for ordering the plaque. Town Planner Beniamino confirmed the need to order it soon. He advised Council that the Town could make a decision later on where to put it. Councilmember Murdock expressed her opinion that it would be money well spent as it would show the town was vibrant, alive and was desirable to visit.

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that the Council approve the purchase of a plaque for \$702, commemorating the 2010 selection of Washington Street as a recipient of the Great Places in America Award.

Vote: Yes – Councilmembers Kirk, Hazard, Littleton, Murdock, Snyder and Stewart

No – N/A

Abstain: N/A

Absent: Councilmember Shea

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

Town Planner Beniamino presented a framed plaque to the Mayor. Mayor Davis noted that the Town Planner submitted the application. She further noted that there was an article in the Leesburg Today about the award. Economic Development Coordinator Pearson reported that there were articles in lot of places, including the Sunday edition of the Washington Post.

Mayor Davis noted that when she heard that Middleburg was a nominee, she felt honored. She advised, however, that to be selected as one of the recipients was quite an honor. Ms. Davis expressed her opinion that this honor was not only earned by the Council, staff and volunteers, but also by the citizens. She suggested that this was what made the award so special.

Information Items

Mayor Davis reminded Council of the Cherry Blossom Breast Cancer Walk/Run held over the weekend. She thanked Councilmember Murdock for cutting the ribbon. Councilmember Murdock noted that a great deal of money was raised. Mayor Davis confirmed that the Walk raised over \$100,000. Councilmember Murdock reminded Council that the goal was \$75,000. Mayor Davis noted that a huge crowd was on hand for the event.

Mayor Davis thanked Councilmember Snyder for judging the Hunt Country Classic this past weekend. She noted that this was also a great event. Councilmember Snyder advised that it was a pleasure to participate.

Mayor Davis reminded the audience that the Cobra Car Classic would be held on October 16th on North Madison Street. Economic Development Coordinator Pearson confirmed that the cars would be present from 11:00 a.m. to 1:30 p.m. Mayor Davis advised that there would be a lot of nice cars there to see.

Mayor Davis asked the Town Clerk to schedule a discussion of the museum for a work session after the first of the year.

There being no further business, a motion was made to adjourn the meeting at 6:42 p.m.

APPROVED:

Betsy A. Davis, MAYOR

ATTEST:

Rhonda S. North, MMC, Town Clerk