



**MIDDLEBURG TOWN COUNCIL**  
**Regular Monthly Meeting Minutes**  
**Thursday, November 13, 2008**  
**Town Office, 10 W. Marshall Street**  
**6:00 PM**



**PENDING APPROVAL**

**PRESENT:** Mayor Betsy A. Davis  
Councilmember Trowbridge Littleton  
Councilmember Catherine "Bundles" Murdock  
Councilmember Lisa Patterson  
Councilmember Judith Pryor Plescow  
Councilmember Kathy Jo Shea  
Councilmember Mark Snyder

**STAFF:** Jerry M. Schiro, Town Administrator  
Rhonda S. North, MMC, Town Clerk  
Elizabeth D. Whiting, Town Attorney  
David M. Beniamino, Town Planner  
Debbie J. Wheeler, Town Treasurer  
Steven Webber, Chief of Police  
N. Phil DeLeon, Town Engineer  
Cindy C. Pearson, Economic Development Coordinator

**ABSENT:** Vice Mayor Darlene Kirk

The Town Council of the Town of Middleburg, Virginia held their public hearing and regular monthly meeting on Thursday, November 13, 2008 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Mayor Davis opened the public hearing at 6:00 p.m.

**PUBLIC HEARING** – FY '09 Budget amendment

Town Administrator Schiro explained the purpose of the budget amendment, which was to allow the Town to hire inspectors for the two treatment plant construction projects. He noted that the \$140,000 cost was proposed to come from utility reserves.

No one spoke and the public hearing was closed.

**REGULAR MONTHLY MEETING**

Mayor Davis called the regular meeting to order. She led Council and those attending in the Pledge of Allegiance to the flag.

**Public Comment**

Jill Brunett, 115 The Plains Road, appeared before Council representing Go Green. She reported that they recently attended the Biz Buzz meeting in order to distribute flyers on their recycling container program. Ms. Brunett advised Council that Go Green will meet on the third Wednesday of each month at 6:00 p.m. in the Town Hall. She noted that they have lots of ideas for lectures and educational programs. Ms. Brunett invited those who may be interested in participating to attend the meetings.

Jim Atkins, 23262 Dover Road, founder of the Cherry Blossom Breast Cancer Foundation, thanked the Council for graciously allowing the Foundation to cover the parking meters during their Paint the Town Pink event held October 4-5; and, for waiving the parking meter fees and encouraging patrons to make donations in the area businesses. He reminded them of the coordinated campaign with the Middleburg Business & Professional Association that involved donation boxes being left in seventy businesses for the entire month of October. Mr. Atkins reported that the Paint the Town Pink event raised \$2,012, with the individual members of Council donating \$600. He further reported that the largest business in Town - the Middleburg Bank - contributed \$456 toward this cause. Mr. Atkins advised that the Middleburg Business & Professional Association contributed \$150, with the remainder of the money raised coming from the donation boxes. He reported that Nanette's Walk raised more than \$32,000 for a total of \$34,000 being raised during the month of October. Mr. Atkins noted that the Foundation would meet in December to determine the allocation of monies; and, advised that part of it would be used to fund Warrenton/Fauquier Hospital's first digital mammography system, as well as other local entities and research projects. He advised that when they repeat this event next year, they would combine the walk of humans and dogs, as many dogs showed up this year. Mr. Atkins thanked the Council for their generosity.

Mayor Davis thanked Mr. Atkins for his hard work; and, expressed her opinion that the Walk event was a great day. She noted that INOVA Hospital has provided one hundred free digital mammograms. Mr. Atkins confirmed the Foundation committee was working on generating a list of free mammography recipients. He noted that most women do not realize the need for mammograms; and, advised that it was not easy to get them to have one. Councilmember Shea reported that one of the donation boxes was still located in her business office. Mr. Atkins confirmed he would collect the box.

#### **Sub-Committee Presentation** – Expansion of Historic District

Town Planner Beniamino explained that a sub-committee has been formed, consisting of members of the Planning Commission and HDRC, to explore the issue of McMansions in the Ridgeview area. He advised Council that the sub-Committee consisted of himself, Steve Plescow, Bill Turnure, Tim Clites and Kevin Hazard; and, noted that they have spent several months working on presentation materials for community meetings.

Planning Commission Chairman Plescow advised Council that they had no formal presentation to make, but rather had an inventory of tools to present, consisting of a mass model, picture boards and summary/FAQ sheet. He noted that the summary sheet described what the sub-committee was charged with and offered the basic facts. Mr. Plescow suggested it could be used as a framework for the public presentations.

Mr. Plescow reminded Council that the Ridgeview area was not currently in an historic district designation; therefore, any development that occurred would be governed by the Town's zoning regulations. He noted that the summary sheet provided a brief explanation of the key points associated with the R-2 zoning regulations and identified the most common questions they believed the residents would ask. Mr. Plescow noted that one question was how a large house could a property owner build; and, advised that they tried to answer in simple language. He noted that another question may be what restrictions there would be; and, advised Council that the questions were designed to generate discussion. Mr. Plescow noted that another tool was a picture board that depicted the existing size and scale of homes in Ridgeview. He advised that another key tool was a series of boards that identified lot sizes and footprints; and, the size house that could be constructed. Mr. Plescow reminded Council that the lots in the Ridgeview area were typically 8,000-9,000 square feet, with an average lot width of fifty feet and depth of one

hundred sixty feet. He noted that many homes in this area were nine hundred square feet; however, if a home were built to setbacks, it could result in a house with a large footprint. Mr. Plescow noted that if multiple lots were combined, this could result in an even larger house being constructed.

Mr. Plescow noted that the sub-committee developed mass models to show a typical house, the size of a house at full lot built out and the larger (combined lot) house built as allowed under the current zoning regulations. He noted that this tool would help residents understand what could happen in order to spark some discussion. HDRC Chairman Turnure noted the photo board that depicted a typical street, including the scale of the houses, how they react to one another, the tree-lined streets and a typical street frontage. He further noted that the photo board also depicted larger existing homes that were not necessarily bad as they fit into the fabric of the area. Mr. Turnure suggested this was a matter of trying to control development in some fashion so it was not out of place. He further suggested it was a matter of determining how to develop regulations to control that development.

Mr. Plescow advised Council that the Planning Commission and HDRC discussed the best approach to regulate this area of town; and, it was their consensus and recommendation, subject to public input, that the expansion of the Historic District would allow the Town to control what was built using the current Historic District Guidelines. He noted that the sub-committee could then develop specific recommendations for the Ridgeview area. Mr. Plescow reiterated that the current regulations were not specific to Ridgeview; and, suggested that if the neighborhood believed there was a concern, the Town could address it in sub-regulations. Mayor Davis questioned whether the Town could develop an overlay that was specific to Ridgeview that would not be identical to the existing overlay. She further questioned whether the guidelines for the Ridgeview area could be less rigid. Mr. Plescow confirmed they could; and, advised Council that there were many options. Mr. Turnure noted that changes could be handled administratively; and, did not necessarily have to come before the HDRC. Mr. Plescow advised Council that the benefit of expanding the current district was that it would allow Ridgeview to have immediate protection. He suggested that, depending on how long it would take to develop the standards, the Town could be exposed to possible occurrences of large homes.

Mayor Davis thanked the members of the sub-committee for their work; and, noted that the materials help in visualizing the issues. She advised that in comparing the houses, while some were larger, they were not offensive. Mr. Plescow reminded Council that currently, house size was only regulated by zoning; and, the Town has no control over massing, size, building materials and setbacks. He suggested this was the downside of the zoning regulations. Mr. Plescow advised Council that the Town could re-write the zoning ordinance; however, this would result in the insertion of regulations that could be done with an historic overlay.

Town Planner Beniamino advised Council that he was not advocating one way or the other; however, he noted that the drawback to traditional zoning changes was that it was hard to change some regulations and be more flexible. He further noted that historic district regulations generally tend to be more flexible with regard to design; and, would not require the property owner to go through a variance.

Mr. Plescow advised Council that the sub-committee was ready to make the public presentations. Mayor Davis noted that the next step was to set up several different community meetings. Town Planner Beniamino recommended the meetings be held at various locations and during various times and days in order to increase attendance. He noted that a facilitator would assist in eliciting information from the audience. Councilmember Murdock asked the cost for hiring a facilitator. Town Planner Beniamino advised Council that the individual he planned to use was a former colleague who does this type of work; and, confirmed the cost would be inexpensive.

Mayor Davis questioned whether it would be beneficial to take a wider photo of part of a street that may have a smaller house next to a larger one. She noted that sometimes the visual looks better in a photo than on paper, particularly when the trees are included. Mr. Plescow confirmed the sub-committee could work with the Council on the exhibits.

Councilmember Murdock noted that she didn't see a difference in the two smaller model homes. Town Planner Beniamino confirmed they were the same size. He explained that the exhibit demonstrated what could happen if an existing house were demolished and a new one constructed to the limits. Councilmember Murdock asked whether 35% lot coverage was allowed. Councilmember Snyder confirmed it was. Councilmember Patterson noted that this excluded the driveway. Town Planner Beniamino noted that it included accessory structures under roof. Mr. Plescow expressed his opinion that this was still a large footprint.

Councilmember Murdock inquired as to the size of the smallest house in Ridgeview. Town Planner Beniamino advised Council that the lots were as small as 2,000 square feet and as large as 60,000 square feet. He noted that some lots were so large, they could be subdivided. Mr. Plescow advised Council that the model was based on the zoning requirements for an 8,000 minimum square foot lot; and, noted that larger parcels could be subdivided to this size. Town Planner Beniamino advised Council that the mode of the lots in Ridgeview was 7,405 square feet.

Mayor Davis reiterated that the Town basically needed to set up the public meetings. Town Planner Beniamino confirmed this was correct. He reiterated that the sub-committee did not want to steer the public in one direction or another; and, suggested that if there was no public support for addressing McMansions, then the work would stop. Mr. Beniamino further suggested that if the residents said they didn't want this size house, the sub-committee could then offer the different options and the pros and cons of each. Councilmember Snyder asked whether the other option was zoning regulations. Town Planner Beniamino advised Council that the options were expansion of the Historic District, changes to the zoning ordinance or a corridor overlay district. He noted that a corridor overlay district would have regulations; however, it would not have the same impact as the expansion of the Historic District. Mr. Beniamino explained that while it could regulate size, scale and massing, the corridor would only include a certain amount of land off Route 50.

Councilmember Murdock advised Council that she was trying to think about the mechanics of the public meetings. She questioned who would be present for three meetings; and, expressed concern about tying up the staff and members of the sub-committee. Ms. Murdock reminded Council that the Town does not always have a large public response; and, noted that some residents may not realize the importance of the issue. Councilmember Snyder expressed his opinion that they would if the Town put out the proper notice. He suggested the notice should indicate that the Town was anticipating these results and looking at these solutions; and, would like the public's input on possibly extending the Historic District or changing the zoning requirements. He noted that the trade-offs of each would need to be explained. Town Planner Beniamino advised Council that he planned to do a mailer and then distribute a flyer door-to-door. Councilmember Murdock asked what the flyer would look like; and, suggested the exhibits would inflate the problem and get the residents' attention. Town Planner Beniamino confirmed they would not inflate the problem; and, advised that they would describe what could happen. He reminded Council that this did happen on Washington Street. Councilmember Snyder reminded Council of the previous concern about the size of the house that was currently owned by Kathy Ribaud. He expressed his opinion that the Town could generate a reasonable interest in this issue, especially if the Town tells them that it could change how they could use their properties in the future. Councilmember Murdock reminded Council that a number of houses in the Ridgeview area were rental properties. Town Planner Beniamino reiterated that he would use

both a mailer and would take a day to knock on doors to distribute a flyer. He noted that he had already had people come into the Town Hall seeking information. Mayor Davis expressed hope that the newspapers would disseminate the information as well. Town Planner Beniamino noted that he doesn't want to scare the residents into thinking the Town was already on a particular path. He reminded Council that the Planning Commission and HDRC have discussed preferences; however, they noted the need for public input. Councilmember Murdock stressed that this issue must be properly explained so the residents would understand that if they didn't want big homes in their area, there were different directions that could be explored. Mr. Turnure agreed with the need for public feedback. Town Planner Beniamino reminded Council that the point of a historic district is the people have the security of knowing they were buying into a neighborhood that wouldn't change dramatically; however, they were giving up certain development rights in exchange. Councilmember Murdock expressed her opinion that this was great. She reiterated the need to advertise the issue properly so that people would know what was being explored. Ms. Murdock reminded Council that part of their vision was addressing how the area would grow and what it would look like. Ms. Murdock noted that she would talk to her neighbors.

Mr. Clites suggested that Council's feedback on the toolkit was important. He noted that they don't want the kit to appear to be biased as it was supposed to be helpful. Mr. Clites asked Council to look at the handouts and determine what made sense and what didn't. Mayor Davis suggested it was important to have feedback on how much regulation the residents' desire; and, what they were worried about, such as size, materials, color regulations, etc. Town Planner Beniamino reminded Council that the Planning Commission and HDRC did not have a desire to control materials and colors. Mayor Davis expressed her opinion that residents may be concerned about this and need to understand that the issue was protecting the feel of the neighborhood. Mr. Plescow noted this was a factor. He reiterated there was nothing to prevent the use of certain materials, such as glass and steel, at this time; and, suggested that one issue that should be raised during the public sessions was whether the residents want some form of control over appearance.

Councilmember Snyder recommended the sub-committee be ready to address the issue of tear downs; and, noted that there were some houses in Ridgeview that were approaching that level. He suggested that it may not be a bad idea to tear down some of those homes; and, advised that one such house has bare plywood floors. Mr. Turnure confirmed they were not trying to restrict additions nor would there be hoops to jump through; however, there needed to be certain instances in which something triggered a review. He noted the need to determine that point. Mr. Turnure reminded Council that most people want to do whatever they desire to their houses.

Councilmember Shea expressed her opinion that the residents need to understand why this change was being proposed; and, suggested that it currently appeared that the Town was trying to make the change. She suggested the need for a clear explanation of why the Town was looking at this issue. Mr. Plescow reminded Council that the genesis of this discussion was what was happening in Washington, DC and Arlington with McMansions. He expressed his feelings that Middleburg was going to experience pressure to tear down small houses; and, suggested Ridgeview was a very desirable place to live. Mr. Plescow agreed that some houses need to be redeveloped as they were not all structurally sound. He suggested that the public needed to tell the Town what they wanted; and, noted this could be controversial. Mr. Hazard suggested a paragraph be inserted into the summary sheet that explained why this was being investigated. Councilmember Shea agreed.

Councilmember Shea advised Council that she did not agree with the Town Planner's comments that if the Town pursued this matter and the residents said do nothing, it wouldn't be pursued further. She expressed her opinion that it was the Council's responsibility to look to the future of the Town. Ms. Shea agreed the public needed to be involved in the process of resolving a

problem that was coming; however, she noted that it was the Council's job to know what should happen to the Town. Councilmember Snyder noted that, at the end of the day, if the residents wanted the expansion, this would make the process easier. Councilmember Shea suggested the Town could not say that it wouldn't pursue it even if the residents don't want it. Mayor Davis noted that the Town Planner was saying that if the majority were saying they don't want it that it would not be pursued. Town Planner Beniamino advised Council that he understood Councilmember Shea's concerns; however, he noted that there was an argument for the other side. He advised that he was not taking sides. Councilmember Snyder suggested the Council needed to wait to hear from the public. Councilmember Murdock expressed her opinion that the Town has been well served by the Planning Commission and HDRC; and, noted that people don't think about these things until it was too late. She suggested that they play on that; and, noted that seeing was believing. Ms. Murdock expressed her opinion that the models were wonderful. She questioned when the meetings would occur. Town Planner Beniamino recommended they occur after the holiday season in January and February. Mr. Plescow asked the Council to review the materials, particularly the summary sheet; and, let the sub-committee know if something should be changed. Councilmember Murdock expressed a desire to review the mailer as well; and, suggested it was very important.

### **Approval of Minutes**

*Councilmember Snyder moved, seconded by Councilmember Shea, that Council approve the October 9, 2008 Regular Meeting and October 23, 2008 Work Session meeting minutes as amended.*

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

No – N/A

Abstain: N/A

Absent: Vice Mayor Kirk

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

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### **Staff Reports**

Town Administrator Schiro reported that construction was underway on the water and wastewater treatment plants. He noted that the contractors travelled off Town property while grading for the wastewater treatment plant project, removing corn on private property; however, this issue has been resolved. Mr. Schiro advised Council that the foundation was in place for the tank at the water treatment plant; and, expressed his opinion that work would commence next week on the concrete tank. He noted that the engineers were working on telemetry issues between the well and treatment plant; and reminded them that there was originally a plan for wireless technology. Mr. Schiro explained that this may not work; and, there may be a need to install fiber. He reported that the Town's consultants and Loudoun Water were working on the controls for both plants. Mr. Schiro advised Council that those involved were working through the processes for reviewing submittals and RFI's in order to ensure everyone was on the same page.

Town Administrator Schiro reported that he believed VDOT would approve boring under the trees on North Madison Street for the Marshall Street Water Line Replacement Project. He reminded Council that, initially, VDOT denied this request; however after it was explained to them as to why the Town was proposing this and how it would eliminate truck traffic conflicts, they suggested they may allow the boring.

Town Administrator Schiro reported that the Health Center Advisory Board was scheduled to meet next week. He expressed hope that they would have their recommendations for Council's consideration in December. Mr. Schiro noted that he and the Town Treasurer met with the auditors; and, they plan to make a presentation to the Council during the upcoming work session. He expressed his opinion that Council would like their report.

Chief of Police Webber reported two hundred thirty-three calls for service and two arrests during the month of October. He noted that for the last week and a half, the buzzards have returned; however, they were not roosting in their normal locations but were instead roosting around the water tower and in the trees on Stonewall Avenue. Chief Webber advised Council that the officers were pursuing the buzzards daily with noise devices in an attempt to move them elsewhere.

Economic Development Coordinator Pearson reported that she amended her monthly report to correct the name of the organization who would participate in Christmas in Middleburg to the "Wounded Warriors". Councilmember Murdock advised Council that she and Ms. Pearson previously met with representatives from the Loudoun County Economic Development Department about the lack of mention of Middleburg in their advertisements. She noted that Middleburg received six mentions in their latest publication. Ms. Pearson noted that the publication was mostly Christmas related; and, confirmed that Middleburg was included.

Town Planner Beniamino advised Council that he was available to answer questions.

Town Treasurer Wheeler noted that she experienced a busy month due to the audit, decal sales, and the mailing of tax statements. Mayor Davis noted that she had some minor questions related to the monthly report; however, she would get with Ms. Wheeler later.

Town Attorney Whiting reported that she had been addressing issues for the past month; and, had nothing to report.

Town Administrator Schiro reported that the Utilities Department flushed the water mains last night; and, used approximately 50,000 gallons of water. He noted that they would continue to flush for two more nights. Councilmember Snyder asked whether the flushing would continue into next week. Mr. Schiro confirmed it would. Councilmember Snyder asked that an announcement be made to the public.

### **Action Items**

#### **Council Approval – FY '09 Budget Amendment**

Councilmember Snyder suggested the Council review the utilities budget more carefully in the next budget cycle; and, noted that the Council was approving a lot of utility budget amendments. He explained that he would like a more comprehensive utilities budget next year.

*Councilmember Snyder moved, seconded by Councilmember Littleton, that Council approve the FY '09 mid-year utility budget amendment in the amount of \$140,000.*

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

No – N/A

Abstain: N/A

Absent: Vice Mayor Kirk

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

Council Appointments – Town Boards and Commissions

Town Clerk North reported that the majority of those individuals whose terms were scheduled to expire have asked that they be reappointed. She further reported that two individuals – Jean Gold of the Pink Box Advisory Committee and Anne Lackman of the Historic District Review Committee – have declined to seek reappointment. Ms. North advised Council that she had distributed a resume that was on file for the HDRC; however, she was awaiting their direction on whether they wished to make an appointment or whether they would like to advertise the position.

Councilmember Murdock asked whether the HDRC members must reside within the Town limits. Town Planner Beniamino confirmed they did not. He reminded Council that some members must be professionals; however, those requirements have been met. Mayor Davis asked about the number of members required for the HDRC. Town Planner Beniamino confirmed that eight were required. He recommended that the Council advertise the HDRC position and then ask the Committee for their recommendation on who was the most qualified. Mr. Beniamino reminded Council that Ms. Lackman was an artist and dealt with color issues; and, suggested the Council may wish to look for someone with those skills. Mayor Davis and Councilmembers Snyder and Littleton expressed their opinions that it would be a good idea to advertise the positions.

*Councilmember Patterson moved, seconded by Councilmember Snyder, that Council re-appoint Kathy Ribaldo to the Planning Commission for a four-year term, said term to expire December 31, 2012. Councilmember Patterson further moved, seconded by Councilmember Snyder, that Council re-appoint Pam Mickley Albers and Linda Wright to the Historic District Review Committee for three-year terms, said terms to expire December 31, 2011. Councilmember Patterson further moved, seconded by Councilmember Snyder, 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, 2010. Councilmember Patterson further moved, seconded by Councilmember Snyder, that Council re-appoint Andrew Bergner, Wendy Duling, Terri Kitchin, Mary Bell Peters and Mimi Stein to the Pink Box Advisory Committee for two-year terms, said terms to expire December 31, 2010. Councilmember Patterson further moved, seconded by Councilmember Snyder, that the Council recommend to the Judge of the Circuit Court, the re-appointment of Phyllis Cook-Taylor to the Board of Zoning Appeals for a five-year term, said term to expire December 31, 2013.*

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

No – N/A

Abstain: N/A

Absent: Vice Mayor Kirk

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

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Councilmember Snyder noted that he would like to explain the reason behind the budget amendment. He advised the audience that this amendment would allow the Town to have supervision over the construction of the two treatment plants; and, noted that the Town had a bad experience with its last treatment plant project. Mr. Snyder noted that the Council was committed to focusing on the necessary construction oversight to avoid a repeat of the financial and scheduling problems associated with the first plant.

Council Approval – Zoning Location Permit – Vinegar Hill

Town Planner Beniamino reminded Council that this request was for approval of the zoning location permit and site plan for the Vinegar Hill Project, located at the intersection of The Plains Road/Federal Street. He noted that this project was originally approved six years ago; however, re-approval was needed as the five year window has passed. Mr. Beniamino reported that the plans have changed since they were originally submitted as the Town's parking requirements have increased. He explained that this resulted in the elimination of the residential portion of the project.

Councilmember Murdock noted that there was a previous mention of VDOT regulations related to line of sight. Town Planner Beniamino confirmed that he and members of the Planning Commission were trying to meet with VDOT as their regulations no longer provide the Town with the ability to seek a waiver of the sight distance regulations due to the historic nature of the town.

Councilmember Littleton inquired as to the principal associated with the Vinegar Hill Project. Town Engineer DeLeon confirmed it was Ben Graham.

*Councilmember Patterson moved, seconded by Councilmember Plescow, that Council approve Zoning Location Permit 08-37 with the associated Site Plan (08-02) for the Vinegar Hill Project, located at 101 The Plains Road.*

Councilmember Snyder noted that this project arose when he was on the Planning Commission; and, had been in the works for a long time.

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

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Council Approval – Construction Inspection Services Contract- Whitman, Requardt – Water & Wastewater Treatment Plant Projects

Town Administrator Schiro reported that the Council's comments from the work session have been incorporated into the contract, with the amount now being a not to exceed amount. He noted that language was added making attendance based upon the work schedule. Mr. Schiro advised that he would hold monthly meetings with the inspector in order to determine their schedule. He expressed his opinion that five day a week inspections would not be required.

Councilmember Snyder noted that this was the contract that would provide for the oversight services on the utilities projects.

*Councilmember Snyder moved, seconded by Councilmember Shea, that Council authorize the Town Administrator to sign a contract with Whitman, Requardt & Associates, in an amount not to exceed \$139,500, for construction inspection services for the water and wastewater treatment plants construction projects.*

Councilmember Patterson reminded Council that the total cost of the inspection services amount to one percent (1%) of both projects, which was money well spent. Councilmember Snyder noted that construction oversight was desperately needed. Councilmember Patterson reminded Council that someone else was constructing the facilities; and, suggested the inspection oversight would be good for the citizens. Councilmember Littleton concurred it was cheap insurance.

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

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Council Approval – Resolution – All American Road Designation

Mayor Davis reminded Council that the Journey Through Hallowed Ground Partnership was trying to get resolutions of support for an All American Road Designation from the towns on the Journey Corridor. Councilmember Snyder inquired as to where the various roads listed in the resolution were located. Mayor Davis explained that they were located along the Journey Through Hallowed Ground Corridor between Gettysburg and Charlottesville. Councilmember Murdock reminded Council that Councilmember Patterson had questions related to Route 15 during the work session. Councilmember Patterson advised Council that the Town Clerk was able to obtain the information she was seeking. She reminded Council that Middleburg was not a part of the main corridor designation, but rather was a secondary location. Ms. Patterson noted that if federal funds were available, the primary locations would be eligible to receive them first. She reminded Council that when the Journey was started, the Partnership selected the existing Route 15 as the Corridor, as opposed to the old Route 15 which used to run down Route 50 to The Plains Road. Mayor Davis reminded Council that the Journey does promote the towns. Councilmember Patterson noted that her concern was the last paragraph of the resolution; and explained that she was no longer concerned as it states the Town would use the funds “when available”. Mayor Davis reiterated that the Journey supports the Town as it sends visitors on day excursions.

*Councilmember Murdock moved, seconded by Councilmember Snyder, that Council adopt a resolution supporting the designation of the Journey Through Hallowed Ground Byway as an All-American Road within the National Scenic Byways Program.*

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

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**Discussion Items**

Identity Theft Protection Policy

Town Attorney Whiting explained that the Federal Trade Commission (FTC) has mandated that creditors put in place reasonable protections to protect customers against identity theft, including the use of identifying customer information by someone else. Councilmember Snyder expressed an understanding and support for developing a Town policy; however, he expressed concern about asking for a social security number in order to obtain water service. He questioned whether

it was possible to instead get a driver's license number. Town Attorney Whiting confirmed that was possible; however, she reminded Council that a social security number was useful for the collection of bad debt. She advised Council that the Town could not compel the disclosure of an individual's social security number; and, noted that the policy does so state. Ms. Whiting noted that the General Assembly has changed the laws with regard to protecting such information. Councilmember Snyder reminded Council that data was increasingly being encrypted due to identity theft concerns. Town Attorney Whiting encouraged the Town Treasurer to have protocols in place on who received the application, how it was treated and who had access to it. She suggested the Town collect all but the last four digits of the social security number. Ms. Whiting reiterated that this was a policy issue; and, expressed an understanding of the debate related to the collection of social security numbers. She further reiterated that it was a major problem if an individual moved out of state before paying the Town; and, explained that the social security number was a tool to track down that person. Councilmember Murdock expressed her opinion that the last four digits of the social security number were useless in that case. Town Attorney Whiting confirmed they would be worthless for collection purposes. Mayor Davis questioned whether it was possible to require the customer to have a credit card on file. Town Attorney Whiting noted that they could cancel the credit card before the Town tried to run the charges. Councilmember Littleton reminded Council that the debt could get up to \$3,000 before the Town would disconnect service. He suggested that if the Town had to collect the debt, the social security number would be helpful. Councilmember Snyder recommended that the collection of a social security number be limited to commercial accounts. He suggested the staff look at ways to minimize the collection and storage of social security numbers, see what alternatives were available; and, that the Town Attorney then evaluate this information. Councilmember Patterson asked whether the Town currently collected social security numbers for any reason, including water accounts. Town Treasurer Wheeling confirmed it did not. Town Attorney Whiting reminded Council that the FTC deferred enactment of the identify theft policies; therefore, the staff had time to fine-tune its recommendations. She noted that this was a staff document at this point; and, advised that they could work to determine what was reasonable. Councilmember Snyder asked that the social security numbers not be placed in the computer system if it was determined that they needed to be collected. Mayor Davis asked that the staff check on whether other jurisdictions require the provision of social security numbers. Town Attorney Whiting recommended the Town restrict who could open and close accounts in order to restrict access to account information. She reminded Council that the Town was also looking at a new electronic back-up system; and, suggested there needed to be safety valves. Ms. Whiting noted the treasurer in California who shut all of the employees out of the municipality's system. She advised Council that she had experience in a jurisdiction that separated its Director of Finance from service; and, was concerned about what he could do to the computer system prior to his departure. Ms. Whiting asked that the Council let the staff work on the draft policy and return it to them later.

#### Draft Noise Ordinance

Town Planner Beniamino and Chief Webber were present to discuss the draft ordinance. Town Planner Beniamino suggested Council may wish to defer this item to a work session. He advised that he received responses from Councilmembers Shea, Snyder, Kirk and Planning Commission Chairman Plescow. Mr. Beniamino advised that he had no problem reviewing the ordinance during this meeting or he could allow the Council more time to consider the ordinance. Mayor Davis noted that she offered the staff her approval of the draft. Councilmember Snyder recommended discussion be deferred to a work session. Town Attorney Whiting recommended that if the Council made the decision to go with an audible level versus heard, the ordinance should be consistent between the use of the terms "clearly" and "plainly". Town Planner Beniamino asked that if the Council had additional changes to recommend, they send them to him. He noted that he would ask the Planning Commission to do the same.

### Draft Itinerant Vendor Ordinance

Town Planner Beniamino reminded Council that the Planning Commission must comment upon and hold a public hearing on this ordinance. He noted that they have asked the staff to address issues related to construction dumpsters and PODS; and, noted that some people have used PODs as temporary garages. Mr. Beniamino further noted that they have asked for the deletion of the section on temporary dwellings. He advised Council that the draft ordinance would not be ready for their review until after the November Planning Commission meeting.

Councilmember Snyder encouraged Council to review each individual member's comments on the noise ordinance. He noted that the comments on the itinerant vendor ordinance were good.

### Proposed Town Entrance Sign Design

Economic Development Coordinator Pearson presented the revised sign design; and, noted that the discussions by the HDRC resulted in the removal of the gold tops and changing the structure to weather-treated wood, as opposed to painted wood. Town Planner Beniamino expressed his opinion that the sign design now looked more authentic. Ms. Pearson advised Council that the paddle signs, which are attached to the individual event signs, would be installed in a track on the sign's cross bar. She confirmed that the HDRC liked the new design; and, asked for Council's blessing so she could advance the design to the VDOT level. Councilmember Littleton confirmed the HDRC talked about the design at length. Town Planner Beniamino reminded Council that the signs were not under the HDRC's jurisdiction; however, they were asked to comment upon them from an aesthetic standpoint. Mayor Davis reminded Council that, for a number of years, the Council has discussed installing soft lighting on the signs. Town Planner Beniamino reminded Council that the signs were in the right-of-way; and, expressed his opinion that VDOT may restrict the use of lighting. He expressed his opinion that lighting in the right-of-way was a sensitive issue for VDOT. Councilmember Patterson reminded Council that other localities whose signs are in the right-of-way have lighting; and, cited the case of Aldie. Mayor Davis advised Council that she could use her contacts in VDOT to gain approval of the lighting if necessary. She agreed the design looked nice; and, questioned whether a formal vote was needed. Economic Development Coordinator Pearson confirmed it was not. She explained that she was just looking to determine if Council had any problems with the design. Ms. Pearson advised Council that she would brief them on her meeting with VDOT.

### Information Items

Mayor Davis reminded Council that they have rescheduled their November work session to next week due to the holiday. She further reminded them that most of the agenda was related to the Town Council's Vision. Ms. Davis advised Council that she and Councilmember Murdock would be attending the Loudoun County Board of Supervisor's public hearing on the Broadlands Hospital. She noted that she felt very strongly that they should be at the hearing. Ms. Davis advised Council that Councilmember Murdock would be reading the Town's resolution on this matter, as she would like to express her personal opinions as a citizen. She reminded them that she felt the towns deserved quicker emergency access; and, noted that it took thirty minutes to get to INOVA Hospital from Middleburg in an ambulance. Ms. Davis advised Council that she didn't believe they would speak before 8:00 p.m.; therefore, they could attend the work session for an hour. Councilmember Murdock asked what was planned for the agenda. Town Clerk North reminded Council that some of the items on the agenda included the auditor's report, the development of a public comment policy as recommended by the Town Attorney and the setting of goals associated with Council's Vision. Councilmember Littleton agreed the Mayor and Councilmember Murdock should attend the public hearing.

Mayor Davis read a letter from First Lady Laura Bush in which she designated Middleburg as a Preserve America community. In the letter, President and Mrs. Bush applauded the Town for its achievements and for setting an example for others in the area of historic preservation. Mayor Davis thanked Town Clerk North for her work in developing the application. She noted that this designation allowed the Town to apply for federal grants. Councilmember Littleton recommended the Town frame the letter for display. Town Clerk North noted that the Town would receive a sign as well.

Councilmember Shea asked whether the Council should insert the Preserve America logo on the Town entrance sign. Councilmember Murdock reminded Council that the Town held a number of other designations such as being a Tree City USA and bird sanctuary. Town Clerk North confirmed that, as a Preserve America Community, the Town could now use the logo. Councilmember Snyder recommended the entrance sign just promote the Town. Councilmember Murdock recommended the Town display the Preserve America sign. Mayor Davis suggested the Council may wish to consider adding the Preserve America logo to the Town's letterhead when it was next revised. Town Administrator Schiro advised Council that this was a great recognition.

Councilmember Shea advised Council that she attended a grant writing work shop; and, noted that Community Development Block Grant (CDBG) funds would be available for projects that serve low income residents. She further noted that the deadline for application was December 18<sup>th</sup>; and, advised that she was meeting with Kim Hart on possible projects, such as sidewalks, that may qualify Middleburg for a grant. Town Attorney Whiting advised Council that CDBG funds were limited to qualifying neighborhoods. Councilmember Snyder suggested there were neighborhoods in Middleburg with pedestrian transportation needs. Councilmember Shea advised Council that she would speak with the Town Administrator about including these projects in next year's budget.

There being no further business, Mayor Davis declared the meeting adjourned at 7:33 p.m.

APPROVED:

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Betsy A. Davis, MAYOR

ATTEST:

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Rhonda S. North, MMC, Town Clerk