



**MIDDLEBURG TOWN COUNCIL**  
**Monthly Work Session**  
**Thursday, November 20, 2008**  
**Town Office, 10 W. Marshall Street**



**6:00 p.m.**

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**REGULAR WORK SESSION**  
**PENDING APPROVAL**

**PRESENT:** Vice Mayor Darlene Kirk  
Councilmember Trowbridge Littleton  
Councilmember Lisa Patterson  
Councilmember Kathy Jo Shea  
Councilmember Mark Snyder

**STAFF:** Jerry M. Schiro, Town Administrator  
Rhonda S. North, MMC, Town Clerk  
David M. Beniamino, AICP, Town Planner  
Debbie J. Wheeler, Town Treasurer

**ABSENT:** Mayor Betsy A. Davis  
Councilmember Catherine "Bundles" Murdock  
Councilmember Judith Pryor Plescow

The Town Council of the Town of Middleburg, Virginia held their regular work session on Thursday, November 20, 2008 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Vice Mayor Kirk called the meeting to order at 6:00 p.m.

**Presentation – FY '08 Audit – Mitchell & Co**

Jeff Mitchell and Sandy Tondreau, of Mitchell & Company, provided Council with a copy of their presentation materials and a complete audit report. Mr. Mitchell advised Council that over the past two years, the Town's management has worked hard to develop a fund balance; and, noted that the General Fund now has a good one. He suggested that in light of the economy, the Town needed to be prepared for possible issues that may arise. Mr. Mitchell reiterated that management has worked hard through budget and tax issues to strengthen the Town's financial position. He noted that the Council has made some unpopular decisions to raise rates and taxes; however, this was very critical in order to stabilize the Town's financial position. Mr. Mitchell advised Council that the Town has made tremendous progress in the last two years.

Ms. Tondreau advised Council that she performed all kinds of reconciliations, as well as reviewing the Town's data; and, found no errors. She announced that the Town has received a clean opinion. Ms. Tondreau noted that page two of the presentation materials provided a summary of the balance sheet for the General Fund, Health Center Fund, and Water/Sewer Fund. She advised that if the Council focused mostly on the totals, they could see the Town's cash was up significantly, as was its total assets. Ms. Tondreau noted that this was largely the result of the payment of large availability fees and increases in rates. She reiterated that the Town has a good cash flow – having the assets to cover debts. Ms. Tondreau noted that on the debt side, the Town only has two small bonds and one large one from the most recent refinancing.

Mr. Mitchell advised Council that the Town had total assets of \$9.4 million, of which \$2 million was in cash and \$6.8 million was in obligations and payables. He reiterated that the Town has a very strong cash position.

Ms. Tondreau advised Council that page three of the presentation materials summarized the revenues and expenses per fund. She noted that the General Fund had revenue of \$1.6 million versus expenditures of \$1.3 million, resulting in a surplus. Ms. Tondreau advised that the higher income was primarily the result of increases in the real estate and personal property tax revenues. She noted that the Health Center Fund operated at a deficit last fiscal year due to major repairs, coupled with the loss of rent on two units for a couple of months. Ms. Tondreau advised Council that the Water/Sewer Fund received \$1.5 million in revenue, with expenditures of \$740,000, producing a surplus of \$785,033. She noted that this was due to the receipt of availability fees; therefore, the fund was not operating at a surplus as high as was shown.

Ms. Tondreau advised Council that page four of the presentation materials provided a summary of the revenues and expenses for this year, as well as for the preceding two years. She noted that two years ago, the General Fund was operating at a deficit; however, it was now making great progress. Ms. Tondreau advised Council that the Water/Sewer Fund has gone from operating at a deficit to operating at a surplus; however, she reiterated that it was still operating at a slight deficit. She explained that once the revenue from the availability fees was eliminated, the tower rental income was excluded and depreciation expenses were added, the Council could get a truer operating number. Ms. Tondreau advised Council that the Fund was better than it was previously. Mr. Mitchell reminded Council that FY '08 was the first year to reflect the full water/sewer rate increase. He noted that the net operating surplus/deficit is truly the operating revenue from users minus operating costs, excluding depreciation. Mr. Mitchell advised Council that the Town has made tremendous progress over the past year.

Ms. Tondreau advised Council that page five of the presentation materials charted the percentage of gallons of water billed to water pumped; and, compared them to other jurisdictions of similar size. She noted the drop in gallons billed versus pumped; and, reminded Council that this was the first year the Town has done a water main flushing program. Ms. Tondreau advised Council that the percentage of gallons billed was still low when compared to other towns. Town Attorney Whiting asked whether the other towns used for comparison purposes were equal in terms of age of the system. Mr. Mitchell advised Council that many towns re-line their mains. He noted that the towns used for comparison purposes included Hamilton and Round Hill, but excluded Leesburg. Councilmember Snyder reminded Council that they have been trying to get away from operating on a crisis basis. Mr. Mitchell advised Council that the Town was making good progress on the percentage of gallons billed versus treated water until this year when the Town began back flushing and cleaning the systems. He suggested the figure may improve in the coming year. Town Administrator Schiro reminded Council that the Town lost water through the water main flushing, as well as the water that was required to clean Well 3 when it was brought on line. He expressed his opinion that this was where the difference was occurring. Councilmember Snyder noted that the Town was doing more to monitor usage. Town Administrator Schiro confirmed the Town was measuring its back wash, as well as the amount of water used for the filtration system. Mr. Mitchell advised Council that he would exclude these numbers from the number of gallons pumped in the future as it was not water that would ever be billed.

Ms. Tondreau advised Council that page six of the presentation materials provided a comparison of the General Fund's actual revenues and expenses versus budgeted. She noted that the BPOL and bank stock tax revenues were higher than anticipated. Ms. Tondreau noted that this figure also included the proffers that were received from Salamander; and, advised that they were not included in the budget. She noted that actual expenditures were below budget; and, advised

Council that the largest difference was as the result of the elimination of the Administrative Assistant position. Town Administrator Schiro reminded Council that the Town also eliminated a position in the Street Department. Mr. Mitchell advised Council that page thirty-six of the audit report provided a detail of the actual-to-budget revenue numbers. He noted that the BPOL revenue was way up when compared to what was budgeted, as was the bank stock tax revenue. Mr. Mitchell noted that proffers were also higher than anticipated. He advised Council that pages thirty-seven through thirty-nine show the actual General Fund expenditures versus the budget. Mr. Mitchell advised Council that not filling the couple of positions made a big difference in providing the surplus.

Ms. Tondreau advised Council that page seven of the presentation materials provided a comparison of the General Fund's fund balances for the past five years. She noted the steady increase; and, advised that for FY '08, the General Fund had a surplus of \$814,000. Ms. Tondreau advised Council that the last page of the handout identified issues, such as required communications with the governing body. She explained that if they had found anything to note, such as fraud or major internal control issues, she would have come to the Council. Ms. Tondreau reiterated that she did not find anything; and, advised that she experienced no problems working with the staff. She noted that she met with the Town Administrator and Town Treasurer to review some small issues. Ms. Tondreau expressed her opinion that the Town has overcome its challenges and had nothing huge coming forward. She noted that the Town should keep up with the percentage of water billed versus pumped. Mr. Mitchell advised Council that page seventeen of the audit report identified water/sewer revenue and expenses. He noted that they talked in detail with the Town Administrator and Treasurer during their meetings; and, invited Council to attend future meetings if they desire.

Councilmember Littleton expressed appreciation for the positive report. Councilmember Snyder expressed his opinion that it would be nice to identify the number of gallons of water that should be excluded in the billed-to-pumped ratio so it would be more accurate. He noted that the audit also showed the need to continue to look at the Town's water and sewer rates in the upcoming budget. Mr. Snyder noted that he was pleased the Town had made so much progress over the last couple of years.

Council noted the staff was doing a wonderful job. Town Administrator Schiro thanked the Council for their assistance. He noted that the entire staff made sacrifices to bring the Town's expenditures in line.

### **Council Update – Loudoun Water Contract**

Town Administrator Schiro reported that the changes requested by Council to the service agreement were taken to the Loudoun Water Board of Director's last week; and, were approved. He explained that for bookkeeping reasons, they would like to defer enactment of the agreement until January. Mr. Schiro noted that this would also allow the Town the opportunity to make changes to the utility budget in mid-year. He reported that Loudoun Water's Human Resource Department would meet with the Town's employees regarding employment contracts; and, advised that the provisions requested by Council would be included in those contracts. Mr. Schiro reminded Council that once this process began, Loudoun Water would not be able to discuss the matter with the Town as it would become a personnel matter for them. He noted that he met with the Town's employees two weeks ago to update them on the process, as had Loudoun Water. Mr. Schiro reiterated that the Town's contract with Loudoun Water would become effective January 1; and, noted that the system would operation on a month-to-month basis until that time.

### **Council Review – Report on Loudoun County Community Action Board**

Councilmember Shea reported that the Loudoun County Community Action Board would not hold a meeting during the month of December. She noted that she volunteered to work with their energy compliant committee; and, advised Council that there was a new bill that would allow for energy audits and repairs. Ms. Shea advised that she would stay on top of this issue so members of the community who qualify could take advantage of this program. She reminded Council of the program that provided tax filing assistance for those who were eligible to receive the earned income tax credit; and, noted that they were seeking volunteers to assist with the filings. Ms. Shea advised that she would notify the citizens of these programs.

### **Council Discussion – Draft Noise Ordinance**

Town Planner Beniamino noted that he received comments from some members of Council, as well as the Planning Commission Chairman. He advised that he and Chief Webber were ready to review the proposed changes line-by-line.

Section 63-2 - Definitions: Town Planner Beniamino advised Council that Planning Commission Chairman Plescow questioned whether the definition of motor vehicles included motorcycles. He noted that Chief Webber confirmed it did. Vice Mayor Kirk asked whether anything that was motorized was considered a motor vehicle. Chief Webber advised Council that the definition of a motor vehicle included pretty much anything one could imagine, including a golf cart.

Section 63-4(a) (1) – Radios, Televisions, Etc.: Town Planner Beniamino advised Council that Councilmember Shea suggested inserting the phrase “clearly audible” instead of “heard”. He noted that he had no problem with this change. Town Attorney Whiting advised Council that this change would transfer this violation from a perception; and, advised that this was preferable. Councilmember Patterson expressed a desire to be consistent throughout the document; and, noted that the following section used the term “plainly audible”. Council agreed that the term “clearly audible” should be used consistently throughout the document.

Section 63-4(a) (3): Vice Mayor Kirk noted that her comments were no longer necessary given the elimination of the days of the week.

Section 63-4(b) – Horns, Whistling, Etc.: Town Planner Beniamino advised Council that Vice Mayor Kirk suggested that horns, whistles, etc not be used between the hours of 11:00 p.m. and 7:00 a.m. He noted that in other sections of the ordinance, the hours that have been used are 10:00 p.m. to 7:00 a.m. Mr. Beniamino questioned whether the Council was interested in including the later hours in the draft ordinance. Councilmembers Shea and Snyder asked why the Council would want to allow those types of noise at any time. Councilmember Snyder questioned whether these types of noise would be allowed during the day. Councilmember Littleton noted that parades make noise. Councilmember Snyder noted that a horn was an auditory device on a motor vehicle, not a parade noise. Vice Mayor Kirk noted that the fire trucks use their horns. Town Planner Beniamino noted that this would affect radios as well. Councilmember Shea asked whether a radio was an auditory sound device. Councilmember Snyder questioned whether it would be a violation if a motorist were to honk the horn after 10:00 p.m. due to an animal in the road. Town Attorney Whiting advised Council that this section would not address a horn when it was used as a warning or danger signal. Town Planner Beniamino explained that it would prohibit a motorist from beeping the horn as a form of recognition. Councilmember Shea asked about ease of enforcement if this section were

eliminated. Vice Mayor Kirk cited an incident involving a family with children; and, advised that one night one of the kids was laying on the car horn, with no one stopping him. She explained that this was why she recommended the insertion of a time restriction. Ms. Kirk further explained that she was just trying to stop this noise at night rather than during the day. Councilmember Shea suggested this section remain, but that the same restriction hours as were used in the rest of the ordinance be inserted. The remainder of Council agreed. Councilmember Snyder noted that there were other sections of the ordinance that included different hours; and, advised that he did not want to change those. Town Planner Beniamino noted that he was generally using the period of 10:00 p.m. to 7:00 a.m. as the standard.

Section 63-4(c) – Fireworks, Explosives, Etc.: Town Planner Beniamino noted that Councilmember Snyder asked why fireworks were permitted the remainder of the time. Chief Webber recommended this section be eliminated completely; and, reminded Council that fireworks that go into the air or exploded were illegal in Virginia. Town Planner Beniamino reminded Council that there were legal fireworks that make noise. Councilmember Patterson noted that there were sparklers that whistled that were legal. Town Attorney Whiting questioned whether the Council wished to leave this enforcement action to the Fire Marshall. Councilmember Littleton reminded Council that the issue was abuse. He noted that some people buy fireworks and put them off on the 4<sup>th</sup> of July; however, he suggested that doing so on May 15<sup>th</sup> was different. Councilmember Shea expressed her opinion that fireworks were already illegal. She questioned whether this section needed to be in the ordinance. Councilmember Snyder reminded Council that the Town’s fireworks display ended around 9:30 p.m. and advised that he has had neighbors who wanted to continue them after that time. He advised Council that he would like to call the Police Department if a resident had a large supply of fireworks that continued into the night. Councilmember Patterson asked what would happen with regard to blasting if the section were eliminated. Town Planner Beniamino noted that blasting was addressed in another section of the ordinance. He recommended that this section be left in the ordinance; and, noted that there were other devices, such as firearms or paint ball guns, that should be addressed. Chief Webber expressed his opinion that, as written, a resident would believe the ordinance would allow this noise to occur within a certain timeframe. He requested the Town Attorney’s opinion. Town Attorney Whiting recommended this section be amended to start with the phrase “Where otherwise permitted”. Councilmember Shea asked whether the ordinance should reference the State Code. Town Attorney Whiting reminded Council that Loudoun County adopts the State Code; however, it contains some modifications. She suggested the need to look at that section as well as any firearms restrictions that were included in the Town Code. Ms. Whiting recommended the Council may not want to address firearms as noise, but rather may want to address them elsewhere in the Code.

Section 63-4(d) – Yelling, Shouting, Etc.: Town Planner Beniamino noted that he added some language based upon previous Council comments. He noted that an individual would not be prohibited from quietly whistling. Councilmember Snyder expressed his opinion that a wolf whistle was a loud vocalization. He suggested that term would cover that behavior, which was not appropriate, between 10:00 p.m. and 7:00 a.m. Vice Mayor Kirk asked who determined a whistle to be a nuisance. Councilmember Snyder confirmed the police would. Town Attorney Whiting advised Council that some jurisdictions only prohibit this if it were causing a noise disturbance; and, suggested they may wish this to be the trigger here as well. She expressed her opinion that a noise disturbance was what the Council was trying to protect the citizenry from. Councilmember Shea advised Council that she had no objection to inserting a prohibition against loud vocalizations. Town Planner Beniamino advised Council that he would change the wording.

Section 63-4(e) - Vehicles: Town Planner Beniamino advised Council that Chairman Plescow recommended that something be added to the ordinance regarding motorcycles that rev their engines. Vice Mayor Kirk agreed. Chief Webber advised Council that this type of behavior was

already covered under another section of the ordinance. Councilmember Shea recommended consistency of the language regarding noise disturbance. Councilmember Snyder recommended that this section would also apply to a motorist waiting at a traffic light that revved the engine and popped the clutch. Chief Webber advised Council that this type of activity would be considered reckless driving. Vice Mayor Kirk expressed her opinion that most cyclists didn't realize how loud their vehicles were. Town Attorney Whiting expressed her opinion that they did.

Section 63-4(g) - Construction: Town Planner Beniamino advised Council that Vice Mayor Kirk recommended that the permitting requirement be eliminated. Vice Mayor Kirk clarified that she didn't want this to be allowed at all. Town Planner Beniamino reminded Council that this type of activity was needed so that individuals could work on water main or lateral breaks. He noted that these would involve problems that were not on Town or public property. Mr. Beniamino expressed his opinion that there were a lot of activities that could potentially happen in which the Council may wish to allow the Police Department to make a judgment call. Town Attorney Whiting recommended that the language be changed to say "upon notice to and approval by" rather than by permit. Council agreed they preferred that language. Vice Mayor Kirk agreed that she liked the advanced notice; and, advised that she did not want to see a lot of this occur. Councilmember Shea noted the need to provide for emergencies. Town Planner Beniamino suggested that if the Council felt the Chief was being too liberal, they could let him know. Vice Mayor Kirk explained that she didn't want someone to believe this was an automatic approval.

Town Planner Beniamino noted that Planning Commission Chairman Plescow recommended regulating the day of the week that construction was allowed; and, recommended that it not be allowed on the weekend. He noted that the Council already discussed this matter; and, advised that he could handle Chairman Plescow's comments by limiting weekend work through the site plan approval for large projects. Councilmember Patterson expressed her opinion that this noise would be easier to regulate if it were included in the ordinance. Town Planner Beniamino questioned how the Town would differentiate between large and small projects. Councilmember Patterson recommended that it be addressed through zoning classifications. Councilmember Shea recommended it be left as a zoning issue. Councilmember Snyder recommended a restriction from 7:00 p.m. to 7:00 a.m. Councilmember Shea explained that she wanted to allow construction work on the weekends. Councilmember Patterson advised Council that there were no site plans in residential areas. She advised that she didn't want to eliminate roof repairs on weekends; however, it was also not fair to the neighbors if someone were constructing a new house or an addition. Councilmember Snyder reminded Council of the construction restriction between the hours of 7:00 p.m. and 7:00 a.m.

Section 63-4(h) - Pneumatic Hammers, Chainsaws, Etc.: Town Planner Beniamino advised Council that Chairman Plescow suggested this section be combined with the section on construction; and, noted that he did not have a problem combining the two. Council agreed to the change. Councilmember Snyder noted that Chairman Plescow recommended more uses. Town Planner Beniamino confirmed they would all be covered in another section of the ordinance. Councilmember Patterson recommended the addition of the term "not to exclude"; and, explained that she didn't want someone to say something was not listed in the examples. Councilmember Snyder recommended that offending activities be covered by category; and, if necessary, examples be given that were not exclusive. Vice Mayor Kirk advised Council that she liked Chairman Plescow's recommendation to add the term "or other similar equipment".

Section 63-4(i) - Animals: Town Planner Beniamino noted that Vice Mayor Kirk suggested this section apply during the day. Vice Mayor Kirk explained that she wanted the Police Department to be able to stop a dog who may be barking during the day. Chief Webber agreed a barking dog could be a nuisance during the day. Town Planner Beniamino recommended that if the Council eliminated this language that the violation not apply to a bona fide agricultural district. Town

Attorney Whiting reminded Council that there was already a blanket exclusion for agricultural activities. Council agreed to eliminate this section; and, noted that an exclusion for agricultural districts already existed. Councilmember Shea asked whether there were guidelines for how long a dog could bark before it was a nuisance. Town Attorney Whiting explained that it was up to the Chief to advise his officers on how to respond to a complaint. Town Planner Beniamino recommended the inclusion of a definition on what created a noise disturbance. Councilmember Patterson questioned whether this provided the necessary tools in cases of feuding neighbors. Town Attorney Whiting noted that if the responding officer did not hear the dog barking, he would interview the complainant; and, recommended that the length of barking not be in the ordinance but be in the Police Department's enforcement guidelines. Chief Webber advised Council that the officers made it clear to the complaining party that they must hear the problem; and, explained that they could not take their word for it. Town Attorney Whiting confirmed the complaining party must be prepared to swear out a warrant if the dog was quiet when the officer was present. Chief Webber advised Council that the officers did make contact with the animal's owner at a later time; however, he reiterated that the officer must actively hear the problem.

Section 63-5 - Exceptions: Town Planner Beniamino noted that Councilmember Snyder offered a comment regarding exemption item 10 related to household tools and lawnmowers. He noted that there was an exception for this type of noise except between the hours of 10:00 p.m. and 7:00 a.m. Mr. Beniamino noted that Chairman Plescow suggested limiting this type of activity from 7:00 p.m. to 7:00 a.m. Councilmember Shea reminded Council that someone would not mow their lawns in the winter; and, noted that this activity would occur during summer hours. Council disagreed with this recommended change. Chief Webber reminded Council that some commuters didn't get home until 7:00 p.m. and needed to mow their lawns at that time. Councilmember Shea noted that some residents may prefer to wait until the temperatures cool during hot days.

Town Planner Beniamino noted that he added an exemption for the Community Center as the result of a previous Council comment. He advised Council that Councilmember Shea has questioned whether this exemption could lead to problems; and, recommended the ordinance contain an exemption for after-hours activities that would otherwise be covered by the noise ordinance. Mr. Beniamino further advised that Councilmember Shea has recommended that other non-profit organizations, such as the Fire Department, be allowed to get a variance. He noted that he was okay with that; however, he suggested that the problem was the staff did not have a lot of interaction with these organizations. Councilmember Shea noted that the recommendation was for a variance so the Council could decide how to handle this. Town Attorney Whiting asked whether the Town was getting a lot of complaints regarding these types of events; and, suggested the Council wait to see if they get complaints. She suggested that if the Town received complaints of after-hours noise, the Council could always tell them they were abusing their exemption and that they should consider imposing conditions on their guests voluntarily or the Council may have to remove the exemption. She noted that this was not a land use right; and, advised Council that the Community Center had no right to disturb the peace. Councilmember Patterson reminded Council that events held at the Community Center did not necessarily have to be Community Center sponsored events; and, advised that she was reading this section as applying to the community fireworks display and the Doc Saffer events. She suggested this section was talking about activities sponsored by the Community Center versus a party held at the Community Center. Chief Webber recommended that if an activity were causing a noise that travelled beyond the property line, it should be considered a violation. Town Attorney Whiting confirmed it would not be a violation if the activity was sponsored by the Community Center or the Town. Councilmember Shea reminded Council that the ordinance, as written, exempted the activities at the Community Center completely. She expressed concern that the ordinance only exempted the Community Center; and, asked why other organizations, such as the Fire Department, were not exempt. Councilmember Littleton noted the presence of the American Legion in the town. Town Planner Beniamino confirmed these organizations could be added to

the exemption list. He reminded Council that the Community Center was added in response to concerns about the public fireworks display. Councilmember Snyder suggested the Council wait for other groups to ask to be added to the exemption list. Vice Mayor Kirk recommended an exemption for events sponsored by the Town or other events held on public property. Town Planner Beniamino reminded Council that the Community Center was not considered to be public property. Councilmember Littleton reminded Council that the Town was not experiencing problems at this time. Councilmember Patterson asked what would happen if the ordinance did not grant an exemption and on a movie night someone complained about the noise. She further asked whether the Chief would be obligated to tell the Community Center to stop the movie. Town Planner Beniamino noted that if someone were prosecuted for a noise violation, they could begin to pick on others for violations. Councilmember Shea advised Council that she didn't want the Council to create trouble because of the ordinance. Town Planner Beniamino recommended the Council follow the Town Attorney's advice and leave the language as drafted, changing it only if an abuse occurred. Councilmember Patterson expressed concern about other organizations who ask why they were not exempted for their outdoor activities. Vice Mayor Kirk expressed concern about the appearance of giving special favors to one group. Town Planner Beniamino advised Council that they could have the staff identify those events they wish to protect and say they are sponsored by the Town. Councilmember Shea recommended the ordinance state the events must be sponsored or approved by the Town; and, require the organizations to come before Council. Town Planner Beniamino reminded Council that some organizations did not plan well in advance. He noted that since the Council met only every two weeks, someone could be prohibited from holding an event. Councilmember Shea advised Council that she was fine with allowing the Town Administrator to give permission for the event. She explained that her concern was about identifying only the Community Center in the ordinance; and, suggested this was asking for problems. After further discussion, the Council agreed to allow an exemption for Town sponsored events; and, noted that any event for which the Town donated money would be considered a Town sponsored event. The Council further noted that they could revoke that authority if there were any problems.

### **Council Discussion – Rules of Conduct for Council Meetings**

Town Attorney Whiting reminded Council that she had concerns about whether the Town had sufficient guidelines in place to address public comments. She advised them that the agenda packet contained a short version of her recommendations, as well as the Council's existing rules which the Town Clerk found while conducting research. Ms. Whiting advised Council that they were in violation of their existing rules, as well as Town Code Chapter 3, regarding the starting time of the Council meetings. She noted that Town Code Chapter 3 also subjected the Council to an unknown edition of Robert's Rules of Order; and, advised that she needed to determine which set of Robert's Rules was in effect at the time the ordinance was adopted. Ms. Whiting recommended the Town not use Robert's Rules; and, noted that they were really for smaller organizations.

Ms. Whiting advised Council that their agenda packet also contained the Lynchburg City Council's Rules of Procedure. She noted that if Council were interested in using a similar document, there were some items that needed revision, such as the Mayor in Lynchburg is appointed from the elected Council which is not the case in Middleburg. Ms. Whiting noted that Lynchburg's ordinance also required two readings of an ordinance – something Middleburg's Charter did not require. She reiterated that the Council's operations were in conflict with the ordinance and existing public hearing rules; and, advised that she did not want to master Roberts Rules of Order. Ms. Whiting advised Council that if they don't believe they need as many rules as Lynchburg, she could get other examples; and, suggested Loudoun and Prince William Counties' rules may be considerably shorter. She reiterated her recommendation that Council not use Robert's Rules of Order.

Councilmember Snyder noted that the Council has been presented with two instances in which its rules of order have been ignored since written. He suggested the need for a short document that would cover the issue of problems regarding conduct, whether by the Council, public or staff. Town Attorney Whiting advised Council that she had no problem re-writing the rules from that perspective; however, she reminded Council of the need to have rules of procedure. Councilmember Snyder reiterated his recommendation that the rules be kept simple and address the main problems. Town Attorney Whiting advised Council that she could look at what motions may be in order at any given time and simplify them to the greatest extent possible.

Councilmember Shea noted the need to address the change in the Council's meeting time. She disagreed that the rules needed to be simple; and, advised that, while she did not necessarily want to see as much as was spelled out in Lynchburg's ordinance, she liked the idea of having the rules set out in a document. Ms. Shea noted that this would allow new Council members, staff and the public to know how meetings were conducted. Town Attorney Whiting confirmed that if a potential candidate did their homework prior to running for office, they would know the rules and would not have to draw conclusions from observing meetings. She noted her amazement that audience members took things a different way when they don't understand parliamentary procedures. Ms. Whiting reminded Council that there were rules for civic life; and, suggested everyone needed to know them.

Vice Mayor Kirk expressed her opinion that the Council has followed the existing rules, with the exception of requiring speakers to sign up. Councilmember Snyder advised Council that he has been with the Town for ten years; and, has never seen the existing rules. He further advised that he did not want to spend a lot of time developing rules that would be ignored.

Councilmember Shea expressed her opinion that the rules should reflect how the Council operates. Town Attorney Whiting noted that some of the items in Lynchburg's rules infringe on the rights of Council. She proposed to follow Virginia law in those cases. Ms. Whiting advised Council that she wanted to start this discussion by getting the topic before them; and, recommended that the staff conform Lynchburg's rules to how Middleburg has operated over the past twenty years. She noted that if the staff suggested any changes, they would explain why. Councilmember Littleton expressed his opinion that this was a good idea. Councilmember Shea expressed concern that if the Council did not have procedures in place, their votes could be questioned and challenged. Councilmember Littleton recommended the Town Attorney draft a set of rules. Town Attorney Whiting recommended the Town Clerk also participate in the drafting; and, noted her experience in this area.

Vice Mayor Kirk noted the need to amend the Town Code to reflect the existing starting time of the Council meetings.

*Councilmember Snyder moved, seconded by Councilmember Shea, that Council amend Town Code Chapter 3 to change the starting time of their meetings from 7:30 p.m. to 6:00 p.m.*

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

No – N/A

Abstain: N/A

Absent: Mayor Davis, Councilmembers Murdock and Plescow

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*Councilmember Snyder moved, seconded by Councilmember Shea, that Council amend their existing public hearing rules on an interim basis to change the starting time of the Council meetings to 6:00 p.m.*

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

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### **Council Discussion – Development of Operating Guidelines**

Councilmember Shea noted that Lynchburg’s Rules of Procedure cover many of the same issues. She recommended that this item be addressed through the adoption of the Rules of Procedure. The remaining members of Council agreed.

### **Council Discussion – Goals associated with 2025 Town Council Vision**

Councilmember Shea recommended this item be tabled until the entire membership was present. The remaining members of Council agreed.

### **Discussion**

Councilmember Patterson advised Council that she recently observed occurrences in which the Town’s public parking spaces have been blocked. She cited the example of the same spaces that have been blocked for the Salamander trucks as having also been blocked by cones; however, she noted that she did not know who was placing the cones in them. Ms. Patterson advised that if motorists move the cones and park in the spaces, they get a meter violation. She reminded Council that the Town used to have a policy that required those who blocked a public parking space to use a meter bag, with the individual having to pay a fee for the bag. Ms. Patterson expressed concern that the spaces were being blocked often and the Town was not getting revenue from them. She noted that it was also damaging Middleburg’s businesses. Ms. Patterson advised that she would either like for the Town to collect the revenue or that the spaces not be blocked. She cited an example of another business that placed mannequins in the parking spaces in front of their business for six hours, without having purchased the appropriate meter bags and without using the spaces the entire period. Ms. Patterson expressed her opinion that the Town needed to have a standard that it communicated to businesses if they were getting a delivery that resulted in spaces being blocked the entire day. Economic Development Coordinator Pearson noted that most businesses were aware of the policy; and, called the Town. Councilmember Patterson cited an instance of ten parking spaces blocked in one day – one by a property owner who blocked the space with a cone as she believed it to be her parking space. She advised that as a business owner, the businesses could not afford to have the spaces blocked. Ms. Patterson reiterated that if they were blocked, the Town needed to receive the revenue.

Town Administrator Schiro asked whether the Town could require Salamander to pay for the parking spaces it was blocking for truck deliveries. Town Attorney Whiting confirmed that it should. Councilmember Patterson noted the same problem with the Chet Hughey project, in that they blocked three parking spaces. Councilmember Shea asked who would address this matter. Councilmember Patterson confirmed it was a Police Department matter. Councilmember Littleton asked the Town Administrator to discuss this issue with the Police Chief. Vice Mayor Kirk expressed her opinion that the officers should know a mannequin was not an official space closure. She suggested the Chief encourage the officers to question whether spaces were appropriately blocked; and, noted that it was frustrating for motorists when they were trying to park.

Councilmember Patterson commended the staff for finding the perfect location for the Lion's Club Orange Sale. She noted that the new location was safer and would allow them to conduct more business.

Councilmember Patterson advised Council that she was appointed to the Loudoun Water Shed Advisory Committee; however, she has been unable to attend the meetings as they occur on the same night as the Council meetings. She noted that they have asked whether she plans to continue her service on the committee; and, advised that they are having difficulty achieving a quorum. Ms. Patterson reminded Council that this was not a board that was appointed by the Board of Supervisors, but rather was an advisory board. She noted, however, that a lot of the actions at the Supervisor's level were based on what this committee was recommending. She noted that they have talked about moving the Committee meeting to another day and time; and, advised that if this occurred, she may be able to attend the meetings. Ms. Patterson questioned whether there was another town that may be willing to take the town seat. Town Attorney Whiting suggested the Town of Hillsboro may be interested; and, noted that they have a councilmember who runs an environmental consulting business. She advised Council that Hillsboro was a town that could not be better placed on this committee given their water crisis. Councilmember Patterson advised Council that she would suggest the County seek a committee member from Hillsboro.

There being no further business, Vice Mayor Kirk declared the meeting adjourned at 7:28 p.m.

APPROVED:

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Darlene Kirk, VICE MAYOR

ATTEST:

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Rhonda S. North, MMC  
Town Clerk