



MIDDLEBURG TOWN COUNCIL
Regular Monthly Meeting Minutes
Thursday, December 10, 2009
Town Office, 10 W. Marshall Street
6:00 PM



PENDING APPROVAL

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

STAFF: Jerry M. Schiro, Town Administrator
Rhonda S. North, MMC, Town Clerk
Elizabeth D. Whiting, Town Attorney
David M. Beniamino, AICP, Town Planner
Steven L. Webber, Chief of Police
Cindy C. Pearson, Economic Development Coordinator

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting on Thursday, December 10, 2009 in the Town Hall Council Chambers, located at 10 W. Marshall Street. Mayor Davis called the meeting to order at 6:00 p.m. She led Council and those attending in the Pledge of Allegiance to the flag.

Public Comment

Kevin Hazard, of the Middleburg Country Inn and Hidden Horse Tavern, advised Council that he wanted to talk about the Christmas in Middleburg event. He thanked the volunteers for working on it; and, noted that it took a lot of time and was a hard thing to do. Mr. Hazard expressed his opinion that he liked having two separate parades; and, suggested that doing so did a number of things for the community. He explained that by having two parades people come into town at 11:00 a.m. for the first parade and then go to lunch and shop before attending the second parade. Mr. Hazard advised that some even stay after the second parade to eat and shop some more. He expressed his opinion that having separate parades helped the town. Mr. Hazard noted that he was sure the decision to combine them was a difficult one; however, he would like for the Town to go back to having separate parades.

Councilmember Littleton noted that he heard other citizens express the same desire. Vice Mayor Kirk and Councilmember Snyder noted that they had as well. Councilmember Littleton explained that these individuals felt that the time lapse allowed people to spend time and money in town. Councilmember Snyder noted that there was a great turnout for the parade. Councilmember Plescow noted that this was a tough test of combining the two parades due to weather conditions. She expressed her opinion that the parade was stunningly beautiful, even though it was cold and slushy. Councilmember Shea asked that an item be placed on a work session agenda for next year to talk about the event. Councilmember Snyder asked whether the Council made the decision on the parade times; and, noted that they did not set this one. Councilmember Shea explained that this was why she was asking that an item be placed on an agenda. Councilmember

Murdock reminded Council that the Town provided support services for the parade, including police officers and other staff members. Town Administrator Schiro confirmed that the Street Superintendent and Economic Development Coordinator provided support for the parade. Councilmember Snyder noted that he did not disagree; however, he was probing the issue deeper since the Town had not set the times in the past. Mayor Davis asked that the Town Clerk make a note in the tickler file to place this item on a work session agenda next year.

Approval of Minutes

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve the November 12, 2009 Regular Meeting minutes as amended.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Staff Reports

Town Administrator Schiro reported that the Town had received a FOIA request; and, responded to it. He further reported that he and the Mayor met with officials from Dominion Power regarding their plans to expand the power lines; and, most recently received a letter explaining their new course of action. Mr. Schiro advised Council that the completion of the water treatment plant had been delayed, not due to construction issues, but as the result of problems in getting the treatment package delivered. He reminded them that the Town had cautioned Salamander earlier in the project that they had not ordered the treatment package early enough. Mr. Schiro reported that the new substantial completion target date was March. He noted that the delay was not critical; however, he would like to get this project wrapped up as it could benefit the Town. Mr. Schiro reported that the wastewater treatment plant was scheduled for substantial completion by the end of January; and, that the gravity sewer line which was under construction was also on schedule. He noted that the Madison Street overlay that VDOT wanted was finished, with the exception of the striping of the parking spaces. Mr. Schiro reported that there was a sewer problem at 102 W. Washington Street; and, advised that the property owner was very cooperative, having delayed the repairs until after the Christmas parade. He advised Council that the Town had sold its surplus vehicles, with checks being received. Mr. Schiro reported that the Town received a quote for snow removal in the parking lots; however, it had not received a firm quote regarding the removal of snow from the parking spaces in the central business district. He noted that some individuals have indicated that they would respond if called.

Town Administrator Schiro advised Council that he received a letter from the Middleburg Community Center regarding damage that was done to their parking lot during the Christmas in Middleburg event. He noted that he met with their Director, as did Chief Webber. Mr. Schiro reminded Council that the Town did not advertise the Community Center as an event parking lot. Councilmember Murdock asked whether this lot was roped off to the public. Town Administrator Schiro confirmed that the Town installed no parking signs in the adjoining right-of-way, but not in the parking lot. He noted that he had suggested that next year the Community Center may want to rope off the lot. Mr. Schiro advised that he was not aware of the full extent of the damages, although he did see vehicles that were stuck. He expressed his opinion that this was not a Town responsibility. Vice Mayor Kirk concurred; and, suggested that if the Community Center was concerned, they should have had their own personnel on site.

Councilmember Snyder noted that he spoke with the Police Chief about the possibility of extending the no parking signs down Stonewall Drive along the alternate traffic route during the Christmas in Middleburg event; and, explained that he noticed that visitors were parking on the wet grass that went to the street. He expressed concern about damage to the lawns. Mr. Snyder noted that motorists parked on his lawn as well; however, there was no significant damage.

Councilmember Snyder requested that once the Town owned the water treatment plant, it have the Streetscape Committee look at possible improvements that the Town could reasonably finance, to the landscaping and screening along Stonewall Drive, particularly the view of the storage tank. He noted that he had spoken with many people regarding this issue; and, suggested there may be some additional things that could be done at a reasonable cost. Mr. Snyder suggested this be planned for the spring.

Town Administrator Schiro reminded Council that much of the event parking occurred within the public right-of-way, which the Town could control. Councilmember Snyder recommended that for special events, the Town should look to the extent of what was practical to control any issues. He expressed his opinion that the Police Department did an outstanding job; and, noted that he was only making suggestions to improve it. Vice Mayor Kirk reported that she noticed cars parked all around the Mayor's house; and, suggested that officers were needed on the back streets to keep traffic moving. She noted that this was the detour route. Councilmember Snyder suggested the need to discuss what was reasonable. Town Administrator Schiro advised Council that he was on the road that day with the Chief; and, suggested it was easy to say things during a meeting. He expressed his opinion that the Police Department did a remarkable job of traffic control; and, noted that the Council would not believe the number of calls the Chief was getting and the efforts taken to try to balance everyone's needs. Mr. Schiro explained that this was a difficult and dangerous situation in which to work. Councilmember Snyder explained that he would like to make improvements; and, noted that his comments were not a criticism. Councilmember Shea reminded Council that they wanted people to come to Middleburg; and, suggested they could not expect them to park too far away. She encouraged the need to make good decisions. Councilmember Patterson reminded Council that this was the first time in thirty years that it had snowed during the parade, resulting in no access to the overflow parking area. She explained that motorists did not want to park in the Salamander field. Ms. Patterson reported that the Salamander property was destroyed by those who did; and, advised that their response to this was a pleasant one. Councilmember Littleton noted that there were also horse trailers parked in Town, which was another reason to separate the parades. Councilmember Snyder noted that the Town experienced a similar situation of questionable parking during the Fourth of July event. He reiterated his suggestion that this be improved. Vice Mayor Kirk expressed her opinion that it would be helpful to have police officers in the back areas moving traffic; and, noted that once it stopped, there was no way to get around town. She stressed the need to keep the detour open; and, noted that she witnessed horse vans that were stuck. Councilmember Patterson noted that separating the parades would result in the need for police coverage during the entire day, not just the morning. Mayor Davis noted that some of the issues may have been the result of the weather; and, suggested that if it had not snowed, motorists would have parked in the field. She reminded Council that parking had not been a problem in the past even though more people were present. Councilmember Littleton suggested the Police Chief look at this matter; and, offer his recommendations. Councilmember Snyder noted that the event was successful; and, advised that he was very proud of it. He asked that his comments not be taken negatively. Councilmember Murdock noted that there were no serious accidents with the horses and trailers; and, expressed her opinion that the Police Department did an outstanding job. Mayor Davis thanked the Police Department, as well as the other law enforcement officers, for their hard work; and, noted that this event was difficult enough on a good day. She expressed her opinion that it required twice the effort this year.

Councilmember Murdock noted that she had not inspected the Police Department offices recently, although she had read the report. She asked the Police Chief whether the humidifiers were working. Chief Webber confirmed the offices were drier. Councilmember Snyder reminded Council that the Town had experienced 2.6 inches of rain thus far this month. Chief Webber reminded them that there was snow on the ground prior to the rain; and, noted that the ground was currently saturated. Councilmember Littleton assured Councilmember Murdock that there was no mold present in the offices.

Mayor Davis thanked the Economic Development Coordinator for her support of the Christmas in Middleburg event.

Town Planner Beniamino noted that his written report contained responses to letters from Patricia Thomas and George Archibald. He further noted that Councilmember Snyder previously raised the topic of landscaping at the water treatment plant. Mr. Beniamino reminded Council that both the Streetscape Committee and Planning Commission worked on the landscape plan associated with the treatment plant; and, advised that the issue was that Ms. Thomas wanted additional landscaping on property the Town would not own. He further advised that planting trees on Stonewall Drive in order to block the view of the water tower would be in violation of VDOT's entrance permit for the plant. Mr. Beniamino explained that the permit required that there be two hundred eighty feet of non-encumbered sight distance down both sides of Stonewall Drive. He confirmed that more plantings could occur on the actual site; however, he noted the need to avoid plantings near the underground utilities. Councilmember Snyder expressed an understanding of the issues; and, noted that this was why he asked that the matter be coordinated with the appropriate stakeholders. He noted that the Town would eventually take over ownership of this property; and, suggested the landscaping could be improved. Mr. Snyder agreed the Town may not do all that the adjacent homeowners would like; however, he suggested it should do what it could. Town Planner Beniamino reiterated that the landscape plan met the Town's ordinance requirements. Councilmember Snyder advised Council that he explained that to Ms. Thomas, as well as explaining that the ordinance was what it was and that the Planning Commission must go by it. He noted, however, that this did not mean the Town could not look at it again once it took ownership. Town Planner Beniamino noted that the evergreens that would be planted would be fast growing ones that would grow tall. Councilmember Snyder noted that he looked at the site; and, suggested the need to concentrate on the screening of the holding tank, which was what generated the most complaints. Town Planner Beniamino reminded Council that a more mature tree was less likely to be successfully transplanted. He explained that because the Town would ultimately own the property, the Streetscape Committee wanted to ensure the Town would have something that would live and grow. Councilmember Snyder noted that the Town would take ownership of the property in March; and, suggested that, at that point, it would be reasonable to look at the landscaping to see if it could be improved. Vice Mayor Kirk suggested the review occur before March. Councilmember Murdock agreed. Town Planner Beniamino asked whether the Council would like prices submitted with their recommendation. Councilmember Murdock confirmed that she would.

Councilmember Snyder expressed concern regarding the Colandrea property at 704 Stonewall Drive; and, noted that there were four vehicles parked there on a regular basis, some of which did not have Town vehicle stickers. He advised that the property contained a "for rent" sign; therefore, he was not sure why the vehicles were parked there. Vice Mayor Kirk confirmed there were people living there. Councilmember Murdock suggested there may be multiple families living there. She asked whether there were occupancy restrictions. Town Planner Beniamino advised Council that the Police Department could address the issue of a lack of vehicle stickers; however, he suggested that proving whether the individuals living within the residence were related or not would be very difficult. Town Attorney Whiting advised Council that she tried to steer her clients away from defining a family as no more than four unrelated individuals as this

definition was invalidated by the U.S. Supreme Court. Vice Mayor Kirk expressed her opinion that there were more than four vehicles parked at this property. Town Planner Beniamino advised Council that he could contact the Building Department regarding the number of people living there. He noted that he would have to go to the Building Inspection Offices and file an official complaint. Vice Mayor Kirk suggested the staff look at the property first. Councilmember Snyder agreed; and, suggested they provide Council with the options that were available.

Councilmember Snyder reported that the Town of Middleburg had received forty-one inches of rain thus far this year, only four inches behind Dulles. He further reported that Middleburg was ahead of Dulles from the standpoint of rainfall this month; and, expressed his opinion that the Town's water levels were acceptable.

Reports of Town Committees

Health Center Advisory Board

Vice Mayor Kirk advised Council that she would like to get the Health Center Fund money into something soon. Councilmember Littleton reminded Council that he had looked at the building; and, he and the Town Administrator had discussed replacing the windows and heating system. He advised that the price he received for replacing the heating/air system was \$45,000-50,000 for the entire building. Vice Mayor Kirk and Councilmember Snyder expressed their opinions that this was not a bad price. Councilmember Snyder asked whether it included the removal of the old system. Councilmember Littleton confirmed it did not; and, suggested it could be removed if someone wanted the metal. Councilmember Snyder noted that when he replaced his home system, he took bids and insisted on the removal of the old system.

Councilmember Murdock asked what would happen to the tenants of the building during the replacement. She further asked how long it would take. Councilmember Littleton advised Council that the contractor had been told that the building would be occupied; and, that they would have to work around the occupants. He noted that the contractor said this could be done. Councilmember Murdock asked what would happen to the Police Department during the period when there was no electricity. Councilmember Snyder reminded Council that the power would only be off during the time it took to actually switch it over, which was nominal. He noted that they would have power until the system was actually disconnected and reconnected. Councilmember Shea expressed her opinion that Councilmember Murdock was referencing the need to work in the Police Department. Chief Webber advised that he did not want to work in a building in which the contractor was working with asbestos while removing the old system. He expressed his opinion that the Department would need to relocate during the construction. Councilmember Littleton asked whether Chief Webber was concerned about the exposure that could result from taking the equipment out of the room. Chief Webber confirmed he was; and, noted that he had health issue concerns related to the removal of the asbestos. Councilmember Murdock suggested the Police Department be relocated until the asbestos was removed and the dampness shored up. Councilmember Littleton reminded Council that unless concrete was installed on all of the surfaces below the steps, the Town would always chase the dampness. He further reminded them that the Town previously dug up the foundation and re-pointed it. Town Administrator Schiro expressed his opinion that this space was not worth a substantial investment; and, suggested that it could be used for storage. He reiterated that it was not a good investment to put a substantial amount of money into the space for office use. Councilmember Murdock asked that Councilmember Littleton look into turning the Town's three-bay garage into a police station. Vice Mayor Kirk expressed her opinion that the Police Chief was working on an alternative. Chief Webber confirmed that the property owner he had been working with was willing to donate property to the Town; and, that he had worked with Bill Turnure on a building plan. He noted, however, that there would be a cost to finance the new building. Councilmember

Murdock expressed her opinion that the Department needed to be moved to temporary quarters. Vice Mayor Kirk noted that there was no restroom at the location suggested by Councilmember Murdock. Councilmember Murdock asked that the Town explore the option. Councilmember Littleton agreed to do so. Town Planner Beniamino reminded Council that any changes to the garage bay must be ADA compliant; and, expressed his opinion that it would not be possible to get temporary offices in this space. He advised that he was not sure of its zoning; and, noted the need for a site plan and building permits. Mr. Beniamino suggested it could be done; however, it may be expensive. Councilmember Murdock reiterated her request to look at this option.

Vice Mayor Kirk suggested that \$240,000 of the Health Center Fund be placed into certificates of deposit, leaving \$160,000 for building repairs. She noted that this could wait a little bit. Town Administrator Schiro confirmed that it could wait; and, noted that the certificates were not paying that much. He reminded Council that the Town had a limited number of options for the investment of public funds as the vehicle must be insured and guaranteed.

Loudoun County Community Action Board

Councilmember Shea reported that arrangements were being made to consolidate the Loudoun County Community Action Board into the Fauquier County group. She reminded Council that this group consisted of Fauquier and Prince William Counties, the City of Manassas and Manassas Park. Ms. Shea reported that the Board's last meeting was fairly contentious because if the shift was not done properly, this could result in monies not being distributed within Loudoun County. She noted that there was a push by Family Services to do this transition within a five-year period instead of following the direction that they must make the arrangements within a five-year period. Ms. Shea reported that Supervisor York's representative was not happy with the possibility that monies for Loudoun County could be lost. She noted that the Board asked that the agreement contain a provision that would allow them to allot the money, with it then being distributed through the new body. Ms. Shea reported that the Board would also lose a number of seats when it merged into the larger body; and, explained that Loudoun County could only have 17% representation. She noted the need to evaluate whether it was worth having a representative from Middleburg on the Board at that time. Ms. Shea advised Council that she was not happy with the way this matter was handled. Mayor Davis noted that she met with another board member who was also not happy.

Action Items (non-public hearing related) –

Council Appointments – Boards and Commissions

Town Clerk North reported that all of the members whose terms were about to expire had been contacted; and, all agreed to serve if re-appointed, with the exception of Susan Webb. She explained that Ms. Webb's schedule no longer allowed her to serve on the Pink Box Advisory Board.

Councilmember Murdock moved, seconded by Councilmember Snyder, that Council re-appoint Kevin Hazard to the Planning Commission for a four-year term, said term to expire December 31, 2013. Councilmember Murdock further moved, seconded by Councilmember Snyder, that Council re-appoint Karen Jackson and Jane James to the Health Center Advisory Board for two-year terms, said terms to expire December 31, 2011. Councilmember Murdock further moved, seconded by Councilmember Snyder, that Council re-appoint Audrey Bergner, Mary Kay Garwood, JoAnne Hazard, Rita Lang and Dana Reuter to the Pink Box Advisory Committee for two-year terms, said terms to expire December 31, 2011. Councilmember Murdock further moved, seconded by Councilmember Snyder, that the Council recommend to the Judge of the

Circuit Court, the re-appointment of Kathy Ribaldo to the Board of Zoning Appeals for a five-year term, said term to expire December 31, 2014.

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

Mayor Davis asked that any seats that became available in the future be advertised; and, explained that she would like to know if there were other individuals who may be interested in serving. She noted that this did not mean the Council would not re-appoint the existing members. Councilmember Murdock asked whether the advertising should be in the newspaper or simply on the Town’s website. Vice Mayor Kirk asked that it be done in the newspaper as well; and, suggested the papers may handle it as an article. Councilmember Snyder noted that he saw advertisements for other towns; and, suggested the Mayor had a good point. Mayor Davis suggested this be done as a habit. Councilmember Snyder agreed; and, noted that this would provide someone with an opportunity to contribute if they wished. Councilmember Murdock noted that people were coming into the Pink Box and expressing an interest in volunteering.

Council Approval – Resolution of Appreciation – Christmas in Middleburg Committee

Mayor Davis thanked the members of the Christmas in Middleburg Committee, particularly DeeDee Hubbard and Reggie Dawson, and the volunteers for putting the event together. She noted that it was a thankless job that involved a lot of work throughout the entire year. Ms. Davis advised that the Council had the resolution for adoption; and, suggested the Committee Co-Chairs be invited to next month’s Council meeting for its presentation.

Councilmember Shea expressed concern that some volunteers were not listed in the resolution. She further expressed concern about slighting someone by not listing all of the names. Vice Mayor Kirk noted that some names needed to be pointed out, such as DeeDee Hubbard and Reggie Dawson. She expressed her opinion that the Town may never get a complete list. Councilmember Snyder suggested that anyone who may have been left off the resolution be added before the Council presented it to the Co-Chairs next month. Economic Development Coordinator Pearson noted that some people just showed up, while others who volunteered did not. Mayor Davis suggested the phrase “and any additional volunteers we may have missed” be added to the resolution. Councilmember Patterson suggested the Red Fox Inn should be included as they were a major sponsor. She noted that the Christmas in Middleburg Committee agreed to recognize those people whose properties were utilized for the day as a major sponsor.

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council identify any additional contributors and adopt a Resolution of Appreciation for the volunteers associated with the 2009 Christmas in Middleburg event.

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

Vice Mayor Kirk suggested that members of Council send any names that they were aware of to the Town Clerk. Mayor Davis reiterated her suggestion that the phrase “and all of our many volunteers” be added.

Council Approval – Referral of special use permit application to allow office use on first floor to Planning Commission – 7 W. Washington Street

Town Planner Beniamino noted that there was a letter from McCullough and Associates on their desks which came in last week after the agenda was distributed. He explained that because the Planning Commission was meeting early this month due to the holiday, he wanted to get this process started and get this item before them in December. Mr. Beniamino advised the Council that the request was related to the front part of the building owned by Charles Carroll, where the archway was located. He reminded them that it was located in the C-2 Commercial District, which did not allow office uses on the first floor without a special use permit. Mr. Beniamino explained that the reasoning behind this requirement was that the Town did not want offices to compete with prime retail space in the core district, creating dead spots. He noted, however, that this building was one of the few in town that did not lend itself to retail use due to its hidden nature. Mr. Beniamino reiterated that Mr. Carroll wanted to rent it out for office use; and, advised that he was asking for a special use permit to convert all of the spaces if deemed appropriate. Councilmember Murdock asked whether it was possible to place an expiration date on the special use permit. Town Planner Beniamino confirmed the Town could include a renewal date on the permit. He advised that he was asking the Council to refer this item to the Planning Commission as required by State law. Councilmember Snyder asked whether it was possible to restrict this to spaces that were not fronting a public street. Town Planner Beniamino confirmed it was. Mayor Davis reminded Council that the Byrne Gallery was located in this area. Councilmember Shea noted that a real estate office was located next door. Town Planner Beniamino reminded Council that real estate offices were not bound by the professional office use rule. He reiterated that the applicant was asking to handle all of the space as one request so he would not have to pay a fee for each one. Mr. Beniamino advised that he was only asking the Council to refer this matter to the Planning Commission so they could work out the issues. Councilmember Snyder expressed his opinion that if the Planning Commission did not come back with something that was very restrictive, there was no point in sending the request to them. He advised that he was not amenable to converting retail space to office space in the middle of the commercial district. Councilmember Shea expressed her opinion that this was a unique set-up in the town; and, noted that it only had two store fronts, with the rest of the space located in the back. Councilmember Snyder explained that this was why he wanted to restrict this to spaces that did not abut the front street. He confirmed that he was willing to consider something; however, he was trying to protect the retail space. Mr. Snyder reminded Council that the property owners could often get more rent for office use than retail; and, reiterated that the Council was trying to preserve the retail space and was concerned about increasing rents. Councilmember Patterson expressed her opinion that if the buildings were more profitable, the rents may stay low for the other spaces. Town Planner Beniamino noted that he planned to research some of the issues raised by the Council once this item reached the Planning Commission. He reminded Council that there was not a lot of retail in the back hallway of this building. Councilmember Murdock noted that it was currently dead space; and, advised that she would rather see the space used. Vice Mayor Kirk agreed. Councilmember Murdock expressed her opinion that this was not a good retail area. Mayor Davis reminded Council that the regulations were designed to assure that office space did not visually close off places; however, she suggested that it was not intended to affect this type of space. She agreed with Councilmember Shea that this space was more second floor space that was accessed from the rear.

Vice Mayor Kirk moved, seconded by Councilmember Plescow, that Council refer a request for a special use permit to allow an office use on the first floor of 7 West Washington Street to the Planning Commission.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Vice Mayor Kirk suggested that Councilmember Patterson take the Council’s concerns to the Planning Commission. Councilmember Murdock reiterated her concern about seeing the building remain empty.

Council Approval – Referral of zoning ordinance changes to Planning Commission

Councilmember Patterson noted that she had been talking to the Town Planner for the last three months about her concerns related to the hoops that new businesses must go through to occupy existing commercial spaces. She explained that she would like for the Planning Commission to look at the regulations for existing buildings in all of the commercial districts where the spaces were not being utilized, particularly the second stories. Ms. Patterson reminded Council of the current need for a site plan review by the Planning Commission and zoning permit review by the Council. She further reminded them that the existing buildings for many of the properties went all the way to the property line. Ms. Patterson noted that a four hundred square foot area could need an engineering drawing that could cost \$5,000 just to start the process. She reminded Council that as long as the proposed use was allowed by ordinance and met all of the Town’s requirements, they could not deny the request.

Councilmember Patterson explained that she was trying to find a location for a museum; and, was told by the staff that a site plan was needed since a museum use did not currently exist in town. She noted that the Town would have to pay for an allowable use because one did not currently exist, which started her thinking about the Planning Commission’s role. Ms. Patterson expressed her opinion that the Planning Commission was just that, not a zoning board; and, suggested that they have not moved forward with their planning responsibilities. She noted that they were not complaining. Ms. Patterson explained that there was a split perspective on the Planning Commission regarding her opinion; and, advised that she would like to run this by them to see if there were any areas in which the Commission and Council were comfortable reducing the requirements so they were not so onerous and expensive. Councilmember Murdock agreed the processes could be a deterrent. Town Planner Beniamino noted that there was also a time issue for people who wanted to start their own business. He cited the Chinn’s Crossing Project as an example. Councilmember Patterson noted that she was not talking about addressing new construction or a residential building in a commercial district. Councilmember Snyder noted that he wanted to protect the residential uses above the commercial uses; however, he was willing to explore this matter. Mayor Davis noted that the Town of Leesburg experienced similar issues and explored the options. She suggested that in this economy, the Town needed to be friendly.

Councilmember Patterson advised Council that she was mostly talking about spaces that were 450-600 square feet, which would require a unique, special business to occupy. Councilmember Murdock asked whether, if approved, the applicants could work with the Town Planner; and, not go through hoops. Councilmember Patterson confirmed this could potentially occur. Councilmember Murdock noted that this would allow them to open their business sooner, providing the Town with revenue sooner. Councilmember Patterson suggested the Town’s

zoning ordinance must be improved if this process was transferred to an administrative one. Councilmember Murdock suggested that if the applicant was meeting the Town Code requirements and the boards were just passing paper, this was a waste of time. Town Planner Beniamino expressed his opinion that this process was put in place when the Town did not have a full-time planning staff. He noted, however, that there were two sides to this coin; and, explained that currently the Town had the ability to gain public improvements, such as sidewalks, through this process. Mr. Beniamino further explained that making this an administrative process would remove that ability. He expressed his opinion that the question was whether Middleburg had the market to attract smaller businesses. Councilmember Patterson expressed her opinion that what the Planner said was true in the C-1 and C-3 Districts; however, not in the C-2 District. She suggested there was not a lot of potential for public improvements in the C-2 District. Town Planner Beniamino noted that there was the potential for parking improvements in this district; and, reminded Council that applicants were currently required to pay \$15,000/space if they could not provide the parking. Councilmember Murdock suggested the Town was out-pricing itself with improvements. She expressed her opinion that if the Council wanted to encourage business growth, they needed to re-think their strategies. Ms. Murdock advised Council that she did not envision a small business providing three parking spaces. Councilmember Snyder expressed concern about losing the apartments above the businesses; and, advised that he did not want to streamline the process to change residential spaces to commercial ones. He further advised that if the space was already in a commercial use, he would agree.

Councilmember Shea asked whether Councilmember Patterson had drafted the ordinance changes that she would like to see. Councilmember Patterson confirmed that she had not; and, explained that she only discussed this matter with the Town Planner earlier in the week. She further explained that the reason for the push at this time was that there was an election coming up next year, with four members of Council up for re-election. Ms. Patterson expressed her opinion that this Council strongly supported change in the ordinances; and, noted that the Planning Commission worked well with this Council. She explained she wanted this Council to work on this item with the Planning Commission. Councilmember Shea asked about the next step in the process. Councilmember Patterson explained that the first step would be to refer the matter to the Planning Commission. She asked that if any members of Council had ideas or thoughts that they talk with her or the Town Planner. Town Planner Beniamino asked, if Council referred this matter to the Planning Commission, that they develop a consensus as to what they were asking of them. He noted the delay caused by the Planning Commission sending something to the Council on the sidewalk ordinance that they did not want. Mr. Beniamino reiterated his request for a consensus. Councilmember Snyder expressed his opinion that Council was doing so; and, noted that he did not want to consider a change in the process for changing residential uses to commercial ones – only to look at a change for one commercial use to another. Councilmember Patterson explained that she was looking to streamline the process in order to eliminate delays. Vice Mayor Kirk expressed her opinion that the Council wanted new businesses in sooner. Town Planner Beniamino expressed his opinion that Council wanted to promote small businesses as much as possible. Councilmember Snyder expressed his opinion that between the Planning Commission and staff, the Council would get some good ideas that were worth consideration. Town Planner Beniamino expressed his opinion that the Council was saying that they did not want this process to affect the change from residential to commercial uses; and, that they were only in support of having the Planning Commission analyze a change in process to allow an existing legal commercial building to change to another legal use within two years upon the signing of a permit. He reminded them that currently a change from one allowed commercial use to another required the submission of a site plan and review by the Planning Commission. Councilmember Littleton reminded Council that under the current process, if the application were allowed by Code, it would get approved anyway. Town Planner Beniamino noted that there may be landscaping, variances and parking issues that were addressed as a part of the site plan review process. He reminded Council that under Councilmember Patterson's proposal, the Town would

not gain any public improvements unless a building was expanded. Mr. Beniamino expressed his opinion that the process the Council was discussing involved the change from one use to another. Councilmember Shea asked whether this involved a change in business or use. Town Planner Beniamino explained that this was what was being discussed. He noted that currently if a building contained a hair salon and the owner wanted to put in a lawyer's office, this would require a site plan and review process. Councilmember Snyder suggested the site plan review process be restricted to something involving a large commercial use that would require a significant change in parking. He further suggested that if the change were trivial that the Town should just ignore it. Councilmember Littleton agreed. Councilmember Patterson suggested that this be reviewed from a square footage standpoint, such as less than one thousand square feet. Councilmember Snyder expressed his opinion that the Council had given the staff reasonable direction. Councilmember Patterson agreed. She expressed her opinion that the Council agreed there should be no offices on the first floor. Councilmember Murdock noted the exception of the previously discussed location. Councilmember Patterson confirmed that she still wanted an office use to be required to obtain a special use permit in order to deter that use.

Vice Mayor Kirk moved, seconded by Councilmember Snyder, that Council refer changes to the zoning ordinance related to site plans in the Commercial Districts for existing commercial use buildings to the Planning Commission.

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

Discussion Items

Draft ordinances pertaining to the Farmers Market & Arts Council committees

Economic Development Coordinator Pearson advised Council that she had spoken with both the Farmers Market and Arts Council Committees regarding the proposed ordinances. She advised that the Farmers Market Committee was thrilled with how the market ran this year; and, noted that the draft ordinance would allow them to operate under the Town's insurance, with the vendors providing their own liability insurance. Ms. Pearson further noted that they would not have to become a 501(C)3 organization or have by-laws if the Council approved this ordinance. She reiterated that it would allow the market to continue to operate as it did this year. Ms. Pearson noted that the vendors were all very appreciative of the way the market was operated as it kept the fees down. She reiterated that this ordinance would allow them to continue to operate as they did this year. Vice Mayor Kirk asked whether a Council representative should serve on the committees. Councilmember Snyder noted that they did not serve on other committees. He suggested it would also set a precedent by having a staff member serve as a member of a committee; and, expressed his opinion that this was not a good idea. Mr. Snyder advised that he would rather have the staff serve as advisors. Town Administrator Schiro recommended that they serve as ex-officio members. Councilmember Snyder recommended the terms of office be staggered so the Council was not re-appointing the same individuals yearly. Economic Development Coordinator Pearson recommended that this be changed next year; and, explained that the committees did not have enough people willing to serve to stagger the terms yet. She further explained that the ordinances were written as they were because this was something they could do this year. Ms. Pearson reiterated her request that the terms be staggered after that. Councilmember Snyder noted that the Council usually appointed some members to a one-year term and others to a two-year term when a committee was first formed. He expressed his opinion

that this would be less disruptive; and, would allow the process to work smoothly. Mr. Snyder advised that, otherwise, the proposals were good ones. He agreed the Farmer’s Market went well this year. Mayor Davis asked whether the changes would be made to the ordinance, with the Council then voting upon them. Economic Development Coordinator Pearson asked that the Council vote on the ordinances with those changes; and, explained that the committees needed them in order to move forward.

Councilmember Snyder moved, seconded by Vice Mayor Kirk, that Council approve the ordinances as amended.

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

No – N/A

Abstain: N/A

Absent: N/A

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

Economic Development Coordinator Pearson asked that Council also approve the Arts Council ordinance. Vice Mayor Kirk noted that the motion was intended to address both ordinances. Councilmember Snyder noted that the amendments applied to both.

Town Council Goals

Councilmember Shea noted that she wrote four of the goals, with Councilmember Patterson having written the goal on future sustainability. She asked whether there were any questions or comments. Councilmember Plescow expressed her opinion that Councilmember Shea did an excellent job; and, noted that she deserved all the credit. Councilmember Shea suggested that if Council accepted the goals as written that they also attach the previous suggested goals so they could all be reviewed in a year when the new goals would be formed. Vice Mayor Kirk asked whether Council needed to take action on the goals as listed. She further asked whether someone needed to address goals one, two and three. Councilmember Shea suggested that Council first needed to accept the list. She advised that Councilmember Snyder had recommended a change in the wording for item #4. Ms. Shea explained that he would like to change the word “should” to “shall”. Councilmember Patterson noted the typo that existed in the dark sky reference. Councilmember Snyder recommended the quotation marks around “dark sky” simply be removed. Councilmember Shea agreed. She asked whether Council needed to vote on the goals list as proposed. Council agreed to adopt the list by consensus. Councilmember Shea noted that they would be reviewed in one year; and, advised that they were written so as to be measurable. Mayor Davis asked whether the list could be electronically sent to the Council. Town Clerk North confirmed that she would revise and distribute them. She noted that she would also place an item in the tickler file to review the goals in one year. Vice Mayor Kirk asked whether the Council should set a timeframe for sending item two to the Go Green Committee. Councilmember Shea advised Council that they were already working on it. Councilmember Murdock expressed her opinion that the Middleburg Foundation was the tricky item. Councilmember Shea reminded Council that that particular goal only said the Council would find someone to begin the process. Vice Mayor Kirk recommended that Council think about who could do so.

Information Items

Vice Mayor Kirk announced that she received two additional letters thanking the Town for the donations from the Health Center Fund – one from Middleburg FISH and one from the Windy Hill Foundation. She noted that she sent the Health Center Advisory Board members an update

letting them know of the letters and public comments received during the last Council meeting. Ms. Kirk further noted that she also reported that the Town was working on repairs to the building, as well as investigating putting the Fund balance into certificates of deposit.

Vice Mayor Kirk announced that the Upperville Fire Department would hold a breakfast on Sunday, December 13th.

Councilmember Murdock reminded Council of the Holiday Luncheon scheduled for December 11th. She noted that she could use some assistance in setting up the room.

Councilmember Shea announced that the Volunteer Fair would be held on January 16th at the Middleburg Community Center. She noted that letters regarding the event would go out within the next week. Ms. Shea advised that, unless there was an objection from Council, she intended to meet with representatives from the Community Center to see if they would be willing to take over this event next year as a community event. Councilmember Murdock asked about the time of the event. Councilmember Shea expressed her opinion that it would occur from 2:00-6:00 p.m.

Councilmember Patterson reported that some of the area businesses were trying to organize Christmas caroling over the next couple of weeks. Vice Mayor Kirk noted that the Middleburg Baptist Church did Christmas caroling around town. Economic Development Coordinator Pearson reported that the Methodist Church would be caroling around town on December 20th.

Mayor Davis reminded Council of the letter they received regarding local mail at the post office. She reported that the post office had agreed to allow stamped Middleburg mail to be put in the mail slot, with that mail then being placed directly into the Middleburg recipient's post office box. Councilmember Murdock expressed her opinion that the signage was not clear. She recommended that customers tell the post office about this. Mayor Davis expressed her opinion that it was good news that letters mailed from Middleburg to Middleburg would stay here. She noted that a package she mailed in June was just returned to her this week.

There being no further business, a motion was made to adjourn the meeting at 7:22 p.m.

APPROVED:

Betsy A. Davis, MAYOR

ATTEST:

Rhonda S. North, MMC, Town Clerk