



MIDDLEBURG TOWN COUNCIL
Regular Monthly Meeting Minutes
Thursday, September 23, 2021



PENDING APPROVAL

PRESENT: Mayor Trowbridge M. Littleton
Vice Mayor Philip M. Miller
Councilmember Chris W. Bernard
Councilmember J. Kevin Daly
Councilmember Morris “Bud” Jacobs
Councilmember Peter Leonard-Morgan
Councilmember Cindy C. Pearson

STAFF: Danny Davis, Town Manager
Rhonda S. North, MMC, Town Clerk
William M. Moore, Deputy Town Manager
A.J. Panebianco, Chief of Police
Ali MacIntyre, Director of Business Development & Community Partnerships

ABSENT: Councilmember Darlene Kirk

The Town Council of the Town of Middleburg, Virginia held their regular monthly meeting, beginning at 6:00 p.m. on Thursday, September 23, 2021 in the Town Hall Council Chambers located at 10 West Marshall Street. Mayor Littleton led Council and those attending in the Pledge of Allegiance to the flag. The roll was called at 6:00 p.m. Councilmember Pearson announced that she was participating in the meeting remotely from her home due to medical reasons.

Special Recognition by Mayor & Council

Resolution of Commendation – Cuppa Giddy Up 20th Anniversary

Mayor Littleton read the resolution aloud. He congratulated Leslie Minko, owner of Cuppa Giddy Up, and noted that this was an unbelievable achievement for a small business.

Councilmember Jacobs moved, seconded by Councilmember Daly, that Council adopt a resolution commending Cuppa Giddy Up for celebrating their 20th anniversary on September 11, 2021.

Vote: Yes – Councilmembers Miller, Bernard, Daly, Jacobs, Leonard-Morgan and Pearson
No – N/A
Abstain: N/A
Absent: Councilmember Kirk
(Mayor Littleton only votes in the case of a tie.)

Mayor Littleton presented a framed copy of the resolution to Ms. Minko.

Public Comments

Doug Camp and Joe Curci, Director of Sales & Marketing and Resort Manager respectively for the Salamander Resort, introduced themselves to the Council. They encouraged the members to contact them if they ever needed anything.

Will McCullough, 207 Chestnut Street, noted that he heard Christmas in Middleburg may not occur this year. He volunteered his assistance to help organize it and opined that it should not be limited. Mr. McCullough suggested that if people would not mask up or get vaccinated, they should stay home.

Terry Milton, 408 Stonewall Avenue, advised Council that she was experiencing problems with water run-off. She noted that she tried to redirect it; however, VDOT removed her berms when they repaved the street. Ms. Milton advised that she also tried to install a drain. She reported that the corner of her home had been damaged due to the run-off and expressed concern about the potential for damage to her septic system. Ms. Milton opined that she had done all she could to protect her property and noted that VDOT said it was not their responsibility. She asked for ideas to resolve this problem.

Public Presentation

Review of Stormwater Drainage Issues in Middleburg

Town Manager Davis advised Council that Kim McCool, of the Virginia Department of Transportation (VDOT); a representative from Delegate Wendy Gooditis' office; and, concerned citizens were present for this discussion item. He explained that when Middleburg was developed, stormwater management was not addressed; therefore, issues have arisen on private property. Mr. Davis expressed hope that VDOT would hear the comments associated with this issue, conduct research, and return with some options for addressing them. He noted that VDOT had some challenges in that it could not work on private property and could only address the issue of how the water came off the right-of-way onto private property. Mr. Davis reminded Council that the Town was not responsible for stormwater management and advised that the question was whether it should help the property owners or press the State to provide assistance.

Mayor Littleton noted that this was a pervasive issue. He further noted that VDOT handled roads and the diversion of water. Mr. Littleton inquired as to VDOT's responsibility when their actions caused water to infiltrate private property.

Ms. McCool reminded Council that VDOT was mainly responsible for roads. She explained, however, that when they undertook a new road construction project, they were also responsible for drainage. Ms. McCool opined that what was being experienced in Middleburg was different, as it was not related to a new project. She advised that VDOT was limited as to what it could do in that case. Ms. McCool reiterated that they must stay within the rights-of-way and maintain the water flow patterns and could not change the pattern or increase the amount of water that traveled onto private property when they did a project.

Mayor Littleton noted that when VDOT repaved the streets in Middleburg, it raised the height of the roads, which increased the amount of water going onto private property. He questioned their responsibility to mitigate these issues.

Ms. McCool advised that VDOT would look at the issues to determine their responsibility and noted that they must look at each one on a case-by-case basis. She further noted that VDOT could not fix things from the past. Ms. McCool advised that if there was an identified solution that VDOT could implement, they would work with the property owner to do so.

Councilmember Leonard-Morgan noted that there was an issue at the Episcopal Church cemetery that was created after the pitch of Jay Street was changed. He further noted that VDOT did some work a couple of years ago that they thought would address the problems; however, it did not. Mr. Leonard-Morgan advised Ms. McCool that there were graves that were being threatened by the storm water runoff.

Ms. McCool acknowledged that this was an ongoing issue. She confirmed a storm drain culvert was replaced; however, it did not achieve the desired goal. Ms. McCool advised Council that that issue had been looked at a number of times, including again today; however, she noted that it was complicated, as the water that was contributing to the problem was coming from different directions. She reported that she visited the site earlier in the day and that their hydrology engineer visited it previously. Ms. McCool advised that she would research this further and return with a response.

In response to an inquiry from the Mayor as to whether VDOT would remediate the issues since it changed the flow of water, Ms. McCool reiterated that she would take this back and would return with a response. She noted that they would look at whether VDOT did something that was the sole cause of the issues and, if so, would remediate it. Ms. McCool suggested it may be offsite water or water created as a result of other development; and, noted that it was allowed to cross through the right-of-way. She advised that if this was the case, they would work with the upstream property owner(s) to evaluate the issues; however, she noted that VDOT could not control everything. Ms. McCool acknowledged that VDOT repaved the streets; however, she suggested there may have been other development that occurred since that time that contributed to the increased water runoff.

Mayor Littleton noted that the Town could identify when things were built to determine whether it was a contributing factor; however, he advised that nothing had been built in the area of the Episcopal Church since VDOT replaced the culvert. He asked for a commitment that VDOT would look into these issues and, if there were no other contributing factors, would remediate the water flow to its original state. Mr. Littleton opined that private property owners should not have to address these problems if VDOT was the sole entity who changed the way the water flowed.

Ms. McCool committed to looking into the issues and advised that if they found that VDOT caused them, they would address them. She noted that there were problems all over and stressed that VDOT was not set up to repair water drainage issues everywhere. Ms. McCool noted that they were working with the County to develop a program to address them.

Mayor Littleton advised that the Town would be happy to advocate for the State to provide money to address them.

In response to concerns expressed by the Council about doing another study, Ms. McCool advised that this would not be a study but rather would be a fact-finding mission on what had been done in the past. She acknowledged that the culvert replacement that was done three years ago did not resolve the storm water issue at the cemetery.

Councilmember Pearson advised that before VDOT repaved the streets, there were crowns in the roads, which allowed the water to travel off them and drain down the sides. She reported that the water now traveled to the lowest spot and advised that her street (West Marshall Street) looked like a river when it rained. Ms. Pearson asked that VDOT look into that as well.

In response to an inquiry from the Council as to whether there were any precedents for VDOT to work with property owners to work beyond the right-of-way, Ms. McCool confirmed there were always exceptions. She advised that if there was a drainage easement, VDOT could go on private property. Ms. McCool further advised that if they were doing a major road project, they would acquire additional right-of-way. She noted that the maintenance crews also performed minor work on private property, such as the trimming of trees, with the owner's permission. Ms. McCool confirmed there have been instances in which VDOT acquired an easement from property owners to tie its drainage system into a natural system.

Councilmember Jacobs noted the photographs provided by Ms. Milton. He also noted that the water runoff threatened her septic system. Mr. Jacobs advised Ms. McCool that the Town obtained its water from wells; therefore, one of its priorities was to eliminate septic systems in order to protect its source water. He explained that this occurred by having property owners connect to the Town's sewer system. Mr. Jacobs advised that VDOT's policy that required a bond for any future maintenance associated with the sewer connection placed a burden on the property owners, which made the connection of their properties to the Town's sewer system beyond their reach. He questioned whether VDOT would offer some flexibility to allow property owners to avoid posting a minimum of a \$10,000 bond.

Ms. McCool agreed to look into that and provide a response to Town Manager Davis. She committed to returning to the October 28th meeting to provide a response on the other items.

Council asked Delegate Gooditis' office to look into these issues as well.

Staff Reports

Update on Holiday and Christmas in Middleburg Activities

Michelle Myers reminded Council that two weeks ago, they talked with Jim Herbert about their concerns. She noted that the issue was event capacity and opined that the easiest way to limit it was to limit the number of parking passes sold to 1,000. Ms. Myers advised that this would limit the capacity to 6,000-8,000 attendees.

Ms. Myers advised that it was a challenge to get the businesses to be event sponsors this year; therefore, they were having difficulty raising money. She asked that the Town subsidize the bus costs. Ms. Myers noted the need to reduce the number of people on each bus, which would increase the costs. She advised that the Christmas in Middleburg Committee was happy to message the need for attendees to wear masks and social distance, as well as to target a smaller event. Ms. Myers advised that they were trying to reduce the event's costs by eliminating paper handouts and would instead provide information digitally. She reiterated her request for assistance with the bus costs and noted that in 2019, the Town provided \$15,000 toward it.

The Council held some discussion of possible ways to ensure attendees social distanced.

Ms. Myers advised Council that she anticipated the cost of a parking pass may increase. The Council noted that Christmas in Middleburg was a private organization; therefore, it was up to them to set the price. They also noted that people may seek to park elsewhere and suggested the need for additional "no parking" signs around town.

Chief Panebianco reported that they limited parking in the residential areas to one side of the street so the residents would have a place to park. He advised that he would limit it where he could; however, there were people who parked on Route 50 and in other locations that would provide for an estimated two hundred additional cars. Chief Panebianco advised that he did not know how to enforce the parking limits without bringing in tow trucks.

The Council acknowledged the additional parking that would occur. They asked that the number of parking passes sold by Christmas in Middleburg be reduced to six hundred (600).

In response to an inquiry from the Council as to the COVID positivity rate at which the event should be cancelled, Ms. Myers advised that she did not know what it should be, nor could she predict what would happen going forward. She suggested they start selling parking passes on October 1st and then determine the amount of demand. Ms. Myers noted that if necessary, everything could be cancelled prior to the event without incurring a financial hit, with the exception of the permits for the food trucks.

The Council noted that Christmas in Middleburg was different than Oktoberfest in that Oktoberfest was in a small area and the Town could not control who would show up for it, whereas Christmas in Middleburg was spread out over a larger space and a restriction could be placed on the parking.

Vice Mayor Miller questioned how small the event could be and still be successful. He noted that 6,000 people was still a lot and advised that the CDC recommended there only be 1,300.

Ms. Myers confirmed it did not make sense to move forward with only 1,300 people, as it cost \$80,000 to put on Christmas in Middleburg. She noted that the only revenue sources were from the parking passes, the sponsorships and the Town's subsidy. Ms. Myers suggested the duration of the event could be reduced by reducing the number of parade entries, which would reduce attendees' exposure time. She opined that 6,000 attendees was the lowest they could go.

After some discussion, the Council agreed to help offset the cost of the buses.

Councilmember Bernard moved, seconded by Councilmember Jacobs, that Council approve the expenditure of funds of up to \$20,000 for Christmas in Middleburg for the use of buses to shuttle visitors.

Vote: Yes – Councilmembers Bernard, Daly, Jacobs, Leonard-Morgan and Pearson
No – Vice Mayor Miller
Abstain: N/A
Absent: Councilmember Kirk
(Mayor Littleton only votes in the case of a tie.)

Action Items

Approval of Deeds – The Middleburg Residences (aka The Residences at Salamander)

Deputy Town Manager Moore reported that this was the final approval needed for the development. He reviewed the history of this item. Mr. Moore explained that the request before Council was to approve the acceptance of the deeds for the rights-of-way and easements, as well as for two offsite easements. He reported that the Town Attorney reviewed and approved the deeds as to form.

Mayor Littleton thanked the staff for their hard work to get these items ready for approval. He noted that this was a big milestone for Salamander and congratulated them.

Councilmember Jacobs moved, seconded by Councilmember Daly, that Council approve: (1) the deed of subdivision, dedication, easement, conveyance, and vacation by grantor MIDDLEBURG RESIDENTIAL LLC; (2) the deed of dedication, easement and vacation by grantor SALAMANDER MIDDLEBURG MUV, LLC; (3) the deed of easement and vacation by grantor SALAMANDER RESORT, LLC.

Vote: Yes – Councilmembers Miller, Bernard, Daly, Jacobs, Leonard-Morgan and Pearson
No – N/A
Abstain: N/A
Absent: Councilmember Kirk
(Mayor Littleton only votes in the case of a tie.)

Staff Reports (continued)

Strategic Plan Update

Town Manager Davis reviewed the history of the Council’s strategic plan. He advised that the goal was to update the Council on the status of each item and noted that decisions were needed on two of them. Mr. Davis advised that the first item was related to the R-2 zoning ordinance updates. He reminded Council that the Town discussed hiring a consultant to review the zoning ordinance, develop draft amendment language and assist with the update process and advised that the cost would be \$24,000. Mr. Davis reported that the second item was the Federal Street planning charrette and questioned whether this should continue to be postponed. He suggested it may be better to wait to gather people for the charrette until the Spring of 2022. Mr. Davis noted that the cost to hire a consultant to assist with the charrette was \$38,000; however, the staff was trying to get that number down.

After some discussion, the Council agreed to pursue hiring a consultant for the R-2 zoning ordinance updates. They suggested the staff determine whether there were other ways to engage the citizenry with regard to the Federal Street planning charrette, such as remote participation.

Deputy Town Manager Moore advised that he had never tested remote participation in a planning charrette. He reminded Council that traditionally during design charrettes, the audience broke into groups to do mapping exercises. Mr. Moore advised that he would discuss this option with the consultant.

The Council agreed to defer their discussion on the Federal Street planning charrette at this time and noted that it would be more effective and efficient to do it in-person than virtually.

Action Items (continued)

Acceptance of Restrictive Covenants – Banbury Cross Reserve

Deputy Town Manager Moore reviewed the history of this item and reminded Council that the applicant voluntarily agreed to restrict certain uses on the AR-2 District lots after concern was raised by the public during the Planning Commission meeting. He reported that the project was currently in the construction plan phase with the County and would return to the Town’s Planning Commission for final plat approval. Mr. Moore reiterated that the owner developed an instrument to restrict some uses on the property and presented it to the Town for its approval. He advised that the Town Attorney reviewed and approved it as to form. Mr. Moore noted that this was not required for the preliminary or final plats. He explained that as proposed, the Town would be a third-party beneficiary; therefore, it would have the optional right to enforce the restrictive covenants. Mr. Moore advised that he was comfortable with the document and noted that the Planning Commission supported the restriction on the uses. He explained that the question was whether the Council wanted to be a party to the restrictive covenants and noted that this was optional. In response to an inquiry from the Council as to the possible downside of the Town being a third-party, Mr. Moore advised that there was always a legal risk; however, since the applicant had stated that he was doing this voluntarily, he believed the risk had been mitigated.

Town Manager Davis opined that should the Town be brought into a dispute in the future, it could be a human or financial resource drain on the Town for property that was located outside of the corporate limits.

The Council noted that there was no liability if the Town declined to enforce the provisions of the restrictive covenants.

In response to an inquiry from the Council regarding the owner’s offer to allow the Town to dig a public well on the property, Deputy Town Manager Moore advised that the Town was not looking to do so; however, the owner indicated he was open to a discussion of it.

Vice Mayor Miller moved, seconded by Councilmember Daly, that Council approve the Declaration of Restrictive Covenants by grantor MIDDLEBURG LAND 1, LLC.

Vote: Yes – Councilmembers Miller, Bernard, Daly, Jacobs, Leonard-Morgan and Pearson
No – N/A
Abstain: N/A
Absent: Councilmember Kirk
(Mayor Littleton only votes in the case of a tie.)

Consent Agenda

(A) Council Approval – September 9, 2021 Regular Meeting Minutes

Councilmember Leonard-Morgan moved, seconded by Councilmember Bernard, that Council adopt the consent agenda as published.

Vote: Yes – Councilmembers Miller, Bernard, Daly, Jacobs, Leonard-Morgan and Pearson
No – N/A
Abstain: N/A
Absent: Councilmember Kirk
(Mayor Littleton only votes in the case of a tie.)

Discussion Items

Volunteer Appreciation Gifts

Town Clerk North reminded Council that during their last meeting, they agreed to cancel the Volunteer Appreciation Reception due to COVID and directed the staff to develop a recommendation for a gift that could be given to the Town's board, committee, and commission members. Ms. North suggested a gift bag be developed that would include a Middleburg ball cap, pen, magnetic sticker, and Christmas ornament, as well as a twenty-dollar (\$20) MBPA Yiftee gift certificate. She further suggested the Mayor and/or members of Council distribute the bags during the committee meetings in November. Ms. North reminded Council that they also expressed a desire to do something special for the members of the Planning Commission and HDRC to recognize them for their work to update the Comprehensive Plan and Historic District Guidelines respectively and advised that the staff had ordered glass bowls engraved with the Town seal for distribution during the reception. She suggested those be distributed along with the gift bags.

After some discussion, the Council agreed with the staff's recommendation.

Town Manager Davis suggested the Yiftee gift cards also be considered as a replacement to the Town's holiday gift cards and noted that this would encourage more businesses to participate in that program.

Plastic Bags in Loudoun County

Councilmember Leonard-Morgan reviewed the history of the State legislation that allows cities and counties to impose a five-cent tax on consumers who ask for a plastic bag when making purchases. He advised that Loudoun County was the only county in Northern Virginia that had not adopted the tax and suggested the Council should push them to do so.

Town Manager Davis advised Council that the Board of Supervisors considered this last year and directed their staff to develop an ordinance; however, it would not take effect until January 2022. He reminded the members that, at that time, they felt the delay was important due to the challenge of using reusable bags in the COVID environment.

After some discussion, the Council agreed to send a letter to the Board of Supervisors encouraging them to implement the plastic bag tax once COVID had passed. They noted that people would be able to use paper bags. The Council directed the staff to draft the letter.

Information Items

Town Manager Davis reported that the Loudoun County Board of Supervisors was considering renaming the portion of Route 50 that lies within the County. He further reported that one of the options under consideration was the "Middleburg Highway" and noted that the County would accept comments on the renaming through October 14th in the event anyone wished to provide their input.

Town Manager Davis announced that the Middleburg Community Center would hold a Veteran's Appreciation Picnic on October 10th and encouraged the community to attend to show their appreciation.

Mayor Littleton reminded Council of the Loudoun Laurels dinner, during which Punkin Lee would be inducted.

Closed Session

Vice Mayor Miller moved, seconded by Councilmember Leonard-Morgan, that Council go into closed session as authorized under Section 2.2-3711 of the Code of Virginia, for the discussion or consideration of (1) the disposition of publicly held property related to the Asbury Church, as allowed under Subsection (A)(3); (2) the compensation of a certain Town employee; and (3) the evaluation of the Town Manager both items as allowed under Subsection (A)(1). Vice Mayor Miller further moved, seconded by Councilmember Leonard-Morgan that the Council thereafter reconvene in open session for action as appropriate.

Vote: Yes – Councilmembers Miller, Bernard, Daly, Jacobs, Leonard-Morgan and Pearson
No – N/A
Abstain: N/A
Absent: Councilmember Kirk
(Mayor Littleton only votes in the case of a tie.)

Mayor Littleton asked that the Council certify that to the best of each member’s knowledge (i) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed, or considered in the closed meeting, which each member so did. He reminded those present for the closed session that any discussion that occurred within it should be treated as confidential.

Mayor Littleton directed the staff to move forward with the performance bonus item as discussed in closed session.

There being no further business, Mayor Littleton declared the meeting adjourned at 8:51 p.m.

APPROVED:

Trowbridge M. Littleton, MAYOR

ATTEST:

Rhonda S. North, MMC, Town Clerk

September 23, 2021 Middleburg Town Council Meeting

(Note: This is a transcript prepared by a Town contractor based on the video of the meeting. It may not be entirely accurate. For greater accuracy, we encourage you to review the video of the meeting that is on the Town's website – www.middleburgva.gov)

Danny Davis: I missed that. [off mic].

Bridge Littleton: All right, we will call the September 23rd meeting to order first item is Pledge of Allegiance.

Everyone: I Pledge allegiance to the flag of the United States of America and to the Republic for which it stands one nation under God, indivisible with liberty and justice for all.

Bridge Littleton: All right, next item is the roll call. Chris.

Chris Bernard: Chris Bernard.

Bud Jacobs: Bud Jacobs.

Philip Miller: Philip Miller.

Bridge Littleton: Bridge Littleton.

Peter Leonard-Morgan: Peter Leonard-Morgan.

J. Kevin Daly: John Kevin Daly.

Cindy Pearson: Cindy Pearson, I'm attending in my home, I have a medical problem, I cannot be there.

Rhonda North: Rhonda North, Town Clerk.

Danny Davis: Danny Davis, Town Manager.

Bridge Littleton: Great. Next item is Special Special Recognition Proclamation Resolution of commendation for Cuppa Giddy Up's, 20th Anniversary. There we go.

Cindy Pearson: A lot of lattes. [laughter]

Bridge Littleton: And one or two muffins. So this is a resolution of commendation for Cuppa Giddy Up. They've just gone past celebrating their 20th anniversary, which is an unbelievable achievement for any small business. And through the good times and the bad, they've been here with the town and supported the community. So congratulations on the first of your next five 20 year anniversaries. [laughter]

Leslie Minko: We've got the grandkids.

Bridge Littleton: Perfect. Exactly. Indentured servitude. So here we go. Whereas on, and I find this just amazing. Whereas on September 11th 2001 Cuppa Giddy up opened at 8 East Washington Street. And whereas four years later, Leslie Minko purchased Cuppa Giddyup, which is now a family owned business. And whereas Cuppa Giddyup exemplifies the charm and friendliness associated with our historic village and has a long history of providing delicious fresh coffee blends, specialty beverages, bagels and cakes to the greater Middleburg community. And whereas Cuppa Giddyup recently celebrated its 20th year in business. And whereas Leslie Minko and her staff have contributed greatly to

the town of Middleburg through excellent customer service and the economic development benefits the Cuppa Giddyup provides. Now, therefore, be it resolved that the mayor and members of the Town Council, the town of Middleburg, applaud Ms. Minko and the dedicated employees of Cuppa Giddyup for their faithful support of the community, as well as their longstanding service to our citizens. Be it further resolved that we congratulate Cuppa Giddyup on reaching its 20th anniversary milestone and express hope for many more to come. Congratulations. [applause] All right, so if you guys would like to come up.

Bud Jacobs: Need a motion.

Bridge Littleton: What's that.

Bud Jacobs: Need a motion?

Bridge Littleton: I always forget that part. [laughter]

Bud Jacobs: I moved that council adopt a resolution commending Cuppa Giddyup for celebrating their 20th anniversary on September 11, 2021.

J. Kevin Daly: Second.

Bridge Littleton: Any discussion? All's in favor say Aye.

Everyone: Aye.

Bridge Littleton: Opposed? Abstentions? All right. It passes. Now we can do this part. [off mic] You guys all want to come on up? If anybody wants to take a picture? There is A.J.. Thank you. [off mic].

A.J. Panebianco: I'll get you. [inaudible] I can bring one down for you.

Leslie Minko: Ok, thank you.

A.J. Panebianco: Thank you. Before you leave?

Bridge Littleton: Perfect.

A.J. Panebianco: Everybody turn this way.

Bridge Littleton: Everybody look up and say coffee. [multiple speakers] Big Smiles.

Danny Davis: Frappuccino.

Bridge Littleton: There you go. Congratulations. Thanks so much. You guys do a great job.

Leslie Minko: Thank you. Thanks.

Bud Jacobs: Thank you.

Bridge Littleton: Okay, next, Item. Oh, sorry, yeah, next item is the public comment. So anybody wishing to address the town council at the public comment session can do so now.

Doug Camp: Good evening. My name's Doug Camp. I'm the Director of Sales and Marketing at the Salamander. And I just really wanted to come and introduce myself. I know many faces that I've met at events, but if you need anything at the Salamander on sales, marketing, PR or even just a room; give me a call please, thank you.

Jose Carlos Curci: Good evening. My name is, Jose Curci, I'm the Resort Manager at Salamander Resort and Spa. I'm very happy to be here. If you [off mic] from the resort, please don't hesitate to reach out to me [off mic]. Thank you. Very happy to be here.

Bridge Littleton: Great. Thank you.

J. Kevin Daly: Thank you.

Bridge Littleton: Would anybody else wish to address Council on any public matter? Will.

Bridge Littleton: Just name and address and three minutes are yours.

William McCullough: William McCullough address 207 Chestnut Street. I just hear through the grapevine that we are thinking collectively as the town of not doing some really, really fundamental things in my mind that we do, like the Christmas Parade. And I'm just here to publicly say that I'm here in any capacity that you guys need, whether it be somebody to run it, somebody to give you money to do it, somebody to park the cars, somebody to talk to a landowner to park the cars. I think that restricting the parking. I think that limiting the event in any capacity at this point is just so negligent to the town. If people refuse to mask up or to follow science and get a shot to protect themselves, then they should stay at home or if they do care, to join us in this wonderful, wonderful tradition that we've curated then they run the risk of getting sick if they don't protect themselves. But I think that this far into it, it's a little late to think about those things. I don't need my whole three minutes. I don't even know if that's what's going on, but I'm just saying like Check Point Man do to do it like whatever you need, I'm here. Reach out to me. Not doing it is a non-option in my mind.

Bridge Littleton: Thanks Will, thank you. Anybody else wish to address Town Council? Ok?

Terry Milton: Hi, I'm Terry Milton, I live at 408 Stonewall Avenue have for thirty five years. And one of the other items on the agenda further is drainage in town. And for all of the time that I've lived here, I've had a problem with water running down through my property. I'm betwixt and between. The water comes off of Reed Street, turns the corner at Stonewall comes down my driveway or it goes beyond my house, goes into the culvert and comes down the Community Center lot on the other side of my house. I put up speed bumps to deflect the water onto my grass. Those were removed when the roadwork was done and they raised the road level. So now there's even more of a drop off to my driveway. I've put in drains at the top and bottom of my driveway that go into pits gravel pits to disperse the water because the front corner of my house was damaged before I moved in actually with water runoff and that my septic system, the tank is basically in line with the driveway at the bottom. I have done everything that I can think of at my expense to be able to protect my property. I've been trying to put an addition on my house for three years, but it's basically where the water is coming in under the fence from the Community Center. So I haven't been able to do that. And VDOT says they're not responsible in any way for where the water goes, including where it comes out of the culvert and where it goes after that. And so, you know, I don't know what else I'm to do to protect my property, and I would love ideas and any support possible. Storm drain.

Bridge Littleton: Thank you very much. Anybody else? Ok, we will close the public comment session and move right on to review of stormwater and drainage issues in Middleburg.

Danny Davis: How about that?

Bridge Littleton: Very good apt timing. So let me pull this up here, Danny we've got your memo. Do you want to take the start?

Danny Davis: Yes, sir. Thank you, Mr. Mayor and council members. And it's a good segway right into the conversation. So I will note that we have Mr. Moore in the back who can assist with conversations about transportation and planning and zoning issues. We have Kim McCool from VDOT with us this evening. We have some of the impacted property owners. We also have a representative from Delegate Gooditis' office because I know that her office, as well as Senator

Vogel's office, have been made aware of some of these issues as well. In the memo, we've detailed just generally some of the challenges and that is that stormwater when Middleburg was developed stormwater was not accounted for as much as it would be today. And yet we're seeing the impacts of stormwater and drainage issues on private property. We have had discussions with VDOT a number of times. And again, one of the reasons we've asked them to be here tonight is to hear some of the comments and input. I don't expect that we'll have full answers this evening, but maybe some potential takeaways that can be researched, developed and then brought back to council at a future meeting as well. In those conversations VDOT does have challenges from their own standards and operations as it relates to doing work on private property. And so one of the issues here is how the stormwater which is diverted across a right of way, but then ends up on a private property, how do they address or account for those types of issues? So we have provided some of the photos, both from the Episcopal Church Cemetery, which is literally at the bottom of Hamilton Street, as well as from Ms. Milton, who provided those to us yesterday. So we're happy to answer any questions, but at this point it's it's a conversation. As of this time the Town does not have direct responsibility for stormwater. And yet one of the conversations may be at some point, should the Town get involved in assisting with addressing some of these issues or not, or continuing to press on our elected officials at the state level to put additional funding towards these types of issues. So with that, we're happy to answer any questions you might have.

Bridge Littleton: Kim, do you want to join us?

Kim McCool: Sure.

Bridge Littleton: [off mic] table, that'd be great. I think a number of them have some questions from a VDOT perspective. So before we jump in, does anybody have any direct questions for Danny? Ok, so, Kim, I think one of the things we're really trying to struggle with here is it's a pervasive issue. It's going on a lot. And you know, you guys do road maintenance and updates and then you like, down [off mic] Episcopal Church, you have to divert water as best you can. So what is the VDOT's responsibility in terms of when you guys do what you do and then start to cause, you know, water infiltration on the private property? What is VDOT's responsibility in trying to mitigate that or being responsible for the harm that's being caused or whatever?

Kim McCool: Sure. As you know, obviously VDOT is mainly roads, right, and transportation, so when we do a major project, of course, that involves a lot of drainage study and work that goes along with those projects, really any project, not just a major project, any capital project that we undertake.

Bridge Littleton: Can you speak up a little bit so the folks behind you hear.

Kim McCool: Sure.

Bridge Littleton: Yeah, great. Thanks.

Kim McCool: Is this working?

Bridge Littleton: Well, it doesn't have to be.

Rhonda North: It doesn't magnify it is recording.

Bridge Littleton: Yeah.

Kim McCool: Okay got it. So. Sure. When VDOT undertakes a project, any type of project, really capital project, we do have a responsibility for the drainage that goes along with the project, right. We do. It's a very big component of our projects, honestly, looking at both the quantity and the quality of the water that leaves our project sites. Any increase in impervious area obviously, we need to take care of the water that's created from those. But that's obviously a little different than what you're experiencing here because those are new projects or when we do a widening or when we do any kind of capital project, you know, all the new standards that come into play, we'll obviously take care of those. Unfortunately, I think a lot of the things you're experiencing here are obviously they're not related to a new project. So

how do we deal with those? And that's kind of it is a little bit of an in-between. We have our maintenance groups that are glad to come out and take care of issues that are, you know, purely maintenance standpoint. If a pipe is broken, we replace a pipe. If the ditch needs to be cleaned out, we'll do that type of a thing. There's kind of a list of things that they'll do with that, but we are limited in that we need to stay within the road right of way. We don't go on private property to do our work, but we also try, we have to maintain the flow patterns, the current flow patterns that exist. So for example, just trying to be a good neighbor, you don't block the water or divert more water onto your downstream neighbor. So that's something that we're obviously always aware of, that we can't change the existing patterns that exist and we shouldn't be increasing the drainage area, for example, that goes to a certain space.

Bridge Littleton: So I guess my question to you then, is that so when that actually does happen, so as an example on Stonewall Avenue, that's happened. [inaudible] You know, the road heights been increased, the pitch has been increased, so that's increased the water run off to somebody else. And I, you know, I get it. That's maintenance type of stuff. But you know, VDOT came in VDOT raised the road, VDOT raised the pitch. So it's created more water infiltration onto folks' private property. How is that handled? What is your all's responsibility to mitigate that? Because that has created an increase.

Kim McCool: Yes. Well, in these cases where we do have issues that are brought to our attention, obviously we'll come out and take a look at it. And in Stonewall and at the church. And I think there's some other locations where we've come out with our hydraulics engineer and some of our VDOT representatives to take a look and see what we feel like is happening and what responsibility we might have in fixing it. So they are kind of looked at as in a case by case basis, you know, things that have happened in the past, unfortunately, we can't fix all of those. But if there's an identified solution that we can fix, then you know, we're glad to work with people on that. Again, like I said, some of the things that we're constrained with really are staying within the right of way and not changing the drainage patterns that already exist.

Bridge Littleton: Ok, but I guess where I'm going with this is like on Stonewall, you did change the flow pattern. The height of the road was increased and the pitch was increased, so that by definition, changed the flow pattern. So it forced more water off faster and sooner onto one property, as opposed to the lower level and the lower pitch it used to have where it would diffuse more broadly. [inaudible] So if I hear what you're saying, if you guys do something that changes, you cannot do anything with changes to flow pattern.

Kim McCool: Right.

Bridge Littleton: Ok. So this flow patterns been changed. How are you going to address that?

Peter Leonard-Morgan: [multiple speakers] I think the same Ms. Warren came to see us about two years ago. [multiple speakers] The entrance to the cemetery. There used to not be any water going down there and then work, I think, was done on Jay Street South Jay Street, and then it's just started to go flow, as you can see in these photographs into the cemetery. We thought something was going to be done about, I think, two years ago, probably, and really nothing it just got worse. I think even some of the graves were threatened. Yeah, at the time. So that again was a change in the pitch, I believe, of that street that causes it. [multiple speakers] Yeah. [off mic]

Bud Jacobs: Yeah. Did I understand you to say that VDOT has looked at the drainage on the church and on Stonewall Avenue or that it is going to? I just didn't catch what you said.

Kim McCool: Sure. I'm aware that those have been ongoing issues that we've been talking with the town about on various levels. I believe that there was a culvert replacement that was done out near the church some time ago. I don't know that that achieved satisfactorily what we were hoping to achieve? So on. There has been some coordination on those issues in the past. I wouldn't say they're resolved.

Bridge Littleton: But real quick Kim. His question was, have you guys gone out there and looked at it?

Kim McCool: We've been out there a number of times. I mean, actually, I went out there earlier today to take a look because we had obviously a lot of rain last night and I've heard a lot about standing water and things like that. So I went

out and took a look at it today. And it is a very complicated situation, obviously. You know, you all know that. There's a lot of water, it's coming from a lot of different directions and it's a challenge.

Bud Jacobs: But you didn't have recently, you mentioned your hydrologist come out and take a look at the situation.

Kim McCool: I know that our hydrologist has been out there.

Bud Jacobs: Do you know how recently?

Kim McCool: I do not.

Bud Jacobs: It would be useful to know that I [multiple speakers].

Kim McCool: Sure, sure. And I apologize. I mean, we're glad to take back a lot of your questions and do some research and figure out. I can ask when he's been out there. What their findings were and a little bit more detail and things like that.

Bridge Littleton: I mean, I guess the fundamental question here is VDOT did work. The work has changed the flow of water that has gone into the church property on Stonewall Avenue and other places in town. And the question is, is VDOT going to remediate it or not? And it's a yes or no.

Kim McCool: I can't speak to the specifics, unfortunately, like on Stonewall and what can be done and what can't be done. I'm glad to take that back and we can come up with a better answer for you that involves looking at it in some more detail and that kind of thing.

Bridge Littleton: I guess, OK. I mean, I guess we're I'm starting. I think the concern here is that you guys have told us tonight that you cannot change the flow. And when you do work, you cannot change the flow of water and have more water go onto a new property or a downstream property. You cannot do that. If I heard you right? OK, that has happened. It has changed. The flow of water onto private property owners has changed dramatically for certain people as a result of VDOT's work. So these are kind of like mutually exclusive statements, right? If you say on one hand, you can't change the flow and then the flow has been changed. It would seem to me that VDOT has a direct responsibility to correct that and put it back at no less than where it was previously. And that's not about studies or whatever. I mean, if you have a requirement that you cannot change the flow, [inaudible] not permissive, it's required, then you know, my question goes back, will you remediate that?

Kim McCool: Well, I think if we were to take a look at it and agree that it was something that we had done solely that caused the issues, then that would be something. Then we would look at remediating. I do know that, you know, there are circumstances where there's off site water that's running through under our road that started on one side and it's just crossing through the right of way. So. And one other development it has happened, for example, on the upstream side, that may have increased the flow and where really it's just being conveyed under the roadway. And it does come out our pipe. So it has the perception that it's something that we're doing. But you know, that's that's a type of thing where we would try and work with whoever the upstream property owner is and just try to evaluate what can be done because we can't always control all that. There's a lot of incremental changes obviously that happen that have come over time. The roads work has been done. I'm not sure exactly how long ago honestly. I'd have to go back and look at that a little bit. But what's happened between the time the roadwork happened and now and when the problems were happening? And that kind of thing, that's the type of thing that we would be glad to get back to you on. But unfortunately, you know, I can't really speak to that detail.

Bridge Littleton: Sure. No, I understand that. I mean, if somebody build a bunch of houses next to it and then you guys do the thing that helps contribute. So how do you delineate between the two? I get that, and those are all details we can find out easily because it's a small town and we know what was been built and when it was built and when it has it and who was first and all that kind of stuff. So I mean, I think for the church, I can pretty safely say nothing's been built on that street since you guys redid the culvert. So Stonewall, there have been some houses built over there, so I want to understand that. I guess for me what I would like to understand and I'd like to have a commitment from VDOT, is this.

Understanding we got to look into these other elements, like you just mentioned, was there something else that changed the nature? I get it that was out of your control. But assuming it's not, what we'd like to see is VDOT to come out, take a look at this, understand the impact it's been caused, and if any flow has been changed, a commitment that you will remediate it back to its original state, regardless of what it takes to do it. Because, you know, ultimately at the end of the day, if VDOT was the sole entity which changed the way in which water is flowing and it's now causing damage to other property owners, they shouldn't have to be the ones who have to suck it up. If I'm a private landowner and I do something on my property that then disturbs my neighbor, they have every right to come after me for damages. You know, whether it's water or a tree or something like that, right? And I just don't understand how it doesn't. You know, we have to have, as government, we have to be as equally accountable.

Kim McCool: Sure.

Bridge Littleton: So can we have that commitment from you tonight?

Kim McCool: We definitely want to be a good neighbor. We don't want to cause any problems to anyone, obviously. And if we had done so, then you know, we'd love to take a look at it and see what kind of remediation can be done. So I can commit that we can take a look at it to better understand it. And if we find that there's things that we can do that we feel like we caused, then we can definitely look to do that. We have challenges and in that, you know, we're not really set up for fixing drainage everywhere. Unfortunately, there's problems all over the place. We're working with the county now on trying to set up a program. They've identified a number of drainage areas, issues and trying to figure out how we would address those, how we would fund those, how we would get those projects done. So it's something, you know, obviously it's an issue for you. It's an issue we're experiencing in a lot of places. So anything we learn, hopefully with either the county or with you, we can be consistent. And like I said, we just we would like to be a good neighbor. We don't want to inflict anything onto anyone that we haven't caused.

Bridge Littleton: Well, and we really appreciate that. And I mean, anything we can do like if as Danny mentioned, advocating to the state to have more funding applied to help fix these issues. You know, even if it's on a local issue, I mean, I get it. Some areas of Virginia are better than others, and you know, that needs more attention. And then we're happy to do that because I mean, we all want good, safe roads, but we also want to make sure they're done in a way that doesn't have secondary effects like water runoff and whatnot so.

Kim McCool: Sure.

Bridge Littleton: Well, Kim, I appreciate it. Does anybody have any other questions?

J. Kevin Daly: Yeah, Kim, the issue and I'm going to because Norris Mr. Beavers is here. Question I have for you, it sounds like you all are going to do yet another study. The issue at the church has been ongoing for [off mic] how many years. [off mic] Seven years. So how many studies have already occurred in that past seven years? Now you're proposing yet another fact finding tour?

Kim McCool: Well, right. And I'm not proposing we embark in a big study, that takes a lot of time and that type of thing. I just feel like with these two specific issues, what I can do in fairly short order is do some fact finding figure out what's been done in the past and look a little bit of the concerns that you're having to address them in a little bit more detail to figure out where we feel like the problems are coming from. I do know, like you said, the church, it's been an ongoing issue for for a number of years. I think that about three years ago, we came in and replaced the culvert thinking that that was going to be hopefully maybe not the solution, but help alleviate things. And it didn't turn out to be the case. So I think that it [multiple speakers] it's coming back as something else that we're going to need to look at in more detail.

Bridge Littleton: So, Kim, Kevin brings up a great point. Can we have your commitment that we'll have that fact finding done in the next two weeks?

Kim McCool: I don't know that I can do it in the next two weeks. I apologize.

Bridge Littleton: One month. [multiple speakers] Nothing motivates people like a deadline.

Kim McCool: I know, right?

Bridge Littleton: Oh, Cindy, I'm sorry. Did you have a question? I didn't see you?

Cindy Pearson: Yeah, I do. Actually, it's more of a comment or an observation. Can you all hear me OK?

Bridge Littleton: Yeah.

Cindy Pearson: Yeah. Okay. When the roads were repaved, was that back in October of last year, since whenever it was since that has been done, it seems that before the roads had a bit of a, and I don't know the word to use. Where when it rained the water would go to the sides and down each side of the road. After they repaved the water does not do that. I can observe that right in front of my house and in many other places around town, it goes down straight off the road it doesn't go to each side. And wherever the lowest point is, is the track it takes into. Meaning so probably like Terry's house or the Episcopal Church or Lord knows who's beyond me, that gets it all. But it is a river running now. So I don't know if when they resurface the road, they didn't make that.

Danny Davis: Crown.

Cindy Pearson: And I'm sure there's a word for it that makes the water go to both sides of the road, not just to the center and run like a river. I mean, it's kind of like down on Route 50 before you get to Briar Patch how the same thing is happening there without water. I mean, that's really dangerous now how the water accumulates there because it doesn't go to each side. So I don't know if that's something you can look at through VDOT is the way the roads are whatever that word may be.

Bridge Littleton: I think the word is crown. [multiple speakers]

Cindy Pearson: Okay, thank you.

Bridge Littleton: So Kim, is a month good enough?

Cindy Pearson: That's all.

Kim McCool: I'm sorry.

Bridge Littleton: Thanks, Cindy.

Kim McCool: Was there a specific location that she?

Bridge Littleton: No she was talking about, just in general, the roads when you guys resurfaced them, like down at Terry's House on Stonewall? And it used to be that the water, as it hit the road would just sort of run off right where it hit. Now, the way in which they [multiple speakers] it would go off both sides. So if you had one hundred feet, it was one hundred feet of water runoff, so it was all dispersed. Whereas now the way in which they built it, it's sort of channels down and until it gets to the lowest point and then it builds up and it all comes out at one spot. [off mic] Yeah, that's exactly right. So it's yeah.

Chris Bernard: I think Cindy was saying it's bad right in front of the water tower, too.

Cindy Pearson: Right. It is really bad. And it's, you know, if you come around one day when it's raining like crazy, you can see it. It's no problem. It's like a river.

Bridge Littleton: And so I think this is happening in some of the properties like, Terry that's what's happening with Terry. That's why the water increase in her property is that sluicing effect that's happening now that didn't used to happen before you guys repaved it.

Kim McCool: That's interesting. I appreciate that.

Bridge Littleton: So a month?

Kim McCool: Sure, I'd be glad to come back to you in a month.

Bridge Littleton: Perfect. We really appreciate it.

Kim McCool: Sure. Okay.

Bridge Littleton: Anybody else have any questions? Mr. Miller.

Philip Miller: So I know you said that VDOT's limited strictly in its ability to do work in the right of way. Has there ever been precedent set that you would work with property owners to perhaps go beyond that to combat this issue?

Kim McCool: There's always an exception. [laughter] [multiple speakers] Never say always. You know, we would evaluate certain locations if there was a drainage easement, then we could go on private property, obviously. If something turned into a major project, we have the ability to acquire right of way for that. But other like strictly with our maintenance crews and things like occasionally property owners will give us permission, for example, to trim trees that are overhanging and things like that. So something minor like that, it's possible that we could do things like that. I mean, I think possibly even at the church, I think they tend to spread gravel a little bit past the right of way line and things like that. So I mean.

Philip Miller: Just thinking about some of these locations where I went out running this morning and I saw standing water in a lot of different places around town. [inaudible]. We don't have a whole lot of give in our property lines, right? So I think that that would be something that you should consider as a potential way to resolve some of these issues.

Bridge Littleton: You know, I mean, Philip brings up a great point. So if I understand what you're saying, Kim is if there was a big issue on a property owners thing and the only way to fix it was VDOT and the property owner working together to put something in that may be in the right of way, but may be a little bit in their property, and they gave you an easement to be able to do that. Those types of arrangements are possible?

Kim McCool: Right. There's been cases, for example, when we'll do a project like a major road project and in order to tie our drainage system to a natural system, we'll get a drainage easement along the property that would then take it from the road to the natural water course stream or what have you. In that case, obviously we have that easement and we have the ability to go back in later and do repairs and things like that.

Bridge Littleton: Good. Ok.

Philip Miller: Thank you.

Bridge Littleton: That's good to know. Yeah. Bud.

Bud Jacobs: I can't resist asking you this question, Kim. Terry Milton's presentation mentions that the flow of water in the back of her property threatens her septic system. You probably know that Middleburg gets all of its water from four wells. We don't have any river draw or anything like that going on, and we're always very concerned about the state of our source water and we take all the steps we can take to protect it. One of the priorities that's been established for the town now for three years, five years has been to reduce or if we can do it, eliminate the few remaining septic systems that lie within town boundaries and to convert them to connections to our main sewer lines. And as it happens, Terry's property is

one of those. If my memory is correct, VDOT has a fairly inflexible policy about bonds that property owners are required to post to cover potential work that may need to be done in the future as a result of their, to the right of way, as a result of their connecting to the town sewer. And if that is the policy, unfortunately it places for many of our residents. Our median income is \$55,000 in this town. It places conversion of their ancient septic systems to our sewers out of reach. And I was wondering and I'm glad there's a representative from Delegate Gooditis' office here today because they may have some input on this. I was wondering if there's any flexibility at all for VDOT in allowing property owners to avoid the bonds. The figure that's in my mind is \$10,000. Is that correct?

Danny Davis: Generally, so that's at least the minimum.

Bud Jacobs: Whether there's any flexibility at all that VDOT can apply to this question to help us eliminate potential danger to our town's water supply. And I don't mean to put you on the spot for this, it's triggered by Terry's excellent presentation about the potential effect that runoff could have on her septic system, which would certainly not be in the interests of the town as a whole.

Bridge Littleton: And would actually be a big public health issue.

Bud Jacobs: Oh, huge. Yeah, for us it's huge. [inaudible] And I don't know if your bonds are imposed by statute, legislative action or whether it's a mere matter of policy that perhaps could be changed.

Kim McCool: I will look into that, I'll follow up on that for you.

Bud Jacobs: Could you get back to Danny with an answer to that question. And maybe Delegate Gooditis could look into it. I mean, she's got nothing going on. [laughter] Perhaps there's some leeway we can find here to help not only us, but several of our residents out.

Bridge Littleton: And the water issue is creating a sense of urgency because what happened, you know, the water fills the septic system up and the septic overflows, and then it leaks out and you've got a real nasty problem. That's a great point, Bud. Thank you.

Bud Jacobs: Thank you.

Kim McCool: Sure.

Bridge Littleton: Any other questions for Kim? Danny, any other input?

Danny Davis: I don't believe so. Thank you, sir.

Bridge Littleton: Ok.

Danny Davis: We'll go and put it on the agenda for October 28th, which is your second meeting in October.

Bridge Littleton: Perfect. Great. Kim, thanks for coming in and talking with us. We really appreciate it. [laughter] We know. No, I mean, hey, it's hard stuff, right? I mean, you guys own a huge responsibility across the state. And you know, like you said, you want to be good neighbors. We want to be good neighbors. But we also, you know, it's a small town of 800 people. There's so much that we can do and we want to make sure that when public works happen and that there is an issue, you know, we do get it addressed. And I had forgotten about the point that this has been going on for a number of years with the church. And I've been by there multiple times and it's a real problem. And it's just we've got to get it fixed. You know, time for talk is done, time for action is here. So but we really appreciate you coming in and speaking with us. And yeah, we'll follow back up.

Kim McCool: Ok, thank you.

J. Kevin Daly: We look forward to seeing you next month. [laughter]

Bridge Littleton: She's scheduling her vacation right now.

Kim McCool: I know right.

Bridge Littleton: Farid's going to come.

Kim McCool: Yeah I apologize that Farid wasn't able to make it.

Bridge Littleton: Oh, that's OK. No, it's totally fine. Totally fine. Ok, next item is Staff Reports. Wait a minute. Hold on. We've got.

Danny Davis: Christmas.

Bridge Littleton: [inaudible] Here and we have Christmas in Middleburg here. So let's do those first, and then we can go back to the stuff that doesn't require anybody to wait around. So let's jump to the Christmas in Middleburg update.

Michelle Myers: Do you want me up here?

Bridge Littleton: Please. Come on up.

Michelle Myers: How are you?

Bridge Littleton: Good.

Michelle Myers: Michelle Myers, do you need my address?

Bridge Littleton: No, this is not public comment.

Michelle Myers: Ok, good.

Bridge Littleton: Unless you want us to stalk you.

Michelle Myers: No, no, no. Well, you can. [laughter] Well, I know that last week, I think or two weeks ago, we talked very briefly just about parking in the event and total. And that the town was concerned, I think, is a word that we could use easily about the capacity of folks that may want to attend this year's event. So in thinking about it and looking at all of our options, we absolutely feel that if we need to do anything, parking is the first and probably easiest way for us to limit the capacity of attendees. So typically we sell about sixteen hundred to eighteen hundred tickets and that represents, you know, about 10,000 people we generally see. And so I think we kind of have come to an agreement that we're good to probably limit the tickets to about a thousand. So that would give us around 6,000 attendees to maybe eight. And by doing that, I think we help alleviate some of the concerns I think our only conflict is that as you're probably aware, a lot of the businesses are having a really hard time sponsoring us this year. So we've had a bit of a challenge raising money. Also, we're the new people taking over for Jim, so I'm sure there's a little bit of that, they're, a little bit hesitant. And so we would ask them, the town, to help us subsidize maybe the busses again, like you did in 2019, when Jim was at the head of this event. So I am still waiting on a price for the bussing, but I think we need to increase it by about 20-25 percent. And so that we can have less focus on the actual busses and get them back to Mickie Gordon. [off mic] Right. We would have to lessen capacity on the busses as well, just for safety sake. So and then we're happy to do the messaging on, you know, masking and asking for people to wear masks and just be aware that, you know, we're trying to have a quieter, sort of smaller event. So that's kind of where we are. I think we're probably going to need some money from the town, though. It was 15,000 back in 2019 to cover the busses and that was fully utilized, at least by my account and by Jim's spreadsheet. Here on those services. So Beth Erickson over at Visit Loudoun is helping us, you know, secure some bus contracts, but she's having some real difficulty finding something for us. But she's working hard.

Bridge Littleton: Gotcha. Okay. Chris.

Chris Bernard: Do you think that part of the fundraising issue is people wondering whether the event's going to happen or not?

Michelle Myers: I think that's absolutely part of it. I think there's some hesitancy there because people are unsure if we're going to move forward because there's a lot of chatter. Right?

Chris Bernard: Or they don't know what size it'll be?

Michelle Myers: Or they don't know what the size it'll be. Yeah, they're not sure. [off mic] One of the. Pardon?

Philip Miller: Revenues are just down. [multiple speakers]

Michelle Myers: And revenues are down and it's a difficult time to ask after 2020, you know, I think we're looking into cost savings. We will absolutely stop the paper handout. So we'll do everything digitally by QR code. We'll make sure that that's on the poster that goes out in October, which will have a map of all of the events and all of the sponsors and everything will be a digital platform this year. So we'll mitigate the costs of printing anything and then sharing anything physically. So we'll do that. Other than that, I would love any more suggestions, but I think parking is our biggest way to control things.

Bridge Littleton: Kevin.

J. Kevin Daly: Besides parking what are your proposals to ensure that people maintain a Kevin Bacon, six feet of separation?

Michelle Myers: That one's going to be really hard. That one's going to be really hard, especially since we're an outdoor event. I don't know that we can do anything other than just suggest that on all of our messaging social media website. We can even have it printed on the tickets for the car parking.

Bridge Littleton: Well, that's a great idea. I like that.

Michelle Myers: Yeah, we'll message it on every piece of material that comes out of Christmas in Middleburg so that we keep that awareness on top of people's minds. But I just don't know that that's possible.

Bridge Littleton: Yeah, and I mean, Kevin, the hard part is they're public streets.

Michelle Myers: Yeah, it's just a challenge.

Bridge Littleton: And it's a recommendation not a requirement, you know.

Chris Bernard: Education.

J. Kevin Daly: Well, we could get VDOT to help flood some of the streets. [laughter].

Chris Bernard: Yeah. But they'll figure out how to flood it, but they'll never [inaudible].

Peter Leonard-Morgan: Yeah. [laughter] Peter.

Peter Leonard-Morgan: Is there any way that we can have temporary six foot distance, big round [inaudible] to go on the pavements on the sidewalks?

Chris Bernard: Horses, the six foot horses.

Peter Leonard-Morgan: They are like the more messages we've got that's obvious. [multiple speakers]

Michelle Myers: You see it in airports and larger event spaces. I know what you're talking about. I think it would just be an additional cost, so I don't know if that would be possible without assistance from the town, if that was something they thought we wanted to do.

Peter Leonard-Morgan: I would certainly support that. I think it's an important addition.

Michelle Myers: Would you [off mic]?

Bridge Littleton: Any other questions. Thoughts or concerns. So I would just say off the top of my head, I think what you're asking makes total sense.

Michelle Myers: Ok.

Bridge Littleton: It doesn't hurt my head at all. Ok? Helping with the I mean, against council decision, but for me, helping with the busses.

Chris Bernard: Well we're the ones researching the size.

Bridge Littleton: Exactly. And we want it to be safe. So yeah.

Michelle Myers: I do want to address the cost of parking. The cost of parking at 20 dollars per car has never increased. It's been \$20 since the beginning of time. And so that will have to happen.

Bridge Littleton: Well. No, no, no. It was five up until about four or five years ago.

Michelle Myers: Really?

Bridge Littleton: Until about four or five years ago.

J. Kevin Daly: Until the busses. [multiple speakers]

Michelle Myers: Gracious until the busses.

Bridge Littleton: It's only been 20 for, like four years.

Michelle Myers: Really? Ok, I apologize. I thought it was 20 for longer than that.

Bridge Littleton: Nope.

Michelle Myers: We do foresee having to raise prices. And so what my thoughts are is the folks at Lost Barrel have given us some premier parking that's on pavement and they're going to do cars and coffee that morning for people that park down there. So I think adding additional pricing to those parking spots is easy because it's a premium. I think the center parking here at Salamander should be also increased because we don't need to utilize the busses at all and then we can keep the Mickie Gordon price as close to 20 as we can so that we can subsidize those families that that increase in pricing may impact them. So we give people kind of a menu of where they want to go, and that'll help us, I think, also alleviate some of the costs.

Bridge Littleton: So I would say, to be as accurate as possible.

Michelle Myers: Please.

Bridge Littleton: Christmas in Middleburg is a private organization.

Michelle Myers: It is. [laughter]

Bridge Littleton: And if you feel that's the price you need to do to meet the market.

Michelle Myers: It is.

Bridge Littleton: You know, you guys know better than us. So whatever you feel is appropriate.

Michelle Myers: Ok, terrific.

Bridge Littleton: Just recognizing we don't want to price people out either so.

Michelle Myers: No.

Bridge Littleton: Yeah.

Peter Leonard-Morgan: Another question is historically, a lot of people have driven in really early and found parking spaces. And I wondered if whether the Chief would chime in, you know, do we need additional no parking signs, no parking bollards, you know, private side street, for example, down on, you know, Ridge View and Chinn Lane.

A.J. Panebianco: We currently limit parking to one side of the street in the entire residential section. It allows the residents to still be able to park there. Many of them don't have driveways, so that's what we've done in the past. We do limit all parking that we can foresee that's on public property to the end of the town limits. Each year, there's probably seventy five or one hundred vehicles that park along Route 50. There's probably almost as many that park in other places and walk. So you have probably two hundred vehicles there, and there are people that park in the back streets because if it's not geared where they can't, they do. And we started limiting that because they were parking on both sides of the street and you couldn't get a fire apparatus down the street. I don't know what we can do differently other than taking all of the parking away, but then that hurts our residents to limit more parking. Then the other obstacle with that is then how does it get enforced on a day when there's so many turning parts of the machine that I'm not sure that I can, I can tell you, I don't believe we can enforce parking because I'm not sure how we would get rid of it. I can't get tow trucks in there to get them back out. Do we want predatory tow trucks? I don't think so. So there's some real logistical issues with saying, we're going to do more. I'm not saying we won't do more. I'm saying that there are limitations to what can be [inaudible]. We can say whatever we want, but what can we physically and actually do that makes it actually happen? If you tell me you want no parking everywhere, I can say it. But on that day, I can't enforce it. I'll be honest. You can't get rid of three hundred vehicles with one, or two tow trucks. So but we do what we can to limit parking.

Bridge Littleton: Yeah, Chris.

Chris Bernard: So part of the stuff they sent out earlier that broke everything down, so we had an excel model that really broke down all the parking and where people were coming from into different segments, right? So you've got the existing parking that is just in town, right? And then all the different lots and then people coming from Salamander and people, you know, the residents who will walk in and those were all accounted for. So I think I don't remember exactly what the number was, but the parking in town we assumed was going to be a certain number already. So rather than take that away, I think you take that out of the paid parking.

Bridge Littleton: Yeah, no, no, that's the lever you can control. [multiple speakers] control with the pay parking. I think going from one thousand and six down by 600 makes sense.

Michelle Myers: Ok.

Bridge Littleton: Bud.

Bud Jacobs: We had some experience with this in 2019, and thanks to the chief. Our road is a private road. And before we took any steps at all going back several years, the road was choked off with parking on both sides. Probably, I want to say 30 to 50 vehicles maybe parking. And in 2019 we closed the street and chief was kind enough to put a vehicle at the top of the street. And it wasn't rigorous, but basically limited the parking to people who actually live on the street. And if we did that again this time around, we'd be reducing the vehicle [inaudible] I don't know 30 vehicles maybe. But if you figure three or four people in a vehicle, that's one hundred folks [off mic] out of it. We also have the option of letting people park on one side of the street and we take it upon ourselves to put our little traffic cones out and and monitor it. But there are things that can be done, certainly. And I have to say that the years that I've had the opportunity to observe the management of the parade, even in the halcyon years when we had 15 or 20 thousand people the police department performed value. They did a fabulous job. So I'm not too worried about that piece of this chief. I think that's going to be fine. It's all the rest of it that scares the hell out of me. [laughter]

Bridge Littleton: To put it lightly. Anybody have any other questions for Michelle? Kevin.

J. Kevin Daly: And I'm not sure it's even in your purview or responsibility, but are you watching or keeping eye on COVID rates?

Michelle Myers: We are.

J. Kevin Daly: On the increase on the decline? And is there a point that you expect us to make a decision or the state or the county come out? And then what's the number of too many? How red can red be?

Michelle Myers: I don't know. I think two weeks ago when we spoke with Danny, I think we all thought, you know, by tonight, we would have a little bit more understanding if it had gone, you know, out of bounds here in the state. I haven't seen that. So I don't know that we can really predict anything. The best thing we can do, I believe, is move forward. And after we get sales of tickets under way and we see the demand, we might be able to further say, OK, day of, we're not going to take any cash parking sales, we're going to fully limit it to these Pre-sold tickets, right. And at that time, I think we have a little bit more understanding. I would love to turn ticket sales on, on October 1st. So I'd like to turn the spigot on and see what we get and have a more informed discussion in a couple more weeks, if that's OK.

Bridge Littleton: And as you do that and you see the demand, if something happens like in mid-November.

Michelle Myers: Yeah.

Bridge Littleton: You can always say nope, here's your money back, whatever.

Michelle Myers: One hundred percent.

Bridge Littleton: Right, okay.

Michelle Myers: And that's a real easy thing for us to do. Logistically, the things that we have to pay for right up front quickly are the permits for the food trucks. Everything else can be canceled and refunded. The busses again is still an unknown.

Bridge Littleton: Got it.

Michelle Myers: But in terms of outlaying cash right now, we're in a good position if something were to happen in November.

Bridge Littleton: And I think the two things that are kind of different here between this and Oktoberfest. I think what caused concern about Oktoberfest was it was in a penned area and we had unlike here with the cars. So number one people were, you know, if extra people showed up, there was no ability to disperse them further out on streets, they were in an enclosed box.

Michelle Myers: Exactly.

Bridge Littleton: And number two, we had absolutely no way to control, you know, who showed up.

Michelle Myers: Yeah. Whereas we do. [multiple speakers]

Bridge Littleton: Right. And that was the two things that I think gave us the most concern is you had no idea what would happen the day of.

Chris Bernard: At Christmas the available space is [multiple speakers]. Yeah, you restrict the whole parking lot.

Michelle Myers: And the parking lever, like you said, is something we can all manage very easily. So I think if we're OK with the number of a thousand to go out with that sort of tiered pricing, knowing that people are going to commit to that, I think then we can report back if you want to see us again on kind of how ticket sales are going, what the demand is because we need to make up a little of that lost revenue from the loss of sponsorships.

Bridge Littleton: Yeah understood.

Michelle Myers: And the parking. So okay.

Philip Miller: How small does the event still go off and is a success? How small can we make it? I'm just looking at the light recommendation from A.J., I guess, which is 10 square feet per person at three thousand six hundred group size six thousand, which is, to be honest, around what we had in what 2018 or 2014 A.J.?

Michelle Myers: Yes.

Philip Miller: Lighter years, which is still a lot of people in our little town and the CDC strict guidance would be thirteen hundred people. That's a huge difference.

Michelle Myers: Yeah it's massive. To do the strict guidance it doesn't make sense to move forward. It's just not enough revenue to make it happen. This is around an \$80,000 event, all in and all out. And so we have to consider that. The money that we make off the elements, the folks that actually walk down the street is very minimal. It's really sponsorship and parking is the revenue generator and the subsidies from the town. Those are the three pots of money we have to pull from. The folks in the parade and the length of the parade, meaning the duration is really irrelevant. If we wanted to make it shorter duration, that's another way we can control it. We can have less elements. We can have one band instead of three. We can have one car club instead of four, right. And these are other ways we can quiet it down and make it shorter. Because again, that doesn't impact our finances at all. So if exposure time is of concern, that's something also that we can do. And I have not even opened up element registration yet because I wanted to have this conversation first. It's easy to get the elements, [laughter] you know, everybody wants to come and do that. So that's another way we can limit, you know, if you'd like.

Philip Miller: You know, so it's six thousand is the bottom number?

Michelle Myers: It has to be, it really has to be. And that's based on about four or five years of ticket sales that I'm seeing.

Philip Miller: Thank you.

Bridge Littleton: You know, I think there needs to be. Well, this is a question. The question is. Well, I don't know. I mean, here's the struggle, is this right? Is it's. I don't even know how to say it, so I'm not going to say it.

Michelle Myers: I'm glad it's not just me. [laughter].

Bridge Littleton: No, no, no, it's not that. It's not that.

Michelle Myers: It's a tough one.

Bridge Littleton: I'm balancing two things in my mind, and I don't want to say the wrong thing and create the wrong impression.

Michelle Myers: Sure.

Bridge Littleton: But I'll have to think of a different way of asking it. So. And it's not within me right now. So anyway. Well, Michelle, we really. Anybody else have any other questions.

Danny Davis: If, I may. I think the question is about additional funding for the event. If council is supporting that and would like to do that, I'd appreciate a motion.

Bridge Littleton: Ok. I mean, I'm good for it [off mic] for the busses. [multiple speakers]

Michelle Myers: Yes, it was fifteen thousand in 2019.

Peter Leonard-Morgan: What sort of order of magnitude more do you think it might be? I know you don't know.

Michelle Myers: I don't know. [multiple speakers] I would probably budget twenty five percent and that's again taking into consideration that we will push heavily on folks to park at Salamander and then have less folks. We only have 125 spaces at Lost Barrel, whereas before, when it was just the farm, I think we were more like the three hundred range. So we've already decreased on the western side. So on the eastern side, we can, you know, keep that at around 400 as well.

Bridge Littleton: So the quick number is an additional thirty seven hundred bucks give or take.

Michelle Myers: So I would say 18 nine or nineteen thousand twenty thousand would be great. If you like round numbers. [multiple speakers]

Bridge Littleton: Yeah, make it 20. [laughter]

Michelle Myers: That'd be helpful.

Bridge Littleton: Ok. Yeah, I mean, it's great. And I think, yeah, you know, I think we should put this on the calendar.

Michelle Myers: Yeah, I'd love to come back.

Bridge Littleton: Every month. Yeah.

Danny Davis: If you'd like. [multiple speakers]. That's fine. [multiple speakers]

Bridge Littleton: Just to make sure how things are going. [multiple speakers] Right exactly.

Michelle Myers: Just a pulse check. Great. I think it's smart.

Danny Davis: There was not a motion in here, but I think it could be pretty straightforward. I don't mean to prejudge the council, but the question might be is the purpose of the funding specifically just to cover the cost of busses? [multiple speakers] And if so, then reflect that in the motion as well?

Chris Bernard: Take a swing at it.

Bridge Littleton: Yep.

Chris Bernard: I move that the Town Council approve the expenditure of funds of up to twenty thousand dollars to Christmas in Middleburg for the use of busses to shuttle visitors.

Bud Jacobs: Second.

Bridge Littleton: Any discussion? All in favor say Aye.

Multiple Speakers: Aye.

Bridge Littleton: Cindy. We can't hear you.

Michelle Myers: She's muted.

Bridge Littleton: Your muted. [off mic] All right well.

Cindy Pearson: There we go. Finally, got it. Aye. Sorry.

Bridge Littleton: Ok. Opposed?

Philip Miller: Aye.

Bridge Littleton: Abstentions? OK. Motion carries. Michelle, thanks a lot.

Michelle Myers: Thank you. You, guys have a wonderful evening.

Bridge Littleton: All right. Next one. [off mic] [laughter] The approval of deeds of the Middleburg Residences. Mr. Moore. Come on down.

Will Moore: Good evening, Mr. Mayor, Members of Council, you have the memorandum that was included in the packet as well as the deeds and related plats. The thirty thousand foot view is this is the final approval that is necessary to actualize the development of the residences. Last month, you approved the performance agreements that are associated with the bonding for the project. On September 13th, the Middleburg Planning Commission held a special meeting during which they approved the final plat. So these deeds, one of which is related to the final plat for the acceptance of the rights of way, as well as some easement related items. And then there are two off site plats that you have associated deeds with that are also related to necessary easements. These deeds have been thoroughly vetted by the town attorney, and he has approved those as to form, and we're excited to reach this final step. I'm happy to answer any questions you might have.

Bridge Littleton: Does anybody have any questions for Will? [off mic] And now, Will it was my understanding that this morning when you and I talked, you said you wanted an extra 180 days to review this one last time. [laughter]

Philip Miller: At least.

Will Moore: I have delivered.

Bridge Littleton: And I've already talked to every member of council and they're all on board to do that. I mean, just let us know if you're changing your mind.

Will Moore: I am changing my mind. Ok, thank you.

Bridge Littleton: Will, appreciate it. Ok, well, on one note, before we approve the motion, I just want to say number one Will to you, Danny, Estee. The entire staff you guys have and prior staffs as well have worked very, very hard to work this application and get it to where it is today for final approval. And we just thank you guys for all the hard work you've done, you know, bringing this to fruition and, you know, we really, really appreciate it.

Will Moore: Of course.

Bridge Littleton: Then the second thing I would say is to Prem and please pass along to Sheila. I know this is a big milestone for you guys, and it's taken a lot of hard work and dedication and effort and energy on you all's part. But for you as well, congratulations.

Prem Devadas: Thank you.

Bridge Littleton: Well earned.

Prem Devadas: It's the reason why I requested a photo after the approval. [laughter] To send it to Sheila. That's all I want to do.

Bridge Littleton: Ok. Anybody else have any input? All right. I believe a motion will be required by somebody. Bud.

Bud Jacobs: I move that Council approve one the deed of subdivision, dedication, easement, conveyance and vacation by Grantor Middleburg Residential LLC. Two the Deed of Dedication, Easement and vacation by Grantor Salamander Middleburg MUV, LLC. And three the Deed of Easement and Vacation by Grantor Salamander Resort LLC.

Kevin Daly: Second

Bridge Littleton: Any discussion? All those in favor say Aye.

Everyone: Aye.

Bridge Littleton: Opposed? Abstentions? All right. It passes. [off mic].

Prem Devadas: Thank you. [inaudible] and I was serious. I would love to figure out if I can get a photo with Council. Would that be OK?

Bridge Littleton: Sure, [multiple speakers]

Prem Devadas: Great. Where would you like me to stand?

A.J. Panebianco: Outside.

Bridge Littleton: Oh, you just beat me to that one. That's great. All right. [multiple speakers]. Let's all stand up.

Prem Devadas: OK, great. [multiple speakers]

A.J. Panebianco: Oh, y'all scooch on in there. [off mic]

Philip Miller: Have you tall people over here. [multiple speakers]

Bud Jacobs: Take a lot of them A.J..

A.J. Panebianco: Nobody is smiling. [laughter] [multiple speakers]

Bridge Littleton: A.J. it is because you were taking the picture.

A.J. Panebianco: I know exactly.

Bridge Littleton: [multiple speakers] Ok. Let's see here. Next, let's go to the [multiple speakers].

Danny Davis: I could have gotten closer but.

Bridge Littleton: Oh, wait, no, I'm sorry. Staff reports strategic plan update.

Bud Jacobs: You want to do Banbury?

Bridge Littleton: Is there anybody here for Banbury?

Philip Miller: Will?

Will Moore: There's nobody here [off mic].

Bridge Littleton: Ok. Yeah. Let's just go. Go back on track here. So we did the drainage. All right. Strategic Plan Update Review, which I believe is Mr. Moore and Mr. Davis.

Danny Davis: Yes, sir. Thank you, Mr. Mayor, and happy to give an update. So as a reminder, we met in February of this year to review the council's strategic plan, and a few of the items were noted as completed at that time. One item was added specifically related to communication with residents related to resources around the COVID pandemic. And then two items were kind of tentatively put on hold, if you will due to the pandemic. And one of those in particular, is a topic of conversation tonight. Our goal here was to provide general updates on certain of these items that we believe are tracking forward either completed or near completion. Some of them have partial completion because they've been cut into phases or done in partial fashion. Would you like me to walk individually one by one, Mr. Mayor, just very briefly. Verbal update on each?

Bridge Littleton: Well, let me ask. I mean, I've been through it all. How do we want to do this? Does everybody want to go through one by one or just skip to the main area of focus? [off mic]

Chris Bernard: Skip.

Bud Jacobs: I concur.

Bridge Littleton: Ok.

Danny Davis: All right, so we have kind of two decision points really right now at the moment, and that relates both in the areas of zoning and planning. The first is discussions that we've had with council a few times, as well as initial discussions with the Planning Commission on the next steps in the R2 zoning district zoning tax changes. This relates to potentially maximum lot coverage and maximum lot size if I have that correct. Yes. Ok, thank you. And we had discussed with Council engaging with a consultant to assist with that. The proposal we have on the table at this time is an approximate six month effort, and the cost for that consultant effort is about twenty four thousand dollars. That would get us through a review of obviously current zoning. Looking at examples throughout either the region or other comparable places, developing draft language, working it through the planning commission, you know, working it through the public process, and then bringing it to council for review and consideration. That's Item one. The second is related to the Federal

Street Charrette that had been placed on hold due to the pandemic and the need that the charrette is definitely a very much gathering around tables, hands on type activity. Probably the core decision here is should we put this off another six months and see where we are in the spring? Or would you like or is there interest in going ahead and beginning to move this forward with the idea that the actual gathering of people could happen, say right after the new year? Again, this is approximately a six month process. This one's a little bit more extensive. The initial proposal came in a bit higher than what we were satisfied with, so we're working to see if we could trim that scope a bit. It was thirty eight thousand dollars, bring that a bit down closer, hopefully to 30 or 32 if we can. Again, knowing that consultant support was always anticipated for this project, and it definitely would relieve a lot of effort on staff. So to two particular items right now, Mr. Mayor.

Bridge Littleton: Well, I mean, definitely, let's tackle the first one. I mean, as far as the discussion, how does everybody feel about the zoning subdivision ordinance update around, especially around Ridgeview and all that stuff that's going on there.

Chris Bernard: Can do both at the same time. Or is this a pick one?

Bridge Littleton: Oh, I think we could do one or the other or both if we wanted to.

Will Moore: So Berkeley's initial proposals had some overlap in the two, but it did not have them starting on the charrette immediately. It was more than November, December time. [multiple speakers]

Bud Jacobs: The zoning and subdivision ordinance updates, it seems to me, are no brainers, and I would urge council to approve that and let the work start. I think we all have pretty high level of confidence in the Berkeley Group. And I just don't see any questions that would prevent us from moving forward on that. On the charrette, from the time we placed this in our strategic plan, however many years ago, we've talked about a charrette. I'm curious Will if you or perhaps Berkeley Group have any ideas for other ways of engaging stakeholders on Federal Street development that don't involve getting together and getting in a big pile of people and talking about it? I mean, it could be done remotely, presumably, right?

Will Moore: I'm assuming it can it's not something that we've really tested. We've never been in this type of situation before where we would replace that particular type of event, which really often involves breaking into groups and those groups doing mapping exercises. And there are people just by nature of it gathered around. [off mic] We can certainly broach that subject with Berkeley to see if that's something that they might have had experience with during the pandemic, but that might be a stretch to get it done effectively in that manner.

Bud Jacobs: Well, I guess I would recommend to council that given we may have a couple of questions for Berkeley Group on alternative ways to pursue this, that we maybe just defer discussion of the charrette for a while. I'm not entirely comfortable postponing it formally for another six months, but I think we may get there assuming that it's too difficult or a labor intensive labor intensive to do it in any sort of formal, other formal mechanism. So that would be my suggestion to council.

Bridge Littleton: Thanks.

Bud Jacobs: Hope that made sense.

Philip Miller: I agree with what Bud said. Zoning subdivision ordinances is a no brainer. You need to get that moving. And I think the charrette is undoubtedly going to be more effective and efficient in the way that it's done in person then through virtual means. And I think we want the best possible product as the result of that. And so I think it probably says that we need to kick the can just a little bit further.

J. Kevin Daly: Yeah, I concur with both. Do the charrette do it right the first time, not where we start and have to stop, start, stop again and then pick up again. It's not that critical that we can't afford to wait a few months.

Bridge Littleton: And that's a good point if you do it, sort of. Not that anybody would do it slip slop, but it gets done in a less meaningful manner. Yeah. You know, you get to the end of it go well, that wasn't really worth it. So let's redo it again when we can all get together. Yeah. Peter.

Peter Leonard-Morgan: So I'm all for the Berkeley Group zoning and subdivision update proposal, and I think we're all focusing on the Federal Street design charrette. You used a phrase I was about to use about kicking the can down the road. But as long as that can, we can still see it. And you know, we can catch up with it and just keep it in for obvious reasons we're not comfortable to do it right now. And I think hopefully things will change and we can do it sooner rather than later.

J. Kevin Daly: It's particularly difficult to kick a can down the street when it's filled with water. [laughter] [off mic]

Bud Jacobs: Postponing doesn't cause you guys any pain.

Will Moore: I imagine it does not, and that will actually give us a little more opportunity to help refine the scope.

Bridge Littleton: Yeah. Cindy, any thoughts?

Cindy Pearson: Yeah, I'm with everyone else to go ahead with the zoning and subdivision ordinance updates. But with the charrette, I have no problem asking that to be put on hold because it is important to meet in person on that. You need to do that and like Kevin said, do it right. So, you know, postpone that until maybe even spring or after the first of the year. See what the world, what's going on in the world.

Bridge Littleton: Chris, any thoughts? Good to go. All right, yeah, totally agree. I will simply say the zoning thing, if there's any definition of a burning platform, it is that, I mean, a certain number of things in town, the number of calls and emails, as Will as aware that I have taken this last two weeks on this issue and I don't know now if you also the new one going up on Sycamore. Yeah. [off mic] Already listed and it didn't even build was at 1.4 Million. Yeah. So just laying it out there. Take a look on whatever your favorite real estate website is. So are you guys, you got what you need?

Danny Davis: Yes. And we can move forward with the contract on the zoning amendments under our current procurement ordinance. So we're good with that.

Bridge Littleton: Ok, good. And I was, I mean, six months, that actually sounds like a long time. I mean, if they can speed it up, that'd be great. Ok. We did that. We did that. Uh, Banbury Cross. I'm going to guess this is Mr. Moore again.

Will Moore: Yes, sir. Again, you have my memorandum here. Not to read it to you, but I want to be very clear that what is being offered here is purely voluntary by, I was going to say, the applicant. There's no application really before us, right, well, there is a final plat. So during the preliminary plat process, which you'll be familiar with that was conducted a year ago, the approval was in August of 2020. The commission approved the preliminary plat. Many, many concerns were raised related to this subdivision, one of which had to do with potential future uses on the 10 rural economy lots. So those are the larger lots that are set aside during the cluster subdivision development. Those concerns, unfortunately, were in no way actionable because it's a subdivision process. It's a ministerial act. The zoning is already in place, so there's no negotiation for making a proffer. This is a could potentially occur during the rezoning process, and staff and the town attorney were very clear to both the commission and the applicant that we were not seeking any sort of restrictions in conjunction with the approval of the preliminary plat. But the the owner was nonetheless willing to step up at that point in time and just say, look, I'm willing to voluntarily restrict certain uses that are allowable otherwise in the counties AR 2 zoning district and gave us a what he called a preliminary list of those uses that he was contemplating restricting. The project has moved forward through the construction plan phase that's still ongoing with the county. We're not involved in that as part of our extraterritorial subdivision approval. However, the final plat does come back to the planning commission for approval. The applicant in that case, Mr. Hertneky, contacted me a couple of months ago and wanted to alert me to the fact that he was indeed working on an instrument that would realize those restrictions that he had previously mentioned. And he's presented that instrument that is this deed of restrictive covenants to the town. The list of uses that would be restricted is essentially exactly the same as what he had informally presented a year ago. Martin has

reviewed this, but both he and I had again some initial hesitancy because we want to be perfectly clear that this is not a requirement. Again, we've never stated that this was a requirement for consideration of approval of either the preliminary plat or the final plat and Mr. Hertneky, as well as his attorney have communicated to us clearly that they fully understand that they fully understand that this is purely voluntary. But he is nonetheless willing to go forward with it so that deed is presented to us. In this case, we would be a grantee of the deed or beneficiary a third party beneficiary of the deed. What it does is it would give us a right, but not a duty to enforce any of the restrictions that are listed in the deed. And the way that would be realized is the homeowners association that is being established. They would also be that third party beneficiary. They would be the first line of enforcement. So if an owner of one of those lots were to engage in a use that the county could not prevent because it would be allowable in AR 2 however, that was against the association rules, they would be the first line of enforcement. If for some reason the HOA did not enforce, the town could then have the option and again, it would be optional. We would not be required to, but it would give us the option to step in and enforce. And if we were successful in proving the case that it was indeed a violation of the restriction, then we would be compensated for our expenses and such. Town Attorney Martin has approved this as the form. He is comfortable with it. I am more comfortable that I was at the beginning and again just with those assurances and I have that in writing that is purely understood that this is completely voluntary on his behalf. So I did notify the planning commission that this was in the works and I would report back to them. I think the planning commission was very supportive of the idea of the of the owner restricting uses, and they are interested to see the instrument. And I would certainly provide this to them should you approve it. Just kind of demonstrating that he did follow through on his promises. So the question is really before the town is whether or not you want to be a part of that. So again, it's purely optional. If if you are interested in being that party, that third party with the right but not duty to enforce. There's a motion to that effect included in here, but otherwise you could just say that's great. We we encourage you to go ahead and record those restrictions, but don't include us as a beneficiary. So those are kind of the options.

Bridge Littleton: Any questions for Will? Yeah. Chris.

Chris Bernard: What's the downside if we do it?

Bridge Littleton: If we do it?

Chris Bernard: Yeah, like we said, we want to go ahead and do it. Is there some sort of risk anywhere.

Will Moore: So I don't want to play Martin, but I'll do my very best and say there's always some sort of legal risk. It's just whether or not it's been appropriately mitigated. And in this case, with those statements on record from the applicant that he is and his attorney, that he's clear that these are purely voluntary. I think that risk has been mitigated and that really was the only risk I saw was that it could be viewed as being an extraction that we're not legally entitled to. And I think that's been clearly resolved.

Danny Davis: And perhaps this is not a risk per say, but should there be a situation where the town is brought into any kind of dispute or situation it is a in future years, it is a resource drain on the resources of either of the town, whether time or dollars to address that or not, that really is the only potential, you know, situation because it's something outside of the town limits that is not directly a town specific responsibility and yet.

Chris Bernard: We're not required to enforce anything we just have the option.

Danny Davis: Yes.

Bridge Littleton: And there's no. I mean, I know how third party beneficiaries work and there's no liability or issue if we choose not to do anything and we give up no future rights. So like if we don't enforce it on one lot, but then we decide to enforce it on another lot, we can do that. We have complete and utter subjective discretion to enforce it any way we want or never at all. [off mic] Bud.

Bud Jacobs: Two points. The planning commission, I think, was very pleased to see that Mr. Hertneky had not only followed through with commitments that he voluntarily discussed with the town earlier on in this process, but he in fact

expanded them. You may not have noticed it, but in his initial offering, I think there was a size limit imposed on a winery that potentially could be put on one of those lots, and he expanded that to exclude any winery anywhere over there. And we took that, I think, as a sign of good faith and the instruments that have been developed to memorialize this thing all make it very clear that I mean, I take your point Will there's always some risk somewhere, but I see no risk. And not only that, it gives us standing to enforce restrictions down the road should that be necessary and should the council, whatever the council is in those years, decide that they wish to to take up that right. So I don't I kind of don't want to say this, but I don't see a downside.

Chris Bernard: Well, the upside is obvious. That's kind of why I asked it that way is like, what are we missing? Because it seems like.

Bridge Littleton: Well, I mean, I think the only downside is is that a month from now, people go, why didn't you take that? Well, you know, you're fully in the driver's seat. So I mean, Will I get your point about the voluntary versus non voluntary. Totally get that. Assuming you guys and Martin feel that's been fully mitigated, then yeah, OK. And the other question. Yeah, sorry, just to be clear, I don't want to get in the weeds. It's a commercial winery that he is restricted that not a restriction of [inaudible]. Any other questions?

Peter Leonard-Morgan: I think it's all being said. Thank you very much.

Bridge Littleton: Awesome. So is there a motion? [off mic]

Peter Leonard-Morgan: There was a mention in the here about, you know, the opportunity for us to dig a well. Now, presumably, that is not something that we're looking at doing.

Will Moore: Oh, we are not currently. He is Mr. Hertneky made clear to us that he is always open to those discussions, but that's not something that we've followed through on.

Peter Leonard-Morgan: Thanks very much.

Bridge Littleton: And we only use like, what, thirty five percent of the water we make anyway? Ok. Is there a motion?

Philip Miller: I move that council approved the declaration of Restrictive Covenants by Grantor Middleburg Land One LLC alternate.

Bridge Littleton: That's it. I.

J. Kevin Daly: Second. [multiple speakers]

Bridge Littleton: Any discussion. All those in favor say aye.

Everyone: Aye.

Bridge Littleton: Opposed. Abstentions. All right. Will, thanks. All right. I think I skipped over the consent agenda. Yeah. Would anybody like the one item removed from the consent agenda? Thank you. All right.

Peter Leonard-Morgan: I move that council adopt the consent agenda as published.

Chris Bernard: Second.

Bridge Littleton: Any discussion? All those in favor say aye.

Everyone: Aye.

Bridge Littleton: Opposed, abstentions. Ok. Consent agenda is approved looking down here. Last item Rhonda North volunteer appreciation gifts.

Rhonda North: Thank you, Mr. Mayor. During the last during the last Council meeting, the Council discussed the volunteer appreciation reception and agreed to to cancel it again this year due to COVID concerns and the fact that we would all be in the room without masks because we would be eating, and they asked the staff to propose a gift that could be given to the committee members to thank them for for their service. So the town manager and I sat down and did a little discussion. Our theme for this year was supposed to be a baseball related theme, and we had ordered ball caps to hand out, so we would certainly suggest that we go ahead and give those ball caps out. But what we're proposing is put together a little gift bag that would have the ball caps that would have one of our Middleburg Christmas ornaments in it. We've also purchased a few items for the as giveaways for the Virginia Municipal League conference. We think there will be some extras of those. That includes the Middleburg pens that you have on your desk this evening, as well as a Middleburg magnetic bumper type sticker. And finally, we are recommending that we include a \$20 Yiftee digital gift cards, and we think that would help the local businesses, as well as maybe encourage some more businesses to participate in the program that the MBPA has put together. So, so those were our recommendations. The council had also mentioned something about giving special recognition to the Planning Commission and the HDRC for their work on the comp plan update, as well as the historic district guideline update. And we had ordered some small glass bowls with the town seal on them to give to those committee members, and we would suggest that we go ahead and give them to them when we present the gift bags. If you are amenable to the gift bags, you know, would be nice if the mayor council members could attend the committee meetings in November to hand these items out. So that would be our recommendation.

Bridge Littleton: Any questions? Bud.

Bud Jacobs: Can I have a baseball cap?

Danny Davis: When they come in you each get one. Yes.

Bridge Littleton: If I see it on eBay there's going to be problems.

Rhonda North: It was the color green that the pen company had without having to spend extra.

Bridge Littleton: Cindy any input?

Cindy Pearson: No that sounds great. Thank you.

Bridge Littleton: You guys have what you need.

Rhonda North: Yes, sir.

Bridge Littleton: All right.

Danny Davis: And I would say we're going to continue working with MBPA. But I think through this program, buying gift cards through Yiftee. And if if the council is open to doing holiday gift cards again for this year, for the staff also through Yiftee, I think we'll encourage more and more businesses to join in as part of that program. So hopefully that will grow as well.

Bridge Littleton: Great. Ok. Next item is a discussion on plastic bags. So I want to put this on real quick, and he is going to go into some of the details. But as you guys know, the state passed the new law around plastic bags and there are certain things that we can do. And actually, there's nothing we actually can do because we're a town. But there's a couple of thoughts of what we might be able to influence. So, Peter, do you want to jump into it?

Peter Leonard-Morgan: Well, so the Go Green Committee, the the precursor of the Middleburg Sustainability Committee,

Chris Bernard: Formerly known as Go Green.

Peter Leonard-Morgan: Back in 2017. You know, when I was appointed to the VML Environmental Quality Policy Committee, one of the things we pushed quite hard was to push VML to add to the legislative program regulation of single use plastic bags. They did add it to the program. And unfortunately, it was shot down in flames that year in the General Assembly, that was 2019. But in 2020 it actually passed, but it was watered down. So in other words it wasn't regulation, it was a five cent tax on plastic bags. Out of that five cents, one cent goes to the retailer and the remaining four cents, as I understand it goes to mitigation of clean-up of plastic bags in streams and such like. In fact, the other thing that happened was it was planned to be that any jurisdiction could impose regulation or the five cent tax. They change that to only cities and counties, which is what the mayor was alluding to here. So we have unfortunately no power ourselves to do it. I learned today, actually, that Loudoun County might be the only county in Virginia, I'm not sure [off mic] in northern Virginia that has not adopted the opportunity to tax single use plastic bags, and I certainly think we should push hard to have that opportunity. You know, have that enforced.

Bridge Littleton: So the question could be, you know, do is the town? Well, number one, what do we think? And if we do think it's something worthy that should be considered by the county, should we advocate and or write a letter and or encourage the Board of Supervisors and any other ways to move forward with that?

Danny Davis: My understanding is that the board took up a number of variety of new taxing authority late last year and as part of that did direct their staff to develop an ordinance to implement this new tax. However, I believe they added with the caveat that it not take effect prior to January of 2022. I have not seen any later information since that time frame. So I believe it is tracking, but it would still definitely be within the Town Council's authority to send a letter forward.

Bridge Littleton: So go ahead.

Peter Leonard-Morgan: So ironically, I think we had a little bit of say in that at the time, if I'm not mistaken, because we felt it was the wrong time to do it when in fact you couldn't use your reusable bag because they wouldn't bag it at grocery stores.

Danny Davis: You definitely did. The council did take a position at that time or felt strongly that I know you had mentioned that in an email that because of the challenge of COVID and reusable bags,

Peter Leonard-Morgan: It just seems so ironic to charge residents when it's hard enough through COVID and they can't actually use their bags. So they've got to buy the bags. [off mic] Yeah, go to Delaware.

Bridge Littleton: But as I said when I was looking at up yesterday, I do not believe that's actually been passed by the county.

Danny Davis: No, they directed staff to develop the ordinance

Bridge Littleton: So there's a memo to have a memo about an ordinance that will come out in a memo, but they haven't actually done it yet.

Danny Davis: That is correct.

Bridge Littleton: Ok, so until it's done, it's not done. So I mean, so I think it's like you said they issued that to staff last year to take effect in four months. And if it's not even in memo form yet, I don't anyway. So do we want to encourage maybe start off with the letter. [off mic] And Cindy, yeah.

Cindy Pearson: I still think it's I think it's a great idea, but I'm not sure it's the right time quite yet. Maybe if we do send the letter, which I think is a good idea that COVID is and I don't know if it's ever going to be over with. But you know,

we're out of this then because you still don't want all those bags in your grocery store from people, you know, bringing in their own bags and things. So I'm not sure the timing is 100 percent, and that might be the county's problem, too. [off mic]

Peter Leonard-Morgan: No, no. I took it in. They did it for me no worries yesterday. [off mic] must be me.

Bridge Littleton: So, yeah, Cindy the question that just came up was, do they know? Do they still not handle your bag? And I think what Peter is saying is they now do handle your own personal bag.

Peter Leonard-Morgan: I can say they do here. I haven't tried it maybe elsewhere, private. Other supermarkets don't. I don't know.

Bridge Littleton: All right. Well, so that's that. That's OK. So, Danny, I think you add it to the letter, right? Given COVID concerns, you know, once we're past those, you know, this should take effect immediately.

Philip Miller: And it's not just.

Bridge Littleton: Or get paper.

Philip Miller: Yeah, exactly. Or encourage the use of paper as well. Because I mean, think about it, if we end up going to a situation where God forbid indoor dining starts to have to be restricted. We're going to go back to takeout again and those are all in plastic bags.

Bridge Littleton: Yeah, I mean, let's think about it, right? So at the end, the whole point is to not have plastic bags. So COVID or not get rid of your plastic bags. I mean, the food is going to be bagged right, so get on the train with the paper or whatever else right now. And certainly for takeout, you don't have your own bag. [off mic]. And anybody ever seen anybody take their own reusable bag to a to a takeout place? I don't

Cindy Pearson: No.

Bridge Littleton: I've never seen that. Ok. I just curious. Right.

Rhonda North: I take the Middleburg Deli bag that I have here in the office down there when I buy sandwiches for our meetings.

Chris Bernard: Well, you're the one in the state, OK. [applause] If you're going to give a sustainability awards next year, [multiple speakers]

Bridge Littleton: All right Danny, can you do a draft [off mic]

Danny Davis: I'll work through you and Council Member Leonard Morgan solely.

Bridge Littleton: The the Council representative of the committee, formerly known as Go Green.

Chris Bernard: Maybe we could take all the plastic bags and capture some of that runoff water.

Bridge Littleton: There's not enough bags.

J. Kevin Daly: You can fill them up with sand.

Bridge Littleton: Yeah, OK. Any information items from anybody?

Danny Davis: Since you went earlier this morning. If it's OK, if I bring that up briefly, the county is going through a process of renaming Route 7 and 50. Specifically, Route 50 is one that will not impact the town directly, but will impact

either side of us. They do have a website with a short list of names, and there was one that was unanimously recommended by the review panel. That was Little River Turnpike, which is its former name. But one of the options as well was Middleburg, ostensibly to be Middleburg Highway. I'm not. Council doesn't need to make any decisions or take any position, but for the purpose of this, they are holding a virtual public meeting on September 29th. This is the county. They are also taking written and online comments through October 14th. So I'm saying this more as an information to the council as well as to the public. If there is any interest in providing input on that, you are more than welcome to. And I'll leave it at that. The only other item is sending out the email that I'd sent just before the meeting. I think you're aware of the Veterans Appreciation Picnic that the Community Center is putting on on October 10th. Encourage everyone in the community to be there and show your thanks to the veterans in our community.

Bridge Littleton: Perfect. [off mic] Well, there's the priorities. Now they finally emerge. The only other thing I would like to remind everybody of is tomorrow night. Excuse me, Loudoun Laurels for our very own Punkin Lee. A well-earned, well overdue honor for her. It starts at six

Danny Davis: Seven. At Lansdown.

Bridge Littleton: At Lansdown. So hopefully, see some of you there. Any other discussion items from council? [inaudible] That's right, it's black tie, optional. So Bud we'll see you in the waiter's tux. Yes. Ok, Cindy, anything from you? Ok. So I think the next item then is closed session stuff.

Cindy Pearson: So can we have a short break before we go in?

Bridge Littleton: Yes, we can. All right, let's do this. Let's go in and then we'll, if you need to have a quick bathroom break, we'll do it then. Yep, secret meeting. [inaudible] secret meeting tomorrow. All right. Bye, guy. Yeah, yeah. We need to. We need to do the memo.

Philip Miller: I move that council go into closed session as authorized under section 2.2-3711 Of the Code of Virginia for the discussion or consideration of 1, the disposition of publicly held property related to the Asbury Church as allowed under subsection A3. 2 the compensation of a certain town employee and three the evacuation of the town manager. Both items as allowed under subsection A1. I further move the council thereafter reconvene in open session for action as appropriate.

Peter Leonard-Morgan: Second.

Bridge Littleton: All those in favor say aye.

Everyone: Aye.

Bridge Littleton: Opposed. Abstentions. Ok, we're in close session. All right, OK. I asked the council certified to the best of each member's knowledge, one only public business matters lawfully exempted from open meeting requirements on the Virginia Freedom of Information Act and two only such public business matters, as were identified in the motion by which the closed meeting was convened, were heard, discussed or considered in the closed meeting. I would like to remind those present for the closed session that any discussion that occurred within it should be treated as confidential.

Chris Bernard: Aye.

Bud Jacobs: Yes.

Philip Miller: yes.

Bridge Littleton: Yes.

Peter Leonard-Morgan: Yes.

J. Kevin Daly: Yes.

Bridge Littleton: Cindy

Cindy Pearson: Yes, yes.

Bridge Littleton: Also direct staff to move forward with the performance and bonus results of items that were discussed in closed session. Ok and anything else? Meeting adjourned.