

MIDDLETOWN TOWN COUNCIL
MEETING MINUTES
January 9, 2011

The Middletown Town Council Meeting was held in the Council Chamber, 7875 Church Street, Middletown, VA on Monday, January 9, 2011 at 7:00 pm.

Town Council Present

Mayor Marshall Brown
Councilor Gil Barrington
Councilor Carl H. Bernhards
Councilor John Blaisdell
Councilor Mark H. Davis
Councilor Donna M. G. Gray
Councilor Charles H. Harbaugh, IV.

Staff Present

Joan F. Roche, Town Manager
Rebecca L. Layman, Municipal Clerk
Donald Riffey, Superintendent of Public Works
R. Philip Breeden, Chief of Police

Town Attorney

J. David Griffin

1. Call to Order

Mayor Brown called the meeting to order at 7:00 p.m.

2. Moment of Silence

Mayor Brown called for a moment of silence

3. Pledge of Allegiance

Mayor Brown led those present in the Pledge of Allegiance.

4. Roll Call

All Councilors were present.

5. Set Agenda.

Councilor Blaisdell made a motion to set the agenda. Councilor Barrington seconded the motion. Mayor Brown asked if there were any changes or corrections. Councilor Bernhards would like to move item 9a under Public Works. Councilor Bernhards would like to move item 9c under Facilities Committee. All councilors were in favor of the changes. Mayor Brown would like to remove item 13b from the agenda, after speaking with the Town Attorney there is no vote required. All councilors were in favor with the exception of Councilor Bernhards. All Councilors were in favor of the amended agenda.

6. Citizen Comments.

There were two citizen comments.

Susan Chewning 2176 Shawn Drive – The water rate increase in more than 14%. She understands that the Town has hired a mechanic and he needs tools these are two expenses that the Town does not need. The Town is still providing services outside of the Town such as the K-9 dog and our bilingual officers. How are we the Town paid if we lend out our mechanic to Stephens City? She continues to hear about

the mutual support agreement with Frederick County and according to the Sheriff of Frederick County there is not one and those are his direct words. The State code defines what our police officers do when they are called out into other jurisdictions. No one knew that there was an election in Middletown for the vacant Council seat until people went to vote. People do not appear at the Town meeting because they feel that no one really cares or listens. One thing that a lot of people are concerned with is that our Council is not working together, and you have been elected to support the people of Middletown and all the bickering and name calling has really embarrassed people and seems like a bunch of kids in a school yard. If you cannot listen to each other then you are not going to listen to the citizens. There is a lot of talk in Town about dissolving the Town Charter.

Anita Holley 7841 Main Street – She has been working with Mark Davis for quite some time on the Planning Commission. He has put in so many hours, and he is a bit of a perfectionist and it does make her a little crazy at times. He is organized and the only one on Council trained by the state as a Planning Commissioner. To lose Mark Davis would be a huge mistake, and one that she does not support at all. We need forward thinking of the Planning Commission.

7. Approval of Previous Council Meeting Minutes

Councilor Blaisdell made a motion to approve the minutes from the December 12, 2011 Town Council meeting. Councilor Bernhards seconded the motion. Mayor Brown asked for questions or comments. All Councilors were in favor. The minutes were approved.

8. Report of the Facilities Committee

Councilor Davis had a proposal to repair leaks in the roof. Councilor Davis made a motion to approve a bid for Russell's Roofing in the amount of \$2250.00 to repair the roof. Councilor Blaisdell seconded the motion. Mayor Brown asked for questions or comments. Councilor Bernhards wanted to state that he did go up and see the roof, and did not see any immediate evidence of water the ceiling does need to have repairs and the seams on the roof he hopes will be repaired by this. Mayor Brown asked for a roll call vote.

Councilor Bernhards – Yes
Councilor Harbaugh – Yes
Councilor Barrington – Yes

Councilor Gray – Yes
Councilor Blaisdell – Yes
Councilor Davis – Yes

Motion carried 6-0

9. Report of the Personnel and Finance Committee

Councilor Bernhards made a motion to approve the Town of Middletown moving the fiscal audit to every other year beginning with this past audit. Councilor Barrington seconded the motion. Mayor Brown asked for questions or comments. Councilor Gray is aware that in the past years the Town audit was conducted in a timely manner. Councilor Gray has questioned since coming on Council in 2010 why this administration has not allowed audits to be performed in a more timely manner in order to insure the interest of the Town and the citizens. The audit of 2009-2010 was conducted almost a year late and to date we have not received the outcome of this. The current audit which has be schedule normally for September or October has not been conducted even though it was approved by Council and funding in the budget. Councilor Gray stated that at the last meeting she was told that the Town was going to do audits every other year to save money. Councilor Gray stated that she found this to be quite disturbing and irresponsible to say the least when in the past year we have been given discrepancy in our financial data while trying to make a decision on tax increases and water/sewer increases. Not to mention that our new Town Treasurer, that has not had any experience in treasurer work and the inability to be individually bonded. Mayor Brown wanted to clarify a few items by stating that the current Treasurer is bonded. Councilor Gray stated not individually. Mayor Brown went on to say that the community has never set a policy on an annual audit. Mayor Brown stated that the Commonwealth of Virginia states that any

municipality with a population of 3500 or more will have an annual audit and those under population of 3500 are not designated in their frequency. The Federal Government does state that at a minimum we will have an audit every three years. After Councilor Bernhards brought that to Mayor Brown's attention and stated that the average cost of any audit is running \$14,000 we felt it was very critical to try and save some money. We will average a savings according to those figures of \$7000.00 per year by shifting the audit from annual to every other year pending a successful outcome of the audit. In the event that there is a discrepancy in the audit which so far there has not been, if there is a discrepancy in the audit then we will have an audit the next year rather than waiting two years. That is the process and the rationale behind this change. Mayor Brown asked for any other questions or comments. Councilor Davis stated that he agrees with Councilor Gray in the respect that we have gone a long time without an audit and there seems to be delay after delay in getting our current audit completed. Part of the reason for that is a decision was made about a year ago possibly longer he forgets the exact date. We talked about the possibility of not having an audit every year for the issue of expenses as discussed and we also talked about having a different auditor just to get a fresh set of eyes to look at our books, which we generally agreed was a good idea. Councilor Davis stated unfortunately the new auditing firm we chose has been very slow to complete the job, and that has kind of confused the situation and compounded it and made it a little more unpleasant and hard to analyze. Councilor Davis is hoping the audit will be completed shortly and we will have a completed audit that we can go through and verify that everything is okay and move forward to go on an every other year audit. Councilor Bernhards stated that he suggested that this vote wait until the audit report came back, but was over ruled during that meeting, and believes that if any major errors are within the report, then yes the next audit should be completed instead of waiting two years. Mayor Brown asked for a roll call vote.

Councilor Bernhards – Yes
Councilor Harbaugh – Yes
Councilor Barrington – Yes

Councilor Gary – No
Councilor Blaisdell – Yes
Councilor Davis – Yes

Motion carried 5-1

Councilor Bernhards gave the Treasurer report. Councilor Gray asked if it had been determined yet from the last meeting if we had been charged service fees in the past. Councilor Bernhards stated that he answered that at the last meeting. Councilor Gray stated that he did not answer the question at the last meeting that he was going to look into it.

Councilor Bernhards made a motion to pay the bills. Councilor Harbaugh seconded the motion. All councilors were in favor.

Councilor Bernhards made the announcement that the Town hired a fulltime maintenance mechanic. Councilor Bernhards congratulated the Town Manager Joan Roche for passing her one year anniversary and has taken some burden off of him and the Mayor as well. Councilor Bernhards stated that he and Town Manager Roche have been discussing that some changes will take place in the personnel manual which currently states that many things will report to the Mayor and that will change to report to the Town Manager. Councilor Bernhard stated that some employees will not be attending the meetings to cut back on comp time. Mayor Brown introduced the new Town Attorney J. David Griffin. Mayor Brown stated that Dick Legge has returned back to work from his sick leave.

10. Report of the Public Works Committee

Councilor Harbaugh made a motion for the First and Second reading of "AN ORDINANCE TO AMEND WATER, CHAPTER 15, ARTICLE III, WATER RATES AND CHARGES, SEC. 15-25 (A), SCHEDULE, OF THE CODE OF THE TOWN OF MIDDLETOWN, VIRGINIA." Mayor Brown stated that this is to increase the water rates by 14%. Councilor Barrington seconded the motion. Mayor Brown asked for questions or comments. Councilor Gary acknowledges the need to pass on the increase from

the City of Winchester to the Town of Middletown and has always been done in the past. I have adamantly fought it due to several devastating increases that have been brought upon the citizens of Middletown. The main reason tonight Councilor Gray opposes this increase is the fact that at the last work session she found out the Town will be increasing two months prior to when the Town is being increased with these fees and this is in order to make line repairs. Councilor Davis voiced opposition to this at the committee meeting back in December for similar reasons and also as pointed out by an astute citizen. The Council has stated on multiple occasions that we will pass along water rate increases from Winchester to the citizens, but what we are passing along is our increase cost which based on the current situation means we pay .66 cent more per a gallon of water and that means the citizens, businesses and the industries whether in Town or out of Town should all pay .66 cent more for their water. What this increase does is it's graduated such that depending on what category of water user you are in paying more than that, and that is just not fair. An argument has been raised that we need to raise more revenue so that we may pay for a lot of the cost associated with water and sewer system and that has validity, but since there seems to be constant confusion in this Town about where we are in the black or the red in our water system and in our sewer system Councilor Davis stated. Councilor Davis took it upon himself to spend many hours analyzing the Town data base to try and figure out exactly where we stood and Councilor Davis is pretty confident that he has a good idea where the Town is and he has shared this information with everyone. Some people do not seem to agree with it, but what it shows is that our water system is in the black, and our sewer system unfortunately is not, and if we want to talk about rate adjustments to get our sewer system to the point where it is revenue neutral those are valid discussions that Councilor Davis will participate in and probably be in favor of trying to get it in the black as well, and that only makes sense because we are losing money. However Councilor Davis is not in favor of additional increases for water to move money from the water system over to the sewer system especially when this is initially presented as a rate increase passed along from Winchester to the citizens. Councilor Bernhards stated that he to agrees that the 14% increase should be passed along. Councilor Bernhards stated that he agrees with Councilor Davis in the calculation and the figures that are in front of him tonight he still cannot make them work out based on either figure of what the cost is or what we are selling the price for. Councilor Bernhards hoped that this could have been discussed at the last meeting and come to some compromise, and he will not vote on this change with these figures. Mayor Brown stated that the Town of Middletown receives its revenue from a very limited number of sources and the majority of the revenue comes from water. The citizens water bill does not just pay for water nor does it just pay for the sewer, but pays for the government and the building we are sitting in right now. Mayor Brown stated that water rates are a very complicated issue to set there are major firms out there who make a living coming to your Town and signing a contract to set your water rates. To bring a firm in to set the water rates run approximately \$8000.00. There was a course that DEQ offered and we did attend and provided us with the training and the validating rate setting worksheets. When all was done and to come up to being revenue neutral the figure was about 73% water rate increase which this community could not afford. We now have before us a 14% increase that has been provided to us by the City of Winchester who is a soul source of water. Mayor Brown asked for a roll call vote.

Councilor Bernhards – No
Councilor Harbaugh – No
Councilor Barrington – Yes

Councilor Gray – No
Councilor Blaisdell – Yes
Councilor Davis – No

Motion denied 4-2

Mayor Brown stated that he does not know where the money is going to come from since the Council approved a budget with this increase. Mayor Brown made a recommendation to Council that we start shutting down services, there is no money unless we start cashing in our CD's we cannot continue operating like this and you cannot operate at a deficit.

11. Report of Public Safety Committee

Report of the Police Department given by Chief Breeden (attached).

12. Report of the Ordinance Committee

Councilor Harbaugh read the Resolution of 1812 into the record. Councilor Harbaugh made a motion to adopt the Resolution of 1812. Councilor Blaisdell seconded the motion. Mayor Brown asked for questions and comments. Councilor Davis stated his concerns at the Committee Meeting when this was discussed about the verbiage committing Middletown to participate in certain events and programs that were not defined. Councilor Davis believes the wording was changed, but that commitment is still here. Councilor Davis is not comfortable with voting for something that commits us to participate in something that is not defined, it just does not make since. Mayor Brown asked for a roll call vote.

Councilor Bernhards – Yes
Councilor Harbaugh – Yes
Councilor Barrington – Yes

Councilor Gray – Yes
Councilor Blaisdell – Yes
Councilor Davis – No

Motion carried 5-1

Councilor Gray stated that for the past few months she has been working on an ordinance. Mayor Brown called order and stated that this was not on the agenda. Councilor Gray stated that she was making her report. Councilor Gray asked the Town Attorney if she could make a report on her committee. Town Attorney Griffin stated to the Mayor that she was making a report not calling for action. Mayor Brown stated to carry on. Councilor Gray stated that she has been working on an ordinance to amend chapter 15 sections 15-29 that is currently wrong in the Town code and out dated thus causing our staff to enforce it incorrectly. Councilor Gray stated that she has been continually ignored when trying to propose liable amendment, and she is trying to reword this so it is not quite as harsh. Councilor Gray stated that she resents that her knowledge in working with the Town, and with the ordinance committee for so many years that she is not being taken seriously as Chair of the ordinance committee, but rather a personal attempt to undermine her of changing this ordinance. Councilor Gray stated that according to Virginia State Code it is incorrect and we cannot supersede the State Code. Councilor Gray stated that despite this continued fight she is going to persevere keep trying to get the ordinance change, and if we don't get it changed with the current Council we have then hopefully at the end of the year we can. Mayor Brown stated that we are enforcing the State Code appropriately. Councilor Gray stated that she has spoke with Steve Butler about this. Mayor Brown called order and stated that the Town has to speak with Steve Butler to clarify that statement further and if anyone would like a copy of the email traffic it is a public record. Mayor Brown stated in the meantime we will spend additional funds of this Town and go to the new Town Attorney and get a second opinion. Councilor Gray stated that she has spoken to Steve Butler about this and he informed her that the State Code was correct, and that the Town is not correct there is a piece of it, but it does not encompass the whole Code and he also spoke with Town Manager Roche and he told her the same thing from what he told Councilor Gray. Councilor Bernhards stated that he finds it hard to believe that we have no other ordinances that need to be worked on. This ordinance has been reported on for the past 4 months running, and has been discussed at great lengths that this particular ordinance we should not be changing. Councilor Bernhards stated that after 5 months of working on this ordinance the only thing that was presented was the State Code for the Council to read. Councilor Bernhards stated that his understanding for the ordinance committee is they should first get the State Code and go through it and find if we need to make a change and have the committee present to Council and that has not been done. Councilor Bernhards stated that to his understanding it went to the committee and it died in committee, and the amount of time and hours that this Council has wasted on a single ordinance that practically only effects perhaps 1% of this community. Councilor Gray stated that if it is right then

its right, and if it is wrong then it is wrong. Mayor Brown put a close to this issue, because he did not want a debate, at the Town Council meeting where we either approve or disapprove policy and we don't debate it. Mayor Brown thanked the councilors for their statements.

13. Report of the Planning and Zoning Committee

Planning Commission Liaison Appointment was given by Mayor Brown.

One of the privileges afforded me as Mayor, is the authority to select committee chairs that I feel best support me in achieving the goals I have set for my Administration. The position of Liaison to the Planning Commission is not a chair, and as such, does not fall under my prerogative. However, under the provisions of Section 2-40 of the Middletown Town Code, I am requesting that Council appoint a new Liaison to the Planning Commission to bring about a different approach that better serves the interests of Middletown in achieving those goals. Increased state & federal regulatory requirements, utilities, salaries, infrastructure repair, and just the basic everyday needs to do business, have placed an unfair growing burden on our community and its families. As an example, our drinking water costs have jumped 11% during the past two years and will increase by 14% this year and another 14% next year. Middletown has little or no revenue, beyond that which is provided for by its residents through real estate taxes, personal property taxes, and utilities. The economic downturn stopped all residential construction, drying up any chance for increased tax revenues from new homes that could have helped to spread the impact. And the **only** relief Middletown has in the foreseeable future is a boundary adjustment across I-81 that has the potential to bring multiple retail projects such as hotels, shops and restaurants into town, creating new revenue sources as well as job opportunities for our residents. I have continuously stressed the need for long range planning so that Middletown can successfully complete this boundary adjustment. Frederick County has repeatedly expressed reservations about the adjustment because of water availability. And yet, Councilor Davis has failed as Liaison to communicate the need and urgency for two of the most basic documents, placing this action at risk of failure. The Planning Commission failed to meet their responsibilities in setting priorities that reflect those of this administration. This has resulted in a failure to produce an update to the 2005 Middletown Comprehensive Plan. The update should have provided County planning officials with documented evidence of Middletown's proactive stance on transportation, population demographics, housing, infrastructure, recreation, etc., for the new addition, as well as the needed changes in our current infrastructure to respond to the expansion. The Commission also refused to update the Capital Improvement Plan (CIP) as requested by this administration. The CIP is the long range plan required to implement and support concepts identified in the Comprehensive Plan, which must include identification of those resources required to ensure Middletown has sufficient water for future expansion. Both an up-to-date Comprehensive Plan and CIP are mandatory for a successful Boundary Adjustment request later this summer. Instead the Commission has spent nearly two years crafting internal procedural guidelines and a new zoning ordinance for a boundary adjustment that is now at risk. This administration needs both a Liaison and a Planning Commission that are responsive to its requirements. Councilor Barrington made a motion to replace the Planning Commission Liaison Councilor Davis with Councilor Blaisdell. Councilor Blaisdell seconded the motion. Mayor Brown asked for questions and comments. Councilor Davis stated that the Mayor continually confuses the role of the Liaison with the role of the Chairman of the Planning Commission who happens to be in this room and the Mayor really refuses to speak to him at all. Councilor Davis stated that he has been threatened by law suits from Mayor Brown in the past, because the Planning Commission was not doing what he, the Mayor felt it should do. Councilor Davis stated that as a Liaison all he can do is take requests to the Planning Commission and present them and hopefully will be put on the agenda and acted upon, and that usually happens. Councilor Davis stated that this whole tirade about the boundary adjustment being in jeopardy is news to him and he believes to just about everybody else in the room. Councilor Davis stated that Frederick County is in no hurry to do a boundary adjustment, and in fact the land use plan they just approved has language in it that suggests that the development will start across 81 along Reliance Road with the land still in the County which this Planning Commission has opposed, but that is what the

wording states. Councilor Davis stated that the Planning Commission spent a lot of time and research when this boundary adjustment first came up about 2 years ago. The Planning Commission made 2 pages of very detailed recommendations to this Council in writing, and Mayor Brown later on started or began creating a Steering Committee with the County to explore the boundary adjustment and we in the Planning Commission did not find out until about a year later that our recommendations were never even provided to that Steering Committee at all, so right from the beginning the Middletown Planning Commission has been ignored in the context of this boundary adjustment of going forward and how it is planned stated Councilor Davis. Councilor Davis stated that there is a lot of dispute about whether we have water problems and a lot of uncertainties about a lot of other things involved in the boundary adjustment there is no boundary adjustment immanent the Planning Commission has not been requested to do anything else specifically in regard to the boundary adjustment so there is nothing on our agenda, because we have not had any requests, and if we had any requests then Councilor Davis would have passed it along. Councilor Davis stated that regarding the Comprehensive Plan, Virginia State Code requires that you examine your plan once every 15 years to see if it needs to be updated, the Planning Commission has done that and it was started 2 years ago, and we started a committee to update it the main problem when the Comprehensive Plan was perceive to be that there was a bunch of stuff in there that really shouldn't be in there that makes it confusing there was no strong consensus that there needed to be any major changes to the meat of the plan. Councilor Davis stated that it is put on hold and he feels that no one is interested in the Comprehensive Plan unless they are using as an argument to remove someone from a post, the Council does not typically discuss the Comprehensive Plan at all and we have repeatedly requested that people get involved on the Comprehensive Plan committee both citizens and Council members are all eligible and we have had no response, so right now the Comprehensive Plan committee consist of Planning Commission members. Councilor Davis stated that the Planning Commission has done everything that they need to do. Councilor Davis stated that he goes to 2 extra meetings a month, and he has fulfilled all of his obligation and duties he has attended planning training at the Town expense and he feels he is doing a pretty good job. Councilor Gray stated that she will no longer be forced to prematurely vote on an issue that we have not discussed as a governing body or have been given any sustaining documentations or evidence that such a vote should be taken, she feels it is nothing more than Mayor Brown's agenda to dictate his preferences once again upon this Council, and this is not the first time we have been forced into a rash vote without proper discussion or sufficient information and Councilor Gray has continually questioned this unethical practice on more than one occasion and has not received a valid answer, but rather ignored. Councilor Gray stated that once again she questions why we as Council are allowing this to occur now and continually the issue regarding the Liaison to the Planning Commission is irrelevant at this point and the only question at hand is why we are allowing this dictatorship and therefore Councilor Gray will be abstaining from this vote. Councilor Barrington stated that all he has seen since being on Council is a large division, one side or the other and, he does not want to fall into that category, however he does not see that Mayor Brown is taking any kind of a stand as far as doing anything personal and feels that Mayor Brown's interest is for this Town. Councilor Harbaugh stated that he would like to hear from Councilor Blaisdell as to what changes he would make if he was appointed to the position. Councilor Blaisdell responded with getting priorities straight and do what needs to be done so that the Town of Middletown can grow and prosper. Councilor Blaisdell feels that the Comprehensive Plan should be completed. Councilor Bernhards stated that he finds it hard to believe that a motion has been made and seconded on a topic for which no prior discussion was made to this meeting and upon the email stating the request from Mayor Brown Councilor Bernhards asked 3 questions for which he did not receive an answer to 2 of those questions. Councilor Bernhards stated that once again we find ourselves voting on an issue for which we have not discussed, and have discussed

within 4 pages of long emails and now additional time at this meeting. Councilor Bernhards stated that in the last 2 years he has never heard Councilor Blaisdell express interests in being the Liaison for our Council, and to Councilor Bernhards understanding and to his surprise when those 2 appointments were made and separated he understood that both members would attend the Planning Commission meetings and report separately or together however they were going to work it out, but to his understanding Councilor Blaisdell has not attended any Planning Commission meetings in the past year, and not until tonight was it discussed as to which Councilor was interested in being appointed, one of Councilor Bernhards question was since the Town does not have funds for training, whoever is appointed are they willing to be trained as Councilor Davis has done and who is the most qualified at this current time of any of the Council members we have, and are they willing to take the training class at their own expense. Councilor Bernhards stated for the record that he would at his own expense not that he believes he will be appointed to be the Liaison to the Planning Commission, but Councilor Bernhards would like to make it clear that a well trained Council member who has already had the training, and Councilor Bernhards stated that he is almost sure that Councilor Davis has attended just about every Planning Commission meeting held in the past 10 years and he is up to date on what is being done and what needs to be done for the Planning Commission. Councilor Bernhards stated that this is out of order and the Council should not be making this vote tonight. Mayor Brown stated that this is a divided Council and it is obvious by the comments and votes taking place this evening we are not any different than the Congress and Senate today just on a smaller scale. Mayor Brown asked for a roll call vote.

Councilor Bernhards – No	Councilor Gray – Abstained
Councilor Harbaugh – Abstained	Councilor Blaisdell – Yes
Councilor Barrington – Yes	Councilor Davis – No

Tie vote

Mayor Brown – Yes (tie breaker vote)

Motion carried

Councilor Gray stated that she hopes in the future that this Council will work to see that items like this are not brought before us at the actual meeting and in which the Council did not discuss prior to the meeting, and she feels that it is wrong. Mayor Brown made the final comment that over a year this was brought up to Council at one of the Work Session meeting and at that time Mayor Brown re-appointed the Chair on the Planning and Zoning Committee John Blaisdell and attempted at that time as well to change the Liaison. Mayor Brown stated that the Council is well aware of his desires at that time and his desires have not changed, and the Council was informed again by email a week in advance of this vote. Mayor Brown stated that the Comprehensive Plan is the responsibility of our Planning Commission not at the request of the Council; the Planning Commission should be on top of it and aggressively handling the issue and not waiting for someone to come up and tell them to do it.

14. Report of Special Committees

Councilor Bernhards reported that the 4th of July Committee meeting will be held on January 15 @ 7:00 p.m. Councilor Bernhards also reported that the Belle Grove and Cedar Creek National Park Commission had a meeting/discussion on signage for the park.

15. New or Unfinished Business

Mayor Brown stated that he had received an establishment of a park study group and the Town has been proffered 1.8 acres of land on the south side of our community as a public park. Mayor Brown stated that the proffer calls for a non-recreational park which means we cannot put a playground, ball field it is

strictly a park and the best use of it. Mayor Brown stated that we did have an offer from the Sons of Confederate Veterans who are currently raising funds to prepare a memorial for General Jubal Early and asked for the Town to locate a place to put it. Mayor Brown asked Councilor Harbaugh and he has accepted to establish a study group and we are looking for volunteers if anyone in this community has an interest in how we will be using this park please contact Councilor Harbaugh.

Mayor Brown stated that there was some inaccurate information in an article that the Frederick County Report newspaper published. Mayor Brown stated that he would like to publicly correct those if we could, and if the reporter is willing to print a retraction they may do so. The Council must coordinate with the Town Manager on their queries to keep it to one call and not multiple calls. Mayor Brown stated that the Town does not have a mutual support agreement with Frederick County, but we do have one with the Sheriff Department. Mayor Brown stated that we do not have a Trish Street, but we do have a Church Street. Mayor Brown stated we have never shared cost with Stephens City, but they did ask if they could make use of our mechanic on a cost sharing basis in the future. Councilor Gray stated that it was completely inappropriate to bring those issues up here at the meeting, and could have been handled one on one or with a phone call or email. Councilor Bernhards stated that he had one more item under unfinished business; Councilor Bernhards would like to highly recommend to the Mayor and this Council that we move back to the Public Works Committee and that we do a First and Second reading on the 14% increase on the water rate based on the increase of our actual cost, and he believes that he has the votes for that. Councilor Gray stated why don't we discuss this at the Committee meeting instead of making another rash vote right now. Mayor Brown stated that he has a recommendation placed before Council and it is the Mayor's responsibility to request if it is in the form of a motion. Councilor Bernhards stated that yes that was in the form of a motion. Councilor Harbaugh seconded the motion. Mayor Brown stated that he had a motion and a second to increase the water rates by 14% of the actual cost. Mayor Brown asked for questions or comments. Councilor Gray asked if it was for the actual increase or are we enacting it 2 months early as was originally planned. Councilor Bernhards stated that his motion does not include any start date, the motion is to simply get a First and Second reading completed on a .66 cent increase per thousand gallons as the public knows and the Council knows we will still have a Public Hearing next month on this issue and than a Third and Final, and as long as Councilor Bernhards has been on Council we have yet been able to get this passed through, prior to the June 1 deadline. Councilor Davis wanted to clarify the motion by asking Councilor Bernhards is his motion to pass along a .66 cent per thousand gallons to every water customer in every category. Councilor Bernhards stated that was correct.

Councilor Bernhards – Yes
Councilor Harbaugh – Yes
Councilor Barrington – Yes

Councilor Gray – No
Councilor Blaisdell – Yes
Councilor Davis – Yes

Motion carried 5-1

Mayor Brown asked for the Second reading. Councilor Bernhards made a motion to amend the water ordinance to reflect a .66 cent pass through increase from Winchester to be placed on all of our water users. Councilor Harbaugh seconded the motion. Councilor Gray stated the correct procedure for making a motion is that you should read the chapter and section of everything that is being changed. Councilor Davis stated that it is an unusual situation, because we don't normally have a First and Second motion's. Mayor Brown stated that it is called a First and Second reading. Councilor Davis stated we are not doing readings now we are doing motions and that is different. Mayor Brown stated that Councilor Bernhards did a motion and a reading of a change. Councilor Davis stated that we are not reading anything and that it is all wrong. Mayor Brown deferred to the Town Attorney. Town Attorney Griffin stated that it was a valid motion and we had a public hearing. Councilor Gray and Councilor Davis stated that we have not had a public hearing yet. Mayor Brown stated that this is a First and Second reading so that we may have a public hearing. Town Attorney apologized, and stated that if your process is to do a First and Second

reading before the public hearing than you already have the format and as he understands Councilor Bernhards is making a motion to take the format here and change it from the rate that is published in the original ordinance and change to .66 cents per thousand gallon across the board in all categories which is a valid motion and you can do a First and Second reading with that substitution in here and unfortunately it is very common. Councilor Gray stated that we do First and Second readings by title. Town Attorney Griffin stated that is rare and many localities do what is being done right now. Mayor Brown stated that the motion is appropriate. Mayor Brown asked for a roll call vote.

Councilor Bernhards – Yes
Councilor Harbaugh – Yes
Councilor Barrington – Yes

Councilor Gray – No
Councilor Blaisdell – Yes
Councilor Davis – Yes

Motion carried 5-1

Mayor Brown asked that a public hearing date be set for the water rate increase. Councilor Bernhards stated February 13, 2012 at 6:30 p.m.

Next Committee Meeting will be January 17 @ 7:00 p.m.
Next Work Session Meeting will be February 6 @ 7:00 p.m.

16. Petitions and Communication

17. Adjournment

Councilor Blaisdell made a suggestion that before we adjourn a meeting we need to make sure that every Council member signs any documents that need to be signed. Mayor Brown stated that the Council needs to insure that all documents are signed before departure of the meeting.

Councilor Blaisdell made a motion to adjourn. Councilor Harbaugh seconded the motion. All Councilors were in favor. Meeting adjourned at 8:25 pm.

Marshall J. Brown, Mayor

Rebecca L. Layman
Town Clerk

