

TOWN OF MIDDLETOWN  
TOWN COUNCIL MEETING MINUTES  
FEBRUARY 14, 2022 | 7:00 P.M.

The Town of Middletown Town Council meeting was held in the council chambers located at 7875 Church Street, Middletown VA on Monday February 14, 2022 at 7:00 p.m.

**Town Council Present**

Mayor Charles Harbaugh IV  
Vice Mayor Jeffrey Pennington  
Councilor Carolyn Aliff  
Councilor Scott Fink  
Councilor Carole Snyder Jones  
Councilor Shayla Rickard  
Councilor Stephanie Mitchell

**Staff Present**

Municipal Clerk Christina Smith  
Police Chief Gary Benedict Jr.  
Planning & Zoning Administrator David Burke  
Public Works Superintendent Les Morefield

**1. Set Agenda**

Mayor Harbaugh asked for a motion to set the agenda. Councilor Pennington made a motion to amend the agenda and move Frederick County resident Linda Sivertsen request to be included in the Friendly Boundary Line Adjustment changing it from 13 (thirteen) properties to now 14 (fourteen) properties which will include her property. Councilor Rickard seconded the motion. All Councilors were in favor and the agenda was set.

**2. Approval of Previous Meeting Minutes**

Mayor Harbaugh asked for a motion to approve the Town Council minutes from January 10, 2022. Councilor Snyder Jones made a motion to approve the Town Council minutes. Councilor Fink seconded the motion. All Councilors were in favor and the minutes were passed.

**3. Citizen Comments (3 minutes per person per meeting – max 30 minutes)**

Robert Clark – 652 N Buckton Road, Middletown, Virginia – see attached

**4. Report of the Facilities Committee**

Nothing to report

**5. Report of the Personnel and Finance Committee**

Councilor Snyder Jones made a motion to approve the Treasurer's Report. Councilor Fink seconded the motion. Mayor Harbaugh asked for a roll call vote.

Councilor Aliff – Yes  
Councilor Mitchell – Yes  
Councilor Pennington – Yes

Councilor Snyder Jones – Yes  
Councilor Fink – Yes  
Councilor Rickard – Yes

Motion carried 6-0

**6. Report of the Public Works Committee**

Nothing to report

**7. Report of Public Safety Committee**

Councilor Fink stated nothing to report other than as reported in the packet.

**8. Report of the Ordinance Committee**

Nothing to report

**9. Report of the Planning and Zoning Committee**

Councilor Pennington made a motion to appoint Rebecca Anderson to serve on the Planning Commission. Councilor Aliff seconded the motion. Mayor Harbaugh asked for a roll call vote.

Councilor Aliff – Yes

Councilor Mitchell – Yes

Councilor Pennington – Yes

Councilor Snyder Jones – Yes

Councilor Fink – Yes

Councilor Rickard – Yes

Motion carried 6-0

Councilor Pennington made a motion to re-appoint Henry Shiley to serve on the Board of Zoning Appeals. Councilor Aliff seconded the motion. Mayor Harbaugh asked for a roll call vote.

Councilor Aliff – Yes

Councilor Mitchell – Yes

Councilor Pennington – Yes

Councilor Snyder Jones – Yes

Councilor Fink – Yes

Councilor Rickard – Yes

Motion carried 6-0

Councilor Pennington made a motion to re-appoint Megen Divittorio to serve on the Board of Zoning Appeals. Councilor Snyder Jones seconded the motion. Mayor Harbaugh asked for a roll call vote.

Councilor Aliff – Yes

Councilor Mitchell – Yes

Councilor Pennington – Yes

Councilor Snyder Jones – Yes

Councilor Fink – Yes

Councilor Rickard – Yes

Motion carried 6-0

Councilor Pennington made a motion to consider a Friendly Boundary Line Adjustment with Frederick County on the following 14 (fourteen) properties. Councilor Aliff seconded the motion. Mayor Harbaugh asked for a roll call vote.

Councilor Aliff – Yes

Councilor Mitchell – No

Councilor Pennington – Yes

Councilor Snyder Jones – Yes

Councilor Fink – Yes

Councilor Rickard – No

Motion carried 4-2

### **10. Report of Special Committees**

Mayor Harbaugh shared that the Heart and Soles 5K that took place on Saturday February 12, 2022 was another successful event.

### **11. New or Unfinished Business**

Set Joint Committee Meeting, Public Safety & Ordinance – March 7, 2022 @ 6:00 p.m.

Set Work Session Meeting – March 7, 2022 @ 7:00 p.m.

### **12. Petitions and Communication**

Mayor announced the Public Works Sewer Treatment Plant Ground Breaking Ceremony will be held on March 19, 2022 at the treatment plant.

Mayor Harbaugh presented an autographed picture of Washington Football Team Legends to Brenda Miller who won the Facebook Superbowl Give Away. Ms. Miller guessed the correct/closet score of the game.

Mayor & Council reviewed a letter from Frederick County resident Linda Sivertsen regarding the Friendly Boundary Line Adjustment. Ms. Sivertsen is in favor of the BLA and asked for her parcel of land the to be considered in the BLA.

### **13. Adjournment**

Mayor Harbaugh adjourned the meeting at 7:09 p.m.

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Christina Smith  
Municipal Clerk

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Charles Harbaugh, IV  
Mayor

The Exit 302 Smart Development Coalition believes that

1. Approval of the annexation of lands east of Interstate 81, Exit 302 within Frederick, County, Virginia, will create a Middletown jurisdictional island within Frederick County. This island will have a 100 percent negative impact upon Frederick County residents, and a zero percent negative impact upon Middletown residents.
2. The result of a successful annexation by Middletown will lead to the deprivation of the First Amendment rights of Frederick County residents by abridging their freedom of speech and their right to petition their duly elected Frederick County representatives for redress of grievances arising out of the operational impacts and or the development impacts of the businesses or industries developed within the annexed territory.
3. In *Kleindienst v. Mandel* (1972), United States Supreme Court Justice Thurgood Marshall observed that “[t]he freedom to speak and the freedom to hear are inseparable; they are two sides of the same coin.” Middletown’s annexation of the lands east of Interstate 81 will in effect, abridge Frederick County residents’ freedom of speech by splitting this coin in half, abridging their ability to be heard by their Frederick County representatives.
4. Middletown has maintained a policy statement of annexation of lands east of Interstate 81 since 2005, when the Foresight Middletown plan, which promoted the implementation of a technology park east of the interstate, was adopted into the Town’s Comprehensive Plan. That the most current Middletown annexation policy statement is evidenced in Appendix A: Reliance Road Area Land Use Plan, of Middletown’s Comprehensive Plan 2038. That this policy statement has and is being maintained with deliberate indifference to the residents of Frederick County.
5. Since November 7, 2021, Middletown has been provided actual notice by the citizens of Frederick County that its annexation actions relative to the lands east of Interstate 81 is substantially certain to result in the constitutional violations outlined herein, and that although provided this notice, Middletown consciously or deliberately chooses to disregard the plainly obvious risk of harm to Frederick County residents that will result as a consequence of their annexation actions.

The Exit 302 Smart Development Coalition respectfully requests that this governmental body vote no on annexing additional land east of Interstate 81, Exit 302.

Thank you.