



MIDDLEBURG TOWN COUNCIL
Regular Monthly Meeting Minutes
Thursday, October 8, 2020



PENDING APPROVAL

PRESENT: 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
Martin Crim, Town Attorney
Rhonda S. North, MMC, Town Clerk
William M. Moore, Deputy Town Manager
Jamie Gaucher, Economic Development Director
Estee LaClare, Planning & Project Associate
Julie Rivard, Finance Director/Town Treasurer
A.J. Panebianco, Chief of Police

ABSENT: Mayor Trowbridge M. Littleton
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, October 8, 2020. Due to Governor Northam's executive orders requiring that people social distance, the Council meeting was held as a hybrid meeting, with some of the Council and staff participating in-person and others participating remotely.

Vice Mayor Miller explained for the viewing audience that it was the Council's responsibility to conduct essential public business despite the COVID-19 pandemic; however, it recognized the need to do so safely, not only for its members but also for the Town staff and members of the public. He further explained that to that end, in accordance with the Council's resolution declaring a local emergency and its ordinance implementing emergency procedures and effectuating temporary changes to address the continuity of governmental operations, the Council would hold its meetings via remote access until such time as the Governor rescinded his executive orders. Mr. Miller advised the viewing audience that copies of the agendas were available on the Town's website and that the meetings would be livestreamed and recorded for viewing on the website. He reviewed the process that would be utilized for the remote meetings.

Vice Mayor Miller led Council and those attending in the Pledge of Allegiance to the flag. The roll call was called at 6:00 p.m.

Staff Reports

September 2020

Town Manager Davis reported that the Request For Proposals for the Asbury Church had been re-issued and was open until December 1st. He noted that the staff contacted those parties who had expressed interest in the building in the past.

Town Manager Davis reported that the recruitment for the Police Lieutenant position would close the end of the week and noted that a good number of applicants had already applied. He advised that interviews would be conducted shortly.

Town Manager Davis reported that the Town had experienced issues with discoloration of the water. He reminded Council that Well 4 was now back online and explained that activity associated with it needed to be done that could stir up the water in the main lines. Mr. Davis opined that this would be minimized upon the completion of the water flushing that was currently underway. He stressed that the water was not dirty and advised that it was clean, treated water. Mr. Davis expressed appreciation for the public's patience as the Town worked to address this issue.

In response to an inquiry from the Council, Town Manager Davis reported that the water produced by Well 4 had natural carbon dioxide gases, which created bubbles in the water. He advised that improvements would be done in the future that would allow the bubbles to release before entering the distribution system. Mr. Davis noted that if individuals experienced this problem, they could let the water sit for a few minutes and the bubbles would dissipate.

COVID-19 Status Report

Town Manager Davis reminded the Council and audience of the need to wear a face mask, wash their hands and social distance. He further reminded them that the Housing Assistance Program was currently underway and noted that the flyer for it also identified resources that were available for other items. Mr. Davis noted that there was a lot of COVID related money available from the County and federal governments; however, individuals must ask for it. He advised that the Business Support Program was ongoing and noted that the staff continued to watch for available opportunities.

Town Manager Davis reported that the Town would reopen the Liberty Street public restrooms seven days a week beginning the week of October 19th. He noted that this was being done through in-house cleanings. In response to an inquiry from the Council, Town Manager Davis advised that the cost for the cleanings could only be reimbursed if the Town hired an outside contractor.

Reports of Town Committees/Council Liaisons

Councilmember Daly reported that the Police Department's vehicles were beginning to age; therefore, they were looking to begin implementing the replacement cycle.

Councilmember Leonard-Morgan reported that he and the Chairman of Go Green met with the Town Manager and Town Clerk regarding the Town Hall Project. He advised that they offered to help with the green side of the project.

Councilmember Bernard reported that EDAC recently met to discuss the restaurant assistance program in the Fall. He noted that they also re-evaluated the Camoin report and discussed the Town's marketing efforts.

Consent Agenda

A. Minutes – September 24, 2020 Regular Council Meeting

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

Vote: Yes – Councilmembers Miller, Bernard, Daly, Jacobs, Leonard-Morgan and Pearson

No – N/A

Abstain: N/A

Absent: Mayor Littleton and Councilmember Kirk

(by roll call vote)

Discussion Items

Restaurant Assistance Program – Winter 2020-2021

Economic Development Director Gaucher reported that the staff continued to discuss options for extending the restaurants' outdoor seating capacity in anticipation of the upcoming adverse weather. He advised that there was not a one-size-fits-all solution. Mr. Gaucher noted that some restaurants had areas for tents; however, they were all varying sizes.

Economic Development Director Gaucher recommended the Town implement a program to allocate up to \$10,000 per participating restaurant for the rental of tents and/or heaters, with the funding to be provided in monthly payments between November 2020 and March 2021. He suggested it be conditioned upon the restaurant submitting paid invoices for the tents/heaters; participating in cooperative marketing; and, maintaining a minimum number of hours of operation. Mr. Gaucher stressed that the operating costs for the tents, including labor and cleaning costs, would be the responsibility of the restaurants. He noted that there was no funding in the Town's budget for this program and advised that if the Council agreed to pursue it, the staff would return with a budget amendment.

In response to an inquiry from the Council, Economic Development Director Gaucher reported that he received two quotes from tent companies for rental costs. He noted that the cost depended on the size, number of walls sought and period of use. Mr. Gaucher reported that some restaurants were interested in renting up to three tents, with heaters, and advised that the cost would exceed the \$10,000 proposed. Mr. Gaucher reported that he heard a wide range of costs, the most expensive of which was \$12,000 for a four-month period. He advised that he was expecting an additional quote.

In response to inquiries from the Council, Mr. Gaucher confirmed he could have the tents here next week if needed. He confirmed the need to amend the budget would not delay implementation of the program once the Council approved it. Mr. Gaucher reiterated that this would be a reimbursement program.

In response to an inquiry from Council about other ideas, Economic Development Director Gaucher reminded Council that the idea was to expand the outdoor dining space on a temporary basis. He noted that two restaurants were considering implementing semi-permanent structures. Mr. Gaucher advised that there was not a solution that would address all the restaurants, as not all of them had an outdoor area for dining.

In response to an inquiry from the Council, Economic Development Director Gaucher confirmed the staff would streamline the permitting process for the tents. He reported that the Town would enter into an agreement with the participating restaurants in order for them to receive the reimbursements.

Town Manager Davis noted that the staff would make sure the restaurants had the appropriate building and Fire Marshall permits. He further noted that Council may have to waive some of the Town's regulations regarding the permitting process. Mr. Davis advised that the staff would make sure the tents did not impede pedestrian or vehicle traffic.

In response to an inquiry from the Council, Economic Development Director Gaucher advised that there was no interest on the part of the restaurants in having parking dedicated to curbside pick-ups.

In response to inquiries from the Council, Economic Development Director Gaucher reported that ten restaurants were currently interested in participating in the reimbursement program. Town Manager Davis confirmed this would be a contractual relationship like the one that was used for the restaurant voucher program earlier in the year.

Council requested that the staff update their memorandum for the record and advised that it was confusing. They opined that the intent was defray the participating restaurant's expenses up to \$10,000. It was noted that the contracts for the tent rentals would be between the restaurants and the tent company, with the Town reimbursing the restaurant monthly for the rental costs upon the submission of a paid invoice.

In response to an inquiry from the Council regarding the meals tax revenues that were projected if the restaurants were able to expand their outdoor seating during the winter, the staff explained that they looked at the average revenues for a five-month period and factored in a reduction due to COVID. It was noted that pre-COVID meals tax numbers for warm months were \$100,000 per month. The staff reiterated that they were projecting lower numbers due to the normal winter seasonal dip and the impacts of COVID.

In response to an inquiry from the Council regarding what assistance would be offered to those restaurants without areas for outdoor seating, Town Manager Davis advised that they were told the Town would be open to any ideas they may have; however, none were offered. He opined that those restaurants were already offering take-out food. Mr. Davis reported that the staff was focusing its efforts on those that needed additional seating due to the COVID restrictions on indoor seating capacity.

Council noted that helping the restaurants had a positive impact on the retail businesses, as people would not shop somewhere if they could not also eat there.

In response to an inquiry from the Council, Town Manager Davis confirmed the staff intended to assist the restaurants that were seeking permanent solutions in the same manner as those seeking temporary solutions. He advised that if the Council approved this program, a budget amendment would be placed on the next agenda to allocate the funding for it.

In response to an inquiry from the Council, Town Attorney Crim confirmed there were no issues with the program; however, he suggested that ideally, it should be run through a chamber of commerce. He confirmed it could be run through the Middleburg Business & Professional Association if they qualified as a chamber of commerce. Town Manager Davis reported that he would follow-up on the options with the Town Attorney.

Councilmember Jacobs moved, seconded by Councilmember Daly, that Council authorize the Town Manager to finalize details of a Restaurant Support Program focused on the provision of useable outdoor seating during the winter of 2020 and early spring of 2021 and that Town staff return with a budget amendment for this program to be funded from Unassigned Fund Balance.

Vote: Yes – Councilmembers Miller, Bernard, Daly, Jacobs, Leonard-Morgan and Pearson

No – N/A

Abstain: N/A

Absent: Mayor Littleton and Councilmember Kirk

(by roll call vote)

Reconvening of Health Center Advisory Board

Town Manager Davis reported that the General Fund included \$20,000 for charitable donations. He reminded the Council that the Town anticipated having a foundation in place to administer the Health Center Funds, which had not occurred due to the COVID pandemic; therefore, the FY '21 budget did not contain a line item for the Health Center Fund. Mr. Davis advised that if the Council wished to make donations from that fund, a budget amendment would be necessary. Mr. Davis recommended that if the Council wished to move forward with charitable donations, the funding come from the Health Center Fund. In response to an inquiry from the Council, he confirmed the fund's balance was currently \$660,000.

The Council held considerable discussion regarding this item. They ultimately agreed the Health Center Funds were intended to be used for charitable donations and that this should continue. The Council agreed to have the Health Center Advisory Board resume their meetings so they could make recommendations for charitable donations this year for the Council's consideration. It was noted that this may require the reappointment of some of the committee's members as their terms were allowed to lapse because the Town had expected to appoint a new foundation board.

Development of Plan to Repay Health Center Fund for COVID-19 Related Expenses

Town Manager Davis explained that the Mayor did not want to lose sight of the use of some Health Center Funds for COVID assistance related expenditures. He reminded Council that when they approved the use of those funds, they said they wanted the funds to be repaid. Mr. Davis recommended this be brought back to Council as a part of the FY '22 Budget. He advised that he was uncomfortable making a recommendation at this time as the Town did not yet know the impact COVID would have on its revenues. Mr. Davis noted that the Council could determine later whether it wanted the repayment to include interest.

The Council agreed with the Town Manager's recommendation. They suggested the repayment be based on a multi-year plan; however, they asked that it not be too long a repayment period.

Information Items

Review of Business Categories Related to Business, Professional Occupancy License (BPOL)

Town Treasurer Rivard advised Council that when she interviewed for her position, it was stressed that it was important to the Council that there be a review of the BPOL program; therefore, she was about to undertake a review of all businesses' tax classifications to ensure they were correct. She reminded Council that while they set the rates, the Treasurer was mandated by State Code to assure the program was implemented properly. Ms. Rivard opined that in the past, businesses could pick their own classification, which resulted in some being classified incorrectly. She noted that this was unfair to those businesses that were classified correctly. Ms. Rivard opined that most businesses were properly classified.

Town Treasurer Rivard reported that she prepared a set of standard operating procedures to identify what she was doing, why she was doing it, her authority to do it and the process that would be used so there would be no questions related to fairness. She advised that she also revised the BPOL application form to make it easier for the businesses to complete. Ms. Rivard noted that she also updated the BPOL section of the website and would add even more information.

Town Treasurer Rivard reiterated that she would review the applications for those businesses that filed an application last year, as well as look at those businesses located in Middleburg that did not file an application. She reported that if she had any questions related to their classification, she would send them a letter asking them to explain what they did; and, if following receipt of that explanation, she had any questions, she would contact them to discuss it. Ms. Rivard advised that once she made a decision on their classification, she would notify the business. She noted that if it involved a change in the classification, she would notify them of their right to appeal and the process to do so. Ms. Rivard reviewed the appeal process. She advised Council that if the classification changed, she must re-assess the business under the proper classification for this year, as well as for the previous three years. Ms. Rivard advised that this could result in some businesses owing the Town money and others receiving a refund.

In response to inquiries from the Council, Town Treasurer Rivard confirmed that under the State Code, she could not simply implement the new classification going forward but must look at past filings. She explained that otherwise, it would be unfair to those businesses that filed their applications correctly.

Town Manager Davis reminded Council that the Town Treasurer must not just follow the State Code, but she must also follow the rulings of the State Tax Commissioner, which had the same effect as law. He reported that Ms. Rivard was an expert in BPOL taxation.

The Council expressed appreciation that the Town Treasurer was taking on this task; however, they expressed displeasure at the need to apply new classifications retroactively.

Town Treasurer Rivard advised that if any business owed back taxes as a result, she would work with them on the payment.

In response to an inquiry from the Council regarding the need to communicate that the Town was doing this exercise, Town Treasurer Rivard advised that she would only reach out to those businesses whose classification she questioned. Town Manager Davis expressed hope that this would only involve a small number of businesses.

Closed Session – Property Acquisition

Councilmember Leonard-Morgan moved, seconded by Councilmember Bernard, that Council go into closed session as authorized under Section 2.2-3711 of the Code of Virginia, for the discussion or consideration of the acquisition of property for the Town Hall as allowed under Subsection (A)(3). Councilmember Leonard-Morgan further moved, seconded by Councilmember Bernard, 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: Mayor Littleton and Councilmember Kirk

(by roll call vote)

Vice Mayor Miller asked that 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.

Council Approval – Sales Agreement – Purchase of Property for Town Hall Project

Councilmember Bernard moved, seconded by Councilmember Daly, that Council approve the attached (see agenda) Purchase and Sales Agreement with Salamander Middleburg MUV LLC to acquire land for the new Town Hall as presented, with necessary amendments to be approved by the Town Manager and Town Attorney.

Vote: Yes – Councilmembers Miller, Bernard, Daly, Jacobs, Leonard-Morgan and Pearson

No – N/A

Abstain: N/A

Absent: Mayor Littleton and Councilmember Kirk

(by roll call vote)

There being no further business, Vice Mayor Miller declared the meeting adjourned at 7:34 p.m.

APPROVED:

Philip M. Miller, VICE MAYOR

ATTEST:

Rhonda S. North, MMC, Town Clerk

October 8, 2020 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)

Philip Miller: I hereby call the regular October meeting to order and first item of business is the 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.

Philip Miller: Read the meeting announcement. It is the Middleburg Town Council's responsibility to conduct essential public business despite the COVID-19 pandemic; however, it recognizes the need to do so safely for not only its membership, but also for the Town staff and members of the public. To that end, in accordance with the Resolution Confirming the Declaration of Local Emergency and the Ordinance to Implement Emergency Procedures and Effectuate Temporary Changes to Address Continuity of Government Operations during COVID-19, the Town Council will hold its meetings via remote access until such time the Governor rescinds his emergency order mandating social distancing. Copies of the previously referenced documents are available at the Town's website. Do I need to read all that part? [Off mic] Okay. For those who wish to view them, anyone wishing to participate during the public comment period may do so by calling (540) 339-6355. Okay, and then we'll go on to roll call. Chris.

Chris Bernard: Chris Bernard.

Philip Miller: Bud.

Bud Jacobs: Bud Jacobs.

Philip Miller: Peter.

Peter Leonard-Morgan: Peter Leonard-Morgan.

J. Kevin Daly: John Kevin Daly.

Rhonda North : Rhonda North, Town Clerk.

Danny Davis: Danny Davis, Town Manager.

Philip Miller: Is Cindy on?

Rhonda North : She is.

Cindy Pearson: Yep, Cindy Pearson.

Philip Miller: Then we need to do [Multiple Speakers]. Martin.

Martin Crim: Martin Crim, Town Attorney.

Philip Miller: Philip Miller, Vice Mayor. Okay, public comment. Do we have anyone on the line?

Rhonda North : We do not, Mr. Mayor.

Philip Miller: Okay, then we'll close the public comment section and move on to public hearings, related action items, don't see anything there. Any special recognition's by mayor and council? No public presentations, so on to staff reports. Does anyone have questions on staff reports?

Danny Davis: If I can give just a couple of quick overviews of the staff reports? There have been a few questions. I just want to cover a few items, one on the economic development side for the council and for the public to know that the town has reissued the request for proposals for the Asbury Church. We have contacted individually each of the parties who have reached out to us in the past. And we encourage any member of the public who has interest or questions to contact Jamie Gaucher. That is open through December 1st, so please be aware of that and for the public's awareness. On the police side, just to let you know, the recruitment period for the Lieutenant position officially closes tomorrow. And so we have a good number of applicants that have come through, and so we will see the remaining applicants and interviews are being prepared to schedule in a short period of time. Finally, to highlight at this point, is there have been a few questions about the water and our water system and a few recent situations or awareness of either discoloration of water or other issues in the water. I'm going to give you just a quick, brief update of where we are with our system and with updates as of now. As you all know, Well Four has been back on line for about a month or so and it is continuing to run well and run smoothly. We are through that process. We do have to do some additional activities that can potentially impact the water by stirring up the water in the [Off mic]. We try to mitigate or minimize the impacts of things like that by doing hydrant flushing's. That's been occurring this week beginning on Tuesday evening. And if they're not finished already, they should be finishing this evening. The flushing's help get rid of any potential sedimentation that has accumulated in the mains. And the goal is that with the flushing happening right now, along with the continued operation of the Well Four Treatment Plant, that we hope to have minimal sedimentation throughout the system. I do want to make it very clear for council and for the public that any sedimentation that could get stirred up is not dirty water by any means. It may be colored in a sense, but all of the water is treated and it's cleaned and has the appropriate levels of chlorine residual. So in all it has been cleaned, it just sometimes can get stirred up. And so we appreciate council and the public's patience with us as we're getting Well Four back online. But we hope that with the continued operation that we'll have in the future, fewer and fewer of these potentially impacts. So if there are other questions I'm happy to answer on that particular issue, or on any other issue that may have been raised in the staff reports.

Philip Miller: All right, why don't we just go around. Cindy. Any questions on the staff reports?

Cindy Pearson: No, I didn't have any questions. Sorry, takes a minute to get it off mute.

Philip Miller: All right, great. No worries. Kevin?

J. Kevin Daly: No questions.

Philip Miller: Peter?

Peter Leonard-Morgan: Just one observation, actually, on the water situation. Apparently, a few people were noticing what seemed to be milky colored water, but it's not. I inquired about it, and it's really carbon dioxide bubbles from the system. So that just sometimes gets into the water, you know, just to settle.

Danny Davis: Great, and thank you for that. The Well Four, where we are now pumping from, just by nature, has more of the gases naturally occurring, CO2 gases in it, let me make that clear. And there may be some future improvements in our system that would help release those before getting in the distribution system. But at this point, if you do notice that in your system, if you let your water sit, you will notice it does dissipate, or if you just pour it from one glass into another that also will help it dissipate.

Philip Miller: Bud?

Bud Jacobs: On the water issue, I generally hear comments from folks about water, I'm not sure why I'm the designated water guy, but this time around not much. And I attributed it to the communication efforts you guys exerted to let everybody know what was going on. So thanks for that, and keep it up, please.

Philip Miller: Chris?

Chris Bernard: No questions.

Philip Miller: Okay, I guess that takes us on to Danny's COVID update.

Danny Davis: Awesome, great. So a few brief items just to cover as you're aware, we always remind you to wash your hands, wear a face covering, keep your six feet of physical distancing. A few things just to note for you, a reminder for the public that we do now have open and housing support program. So if there are members of the public who have an economic hardship due to COVID and who have demonstrated financial need; you may be eligible for assistance in paying your rent or your mortgage payment. We encourage anyone to reach out to the Windy Hill Foundation for more information on that. And as you know, the town council has allocated \$50,000 dollars towards that program. So [Off mic] help a number of families in our town. So we hope that anyone who might have needs would reach out for assistance through that program. In addition to that, in the mailer that we sent to every utility customer about this program, we also listed other resources to reach out to for support if you have needs as it relates to utility payments, food insecurities or other issues related to COVID. And so we really do encourage people to reach out, because there's a lot of money from the county and from the federal government that's being spread either through county programs or through nonprofit organizations. And they want to help as many people as possible but you have to ask, and so we just really encourage the public to make contact with one of those organizations and see how they can help. And if there are any questions, we're also happy to at least [inaudible] direct them to potentially the right organization. On the same note, business support programs continue to be ongoing. The Governors Rebuild Virginia program is open. There are potentially other programs going on, so continue to keep your eyes open on those. We continue to watch the news, just like everyone else, about potential action from Congress. I'm not hopeful, but we continue to stay abreast of what may or may not be coming forward that could either benefit our residents, our businesses, or perhaps the town itself. And then finally, I would note that through some creative scheduling and looking at tasking, we are going to be reopening the public restrooms, not next week, [Off mic] the following week. So they will be open seven days a week now. It may not be exactly the same hours during weekdays, but we'll be using in-house staff to do the cleanings necessary for those restrooms. So in case anyone's asked or [Off mic] definitely looking towards the fall and winter months; this will be an assistance to the visitors who are coming into town. With that, I'm happy to answer any questions about COVID, where we are right now.

Philip Miller: Anybody have any questions?

Peter Leonard-Morgan: Just one. I saw in a packet about the county assistance program and some of that money is going towards restroom cleaning. So is that going to be some kind of bonus for whoever does that work?

Danny Davis: There's a little bit of a challenge in how we identify hours that are worked towards that and not. If we have to pay an outside firm to do it then we're looking at reimbursing those costs. But I don't anticipate that we would be paying that person's salary at this point.

Martin Crim: Vice Mayor.

Philip Miller: Yes. [Off mic]

Martin Crim: I'm having trouble hearing Council Member Leonard-Morgan. I think the microphone might be too far from his mouth.

Peter Leonard-Morgan: I'll try and shout from now on, Martin. Thank you.

Martin Crim: All right, thank you. Thank you sir.

J. Kevin Daly: I don't think moving the podium closer helps. [Multiple Speakers].

Rhonda North : Martin's here but through the phone. [Off mic]

Philip Miller: Are we hand delivering any of those notices to Windy Hill?

Danny Davis: Regarding the Housing Support Programs?

Philip Miller: Yes.

Danny Davis: Well, we are. I will work with them to make sure they get handed out.

Philip Miller: Excellent, thank you. All right, I guess we move on now to reports of town committees. Anyone have any committees to report? Mr. Daley?

J. Kevin Daly: Well, in case you didn't know it, we're having issues with some of the police vehicles. So we've taken one in for repairs. So they are aging. So we're going to be looking at some future date of starting a replacement cycle. Other than that, it's been beautiful days and they're out walking the streets.

Philip Miller: Peter.

Peter Leonard-Morgan: Thanks very much. Just a mention about the Go Green Committee, we did have Todd Hathaway, the Chair of the Go Green. [Inaudible] and I had a meeting with with Ms. North and with the town manager just to discuss how the Go Green Committee could help with the green side of the town hall project. We're very lucky on Go Green that we do have two members, particularly, who are actually involved in the field of sort of green building and advice. So we've got a really good resource there. And I just want to appreciate Rhonda and Danny for talking to us about it and involving us. And we're going to hopefully have I think, the winning bidders come and meet with us at Go Green to get our input as well. So appreciate that.

Philip Miller: Mr. Jacobs.

Bud Jacobs: Mr. Moore wrote a good three or four paragraph summary of our last Planning Commission meeting, where we undertook a couple of actions as directed by council. And if you are interested and have not looked at those notes, I commend them to you. And they can tell you more than I will right now.

Philip Miller: Chris.

Chris Bernard: We finally had a face to face Economic Development Meeting, which was good. We talked a little bit about the Restaurant Program, a little bit about what we're doing going into the fall, and covered some of the report that Camoin gave us. And I think we're going to be kind of reevaluating some of that.

Philip Miller: And there was a lot of talk about marketing, right? [Off mic] Okay. Cindy?

Cindy Pearson: Will also has a report on, [inaudible] in his report about HDRC, so I don't need to repeat any of that. And I haven't met with other committees. Thank you.

Philip Miller: Okay, thank you. All right, then we will move onto the Consent Agenda. Does anyone have a motion? [Off mic]

Chris Bernard: I move that we adopt the consent agenda as proposed or as written.

Peter Leonard-Morgan: Second.

Philip Miller: Okay, so we will have a vote. Cindy?

Cindy Pearson: A Yes or Aye.

Philip Miller: Chris?

Chris Bernard: Aye.

Philip Miller: Bud.

Bud Jacobs: Aye.

Philip Miller: Peter.

Peter Leonard-Morgan: Aye.

Philip Miller: Kevin.

J. Kevin Daly: Aye.

Philip Miller: The ayes have it and motion passes. Next, we go to discussion items, Restaurant Assistance Program, Winter 20-21. Jamie, take it away.

Jamie Gaucher: Thank you, Mr. Vice Mayor. As we discussed two weeks ago at this meeting, I've been in contact with all of the restaurants here in town and talked with them about options for extending their capacity in light of adverse weather, which is right around the corner. And one of the things that I think is really important is there is not necessarily a one size fits all solution for members of the restaurant community. Some restaurants have larger potential areas for outdoor seating. Some have smaller, which would require different sizes of tents or heaters or servers or cost structures. So that's important, and based on that, what I proposed in this memo is a program that would allocate up to \$10,000 dollars for each participating restaurant over the five months of November through March. From my perspective, I think it's important that any allocation would be based on submission of invoices for verification here at the town offices. And that we would also tie into this program, Mr. Davis and I have discussed specific marketing efforts dollars that we have that we can put toward bringing more visitors to town between November and March. And as we've done previously with the Retail Assistance Program and the Restaurant Assistance Program, we would ask each participating restaurant to maintain minimum hours to cooperate with the town when it comes to marketing those types of things. And then I also want to make sure that everyone understands operating costs, costs associated with labor, and cleaning materials, or insurance, or anything like that. Those would remain the responsibility of the individual restaurants that would participate in the program. Lastly, a program like this is not currently in our budget. So if the town council thinks this is a good idea, we would come back probably at the next meeting with a budget amendment, and look to kick this off. So at this point, I'd be happy to make myself available to answer any questions that you might have.

Philip Miller: Okay, I'll just go around. Cindy?

Cindy Pearson: Yes. So the cost of the tent rental each month, I understand, it's quite expensive. Do you know what that would be, Jamie? [Multiple Speakers]

Jamie Gaucher: Yeah, I've received estimates and quotes from two different tent companies and two different sources for heaters. And it really depends a great deal on the size of the tent and whether or not the walls would be down all the time or not; how often it would be used. There are too many variables, but we do have some estimates. I think some restaurants that I've spoken to recently are interested in solutions that would piece together up to three different temporary structures. So imagine three different tents with heaters, and that would exceed a ten thousand dollar limit, especially over a five month period. And some have expressed interest in pursuing a tent option on their own and potentially utilizing one of the sources that I've worked with so far around heaters. That would not be nearly \$10,000 dollars. So all that to say, there really is a wide spectrum of costs depending on each individual application.

Cindy Pearson: I understand that, but do you know what the highest cost was? What that estimate was [Multiple Speakers] there?

Jamie Gaucher: The highest cost that I've seen so far is twelve thousand dollars, and that was for a four month period.

Philip Miller: Per month? [Multiple Speakers]

Jamie Gaucher: No, not per month, over a four month period to rent tents.

Danny Davis: I've heard others express larger amounts, but again, it depends on they get the size, the location, the specific need.

Chris Bernard: [Off mic] I haven't seen any. [Off mic]

Jamie Gaucher: I expect to get, I made some rounds with one of the potential tent providers on Tuesday and we went and saw seven different properties. And I'm expecting to get some quotes, numbers from that gentleman, if not tomorrow certainly by the first of the week. I'll be [Multiple Speakers]

Cindy Pearson: Does [Inaudible] have the tents that he can go ahead and put up if they're ready to go with this?

Jamie Gaucher: Yes, he does. We can have the tents here next week if need be. The gentleman who was here with me on Tuesday has a hundred thousand square foot warehouse facility. And with the having to come back to another, to the next meeting, to approve the budget, amending the budget. Would that slow us down until two more weeks that we couldn't start or can we go ahead and start now?

Danny Davis: Yeah, Council Member Pearson, I believe that if the town council is wanting to move forward with this program, we can get direction this evening. It gives us the structure or the willingness to move forward with it with some general criteria. We would not be expending the funds until, you know, over the next few months of time. So we would be able to bring that back to you at the appropriate time. So that's a long way of saying we can begin work tomorrow. If council approves moving forward with the program, we would just bring the budget amendment back to check the box of paying for the program.

Philip Miller: And the restaurants can go ahead and get the tents, and this would be for reimbursement, correct?

Jamie Gaucher: That's correct.

Philip Miller: So there's nothing holding them up with this in the process?

Jamie Gaucher: [Multiple Speakers] Not at all, zero.

Chris Bernard: [Off mic] knowing that they're going to get paid back.

Jamie Gaucher: And to the degree that that might influence their decision on the size of the tent or whether or not they want to participate. Yes.

Philip Miller: Okay, Chris. A couple of things. One, what if someone else comes up with an interesting idea for their restaurant? I mean, does this reimbursement only apply to tents and heaters?

Jamie Gaucher: Specifically I'm trying to focus this on expansion of outdoor space, so I don't know. And again for a temporary time, this is not meant to be a permanent solution. There are at least two local restaurants that are in the middle of consideration, I guess, of a more semi-permanent structure; whether it's a canopy or a roof or whatever that looks like. And those talks are ongoing. Right, I have an appointment tomorrow morning to discuss that option. I'm interested on how do we increase capacity for the individual restaurants who are willing to participate, realizing that this is not a solution.

We do have a number of restaurants in town that do not have access to a patio, that do not have outdoor space. So it really is limited from that perspective.

Chris Bernard: Second thing was, processing, or is there just going to be kind of blanket approval over permits putting these things up?

Jamie Gaucher: So, yeah, so Mr. Davis and I have talked to Mr. Moore about the process involved and it would be streamlined. And additionally, as we did in the Restaurant Assistance Program and the Retail Assistance Program, in my mind's eye, we would have agreements with each participating restaurant outlining specifically what would be allowed, and the terms under which we would review [Multiple Speakers].

Chris Bernard: Go crazy.

Danny Davis: Right, correct. And so we would have a review process for the structures themselves, clearly making sure they have the appropriate permits from building permits or fire marshal. The Continuity of Government Operations Ordinance that council had passed gives us the authority to waive certain regulations. However, depending on what particular regulation it is, we might have to bring that back to council to endorse it, essentially. So, for instance, putting up a tent is not a normally approved type of use. We anticipate that we would be allowing these tents again, making sure they're not impeding either pedestrian or traffic [Off mic].

Chris Bernard: And then last thing, was no one interested in using parking as grab and go or anything like that?

Jamie Gaucher: That is less of a concern from the restaurants that I spoke with, and they really don't see that as moving the dial, if you will.

Danny Davis: And in fact, one restaurant even indicated they felt that it could confuse customers even more, because if you have one spot and it's been full, well then where do you go? And they basically indicated that their customers are used to knowing where they parked so.

Philip Miller: Okay, Bud.

Bud Jacobs: I've got a few questions. Jamie, in your economic development report, you say that there are eight restaurants and this memo says, I believe there are nine. What's the number?

Jamie Gaucher: As of today, there's another one. So there are actually ten. [Multiple Speakers]

Bud Jacobs: Ten good.

Jamie Gaucher: [Multiple Speakers] interest, right. So sometimes my experience is it takes a little bit of time for some of our local businesses to make a decision. And so as of this morning, or as of around 11 o'clock this morning, there are now officially 10 that have expressed an interest.

Bud Jacobs: Okay, so the outer edge of the [inaudible] is 10 establishments. Good. Danny, I assume that what we're talking about here is a contractual relationship between the town and the individual restaurants.

Danny Davis: That's currently the anticipation of how we would go about this. And I think it makes sense, very much, to do it that way.

Bud Jacobs: Right.

Danny Davis: I would anticipate it being similar to how we approached the first programs that we ran. But I'd want to look at what our options might be if there's a better, more streamlined way to do that.

Bud Jacobs: Good. Okay, and then finally, Jamie, I'd ask you to take a look at your memo and perhaps clean it up a little bit for the record. You have a sentence that says we're going to allocate up to 10,000 per restaurant for use towards outdoor equipment and including temporary structures, et cetera, et cetera. And then a paragraph or two later, we say the cost of the tent rental as well as insurance, maintenance, so forth, is the responsibility of each participating restaurant. Obviously, both of those statements can't be true. So if we're going to sign a contract for an establishment to reimburse them up to 10,000 for tent rental and associated expenses; then obviously the cost of tent rental is not, I guess you can say it's the responsibility of each establishment. But I think you need to indicate for the record that our whole intent here is to help them defray some of those expenses in order to be able to do business.

Jamie Gaucher: Correct, thank you.

Bud Jacobs: If that made sense. [Laughter]

Danny Davis: No, I think that's very fair. You know, by all means, the individual contracts with the tent companies are buying the [Off mic] restaurant with the tent companies, and they will be responsible for paying the bills directly.

Bud Jacobs: Right.

Danny Davis: And we will just be [Off mic] reimbursement [Multiple Speakers]

Bud Jacobs: Well, that's good. But what I'm really commenting on here is not creating a record that somebody can shoot holes in if they suddenly decide, you know what, we didn't get the parts. You know the kinds of things that could happen. That's all I have.

Philip Miller: Thank you Bud. Peter.

Peter Leonard-Morgan: Following on from that, actually, I was a bit confused and maybe I'm the only one who was confused. It says the funds would be provided to the restaurants on a monthly reimbursable basis. Initially, I thought that was reimbursed to the town. When you say reimbursable, is that reimbursed to the restaurant when they provide the invoices?

Jamie Gaucher: So in my mind's eye, I would expect each restaurant to incur specific costs associated with the size of the tent and the number of heaters that they would want. And then they would submit invoices to the town that we would look at and verify on a monthly basis.

Peter Leonard-Morgan: Thanks very much.

Philip Miller: Kevin.

J. Kevin Daly: I'm making an observation. We've been talking about what the town is going to reimburse, but if we don't provide the support to the restaurants, they're not going to provide us the meal tax. So the more outdoor seating, more people are coming to partake of meals at the restaurants, the more tax comes in. And it's a win win situation. From the looks of it we have on the final page is with nine restaurants choosing to augment ninety thousand. With that increase of seating and sales meals tax, the town comes back with the one hundred and seventy five, so we're still coming out ahead at eighty five thousand, roughly.

Jamie Gaucher: Council Member Daly, I would just add that those are estimates right [Multiple Speakers].

J. Kevin Daly: I understand, but still there's a balance here. We're helping them out, but at the same time, we are gaining in revenue.

Philip Miller: What is the hundred and seventy five expected or estimated revenue? Where does that number come from?

Jamie Gaucher: I sat down with our treasurer and looked at average meal's taxes.

Philip Miller: For that period or of late during Covid?

Jamie Gaucher: For a five month period. And we made a subjective decision to exclude one or two sources of meals tax in the town, and came up with that estimate.

Danny Davis: Okay, [Off mic] there was a factor for Covid built in to that?

Jamie Gaucher: Correct.

Philip Miller: So you took the low end off, you took the high end off. You made a baseline and it does account for Covid.

Jamie Gaucher: There is as much art as there is science in that number. [Multiple Speakers]

Danny Davis: For comparison sake, pre Covid in a summer or fall month, and we would sometimes see between ninety and one hundred and five thousand per month coming in through the meals tax. So when Covid hit the month of April, we saw 5,000 or something. I mean it was minimal. So clearly now things have picked up. But we know the winter time, number one always has a seasonal dip to it, and then Covid having additional impacts to it. So for a five month period, this is a fairly low number of revenue.

Philip Miller: Okay, and then my only thought, really, everything else has been covered off. The restaurants without an area to augment and expand their outdoor seating, we're planning to offer them what kind of assistance? [Multiple Speakers] Because it needs to be on a fair basis.

Danny Davis: So the conversation that we had around this is again, we are open to ideas from restaurants if they have additional ideas. And I will say I don't believe we've heard any other ideas from restaurants who don't have this ability to expand outdoor seating. But the focus, again being, continuing to help the [Off mic]. Help continue the ability for them to have additional patrons come in. And so there is a direct return in being able to have outdoor seating at these places. For those who don't have that capacity to expand outdoor seating, they generally are already doing a takeout business only, or they're doing a high amount of takeout versus whatever their limited indoor seating might be. So our conversation was focused on how do we help the restaurants who need to depend on this outdoor seating, because, again, the current direct impacts of the governor's restrictions are on indoor seating capacity.

Chris Bernard: So people that don't have opportunity have already figured out whatever else they need to do [Multiple Speakers] during the summer, the winter's not really.

Danny Davis: So our goal is helping offset the impacts of the governor's limited restrictions on indoor capacity, and the "capacity", I'm using quote. We know that even though technically you can have 100 percent capacity, the tables have to be six feet apart. And so that's the comfort here. To your question, we're open to other ideas if there are other programs that don't support either of those types of restaurants. But I would say then you're beginning to go down the path of, well, restaurants, retail, other personal service, and other things that again, at this point, unless things change under the governor's restrictions; I'm not saying that business is good. But their restrictions are not inhibitive or prohibitive, the same way that they are for these restaurants.

Chris Bernard: I also just think we shouldn't lose sight of the fact that us helping, especially just the bigger or major restaurants in town, has a positive impact on the entire business community, because no one's coming here to shop if there's nowhere to eat.

Danny Davis: It's residuals.

Chris Bernard: So there's residuals. While it's not direct to everyone, I think it's residually beneficial for everyone.

Philip Miller: I agree. I just want to make sure that we're doing all we can for all of our businesses fairly. And I agree that the foot traffic makes a huge difference if we have more of an opportunity for people to eat on-site. I mean, we're seeing it already. People are going and grabbing a pizza and sitting, you know, at the triangle or sitting at the pink box and they're looking for places all over. I saw somebody's doing it on the steps of the Noble House the other day. So as long as we communicate to the other restaurants as well, that we're open to assisting them in any way that we can, that makes sense for their current business model. Peter.

Peter Leonard-Morgan: So to your point, actually, and Danny to yours, about the takeout restaurants, I was thinking, you know, we've been going a lot to get takeout and their costs for the containers must have gone up a lot. So maybe there's an angle there that we could look at to help them out with some of that.

Danny Davis: We're happy to ask the question of the restaurants.

Philip Miller: Cindy, I see a hand.

Cindy Pearson: Yes. How many restaurants do we have now?

Jamie Gaucher: We have 20 altogether.

Cindy Pearson: Twenty altogether. I know we're working with the tents, but you said there were a few restaurants that wanted to look into a more permanent, you know, like the awning or whatever it may be. Are we going to help them at all with the 10,000 or is this just for the tent rental and the heaters and whatever else?

Danny Davis: I think we were anticipating that would be under the auspices of expanding outdoor seating. So if it becomes a permanent structure that they decide to put up, and it is continuing to support their ability to have expanded outdoor seating. So our intent was if we could assist with that in the same manner.

Jamie Gaucher: And at the same time, Council Member Pearson, it's important to note that if it was a more permanent structure, they would still have to go through the process that we've established here at the town in order to get approval to do that.

Cindy Pearson: [Off mic] So if we go ahead and approve this tonight you can get this out to the restaurant tomorrow, so they can go ahead because it's already cold? You know, if they don't have something outside now, they're already losing business.

Jamie Gaucher: Yes, ma'am.

J. Kevin Daly: It's raining this weekend.

Cindy Pearson: Okay, thank you.

Philip Miller: Kevin, did you have something?

J. Kevin Daly: No, I was just saying, rain this weekend.

Philip Miller: [Off mic] Yeah, I also agree but it needs to be buttoned up, this memo. And when do you think you'll be able to have the program finalized? I mean, we can go ahead and give word to the restaurants that we're moving forward with this and they can go ahead and make arrangements, but we'd be able to actually allocate the funds for the program at the next meeting, right?

Danny Davis: Yeah, I believe so. I'll need to work with the town clerk and the town attorney on the budget amendment process and also the town treasurer. We may have some other items we need to throw into that as well.

Jamie Gaucher: And the individual agreements that would have to be executed.

Danny Davis: Yeah, that's the other thing. I think we could have something out, obviously informal communication to them tomorrow, and then feedback with the restaurants next week.

Philip Miller: All right. And Martin, any issues?

Martin Crim: No, sir, I think we're good. The ideal way to run that would be through some kind of Chamber of Commerce or other entity rather than directly from the town. But we've had that conversation before.

Danny Davis: And in this case, we may have additional time to develop that program out with a partner. And that's part of what I was referring to earlier, is there may be other mechanisms that shouldn't slow down the process but should allow us.

Philip Miller: That's the key. You know, that's the fly in the ointment. I don't want to slow it down. [Off mic] Chris.

Chris Bernard: Do you know are all the 10 restaurant's members of the MBPA.

Jamie Gaucher: They are not.

Chris Bernard: That answers your question? [Multiple Speakers] follow through the MBPA they probably want to be members.

Martin Crim: They wouldn't necessarily have to be. I mean, as long as the organization qualifies as a Chamber of Commerce under the statute then we can get the money to them. They can give it to members or nonmembers.

Philip Miller: Does MBPA qualify?

Chris Bernard: [Multiple Speakers] That was my second question, but.

Danny Davis: I'll follow up with the town attorney on one of the various options there.

Philip Miller: Okay, so does anyone want to make a motion?

Bud Jacobs: I'm ready to make one.

Philip Miller: Mr. Jacobs.

Bud Jacobs: I move that the town council authorize the town manager to finalize details of a restaurant support program focused on the provision of usable outdoor seating during the winter of 2020 and early spring of 2021, and that the town staff return with a budget amendment for this program to be funded from unassigned fund balances.

J. Kevin Daly: Second.

Philip Miller: Okay, we will have a roll call. Cindy.

Cindy Pearson: Aye.

Philip Miller: Chris.

Chris Bernard: Aye.

Philip Miller: Bud.

Bud Jacobs: Aye.

Philip Miller: Peter.

Peter Leonard-Morgan: Aye.

Philip Miller: Kevin.

J. Kevin Daly: Aye.

Philip Miller: All right, motion passes. Thank you, Jamie, very much for the hard work on this, keeping our restaurants moving. Okay, the next one is from Darlene, who is not here. I did briefly speak to her about this, bringing the Health Center Advisory Board suggestions for making donations to charitable causes. Now, we do have a line item right in the budget still, for I don't recall what that is, \$30,000?

Danny Davis: So we do have funds set aside in the general fund [Off mic] an amount of twenty thousand for charitable donations. We had anticipated by this time having the foundation set up, which clearly has not happened. And so there is actually no line item currently for the health center fund. So we will need to again also do a budget amendment to budget and appropriate donations from the health center fund for current year. If I may, my recommendation, if council does want to move forward with health center review and donations, I would suggest that the council consider the full amount of those funds coming from the health center fund, just as we are looking at our current status of revenues and expenditures across the board. However, at the end of the day, that remains your discretion.

Philip Miller: What is the balance of the health center fund right now?

Danny Davis: We are around six hundred and sixty thousand I want to say. [Off mic]

Philip Miller: Okay, Cindy, thoughts?

Cindy Pearson: Yes, I have lots of thought, but I just don't know. [Laughter] I know we're at a time that we have to watch our funds also. I do know that these nonprofits depend on donations from other people to provide what they need to provide, but we also have to take care of ourselves first. So I'd like to let you go ahead and go around the room, and I'll think about my other ones and then come back. If you don't mind?

Philip Miller: Okay, Chris.

Chris Bernard: I don't have anything specific. I mean, do we do this without Bridge and Darlene here? Does it need to happen today? I feel like everyone's got some pretty heavy [Multiple Speakers].

Danny Davis: But I will say that this is right around the time last year that we sent out the call for applications. And generally the Health Center Advisory Board would meet in early November, maybe mid-November. And then make a recommendation to council at your meeting in December, obviously at the latest, because we want to try to hit this current calendar year. So I do think that if we want to give them time to respond, it'd be helpful. I'm not saying it's required but it'd be helpful to get some general sense tonight. [Off mic]

Philip Miller: Bud.

Bud Jacobs: Oh, thank you, I'm not sure what you're asking us, Danny, to do tonight.

Danny Davis: So the question to come up from Council Member Kirk whether the town council wanted to go ahead and ask the Health Center Advisory Board to meet for another year; again, with the understanding that we thought we'd be in a different situation right now with a nomination, not for profit organization.

Bud Jacobs: Right.

Danny Davis: And I think that request was kind of twofold. One, do we want to have that board come back and be, again, the good folks to make those recommendations? And two, considering the financial situation that the town is facing, is it appropriate to continue giving charitable donations at a time like this? And I think you've heard others already kind of address pieces of that, but I believe is the purpose of the conversation.

Bud Jacobs: My sense is that standing up the foundation is some months away, maybe many months away.

Danny Davis: Yes sir.

Bud Jacobs: And therefore, it probably makes sense for the Health Center Advisory Board to continue to function and make recommendations. So I guess that's my reaction to point one. And I'm a little bit agnostic on point two. I'm not comfortable. I looked at the list of the four or five year donations that you put together, it's very helpful. And I don't know how much of that we can sustain not knowing what our own fiscal future looks like at the moment. And I know we're trending in the right direction and everything is okay for now, but that could certainly go south in a New York minute.

Danny Davis: And I want to be very cautious not to feel like the Health Center Fund is just an open checkbook, [Multiple Speakers].

Philip Miller: It is not a slush fund.

Danny Davis: No, definitely not. However, it is a fund that those are dollars in hand [inaudible]. You know, on the general fund side we have a budget set that anticipates revenues coming in throughout the entire year. And so the challenge with using general fund is, as you just stated, while things feel good right now we really have no idea what's going to happen in the winter time or even early spring. The Health Center Fund on the other hand, those dollars are in the bank, they are sitting there, and the purpose was for charitable purposes in Middleburg. So on the one hand, I could with a straight face and a reasonable approach say I think this is the perfect use of these funds is to help the community in a time of need. [Off mic] And so while it may draw down that balance further, we're also going to talk in just a second about how, you know, if how and when, we replenish some of those funds that the town has used already during the pandemic to support our community. And so that may be something that in the future could also be partially either paid back or at least just considered a paid contribution.

Philip Miller: Peter.

Peter Leonard-Morgan: Thank you very much. So my understanding and recollection is that the health center fund was boosted by the sale of the health center to Old Ox. And the initial, the original intent by Paul Mellon was that funds from the profits of the health center would go to local charities. So what I'm confused about is why we're even discussing it, because it's money they've got there. It's not money from the town, per say. Yes, I see that there's additional funds that we have contributed in the past, but I do think that the Health Center Advisory Board should continue until we have a foundation and ask if they can meet to discuss the proposal of going to the charities to see what they need. That's my opinion.

Philip Miller: Thank you, Peter. Kevin.

J. Kevin Daly: Yeah, I concur with Peter. The Health Center Board should continue, and the whole purpose of the funding was to be, it's my understanding, a revolving fund, it's growing. We're not going to spend it down, but it is to help the town, and charities within the town. So I think it should continue along that line, it's not taking anything from the town. The funding is designed to help out charities and everybody is suffering this time under Covid.

Philip Miller: Okay, Cindy, we're back to you.

Cindy Pearson: Thank you. Yes, I'm hearing what Peter says, and I'm agreeing with that. I think we should not use the funds that we have set in the town budget though to supplement it. And maybe there might be a suggestion to limit the amount that goes to the different organizations this year. Because some of them like, and I know Seven Loaves uses a lot of money, but they've been in better shape over these years and we haven't had to give them as much or they don't need as much. So, you know, I don't know if we want to set a limit on what, but we also have to watch the funds in the health center if you want to be able to give them funds for a long time, because we don't have a way to grow those funds yet. So that's all I have. Thank you.

Philip Miller: Okay, great. I have strong feelings on this one. I feel that it is our obligation to make sure that those funds are used at a time when people are hurting. The reason why we sold the building was to obviously have a fund and a foundation that was independently run aside from town, to take care of these charitable needs. Now has never been, you know, there's never been more need than now. We're seeing the greatest economic recession since any of our lifetimes. So I think that, I'm sure that the Health Center Advisory Board would have no problem meeting and soliciting requests. And I would even go so far as to say that if we wanted to, we could offer to pay back this money to the fund at a later date, when we're at a better cash flow situation.

Danny Davis: Board if I may, Mr. Vice Mayor, potentially pay back just up to the portion that we had allocated originally in the general [Multiple Speakers].

Philip Miller: The twenty, yeah, that was the other thought that I had too. Yes, I think we we've made a commitment to the community on many levels, and to not do it with these charitable organizations who do great work in our community would be against the mission of the reason why we have the building in the first place. So that's just my opinion, but anybody want to chime in?

J. Kevin Daly: I concur, I agree, that's why we have it.

Philip Miller: All right, so I guess assemble the usual letters that go out and phone calls. [Off mic] Exactly. [Laughter]. [Multiple Speakers]

Danny Davis: We will develop the letters to go out. We will mail the appropriate folks. We will also likely, and this is just a housekeeping issue, need to reappoint members of the Health Center Advisory Board. Those terms have likely lapsed due to, again, the expectation of the foundation. So we will reach out to Mr. Armfield and Mr. Scheps and make sure that they are still interested in participating. And I hope they will.

Philip Miller: I'm sure they will.

Danny Davis: We'll bring that back to you as more of an administrative item in the next meeting.

Philip Miller: Okay, and then did we want to limit a budget for them or just give them the understanding that they've been doing this for years and see what comes back, and what they feel comfortable?

Danny Davis: I would go with the latter, except with the only question I have, not to reopen the whole conversation, but whether you want to encourage the Health Center Advisory Board to focus on organizations that are helping specifically on Covid related issues. And again, I don't necessarily want to do that to the exclusion of any other, so we can just leave it as is and let them make recommendations. At the end of the day, the council has the opportunity to amend those recommendations for final approval.

Philip Miller: All right, Cindy, are you all right with that?

Cindy Pearson: Yes, sounds good. Thank you.

Philip Miller: Okay. All right. Oh, on to the Health Center Fund, development of a plan to repay the Health Center Fund for Covid-19 related expenditures. Obviously, this would have been Bridge, but I'm just going to throw this to you, Danny.

Danny Davis: Yeah, that's fine. And the question was, not to speak for the mayor, but I believe when this conversation came up, the prior item, it triggered a memory that we don't want to lose sight that the town utilized the health center funds to significantly help the community in the early stages of Covid and again, being a very purposeful and appropriate use of those funds. However, at that time, council did say we want to make sure that this is repaid back as appropriate, so that the health center fund can maintain that level of amount of dollars that can continue to grow. The request was let's put a plan together to repay this. My recommendation, if I may, is that we bring that to you as part of the budget conversation for next year. I am very uncomfortable recommending, as we just talked about, general fund expenditures at this time until we have a better sense of where we are in the springtime, really. So what I would anticipate is as part of the budget, we would develop some ideas on how we could take general fund. Hopefully by [Off mic] 22 we'll be seeing surpluses in our general fund revenues and be able to allocate some of those back to the health center fund over a number of years that we can repay. And we would develop the mechanism, whether it's including interest or other amounts, to help build that fund back up. And so that's really the gist of the conversation. As I stated here, unless there's just a strong feeling otherwise, I'm not sure I need any other direction from council. But I will commit to you and I know with the Treasurer and we will not lose sight of this. This is an important piece that we want to make sure that we are standing by our commitment.

Philip Miller: Okay, Cindy.

Cindy Pearson: Yes, I agree with him, but thank you.

Philip Miller: Chris.

Chris Bernard: Yeah, I think that's the right way to do it, and I think it should be a multi-year thing. I think the way that we use those funds was totally in line with the way they should have been used. So paying them back is almost more symbolic. And so I think we should do it. But I don't think it should be to the detriment of our town budget because that would go against the mission of helping the town anyway. So I think we make it multi-year. I think it's totally fair.

Philip Miller: Bud.

Bud Jacobs: I agree with your recommendation, Danny.

Philip Miller: Peter.

Peter Leonard-Morgan: I also agree with it because I feel that what we've done has been an investment in people and businesses and hopefully the results in the future will help us to pay that back over time. So I appreciate that.

Philip Miller: Kevin.

J. Kevin Daly: I concur with Danny's recommendation.

Philip Miller: I like Danny's recommendation, too. I would say we don't want to drag it out too long because we do want to see that fund have a chance to grow and maybe even put in escalation. You know, if we have certain excesses, we can put things back into that fund so they can go and grow and do more good work.

Danny Davis: Very good.

Philip Miller: Okay, onto information items, Review of Business Categories Related to BPOL License. Julie.

Julie Rivard: Hello. So I'm here with an informational item for you today. I want to think back a little bit before I start explaining the informational item. Back when I interviewed for my position, Council Member Kirk had said to me in my

interview that one of the things that was important to town council was a review of business license tax and a general review of the assessments and how everything was being applied. So this effort is acknowledging that task that was given to me, if you will, during my interview process. And so I'm saying, okay, we're going to do it. [Laughter] Here we are. So basically what we want to ensure we're going to do a review of the classification of all of the businesses in town. We're taking a look at the tax classification because it mandates what the rate of tax is for their business license tax. We want to make sure that it's the same for all persons and that we have operating the same type of business and that we've spread the levy equitably. The only way you can do that is to do a review of all the classifications. Code says it gives the elected body, it says that you all must elect the tax rates. And then the flip side of that is it says that I must review and assess and ensure correctness. And so that's what I'm going to do. I'm going to take a look and make sure that everything is fair and equitable and correct. In the past, I think it looks like businesses were allowed to basically pick their own classification, whatever the reason may be, doesn't matter. But because of that, there is some inequities. Some people are in the wrong classification and it's not fair to all the other businesses who are in the correct classification. So we need to make sure that we get it right and that we fix those ones that are incorrect. It's not been reviewed to date that I'm aware of, so this will be the first one. So I want you to be aware of what's happening so if you're approached, then you know that we're doing this and we're doing it and trying to be as fair and equitable as possible. But we want to get businesses ready so that they can file properly for the twenty twenty one business license renewal, which starts January one. Most of the classifications of the businesses here in town are extremely straightforward. You know, your restaurants, your retail establishments, there's no question there really. There's just where there are some classifications where it's just plain old confusing for people to try and figure out what classification they really fall into. And there's a few that are inherently doesn't matter where you go in Virginia that always get mucked up a bit. And those are building trade contractors, professional service classifications, and those who have more than one function of business. It's hard for them and the vast majority of the ones that are misclassified, it's just due to not understanding or confusion. They just need someone to help them out and explain it and get them going in the right direction, basically. In preparation for this review process, I've written a set of standard operating procedures that we have on file here at the office. And basically it spells out what we're doing, why we're doing it, the authority for doing so, and then that process so that it's documented, so that there's no question about what's being done or how it's being done and that it's consistent from year to year. I've also amended the business license forms. I had amended them before, but now we've amended them again to make it even more clear, and hopefully helpful to those when they're doing their filing this year so it's not difficult. We want to make it easy and and so that they have that clarity. I've also updated the website with some information and we plan to provide some additional information that we have not, even yet to what has already been put up. During this process, I'm going to review the list of the businesses from last year's tax filing and see all the businesses that have registered or maybe some that forgot to register or renew. And then what they were classified as this past year, and see if that classification, you know, is it an easy check off the box? Yes, they absolutely look like that classification. I can see their business. I can see what they're doing. That makes sense to me or I can go on their website, easy validation. Yes, that makes sense to me. Any of those that I still have a question, I'm not sure. Those businesses will get a letter from me in writing asking them to please explain what they do, in their own words, so that I can understand what they're doing in their business. And if there's still any question or any further information that I need that will kick open their door so that I can have an open dialog with them via telephone or email or whatever the case may be, so that we can make sure that we get it right. Any of those that go through the process that I have to send a letter asking what the business does, they'll get a letter. Once the decision is made, they'll get a letter from me either stating, hey, I looked at what you've done, what your business is doing, and I think your classification is correct. We're going to leave you there, or hey, I don't think your classification is correct. We need to amend this. You're going to be changed to this classification. Please make sure you file going forward. It will also in the letter explain to them what their rights are. Per state code, when you change a business's classification, tax classification, it triggers formal appeal rights. So if they're not happy or they think the decision is incorrect, they have a right to appeal that decision. So it would come back to me on appeal. I would review it. I'm either going to change it and approve what they asked for or deny and keep the determination that I had given. Either way, if I deny they have a right to go to the state tax commissioner, if they so choose, or they can always go to court if they choose that option as well. But most people would rather go through the administrative process. But I'm required to tell them of those rights, so all the letters will explain that so that they understand what their next steps are, what their rights are in the process. For anyone that we have to amend or change, I'm required to assess for the current year and the previous three years. We can work with businesses on what that looks like, depending on what the change is, it can go either way. It may end up that some businesses owe a little more. It also may end up that the town owes a few people some refunds. It can go either way. It just depends. But it's more about getting it right. It needs to be correct. If you have people that are incorrectly classified, it

just leads to inequities in the system, which is not good. Mainly, I just want you all to be aware that this is happening and that it's being done and that we're moving forward. But also want to give you the opportunity that if you have questions about the process or what's going on, let me know. I'm happy to speak with you. Do you all have any questions this evening?

Philip Miller: Cindy.

Cindy Pearson: Yes. Well, just on the going back the three years and the current year.

Julie Rivard: Yes.

Cindy Pearson: Is there a way not to have to do that, that we can just go from this point being? Well, actually, by the time you get this done, it'll be the next year. Because doesn't that go out in January? January [inaudible]

Julie Rivard: So the renewal will go out in January. It's due and payable on March 1st. My goal is to get people [inaudible] to review the classifications prior to the end of this year, so that on January one we're good to go. That's my goal. So if I am changing someone's classification, I'll be changing it for this year and the prior three years. Unfortunately, no, Council Member Pearson, there is no way to just go forward from here. State code mandates that if you make a change, that you do it for the current and the preceding three years. And the reason that is, is because it's basically unfair to all the other businesses in that classification that filed the correct classification and paid their tax. By not assessing you've basically given that business a leg up against all the other people who operate a similar type business. So we it's an inequity.

Cindy Pearson: Well, this is exciting to hear that you're doing that, because as I've worked with those before those classifications were as clear as mud. [Laughter] So hats off to you. And it'll be great, because it sounds like you've got a really good handle on it. Thank you.

Julie Rivard: Thank you.

Danny Davis: I think one thing I've been surprised by is, it's not only just the state code that you have to interpret and apply, but it is rulings from the state tax commissioner, which have the same effect as law. And so I have shared this before, but Julie comes with multiple years of experience in this sector and in this specific discipline. And so her application of those very dense and challenging laws and rulings is helpful in this manner. [Laughter].

Julie Rivard: Thank you.

Philip Miller: Okay, Chris.

Chris Bernard: Cindy asked my question.

Philip Miller: Bud.

Bud Jacobs: I'm glad you're doing this. Thank you very much. I do, like Cindy I object to the three year retrogression. It seems to me that it's the town's responsibility to properly classify the businesses. And if a business has made a good faith effort and misclassified itself to be later corrected by you, it seems to me awfully unfair to penalize them three years of business tax revenues. There are no penalties, I assume.

Julie Rivard: We can look into that.

Bud Jacobs: Well, let's hope there are no penalties.

Julie Rivard: Right. I think we can work with [inaudible] should someone end up owing more, we can work with them. I'm not expecting, I don't know what you're expecting, but I'm not expecting full payment of everything right up front [off

mic] as soon as the classification change happens. I realize the situation that we're in and it's not easy for anybody. Unfortunately, I have to do it, but that doesn't mean that we can't work with them on the other end.

Bud Jacobs: Great. Well, this Council Member at least would like to formally request that you do work with anyone who finds themselves in the unfortunate position of being assessed for three years more. And I understand it's not going to be a lot of money in any case. But still, the principle here, it seems to me, is pretty clear and I don't like the tax code approach to it. And I'll shut up now. [laughter]

Philip Miller: Chris did you have something else?

Chris Bernard: Yeah, real quick kind of along those lines, and this might sound a little weird. So do you have to go back three years if you change their status? What if they were to just change their own status when they refiled next year, like when they did the renewal?

Julie Rivard: They can't.

Chris Bernard: Okay.

Julie Rivard: So the job of tax classification per state code falls to the commissioner or the revenue. In the absence of a form of government that elects a commissioner of the revenue, all the tasks and duty of the commissioner of the revenue are given to the finance director. And it says I shall, which means I must. [Off mic] Yep. And so [Multiple Speakers].

Chris Bernard: So [Off mic] the renewal [Off mic] classification. It's just whatever they were the year before? Cool.

Julie Rivard: Exactly. I mean, if something happens, and I mean sometimes people's businesses evolve and change over time, that's not uncommon. If they could come in and they could say, you know what, I don't think I fit this classification anymore.

Chris Bernard: Then you'd be required to go back three years if they did that.

Julie Rivard: Depending on when their [Multiple Speakers]. Depending on when their business model shifted. Yes.

Chris Bernard: You get what I'm saying now?

Julie Rivard: Yes. [Multiple Speakers] So basically to answer your question, they could come in and appeal their previous file, like a first level appeal and appeal or amend for correctness of assessment, their business license, tax classification. If they felt their business evolved and they didn't fit that classification anymore, they could say you know what, that my business model really kind of changed, three years ago. And so they can certainly go back depending on, within that time frame. They would be within the statute of limitations. Does that help?

Danny Davis: On the flip side, some may change in the categories that are lower. [Multiple Speakers] refund.

Chris Bernard: It's the long way around [Off mic]

Philip Miller: So, shocked that we're sitting here booing and hissing over the tax code. [Laughter] [Off mic] Peter.

Peter Leonard-Morgan: Thanks Julie, I concur. I think it's a great exercise you're going through, and I think we all probably had the same question as Bud. So thank you for that.

Philip Miller: Mr. Daley.

J. Kevin Daly: Well, the question about refunds were answered, but here's a thought. Ms. Rivard, I commend you for the initiative you have shown to go into this program and make the corrections as you see it. And I strongly recommend that Mr. Davis, indicate that on your future assessment for performance. Well done.

Julie Rivard: Thank you.

Philip Miller: [Off mic] I agree. It's a commendable exercise. I'm sure it's going to be a heavy lift. My only question, other than I don't like the double edged sword of the three years going back either way, but it is what it is. If we got to do it to stay with the code, that's what we have to do. My question is how we're going to communicate the beginning of this process to the businesses so that they know what the standard operating procedures are and so they can be prepared to be approached about the process and can devote time and energy and whatever. If anybody working from home any documents they would need to go and get, or backups that you would require. That's my concern.

Julie Rivard: Sure. With regards to tax classification, it doesn't necessarily trigger the need for formal documents, say, a tax filing or something like that. It's more of, basically what I need from them is a description, in their own words of what they're doing for their business. And I might go and observe and see, you know, it's pretty easy to walk downtown here in Middleburg. So that's not uncommon for someone to go observe and see, or they might provide information that they have readily available on their website or pamphlets or brochures. I mean, it could be anything, truthfully, anything that they have ready and available that describes or shows me what they are doing. That's basically what I mean. I had not anticipated giving everyone like a hello, we're doing this. Basically, what I had planned to do was to formally send out a written letter to each of those businesses in which there is a question about their classification. Those where it's straightforward, yes, they look like that classification. I don't think I need to alarm them or send them a letter or anything like that. I don't need them to describe their business to me, I see it. I had not planned on reaching out to them.

Philip Miller: Okay.

Chris Bernard: It's just the ones that are issues, which is probably [Off mic].

Philip Miller: Kevin.

Julie Rivard: A few more, but not that many honestly. [Multiple Speakers].

Danny Davis: Yes, it's a relatively minor number, but yeah, [Multiple Speakers].

Chris Bernard: I think what you're getting at is when you do approach them say, hey, here's what's happening, here's what we're going to do. [Multiple Speakers]

Philip Miller: And it's all businesses that are having this. You haven't been cherry picked out. [Multiple Speakers]

Julie Rivard: Yeah, sure.

Danny Davis: Absolutely. [Off mic]

Philip Miller: All right. Anything else on this? [Off mic] Thank you, Julie.

Julie Rivard: Thank you.

Philip Miller: Appreciate it. Good work. All right, with that, we'll move on. We'll open the second public comment period. Anybody in the line? Anybody, anyone? Bueller? [Laughter] Okay, with that, we'll close the public comment session and we will go into closed session. Does anybody have a motion? I can't read it this time.

Peter Leonard-Morgan: I will make [Off mic]. 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 the acquisition of property for the new town hall as

allowed under subsection A three. No close parentheses. I further move that the council there after reconvene in open session for action as appropriate.

Philip Miller: Does anyone second?

Chris Bernard: Second.

Philip Miller: Okay, we'll go to a vote. Cindy.

Cindy Pearson: Aye.

Philip Miller: Chris.

Chris Bernard: Aye.

Philip Miller: Bud.

Bud Jacobs: Aye.

Philip Miller: Peter.

Peter Leonard-Morgan: Aye.

Philip Miller: Kevin.

J. Kevin Daly: Aye.

Philip Miller: Okay motion passes. We'll go into closed session.

Rhonda North : We're back.

Philip Miller: Okay, I asked that council certify to the best of each member's knowledge, one only public business matters lawfully exempt from the open meeting requirements under 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 presence of the closed session that any discussion that occurred within it should be treated as confidential. Cindy?

Cindy Pearson: Yes.

Philip Miller: Chris.

Chris Bernard: Yes.

Philip Miller: Bud.

Bud Jacobs: Aye.

Philip Miller: Peter.

Peter Leonard-Morgan: Yes.

Philip Miller: Kevin.

J. Kevin Daly: Absolutely.

Philip Miller: Okay, Aye. We're now in open session, so is there a motion.

Chris Bernard: I move that the town council approve the attached purchase and sales agreement with Salamander Middleburg MUV, LLC to acquire land for the new town hall as presented with necessary amendments to be approved by the town manager and town attorney.

J. Kevin Daly: Second.

Philip Miller: Okay, we'll go to a vote. Cindy.

Cindy Pearson: Aye.

Philip Miller: Chris.

Chris Bernard: Aye.

Philip Miller: Bud.

Bud Jacobs: Aye.

Philip Miller: Peter.

Peter Leonard-Morgan: Aye.

Philip Miller: Kevin.

J. Kevin Daly: Aye.

Philip Miller: Okay, motion passes. And that's all she wrote. Meeting adjourned.