

**MINUTES OF MIDWAY TOWN COUNCIL REGULAR MEETING HELD ON SEPTEMBER 5, 2017 AT 7:00 P.M. IN THE COUNCIL CHAMBER AT MIDWAY TOWN HALL, 426 GUMTREE ROAD, MIDWAY, NORTH CAROLINA**

**CALL TO ORDER**

Mayor John Byrum called the meeting to order and welcomed everyone present.

Councilor Robin Moon gave the invocation and led in the Pledge of Allegiance prior to the opening gavel.

Councilors present were: John Byrum, Mike McAlpine, Jackie Edwards, Keith Leonard, Robin Moon, and Todd Nifong. Absent: None. Town Manager Gary Looper, Town Attorney Jim Lanik, Town Clerk Linda Hunt and Deputy Clerk Tammy Robertson were present.

Each Councilor had been furnished an agenda prior to the meeting.

No members of press were in attendance.

**RECOGNITION**

Mayor John Byrum recognized and thanked North Carolina House Representatives Donny Lambeth, District 80, and Sam Watford, District 75, who were in attendance, for their service and for helping to secure a Revitalization and Economic Grant of \$75,000 for the Town.

Representative Lambeth stated that he has been a House Representative for three terms and currently is a Chair on the Budget Committee. This year's budget allowed for an excess of \$6,000,000 to be dispersed between smaller communities in order to help those communities with economic development projects. Mr. Lambeth mentioned the Town losing the Walmart Express and felt like the Town would benefit from an Economic Grant to help secure additional business to the Town. Mr. Lambeth also stated that if the economy continues to grow, there could be an excess of funds available during the short session of the House that may allow for more funds being distributed to communities to be used for economic development.

Representative Watford thanked Council for their service to local government and vowed to continue to work for all of North Carolina. Mr. Lambeth offered his assistance to Council anytime his help is needed.

**APPROVAL OF MINUTES**

On motion by Councilor Jackie Edwards, seconded by Councilor Robin Moon, Council voted unanimously to approve the minutes of the August 7, 2017 Town Council Regular meeting as presented.

On motion by Councilor Keith Leonard, seconded by Councilor Todd Nifong, Council voted unanimously at approve the minutes of the August 15, 2017 Special meeting as presented.

**PUBLIC ADDRESS**

There were none

**ADOPT AGENDA**

On motion by Councilor Todd Nifong, seconded by Councilor Robin Moon, Council voted unanimously to adopt the agenda as presented.

**PUBLIC HEARING**

**PUBLIC HEARING TO ADOPT THE TOWN OF MIDWAY SUBDIVISION ORDINANCE –  
ORDINANCE NO.18-02**

At the August 7, 2017 Town Council regular meeting, Council called for a public hearing to receive citizen input on the adoption of the Town of Midway Subdivision Ordinance (Ordinance No. 18-02).

The purpose of the Subdivision Ordinance is to establish procedures and standards for the development and subdivision of land within the territorial jurisdiction of the Town of Midway. It is further designed to provide for the orderly growth and development of the Town; for the coordination of streets and highways and with other public facilities; for the dedication or reservation of rights-of-way or easements for street and utility purposes; and for the distribution of population and traffic in a manner that will avoid congestion and overcrowding and will create conditions essential to public health, safety, and the general welfare. This ordinance is designed to further facilitate adequate provision for water, sewerage, parks, schools and playgrounds, and also to facilitate the further re-subdivision of larger tracts into smaller parcels of land.

Copies of the ordinance were made available for public review at Town Hall and on the Town's website at [www.midway-nc.gov](http://www.midway-nc.gov).

The notice of the public hearing was advertised in *The Dispatch* on August 18, 2017 and August 25, 2017 as required by law.

Mayor John Byrum opened the public hearing.

There being no comments, Mayor Byrum closed the public hearing.

On motion by Councilor Mike McAlpine, seconded by Councilor Todd Nifong, Council voted unanimously to adopt the Town of Midway Subdivision Ordinance as presented.

The Town of Midway Subdivision Ordinance (Ordinance No. 18-02) is incorporated into these minutes by reference as if fully set forth herein.

**PUBLIC HEARING – TEXT AMENDMENT TO THE TOWN OF MIDWAY ZONING  
ORDINANCE (ORDINANCE NO. 17-03) – ARTICLE IX, SECTION 9.02 DEFINITION OF  
MINOR AND MAJOR SUBDIVISIONS**

At the August 7, 2017 Town Council regular meeting, Council called for public hearing to receive citizen input on the proposed text amendment to the Town of Midway Zoning Ordinance (Ordinance No. 17-03).

Currently, the Town of Midway Zoning Ordinance (Ordinance No. 17-03) defines minor subdivisions as five (5) lots or less and major subdivisions as more than five (5) lots.

The amendment to the Town of Midway Zoning Ordinance (Ordinance No. 17-03) – Article IX, Section 9.02 defines minor subdivisions as ten (10) lots or less and major subdivisions as more than ten (10) lots.

At their August 29, 2017 regular meeting, the Planning Board recommended to Council adoption of the proposed Text Amendment to the Town of Midway Zoning Ordinance (Ordinance No. 17-03) Article IX, Section 9.02 Definition of Minor and Major Subdivisions to define a minor subdivision as ten (10) lots or less and to define a major subdivision as more than ten (10) lots as presented.

Copies of the ordinance were made available for public review at Town Hall and on the Town's website at [www.midway-nc.gov](http://www.midway-nc.gov).

The notice of the public hearing was advertised in *The Dispatch* on August 18, and August 25, 2017 as required by law.

Mayor John Byrum opened the public hearing.

There being no comments, Mayor Byrum closed the public hearing.

On motion by Councilor Jackie Edwards, seconded by Councilor Keith Leonard, Council voted unanimously to amend the text of the Town of Midway Zoning Ordinance (Ordinance No. 17-03) – Article IX, Section 9.02 Definition of Minor and Major Subdivisions to define a minor subdivision as ten (10) lots or less and to define a major subdivision as more than ten (10) lots.

### **REGULAR BUSINESS**

#### **CONSIDER AMENDED AND RESTATED ORDINANCE ESTABLISHING THE TOWN OF MIDWAY PLANNING AND ZONING BOARD AND BOARD OF ADJUSTMENT – ORDINANCE NO. 18-04 – CALL FOR PUBLIC HEARING**

At their Vision Session held on August 15, 2017, Council reviewed the appointment terms of the Town’s Planning Board/Board of Adjustment. Under the current ordinance, the Planning Board/Board of Adjustment serve staggered four year terms. North Carolina General Statute 160A-388 states that members of a Board of Adjustment shall serve three-year terms, provided that upon initial appointment the terms of office are staggered. Town Council directed Town Attorney Jim Lanik to prepare the necessary amendment to the Town’s current ordinance in order for the Town to be in compliance with NCGS 160-388. Council also directed that the proposed amendment be presented to the Planning Board/Board of Adjustment for their review and input at their August meeting.

At their meeting on August 29, 2017, the Planning Board was advised of the proposed amendment to the Planning Board/Board of Adjustment appointment terms and recommended to Council adoption of the proposed appointment terms of the Planning Board/ Board of Adjustment change from four years to three years as presented.

On motion by Councilor Mike McAlpine, seconded by Councilor Jackie Edwards, Council voted unanimously to call for a public hearing on the amended and restated ordinance establishing the Town of Midway Planning and Zoning Board of Adjustment - Ordinance No. 18-04 to be held on Monday, October 2, 2017 at 7:00 p.m. at Town Hall 426 Gumtree Road in Midway, North Carolina.

### **TOWN MANAGER’S REPORTS**

#### **FINANCIAL REPORT**

Town Manager Gary Looper provided Council with monthly financial reports for August 31, 2017 as follows:

#### **AUGUST 31, 2017**

Total Income	\$266,991	18.0% of overall budget
Total Expenses	\$177,641	12.0% of overall budget

For information only.

### **INVESTMENT OF IDLE FUNDS**

Town Manager Gary Looper advised Council of the status of certificates of deposit the Town has invested with First National Bank. Mr. Looper stated that when the depository sheet was turned into Eddie Carrick, CPA for fiscal year’s 2016-2017 audit, Ann Warren with First National Bank noticed that the Town had

three certificates of deposit that had expired. Mr. Looper said in researching the records on the certificates of deposit, interest was received on the certificates up to February or March of 2015. According to Ms. Warren, the Town should have received a maturity notice approximately fifteen days before the certificates were scheduled to expire. Mr. Looper stated that the Town did receive annual updates on the certificates in March 2016 and March 2017.

As of June 30, 2017 the three idle certificates of deposit totaled \$864,458, about twenty four percent of the Town's liquid funds of \$3.6 million. Certificates of deposit options currently range from .83% to 1% based on lengths of ninety days to one year.

Mr. Looper informed Council that as of June 30, 2017, the Town has \$1,481,555 in checking and \$329,799 in savings which totals about 50% of the Town's liquid funds. Also, the Town has a money market account with Home Trust Bank totaling \$993,061 which is drawing .21% annually all of which can be invested if Council desires.

Total fiscal year 2016-2017 expenses were \$994,688 which is a monthly average of around \$83,000.

Mr. Looper stated that by General Statutes, the finance officer can invest idle funds for the Town but he would like Council's input on how to proceed.

Councilor Robin Moon asked about investing the money in mutual funds. Mr. Looper stated that would be okay but that the bank would need to provide certification to the Town that pooling in of the Town's specific collateralization is sufficient to meet Local Government Commission regulations. Mr. Looper said that the bank Council chooses has to be approved by the Local Government Commission and have an office in North Carolina.

It was the consensus of Council to invite a financial representative to the October 2, 2017 Town Council regular meeting to discuss investment opportunities for the Town's expired certificates of deposit and liquid funds.

### **TOWN PARK UPDATE**

Town Manager Gary Looper stated that he has received a cost estimate from Arcadia Fence for \$15,063.00 for the installation of fencing around the proposed Town Park area behind Town Hall on Gumtree Road that was discussed at the Vision Session on August 15, 2107. The cost estimate includes the following:

- Installation of 1,100 feet of white, 3-rail pvc fence
- Two 6 foot wide pvc walk gates
- One 16 foot wide, 3-rail, white aluminum double gate

Also received was a cost estimate from SASS Seeding for \$24,000.00 for seeding 16 acres of Town Park land or \$25,500.00 for seeding 17 acres based on \$1,500.00 per acre. The cost estimate includes:

- Dressing up land
- Picking up debris
- Liming, fertilizing, seed, straw and tacked

Mr. Looper stated that he would like for Council's consent to approve cost estimates since there is not a contract in place to pre-audit the invoices. Mr. Looper informed Council that North Carolina General Statutes can be interpreted to allow oral contracts, but oral contracts by definition cannot affix a required pre-audit statement. Mr. Looper stated that since both of these quotes exceed his \$10,000 ordinance authority, he would like Council's approval to administer the proposals.

Town Attorney Jim Lanik said that attaching proposals including the scope of services to an Independent Contractor Agreement would provide sufficient protection for the Town.

Mayor Byrum asked Mr. Lanik, from a risk perspective, would the Town be exposed to liability if a contractor gets injured while working on the Town's property. Mr. Lanik responded that the Town would be liable, adding that the Town cannot prevent itself from being sued, but the Independent Contractor Agreement states who is responsible for what and should provide for protection for the Town in the event such incidents were to occur.

On motion by Councilor Mike McAlpine, seconded by Councilor Jackie Edwards, Council voted unanimously to accept Town Attorney Jim Lanik's recommendation to have Independent Contractor Agreements signed by the entities, even ongoing, , with anyone the Town is conducting business with. If an overage up to fifteen percent were to occur, the Town Manager has authority to execute the documents.

(Mayor Byrum called for a five minute recess)

**RECESS TO CLOSED SESSION**

On motion by Councilor Mike McAlpine, seconded by Councilor Todd Nifong, Council voted unanimously to recess to closed session in accordance to N.C.G.S. 143-318.11(a)(4)(6) to discuss matters pertaining to economic development and personnel.

**RECONVENE TO OPEN SESSION**

On motion by Councilor Robin Moon, seconded by Councilor Jackie Edwards, Council voted unanimously to reconvene to open session.

On motion by Councilor Robin Moon, seconded by Councilor Todd Nifong, Council voted unanimously to recess the meeting to reconvene on Thursday, September 7, 2017, at 6:00 p.m. at Town Hall located at 426 Gumtree Road in Midway, North Carolina.

The meeting was recessed at 11:58 p.m.

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John E. Byrum, Mayor

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Tammy H. Robertson, Deputy Clerk