

**MINUTES OF MIDWAY TOWN COUNCIL REGULAR MEETING HELD ON AUGUST 5, 2019
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.

Mayor Pro Tem Mike McAlpine gave the invocation and led in the Pledge of Allegiance prior to the opening gavel.

Councilors present were: John Byrum, Mike McAlpine, Jackie Edwards and Keith Leonard. Absent: Todd Nifong and Robin Moon. Town Manager Tammy Michael, Town Clerk Linda Hunt, Town Attorney Jim Lanik, Deputy Clerk Tammy Robertson, Davidson County Planning Director Guy Cornman, Davidson County Zoning Officer Travis Swain, Planning Board members James Smith, Jamie Hester and Charles Waddell were present.

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

Ben Coley with *The Dispatch* was in attendance.

APPROVAL OF MINUTES

On motion by Mayor Pro Tem Mike McAlpine, seconded by Councilor Jackie Edwards, Council voted unanimously to approve the minutes of the July 1, 2019 Town Council Regular Special meeting as presented.

On motion by Councilor Jackie Edwards, seconded by Councilor Keith Leonard, Council voted unanimously to approve the minutes of the July 15, 2019 Town Council Regular meeting as presented.

PUBLIC ADDRESS

There were none.

ADOPT AGENDA

On motion by Mayor Pro Tem Mike McAlpine, seconded by Councilor Jackie Edwards, Council voted unanimously to adopt the agenda as presented.

PUBLIC HEARING

**PUBLIC HEARING – ADOPTION OF ORDINANCE TO AMEND THE TEXT OF THE TOWN
OF MIDWAY ZONING ORDINANCE – INTERNET SWEEPSTAKES BUSINESSES –
ORDINANCE NO. 20-02**

At the Town Council Regular meeting held on July 15, 2019, Council called for a public hearing to be held on Monday, August 5, 2019 at 7:00 p.m. at Town Hall to receive citizen input on the adoption of Ordinance No. 20-02 to amend the text of the Town of Midway Zoning Ordinance pertaining to Internet Sweepstakes Businesses.

Davidson County Zoning Officer Travis Swain reviewed the ordinance with the new regulations as recommended by the Planning Board to the Town Council for adoption. Mr. Swain presented a map of the Town highlighting where Internet Sweepstakes Businesses are not allowed to locate based on a minimum of five hundred foot buffer between facilities as recommended by the Planning Board.

Under the proposed ordinance, there shall be no more than three (3) Internet Sweepstakes Businesses located in the corporate limits of the Town at any given time. Current operating businesses will be grandfathered in.

Planning Board member Jamie Hester stated that the Planning Board's discussions regarding Internet Sweepstakes Businesses were lengthy and deliberate and that the Planning Board's recommendation will be beneficial to all parties.

Mayor Pro Tem Mike McAlpine asked Town Attorney Jim Lanik if the new proposed regulations align with regulations at the state level. Mr. Lanik stated that nothing stood out as being problematic, but the state can always preempt it if it decides it wants to pass an Electronic Gaming statute.

The public hearing was advertised in *The Dispatch* on July 19, 2019 and July 26, 2019 as required by law.

Mayor Byrum opened the public hearing.

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

Mayor Pro Tem Mike McAlpine thanked the Planning Board for their hard work.

On motion by Mayor Pro Tem Mike McAlpine, seconded by Councilor Jackie Edwards, Council voted unanimously to adopt Ordinance No. 20-02 to amend the text of the Town of Midway Zoning Ordinance regarding Internet Sweepstakes Businesses.

ORDINANCE NO. 20-02

AN ORDINANCE AMENDING THE ZONING ORDINANCE FOR THE TOWN OF MIDWAY NORTH CAROLINA REGARDING INTERNET SWEEPSTAKES BUSINESSES

BE IT ORDAINED by the Town Council of the Town of Midway, North Carolina that the Zoning Ordinance is hereby amended as follows:¹

Section 1. Article III, Section 3.07(V)(14)(B) is hereby amended as follows:

(B) Prohibited Uses

The following uses are hereby prohibited from being established within the area covered by the Core Commercial Overlay District. These regulations supersede the Table of Permitted Uses set forth in Section 3.08.

Abattoirs
Adult Uses
Automobile Graveyards
Bottling Plants
Brick, Tile and Cement Manufacturing
Chemical Manufacturing
Compartmentalized Storage for Individual Storage of Residential and Commercial Goods
Electronic Gaming Operations
Extraction of Earth Products
Farm Machinery Sales

¹ NOTE: Language to be added is indicated with an underscore.

Flea Markets, Indoors
Flea Markets, Out of Doors
Foundry Casting
Freight Terminals
Fuel Oil Dealers
Furniture Manufacturing
Golf Driving Range
Golf, Miniature
Greenhouses, nurseries etc.
Hazardous Waste Facility
Indoor Firing Range
Junkyard
Kennels, Commercial
Landfills
Light Manufacturing, unclassified
Livestock Sales
Manufacturing or Processing
Manufactured Home, Class A, B and C
Manufactured Home Parks
Manufactured Housing Sales
Outdoor Advertising Sign
Outdoor Storage Yard
Petroleum Bulk Stations, Terminals
Racetracks, Drag Strips
Sawmills
Skeet Trap, Rifle and Pistol Ranges
Storage of Low Explosives
Travel Trailer Parks and Campgrounds
Warehouses
Wireless Telecommunication Facilities (All heights)

Section 2. The Table of Permitted Uses found at Article III, Section 3.08 is hereby amended to add “Electronic Gaming Operations” as a particular use in only HC upon approval by the Board of Adjustment. Such use shall be a Class B Special Use, denoted by “SB” in the column “HC”. A copy of the relevant portion of the amended table is attached hereto as Exhibit A and is incorporated herein by reference.

Section 3. Article V, Section 5.08 shall be amended as follows to add the following subsection J:

(J) Electronic Gaming Operations

Special Use Districts: HC

Approved by: Board of Adjustment

Minimum Lot Size: Governed by Zoning District

Submittals: 1. Elevations of the building as proposed

2. Site plan showing the lot, with all existing and proposed buildings thereon and parking area.

Standards: A. Electronic Gaming Operations shall be located at a minimum distance of five hundred (500) feet, measured in a straight line in any direction from the property line of the proposed Electronic Gaming Operation to a property line of any of the following:

- (a) A place of worship or other religious institution.
- (b) A day care center or facility.
- (c) A public or private school.
- (d) A public park, playground, library, community pool or any area where large numbers of minors regularly travel or congregate including, but not limited to, public and private swimming pools and water parks.
- (e) A fire station, police station or other public safety facility.
- (f) A nursing home or assisted living facility or medical facility.
- (g) A funeral home.
- (h) Another Electronic Gaming Operation.

B. All windows, doors, openings, entries, etc.... for all electronic gaming operations shall be so located, covered, screened or otherwise treated that views into the interior of the establishment are not possible from any public or semi-public area, street or way.

C. Electronic Gaming Operations are not allowed as an accessory use.

D. No person or entity engaged in an Electronic Gaming Operation shall allow, permit, or condone the presence of any person under the age of 18 within the Electronic Gaming Operation.

E. Electronic Gaming Operations shall provide and maintain no less than one (1) parking space per every terminal, computer, machine, or gaming station within such Electronic Gaming Operation, plus one (1) parking space per every employee of such Electronic Gaming Operation.

F. Signage for Electronic Gaming Operations shall comply with all standards of this ordinance including Article VI, Development Standards, Section 6.05 Standards for Signage, Paragraph G, Direct Illumination; Streamers and Flashing Lights.

G. There shall be no more than 3 Electronic Gaming Operations located in the corporate limits of the Town of Midway at any given time.

Section 4. Article IX, Section 9.02 shall be amended by adding the following definition:

ELECTRONIC GAMING OPERATIONS Any for-profit business enterprise, where as a principal use persons use electronic machines, including but not limited to computers and gaming terminals, to conduct games, whether games of odds or chance or games of skill or dexterity, where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played, by predetermined odds, or by any other method. Electronic

Gaming Operations may include, but are not limited to, internet cafes, internet sweepstakes, electronic gaming machines, or cybercafés. This definition does not include any lottery approved by the State of North Carolina.

Section 5. This ordinance is adopted in accordance with N.C.G.S. 160A-383 and the Town Council has found the amendment to be consistent with the Town’s adopted plans.

Consistency Statement

“The Town Council finds that the proposed text amendment to establish Electronic Gaming Operations as a use in the Table of Permitted Uses, make Electronic Gaming Operations a use permitted by right in the Highway Commercial District, establish the proposed definition of Electronic Gaming Operations, and make Electronic Gaming Operations a prohibited use in the Core Commercial Overlay District is consistent with the Town of Midway Land Use Plan and the US Highway 52 Corridor Plan. Specifically, the proposed amendment will reinforce the Town’s goals for enhancing its Core Commercial District through regulating uses which are not consistent with the goals for the development of that area, while facilitating commercial growth in areas of Town where such uses may be more appropriately located.”

Section 6. As required by statute, the Town Council finds the action reasonable and in the public interest. “The Town Council finds that it’s action with regard to the adopted amendment is reasonable, as the proposed amendment seeks to regulate a new type of business that the Town’s ordinance does not currently address, and, in adopting the new regulation, the Council’s action provides for the establishment of the businesses addressed by the ordinance in appropriate locations throughout the Town, while also preventing their establishment in areas where the Town’s adopted plans indicate that such businesses could detract from the desired character of those areas. The Council believes that this action is also reasonable in that it excludes such businesses from areas where their establishment could interfere with the viability of the public and private investments that have been made and are planned to be made in those areas. In recognition of the need to preserve the character of the Town’s Commercial Core, and the need to balance that need with the rights of legal businesses to operate under proper regulation, the Council believes that its action with respect to the adopted amendment is in the public interest.”

Section 7. This ordinance shall become effective upon its adoption.

This the 5th day of August 2019

REGULAR BUSINESS

TOWN MANAGER’S REPORTS

FINANCIAL REPORT

Town Manager Tammy Michael provided Council with monthly financial reports for July 31, 2019 as follows:

JULY 31, 2019

Total Income	\$102,386	7.3 % of overall budget
Total Expenses	\$176,244	12.6 % of overall budget

For information only.

REMINDER: TOWN HALL WILL BE CLOSED ON MONDAY SEPTEMBER 2, 2019 IN OBSERVANCE OF LABOR DAY

Town Manager Tammy Michael reminded Town Council that Town Hall will be closed on Monday September 2, 2019 in observance of Labor Day.

NEXT TOWN COUNCIL MEETING – TUESDAY SEPTEMBER 3, 2019

Due to the Labor Day Holiday falling on a Monday, the next Town Council meeting will be held on Tuesday, September 3, 2019.

ADJOURNMENT

On motion by Councilor Jackie Edwards, seconded by Councilor Keith Leonard, Council voted unanimously to adjourn the meeting at 7:20 p.m.

John E. Byrum, Mayor

Tammy H. Robertson, Deputy Clerk