

**MINUTES OF MIDWAY TOWN COUNCIL REGULAR MEETING HELD ON MAY 4, 2020 AT 7:00 P.M VIA ZOOM WEBINAR AND LIVE STREAMED ON THE TOWN OF MIDWAY FACEBOOK PAGE VIA FACEBOOK LIVE**

**CALL TO ORDER**

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

Mayor Byrum gave the invocation and led in the Pledge of Allegiance prior to the opening gavel.

Councilors present were: John Byrum, Jackie Edwards, Keith Leonard, Mike McAlpine, Berkley Alcorn and Robin Moon. Absent: None. "Pursuant to North Carolina Electronic Meeting Laws, each Councilor was verbally polled for attendance."

Town Manager Tammy Michael, Town Clerk Linda Hunt and Deputy Clerk Tammy Robertson were present at Town Hall. Town Attorney Jim Lanik participated remotely.

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

No members of press were 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 March 2, 2020 Town Council Regular meeting as presented.

On motion by Councilor Robin Moon, seconded by Councilor Keith Leonard, Council voted unanimously to approve the minutes of the March 24, 2020 Town Council Special Meeting as presented.

On motion by Mayor Pro Tem Mike McAlpine, seconded by Councilor Berkley Alcorn, Council voted unanimously to approve the minutes of the March 24, 2020 Town Council Budget Workshop as presented.

**PUBLIC ADDRESS**

There were none.

**ADOPT AGENDA**

On motion by Councilor Jackie Edwards, seconded by Councilor Berkley Alcorn, Council voted unanimously to adopt the agenda as presented.

**REGULAR BUSINESS**

**AUDIT CONTRACT – EDDIE CARRICK CPA, PC**

In accordance with North Carolina General Statute 159-34, each unit of local government and public authority shall have its accounts audited as soon as possible after the close of each fiscal year by a certified public accountant.

Mr. Eddie Carrick has submitted a proposed contract between Eddie Carrick CPA, PC and the Town of Midway to audit the accounts of the Town of Midway for year ending June 30, 2020. Mr. Carrick will audit all required legal statements and disclosures required by generally accepted accounting principles (GAAP) and additional required legal statements and disclosures of all funds and/or divisions of the government unit during the period beginning July 1, 2019 and ending June 30, 2020. In consideration of the satisfactory performance of the provisions of this contract, the Town of Midway shall pay to the

Auditor, upon approval be the Secretary of the local Government Commission (LGC), at a cost of \$4,000 for the audit plus \$1,500 for preparation of the annual financial statements for a total contract cost of \$5,500, which is the same as the previous year.

Town Attorney Jim Lanik has reviewed and approved the contract as presented.

On motion by Mayor Pro Tem Mike McAlpine, seconded by Councilor Jackie Edwards, Council voted unanimously to approve the contract with Eddie Carrick CPA, PC for the year ending June 30, 2020 at a cost of \$5,500.

## **PRESENTATION OF PROPOSED BUDGET FOR FISCAL YEAR 2020-2021 – CALL FOR PUBLIC HEARING**

### **A. PRESENTATION OF BUDGET BY TOWN MANAGER**

In accordance with North Carolina General Statutes, Town Manager Tammy Michael presented the proposed budget and budget message for Fiscal Year 2020-2021 in the amount of \$2,708,925.00 to Town Council.

In her budget message, Mrs. Michael stated that the budget embodies results of the Budget Workshops held by Council on March 24, 2020 and April 20, 2020. The budget represents fundamentally conservative governmental service provision and revenue projections. The elected body aims to balance resident quality of life with business opportunity and improve recreational amenities through sound financial management. It also continues to maintain a historically strong fund balance, minimal debt and use of cash for nearly all recurring expenses and capital. An appropriation from Fund Balance for \$1,292,825.00 is used to balance the budget.

The recreational use of 38 acres of undeveloped land off Gumtree Road purchased in 2013 continues to be an important project for Council and substantial funding is included for that purpose. While use of a portion of the property may still be dedicated for a future recreational facility, the Council will proceed with design and improvements dedicated for the passive enjoyment of the community. This budget allocates up to \$1,500,000.00 toward this endeavor during the next year.

The proposed tax rate remains unchanged at five cents (.05) per \$100 valuation.

The following municipal services are offered for Town residents and businesses:

- Solid Waste and Recycling Collection
- Street Lights
- Land Use Planning, Zoning and Code Enforcement
- Augmented Public Safety

This budget is balanced and prepared in accordance with the North Carolina Budget and Fiscal Control Act. On June 1, 2020 the Town Council will hold a public hearing on the fiscal year ending June 30, 2021 budget. Any person who wishes to be heard on the budget may appear at that time. This budget may be reviewed at Town Hall or online at [www.midway-nc.gov](http://www.midway-nc.gov).

Mrs. Michael stated that revenues for the fiscal year 2020-2021 have been difficult to project but she has figured budget revenues conservatively. She and Town Clerk Linda Hunt attended a webinar presented by North Carolina School of Government and reports that there is a three-month delay on revenue projections. The revenues that the Town received in April 2020 are actually revenues from January 2020. For the next three months, the School of Government suggests that municipalities go back to a year, possibly during the Great Recession of 2007-2009 where there was some economic downturn in order to

project revenues for the next fiscal year. Mrs. Michael said that she has projected a ten percent reduction in revenue for fiscal year 2020-2021. The Town has a strong Fund Balance and she feels that the Town can manage its expenses well. All other Towns are in the same situation. Mrs. Michael said that the Town's budget can be presented to the public and Town Council adopt it comfortably.

**B. CALL FOR PUBLIC HEARING – PROPOSED BUDGET FOR FISCAL YEAR 2020-2021**

On motion by Mayor Pro Tem Mike McAlpine, seconded by Councilor Robin Moon, Council voted unanimously to call for a public hearing on the proposed budget for fiscal year 2020-2021 to be held on June 1, 2020 at 7:00 p.m. at Town Hall located at 426 Gumtree Road in Midway, North Carolina.

Mayor Pro Tem Mike McAlpine complimented staff on their work in preparing the budget.

**TOWN PARK ATTENDANT – APPROVE NEW POSITION**

Town Council's vision for the new Town Park is to have a pleasant and aesthetically pleasing Town Park for the Town's citizens and visitors to utilize. To be successful, it is necessary to hire a Town Park Attendant to oversee the daily operations of the Town.

Town Manager Tammy Michael stated that Town Staff completed two interviews with Mr. Danny Mizell with regards to becoming the Town Park Attendant. Mr. Mizell is a resident of Midway and has long familial ties to the community. He is a retired schoolteacher and has experience in park management and operations through the Forsyth County Recreation Department. Mr. Mizell impressed staff with his knowledge of what it takes to manage park operations. His demeanor is professional and his enthusiasm for being an integral part of the foundation to get the new Town Park up and going is refreshing. He is committed to his community and wants what is best for the Town of Midway.

This position would be an hourly part-time employee, no benefits, with a maximum of thirty (30) hours per week, at an hourly rate of \$12.00

If the position is approved, Mr. Mizell will be hired by the Town Manager to fill the position.

Town attorney Jim Lanik has reviewed and approved the agreement.

Staff recommends Town Council approve the Town Park Attendant position.

On motion by Councilor Jackie Edwards, seconded by Councilor Keith Leonard, Council voted unanimously to approve a Town Park Attendant position for the Town Park.

Town Park  
Park Attendant Position Description

**SUMMARY:**

The Town of Midway Park Attendant is a part-time position with no benefits with a maximum of 30 hours per week; and the hours are seasonal and will vary depending upon the demand. The rate of pay is \$12-\$15 per hour depending upon experience.

ESSENTIAL FUNCTIONS:

- Serve as visible park staff and welcome residents and visitors to the park when necessary (depending upon events).
- Assist with special events and other park activities
- Police the park and adjoining areas for litter and natural debris
- Empty trash and recycling bins
- Clean and stock restrooms with appropriate supplies
- Maintain a professional demeanor and appearance
- Performs other work as assigned
- Reports to the Town Manager

KNOWLEDGE, SKILLS AND ABILITIES:

- General knowledge of occupational hazards, safety rules, and practices of the work
- General knowledge of park rules and regulations
- General knowledge of standard and effective cleaning procedures
- Ability to establish and maintain effective working relationships with fellow employees, Town Officials and general public
- Ability to communicate information tactfully and impartially
- Ability to safely operate equipment, vehicles, small hand tools and pressure washers
- Ability to understand oral and written instructions and keep accurate records
- Valid NC driver's license and good driving record
- Minimum age of 18

PHYSICAL DEMANDS:

Requires the ability to walk for long distances and on uneven surfaces, crawl, reach, stand for long periods of time, push, pull and lift objects up to 50 pounds occasionally and/or a negligible amount of force constantly. The ability to speak is required to communicate in person or other methods. Hearing is required to perceive information at normal spoken word levels. Visual activity is required to operate motor vehicles and/or equipment and to observe the general surroundings and activities. The attendant is subject to inside and outside environmental conditions. The worker may encounter distracting noises when at work.

**CONSIDER RESOLUTION FOR TOWN PARK RULES AND REGULATIONS – RESOLUTION NO. 06-20**

The Town's Park Committee began developing rules and regulations for the Midway Town Park at their Park Committee meeting on June 24, 2019 and for several months reviewed and updated the proposed rules and regulations before having them reviewed by Town Attorney Jim Lanik and then submitted to Town Council for final approval.

Mayor John Byrum addressed the proposed rules and regulations, specifically number six Alternate A and Alternate B. Alternate A states the following: No animals leashed or unleashed or unaccompanied are allowed on the premises, nor are animals allowed to enter playground areas, be on designated walking trails, or enter fenced in areas. Only certified and officially documented service animals are allowed and owners of those in possession of authorized animals shall be expected to clean up any debris (natural and otherwise).

Alternate B states the following: Animals shall be leashed and accompanied at all times – leashes shall not exceed 10 feet in length. No animals allowed in playground area. Owners or those accompanying animals shall be expected to clean up any debris (natural or otherwise).

Mayor Byrum said that this has been an important item for the Town's residents and that Council members have spoken with residents about their desires for allowing or not allowing animals in the Park. Mayor Byrum said that it is important for Council not to make a decision based on their personal desires, but a decision that represents the majority of the citizens that will utilize the Park.

Mayor Byrum stated that he and Council have their own opinions but he has clearly made it known that he would rather not have a Park than to have a Park without people being allowed to bring their pets.

Councilwoman Jackie Edwards said that the Park Committee was appointed by Council a few years ago and made an unanimous decision not to allow animals in the Park and that was her basis for not allowing animals in the Park.

Councilor Keith Leonard stated that he also supported the recommendations made by the Park Committee to not allow animals in the Park. The residents that he had spoken with also did not want animals. Councilor Leonard continued by saying that he was not hard set either way.

Councilwoman Edwards said that Davidson County does not have a leash law and questioned how the Town would enforce pet owners to keep their animals on a leash while at the Park. She feels that the Park Attendant will not have an ample amount of time to police issues that could arise from allowing animals in the Park.

Town Attorney Jim Lanik stated that if the Town has a policy for animals to be leashed, that policy can be enforced. However, with the rules and regulations being adopted by resolution and not by an ordinance, the Sheriff's Department cannot be called on to enforce the rule and it would be up to the Park Attendant to enforce it. If the rules and regulations are adopted by an ordinance, then the Sheriff's department can be called upon to enforce the issue.

Mayor Pro Tem Mike McAlpine explained that the rules and regulations would initially be adopted by resolution and later adopted by an ordinance, noting that changes would possibly be made in the rules and regulations and it would be easier to amend those with a resolution. Once the final rules and regulations are set, they would be adopted by an ordinance. Mr. Lanik said if a rule has the force of an ordinance and the ordinance is drafted in such a way that violations of the ordinance can be punished by criminal sanction or infractions, then the ordinance can be drafted to allow for enforcement by the Sheriff. The violation would have to be witnessed by the Sheriff or reported to the Sheriff for enforcement.

Mayor Pro Tem Mike McAlpine said that he has spoken with Town of Wallburg Councilman Steve Yokeley regarding Wallburg's policy of having animals in their Park, and Councilor Yokeley said it was an unanimous decision from Wallburg's Town Council to allow animals. Councilor Yokeley said that Wallburg's residents have been very respectful and that the Park was designed to have a family atmosphere. Councilor Yokeley stated to Mr. McAlpine that if Midway excludes animals from being in the Park, he is afraid that Midway will have a problem.

Mr. McAlpine has also reached out to Chris Weavil Assistant Director of Park Operations with the Forsyth County Parks and Recreation about having animals at the Forsyth County Parks. Mr. Weavil said that animals are a part of our society and people expect to have their animals with them. Any problems that Forsyth County Parks and Recreation has encountered by allowing animals in the Parks have always been handled and he does not ever see taking that privilege away from their citizens.

Councilwoman Jackie Edwards commented that the Forsyth County Parks and Recreation Department has a larger staff than Midway's and they should be able to handle issues with their Parks easier than Midway can with only having one staff member.

Councilor Robin Moon questioned whether or not Wallburg or Forsyth County Parks had fenced-in areas for the animals. Mr. McAlpine said that Wallburg does not have a fenced-in area for animals simply because their Park area including Town Hall is only six acres and they just do not have the space for it.

Councilor Robin Moon asked Mr. Lanik about any potential liability the Town could face if there were any issues with the animals. Mr. Lanik responded by saying it would be best to consult the Town's Insurance Company and review the Town's General Liability Insurance policy to eliminate any potential liability the Town could have. By doing this, the Town's exposure would be minimized. Whether Council adopts 6A or 6B does not mean that people will not bring their animals anyway.

Mayor Pro Tem Mike McAlpine said that he respects each Council member's opinion about whether or not to allow animals in the Park and to remember that Council should do what the majority of residents want, not necessarily what they want for themselves. He does not want the Park to open up with any hinderances.

Mayor Byrum commended Councilwoman Jackie Edwards on her comments regarding the Park Committee and how much work they have put into making the Park a fun and safe place for the Town's residents. Although he is supportive of allowing leashed dogs in the Park, it in no way is meant to be disrespectful of the Park Committee's work to this point. The Park Committee served at the pleasure of Council and served well. Mayor Byrum also agreed with comments that Mayor Pro Tem Mike McAlpine previously made about amending the rules and regulations if needed. Mayor Byrum stated that if residents are not adhering to the rules, he would be the first to endorse changes to them.

Councilor Robin Moon thanked Mayor Pro Tem and the Park Committee for everything they have done to this point and that the Town Park would not be where it is without them.

Mr. McAlpine thanked Councilwoman Jackie Edwards for attending all of the Park Committee meetings. She has been a major part of the process. It has truly been a community effort.

A motion was made by Councilwoman Jackie Edwards to approve Alternate 6A of the Park Rules and Regulations to not allow leashed or unleashed or unaccompanied animals on the premises, nor animals allowed to enter playground areas, be on designated walking trails, or enter fenced-in areas. Only certified and officially documented services animals are allowed and owners of those in possession of authorized animals shall be expected to clean up debris (natural and otherwise). Due to lack of a second motion, Councilwoman Edward's motion failed.

On motion by Mayor Pro Tem Mike McAlpine, seconded by Councilor Robin Moon, Council voted to approve Alternate 6B of the Park Rules and Regulations allowing animals in the Town Park leashed and accompanied at all times – leashes shall not exceed 10 feet in length. No animals allowed in playground area. Owners or those accompanying animals shall be expected to clean up any debris (natural or otherwise) by a 4-1 split vote.

Voting in favor were Mayor Pro Tem Mike McAlpine, Councilors Robin Moon, Keith Leonard and Berkley Alcorn. Voting against was Councilwoman Jackie Edwards.

RESOLUTION NO. 06-20

A RESOLUTION ESTABLISHING RULES AND REGULATIONS CONCERNING  
THE TOWN PARK OF MIDWAY

WHEREAS, The Town Park of Midway was created for the enjoyment of the people of Midway, paid for by tax dollars from its citizens and maintained by the Town; and

WHEREAS, to enjoy the quiet, orderly and suitable use of the park in a safe, healthy and comfortable environment for all those who share in that use certain rules and regulations are needed; and

WHEREAS, North Carolina General Statute 160A-353(1) states that the City shall have authority to establish and conduct a system of supervised recreation; and

WHEREAS, a comprehensive review of the rules regarding the park has been undertaken.

NOW, THEREFORE BE IT RESOLVED by the Town Council of Midway that the following rules governing the Town Park of Midway shall apply and are hereby adopted:

TOWN OF MIDWAY, NC

TOWN PARK RULES AND REGULATIONS

Park Hours

April through October – 6:00 a.m. – 9:00 p.m.

November through March – 7:00 a.m. – 7:00 p.m.

Rules of Conduct applicable to all Town Parks and Recreational Facilities

Rules are applicable to conduct of any person within any park, recreational facility, or other premises under the jurisdiction of the Town of Midway, NC and are considered supplemental to, and not in exclusion of, any other rules, provisions of the Code, or other ordinances of the Town applicable to such matters.

1. Weapons are prohibited except concealed handguns, with proper permit, as allowed by the N. C. General Statutes. It is a felony to knowingly possess or carry any firearm (whether openly or concealed) to any activity sponsored by a school.
2. Alcoholic beverages and/or the use of alcoholic beverages is prohibited.
3. Selling, or in possession of, or under the influence of any intoxicating beverages or controlled substances is not allowed.
4. Tobacco products, vaping apparatus and/or the use of tobacco and tobacco related products is prohibited.
5. The discharge of guns, spring guns, fireworks, bows and arrows, slings, slingshots, paintball guns, rocks, or other weapons not designated is not allowed.
6. Animals shall be leashed and accompanied at all times – leashes shall not exceed 10 feet in length. No animals allowed in playground area. Owners or those accompanying animals shall be expected to clean up any debris (natural or otherwise).
7. No exotic animals allowed.
8. Cutting, marking, breaking, climbing upon, or in any way injuring or defacing trees, shrubs, plants, buildings, fences, bridges, or other structures or property on the premises is not allowed. No person

- shall remove from the premises sod, trees, or plants or other movable property, or to pick flowers, vegetables, or fruits of any kind on any such premises.
9. Driving, racing, riding and/or parking bicycles, automobiles, minibikes, motorcycles, all-terrain vehicles or other motorized and/or non-motorized vehicles, or horses or other animals; on any such premises is not allowed, except in areas specifically designated, if any, by the Town Council or designee for such use.
  10. Sleeping on tables or benches on the premises is not allowed.
  11. Distributing circulars or advertisements, or posting notices, bills or other paper upon any structures or trees on any such premises, or advertising by any other means is not allowed.
  12. Taking any bird eggs or bird nests is not allowed, except at such times as designated by the Town Council or designee; killing or disturbing any birds or wildlife is not allowed.
  13. Lighting any fires on the property, other than in established fireplaces for cooking purposes, is not allowed. Only charcoal is permissible in designated grilling areas. No open fire allowed.
  14. Calling or holding meetings or gatherings on park or recreational property without written consent by permit from the Town Council or designee or refusal to vacate a property to allow use by a permit bearing group or interrupting an allowed activity in progress is not allowed.
  15. Bringing into or upon park and recreational properties refuse of any kind, including undesirable plant life or discarded appliances is not allowed.
  16. Entering any area or portion of any area designated as restricted by signs or notices without the consent of the Town Council or designee is not allowed.
  17. profane language or conduct deemed disorderly is not allowed.
  18. Selling or offering to sell food or refreshments or being a vendor of any saleable products or service without the approval by written permit or contractual agreement with Town Council or designee is not allowed.
  19. Soliciting for membership into, affiliation with, or support of, any subject, activity or organization for any other cause is not allowed without the written consent from the Town Council or designee, in which case, permission will only be granted to recognized, local non-profit organizations.
  20. Fundraising or otherwise collecting money for any purpose is not allowed without written consent from the Town Council or designee, in which case, permission will only be granted to recognized, local non-profit organization by Town Council or designee.
  21. Playing or operating any sound amplification devices including, but not limited to radios, handheld radio devices, compact disc players, MP3 players, automobile radio type devices, television sets, public address systems, or musical instruments or operating any other energy amplification device in such manner that the sound emanating therefrom can be heard at a distance of fifty (50) feet from the equipment during its use or operation is not allowed unless approved by Town Council or designee. Acoustical instruments will follow the same requirements as amplified devices.
  22. Swinging or making use of any golf club or playing golf or hitting or putting golf balls inside parks or recreational areas is not allowed unless so designated for specific use/purpose.
  23. No electronically controlled devices including, but not limited to; drones, cars, airplanes, etc., are allowed unless event is approved by Town Council or designee.
  24. Tents/canopies are prohibited at the Town Park unless approved by Town Council or designee. No items may be anchored or staked into asphalt or grass areas – weighted anchors only.
  25. Park grills are designed for charcoal only. It is unlawful to gather and burn wood on Town Park property. Pull-behind grills, propane grills or any other types of portable cooking devices will require permission/approval by Town Council or designee in conjunction with a facility reservation.
  26. Disposal of cooking oil/grease is not allowed in the park. Patrons must take oil and grease and take proper precautions to prevent oil spillage or burns to park patrons. A grease pan must be placed under the grill. Disposal of ice in grass, flower beds, or mulch areas is not allowed. Dispose of ice



in parking lot only near drains. All food and drinks must be properly disposed of in trash and recycling receptacles.

27. Dunking booths, moonwalks, and other inflatables are not allowed without permission from Town Council or designee.
28. The disposal or release of waterfowl, any wildlife, or other pets/animals is not allowed.
29. Violation of any of the park rules and regulations may result in expulsion and/or denial of future park/rental privileges. Expulsion/denial will be determined by Town Council or designee.

The Town of Midway reserves the right to cancel the function or substitute the facility at any time.

The Town of Midway is not responsible/liable for accidents, for items, lost or stolen or left behind on Town Park property.

Adopted this the 4th day of May, 2020.

### **TOWN MANAGERS REPORTS**

#### **MONTHLY FINANCIAL REPORT**

Town Manager Tammy Michael provided Council with monthly financial reports for March 31, 2020 and April 30, 2020 as follows:

#### **MARCH 31, 2020**

Total Income	\$ 1,306,571	93.1 % of overall budget
Total Expenses	\$ 743,398	53.0 % of overall budget

#### **APRIL 30, 2020**

Total Income	\$ 1,417,158	101.0 % of overall budget
Total Expenses	\$ 811,860	57.9 % of overall budget

For information only.

#### **REMINDER: TOWN HALL CLOSED ON MONDAY, MAY 25, 2020 IN OBSERVANCE OF MEMORIAL DAY**

Town Hall will be closed on Monday, May 25, 2020 in observance of the Memorial Day holiday.

Reminder only.

#### **ADJOURNMENT**

On motion by Councilor Jackie Edwards, seconded by Councilor Keith Leonard, Council voted unanimously to adjourn the meeting at 7:48 p.m.

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John E. Byrum, Mayor

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Tammy H. Robertson, Deputy Clerk