

**MINUTES OF MIDWAY TOWN COUNCIL REGULAR MEETING HELD ON AUGUST 1, 2022
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 Byrum 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, Berkley Alcorn, and Robin Moon. Absent: None. Town Manager Tammy Michael, Town Clerk Linda Hunt, Deputy Clerk Tammy Robertson, Attorney Evan Lee, and Davidson County Zoning Officer Josh Tussey were present. Absent: Town Attorney Jim Lanik.

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

No members of the press were in attendance.

APPROVAL OF MINUTES

On motion by Councilor Jackie Edwards, seconded by Mayor Pro Tem Mike McAlpine, Council voted unanimously to approve the minutes of the July 11, 2022 Town Council Regular meeting as presented.

PUBLIC ADDRESS

Mr. Blake Zobrist of 1355 Country Lane in Midway addressed Council with his concerns about cars speeding along Country Lane. Mr. Zobrist has lived at this address for fourteen years and acknowledges the speed limit has always been 35 m.p.h., but states that cars drive faster than the posted speed limit. Mr. Zobrist is asking Council to consider putting up a stop sign on Country Lane at Miracle Crossing to deter the speeding. Mr. Zobrist said there is more foot traffic along that area of road with the park being open, and there are no sidewalks or shoulder to walk on, making the walk along the road more dangerous.

Mr. Rob Brunson of 1401 Country Lane in Midway stated that he is concerned about cars speeding on Country Lane, especially down the hill at Miracle Crossing. Mr. Brunson would like for a stop sign to be installed on Country Lane at Miracle Crossing to help reduce the speeding problem.

ADOPT AGENDA

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

PUBLIC HEARING

**PUBLIC HEARING – ADOPTION OF TEXT AMENDMENT TO ADD REGULATION OF
POULTRY OR SMALL FARM ANIMALS TO THE TOWN OF MIDWAY ZONING
ORDINANCE**

Town Council and Planning Board members have received several complaints with regards to residents owning free-range fowl in close proximity to neighbors.

Planning Board members, along with Davidson County Planning and Zoning staff have worked diligently for over a year to develop and draft an ordinance for Poultry or Small Farm Animals. Davidson County Zoning Officer Josh Tussey stated the proposed text amendment regulating poultry or small farm animals does not apply to bona fide farms or micro farms. Fowl will be permitted in all zoning districts but will

affect mainly the smaller RA and RS districts of less than two acres. The text amendment restricts the number of animals allowed on the property, as well as keeping the animals enclosed, or kept a certain distance from the property line.

Davidson County Planning and Zoning staff will enforce the ordinance for the Town. Property owners found to be in violation of this ordinance will be notified in writing of the violation and be given sixty days to come into compliance.

Town Attorney Jim Lanik has reviewed and approved the text amendment as written.

Copies of the text amendment to add poultry or small farm animals to the Town of Midway Zoning Ordinance were made available to review at Town Hall and on the Town's website at www.midway-nc.gov.

The public hearing was advertised in *The Dispatch* on July 15 and July 22, 2022.

Mayor Byrum opened the public hearing on the proposed text amendment to add poultry or small farm animals to the Town of Midway Zoning Ordinance.

There being no one desiring to speak on the proposed text amendment, Mayor Byrum closed the public hearing.

Mayor Pro Tem Mike McAlpine thanked Planning Board members for their time and effort in developing the ordinance.

On motion by Mayor Pro Tem Mike McAlpine, seconded by Councilor Berkley Alcorn, Council voted unanimously to adopt a text amendment to add Regulation of Poultry or Small Farm Animals to the Town of Midway Zoning Ordinance No. 23-02.

ORDINANCE NO. 23-02

ORDINANCE AMENDING THE TEXT OF THE ZONING ORDINANCE FOR THE TOWN OF MIDWAY, NORTH CAROLINA TO ADD REGULATIONS FOR KEEPING OF POULTRY OR SMALL FARM ANIMALS

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

Section 1. Article VI. Development Standards, Section 6.01 Standards for Permitted Uses is hereby amended to add the following text:

(Q) Poultry or Small Farm Animals, Keeping of

Section A. No person may keep within the Town limits any poultry or small farm animals except pursuant to the provisions of this section.

Section B. Definitions

(1) "Poultry" includes, but is not limited to, live chickens, doves, ducks, geese, grouse, guinea fowl, partridges, pea fowl, pheasants, pigeons, quail, swans, turkeys, chicks, poults, and other

species generally identified as poultry.

- (2) "Small farm animals" means live rabbits but shall not mean any size of any of the following: cattle, sheep, goats, swine, horses, or mules.
- (3) "Lot" means a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such yards and other open spaces as herein required.
- (4) "Bona fide farm" has the meaning given to "Farm - Bona Fide" in the Town's Zoning Ordinance.
- (5) "Micro farm" shall have the meaning given in the Town's Zoning Ordinance.

Section C. Requirements for Keeping Poultry and Small Animals

- (1) Control of Poultry and Small Farm Animals. It shall be unlawful for the owner or keeper of poultry or small farms animals:
 - (i) To permit any poultry or small farm animal to be or run at large within the Town; or
 - (ii) To be outside such animal's enclosure on a lot of less than five acres.

(2) Enclosures for Poultry and Small Farm Animals

- (i) All poultry or small farm animals kept on a lot of less than five acres must be contained at all times to a secure fenced or walled enclosure pursuant to the provisions of this Section C. (2).
- (ii) The enclosure and structure shall have a minimum of ten (10) square feet of area for each poultry or small farm animal.
- (iii) No enclosure shall be erected or maintained within the front or side yard (as defined by the Town of Midway Zoning Ordinance), within ten (10) feet of any property line, but in no event within fifty (50) feet of another residence.
- (iv) The enclosure shall be kept clean, sanitary, and free from unreasonable or unsanitary accumulations of excrement and objectionable odor; and
- (v) No more than twenty (20) poultry animals, including chicks and other baby animals, shall be kept, or maintained by a property owner. Roosters shall not be allowed at any time.

Section D. Subject to the provisions of N.C.G.S. §106-700, *et seq.*, the requirements of this ordinance apply to poultry and small farms animals that are present within the Town on the effective date of this ordinance as well as those brought within the Town thereafter. However, owners of the poultry or small farm animals that are within the Town on the effective date of this ordinance shall not be deemed in violation of this ordinance until they have been notified in writing of its requirements, have been given sixty (60) days to come into compliance with this ordinance, and have failed to do so.

Section E. A violation of any provision of this ordinance is hereby declared to be dangerous and prejudicial to the health or safety and to constitute a public nuisance. Such nuisances shall be abated as allowed by law, including but not limited to, the Town's ordinances and N.C.G.S. §§ 160A-174, 160A-175, 160A-193, and 160D.

Section F. Nothing in this ordinance shall preclude the keeping of service or therapy animals within the Town, provided a health care professional has provided proper documentation regarding such service or therapy animal.

Section G. Any person who keeps poultry or small farm animals shall, in addition to complying with the ordinance, comply with any and all applicable federal, state, and local standards, regulations, laws, statutes and ordinances, including but not limited to, any registration requirements of the North Carolina Department of Agriculture and Consumer Services.

Section H. This ordinance shall not apply to poultry or small farm animals kept on:

- (1) A bona fide farm of ten acres or more; or
- (2) A micro farm of not less than two acres and less than ten (10) acres.

Section I. Enforcement, Remedies and Penalties

- (1) This ordinance shall be enforced by the Davidson County’s Code Enforcement Officers on behalf of the Town.
- (2) The provisions of Articles VII. Administration and VIII. Compliance of the Town’s Zoning Ordinance shall apply to this ordinance.

Section 2. Article III. Permitted and Conditional Zoning Districts, Section 3.09, Table of Permitted Uses, is hereby amended to add Poultry or Small Farm Animals, Keeping of as follows:

Use	RA-1	RA-2	RA-3	RS	RM-1	RM-2	RC	CS	OI	HC	LI	HI	MX-R	MX-C
	Poultry or Small Farm Animals, Keeping of	D	D	D	D	D	D	D	D	D	D	D	D	D

Section 3. This ordinance shall become effective on its adoption.

This the 1st day of August 2022.

REGULAR BUSINESS

CALL FOR PUBLIC HEARING – ADOPTION OF TEXT AMENDMENT TO ADD ANIMAL GROOMING (STAND-ALONE BUSINESS) TO THE TABLE OF PERMITTED USES IN THE TOWN OF MIDWAY ZONING ORDINANCE

Davidson County Zoning Officer Josh Tussey informed Council, based upon an inquiry from a realtor, it was discovered the omission of Animal Grooming (Stand-Alone Business) in the Table of Permitted Uses of the Town’s Zoning Ordinance.

The requirements to operate such a business are required to abide by the standards and permitting requirements in ARTICLE VI. DEVELOPMENT STANDARDS of the Town of Midway Zoning Ordinance. This section was included in the Town’s Zoning Ordinance when adopted by Town Council as follows:

ARTICLE VI. DEVELOPMENT STANDARDS

Section 6.01 STANDARDS FOR PERMITTED USES

(C) Animal Grooming (Stand-Alone Business)

1. All applicable permits shall be obtained, E.G., Environmental Health, Planning and Zoning, Inspections, Fire Marshall.
2. There shall be no outside keeping or kenneling of domesticated animals as a result of the grooming business.
3. All grooming activities shall take place inside the principal structure located on the subject tract.
4. In residential districts the use will be considered a home occupation and must follow the additional development standards of a home occupation.
5. This use is for grooming alone. No kenneling, letting for hire, training, or breeding of domesticated animals shall take place under this use. (See Kennel, Commercial).

However, the described use was inadvertently omitted in the Table of Permitted Uses.

At the July 26, 2022 Planning and Zoning Board meeting, the Board voted unanimously to recommend Town Council the proposed text amendment to the Zoning Ordinance to add Animal Grooming (Stand-Alone Business) to the Table of Permitted Uses to accurately reflect the Development Standards Section VI. and the Table of Permitted Uses as follows:

Section 3.09 Table of Permitted Uses

Use	RA-1	RA-2	RA-3	RS	RM-1	RM-2	RC	CS	OI	HC	LI	HI	MX-R	MX-C
	Animal Grooming (Stand-Alone Business)	D	D	D	D	D	D	D	D	D	D	D	D	D

On motion by Councilor Keith Leonard, seconded by Councilor Jackie Edwards, Council voted unanimously to Call for a Public Hearing to be held on Tuesday, September 6, 2022, at 7:00 p.m. at Town Hall located at 426 Gumtree Road in Midway, to receive citizen input on a proposed text amendment to add Animal Grooming (Stand-Alone Business) to the Table of Permitted Uses in the Town of Midway Zoning Ordinance.

BUDGET AMENDMENT – ARP BUDGET FOR FISCAL YEAR 2022-2023 TO ACCEPT AND RECORD CORONAVIRUS STATE AND LOCAL RECOVERY FUNDS AUTHORIZED BY THE AMERICAN RESCUE PLAN ACT (ARP) – BUDGET AMENDMENT NO. 23-01

On March 11, 2021, the federal American Rescue Plan Act of 2021 (ARP) became law, thereby, granting substantial aid to state and local governments. The Town of Midway qualifies for monies and received the first round of funds on July 23, 2021, totaling \$782,720.92. Town Manager Tammy Michael stated that the second round of funds, also totaling \$782,790.92, were received and deposited into the Town’s account

with Home Trust Bank. Council will need to adopt a budget amendment amending the ARP Budget for fiscal year 2022-2023 to accept the second round of funds.

Mrs. Michael stated that staff is looking for opportunities to expend the funds that will be consistent with federal requirements and within state law authority. It is not relatively clear what qualifies as an acceptable expenditure. The North Carolina League of Municipalities (NCLM) is currently looking to hire ARP Directors to guide municipalities with approved expenditures.

On motion by Councilor Robin Moon, seconded by Councilor Berkley Alcorn, Council voted unanimously to adopt Budget Amendment No. 23-01 amending the Town of Midway American Rescue Plan Act (ARP) Budget for fiscal year 2022-2023 to accept and record Coronavirus State and Local Fiscal Recovery Funds authorized by the American Rescue Plan Act (ARP).

TOWN OF MIDWAY
BUDGET AMENDMENT NO. 23-01

AMENDMENT TO THE TOWN OF MIDWAY AMERICAN RESCUE PLAN ACT (ARP) BUDGET
FOR FISCAL YEAR 2022-2023
TO ACCEPT AND RECORD
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS
AUTHORIZED BY THE AMERICAN RESCUE PLAN ACT (ARP)

BE IT ORDAINED by the Town Council of the Town of Midway, North Carolina that the following amendment be made to the American Rescue Plan Act (ARP) for the fiscal year ending June 30, 2023:

	Increase (decrease)
Revenues:	
Coronavirus State and Local Fiscal Recovery Funds	\$ 782,720.92
Expenditures:	
Anticipated Expenditures of the Coronavirus State and Local Fiscal Recovery Funds	\$ (782,720.92)

Adopted this 1st day of August 2022.

TOWN MANAGER'S REPORTS

FINANCIAL REPORT

Town Manager Tammy Michael provided Council with monthly financial reports for July 31, 2022 as follows:

JULY 31, 2022

Total Income	\$ 139,258	8.8 % of overall budget
Total Expenses	\$ 549,423	34.6 % of overall budget

For information only.

TOWN PARK UPDATE

1. SHELTER & GAZEBO & WALKING TRAIL

- Foundation pillars for shelter installed
- Waiting for concrete to pour bathroom footings. According to contractor, supply is limited, and we have to wait in line for our allotted quantity
- The shelter trusses are ready and will be delivered when contractor calls for them
- According to contractor, shelter is about 50% complete
- Gazebo is approximately 75% complete, ready to pour concrete when available
- Collaborating with KNC for additional security cameras
- Collaborating with Duke Energy for additional lighting
- Walking trail repairs completed

2. PLAYGROUND

- Additional shading ordered, estimated to be installed late summer
- Picnic tables received, assembled, and placed on playground

For information only.

SET DATE FOR VISION WORKSHOP

On motion by Councilor Jackie Edwards, seconded by Councilor Keith Leonard, Council voted unanimously to schedule a Vision Workshop on Monday, September 12, 2022 at 6:00 p.m. at Town Hall.

REMINDER: TOWN HALL WILL BE CLOSED ON MONDAY SEPTEMBER 5, 2022 IN OBSERVANCE OF LABOR DAY

Town Manager Tammy Michael reminded Town Council that Town Hall will be closed on Monday, September 5, 2022 in observance of Labor Day.

NEXT TOWN COUNCIL MEETING – TUESDAY SEPTEMBER 6, 2022

Due to the Labor Day Holiday falling on a Monday, the next Town Council meeting will be held on Tuesday, September 6, 2022.

ADJOURNMENT

On motion by Mayor Pro Tem Mike McAlpine, seconded by Councilor Berkley Alcorn, Council voted unanimously to adjourn the meeting at 7:26 p.m.

John E. Byrum, Mayor

Tammy H. Robertson, Deputy Clerk