

**MINUTES OF MIDWAY TOWN COUNCIL VISION SESSION HELD ON JUNE 11, 2024, AT 9:00 A.M. IN THE CONFERENCE ROOM AT MIDWAY TOWN HALL, 426 GUMTREE ROAD, MIDWAY, NORTH CAROLINA**

**CALL TO ORDER**

Mayor Pro Tem Mike McAlpine called the meeting to order.

Councilors present were: Mike McAlpine, Robin Moon, Keith Leonard, Jackie Edwards and Berkley Alcorn (Councilor Alcorn arrived at 9:50 am and left at 11:20 am). Mayor John Byrum joined the meeting by telephone. Absent: None. Town Manager Tammy Michael, Town Clerk Linda Hunt, Deputy Clerk Ree Smith and Town Attorney Jim Lanik were present.

Davidson County Planning Director Scott Leonard and Davidson County Zoning Administrator Lee Crook were present.

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

**ADOPT AGENDA**

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

**SEWER**

Davidson County Planning Director Scott Leonard lead the sewer discussion.

- Davidson County allocated 50,000 gallons per day (gpd) of sewer capacity to the Town.
  - Midway still has 35,000 gpd of sewer left.
- Davidson County Sewer Committee consists of Chairman Todd Yates, Commissioner Karen Watford, and Commissioner Steve Shell
  - Mr. Leonard approached the Sewer Committee once before about potential development in Midway that could use up the Town's remaining sewer allotment.
    - Committee was asked if the County would be willing to grant more allocation to the Town and if so, the limit the County would be willing to grant.
    - Committee was non-committal and wanted to wait to see what the development was going to be first.
- Out of all the northern County sewer lines that go back to Winston-Salem, Winston gives the County 1.5 million gpd in allocation
  - The County still has about 500,000 gpd left for the whole northern part of the County
  - Winston-Salem is going to allow the County to go on what is called an "actual reconciliation" of the gallons being used
    - That means "on paper" the County had already used one million gallons of the 1.5 million, but what is actually flowing through the pipes is a lot less than what is put on paper.
      - As an example, the County has to put every house at using 360 gallons per day and most houses use about one hundred gallons. Permit size is a lot higher than actual usage.
      - Reconciliation allows the County to get with Davidson Water to identify every user that is connected to the sewer line and actually see their numbers to see how much they are using versus how much the County has permitted them. All that surplus, the County gets to put back in. The County is hoping that the 500,000 gallons that the County has remaining will grow to about 750,000 gallons.

- The County does not have sewer capacity issues. There is ample sewer for the Town to have when it is needed.
- The Town has conceivable needs for increased sewer capacity. There are several pieces of property in Midway for future development.
  - Question: If a private development, like Meadowlands, comes into the Town, would the developer go to the County for sewer allocation or would they have to come to the Town.? Mr. Leonard responded the developer would have to come to the Town.
  - MX-R zoning – Council’s decision if sewer allotment is used for that or if allotment is used for businesses.
  - Grocery store, large residential development, hotel, restaurant.

### **LOT SIZES IN COMMERCIAL CORE OVERLAY DISTRICT (CCOD) – MX-R ZONING**

- Discussion on reducing that number to two (2) residential units per acre in MX-R zoning district
  - Can be a mixture of single-family residential units, townhomes, and duplexes (twin homes)
    - Single-family and twin homes do not have to meet CCOD requirements
  - County changed number of units from four (4) to three (3) per acre
  - Council consensus to change number of residential units to three (3) per acre. Planning Director Scott Leonard did not recommend going to two (2) per acre. (Planning and Zoning Board will review and make recommendations to Town Council.)
  - Reducing number of units per acre would possibly produce a better product
  - Changes County made to its MX-R zoning did stop the MX-R rezoning requests but has not stopped development
- What Council wants the Town to look like
  - Keep the Town’s character
  - Does not want a dense, urban setting
- Width requirement
  - Town - lot width requirement is seventy-five feet for residential
  - County – lot width requirement is ninety feet
- Front yard setback requirement
  - Town requirement – 25 feet
  - County requirement – 30 feet
- MX-R Zoning
  - Request for MX-R zoning must have Council approval and gives Town opportunity to negotiate and have some control on the development
- Planning Director Scott Leonard recommended requiring at least two (2) styles of homes versus three (3)

### **SUBDIVISION ORDINANCE**

- Private roads
  - Four or fewer houses
- Emergency vehicles turnaround
- Family subdivisions
  - Family vs. developer
- Design Standards for Streets
  - Add defects guarantee
    - Performance Bond to guarantee against defects and maintenance of roadway pavement and drainage facilities until the road is taken over by NCDOT.

- Add maintenance guarantee
  - Subdivider agrees to maintain backfill and any improvements located thereon and any ditch which has been dug in connection with installation of such improvements. Binding on subdivider for one year after approval of the final plat.

### **ZONING AND SOLID WASTE ENFORCEMENT**

Zoning Administrator Lee Crook led the discussion on zoning and solid waste enforcement issues that the Town is experiencing.

- Knows Council is frustrated with amount of time to resolve these issues. County feels the same frustration.
- No two complaints are the same
- Arduous task
- Many of the violators backslide or stay right on the very verge of compliance and then backslide
- Two avenues that can be taken to get violators into compliance
  - Criminal
    - If prosecuted criminally, the whole process has to start over once it becomes an issue again
  - Civil
    - Agonizingly slow process
    - Not top priority for judges
      - Tend to give violators more time to come into compliance
    - Four-step process that is required for violations
      - Notice of violation (NOV) letter is mailed
        - Allows thirty (30) days to remedy violation
      - Second NOV allows thirty (30) more days. At that time, fines start accruing
      - Notice of fines letter sent that shows amount of fines that have accrued.
        - Notifies violator that if violation is not corrected, matter will be turned over to Town Attorney
      - Demand for payment letter is sent
        - Thirty (30) days after demand for payment, matter is turned over to Town Attorney
      - If this process is followed and just issuing the letters themselves could take up to six months.
      - Fines provide some leverage in dealing with violators.
        - Town's ordinances call for any fines collected to go to the school system
    - Town Attorney encouraged Council to consider decriminalizing some of the ordinances so that if the Town does go after these fines, they would just be civil fines.

Councilor Alcorn asked what happens if somebody is poor and just cannot pay these fines. Mr. Crook responded that even in extreme cases, the County has never had that issue. He said, however, the County has abated property by a judge's order. The County Commissioners approved the money to abate the property and it was put out for bids to clean up the property. Once completed, a tax lien was put against the property.

Mr. Crook said that when considering abatement, the question needs to be answered whether the property is worth what it is costing to abate it.

Planning Director Scott Leonard said the County receives an average of twenty new complaints every month, almost one a day. These complaints are all over the County and there are only three Zoning Officers to handle these complaints. He said they have hundreds in their files. Most violators will not come into compliance within that first 30 days. They will extend it all the way through and then finally

call after they get the demand for payment letter. He added that there are many repeat offenders, and no two complaints are the same. He told Council that it is a long, arduous process.

Mr. Crook pointed out that there are personal circumstances along with legal circumstances that have to be dealt with. He said that the Zoning Officers are never heavy-handed in dealing with violators. They do not think that is the Town's philosophy. They are stern but not ugly.

The County has handled about seventy complaints in Midway since 2017 and have closed about 65-75% of those. Mr. Crook reiterated that it is a daunting and arduous task.

Mr. Crook briefly discussed the concerns about the garage on Old US Highway 52 that is in the Core Commercial Overlay District (CCOD)

- Owner Rupert Sink should be coming to Board of Adjustment with a variance request in the near future
- Owner has hired an architect to help him comprehend what can and cannot be done to his building under the CCOD standards
- Due to type of business being operated there, certain sections in the CCOD are impossible for Mr. Sink to meet
  - Such as foundation landscaping, parking lot screening, and sidewalks around the building
  - Some things that the Board of Adjustment will have to consider with respect to variances
- May be some other variances that Mr. Sink might not want to meet but probably can.
- Mr. Sink is supposed to get the County a list of his "wants and don't wants" and submit a variance application. County has received a variance request from Mr. Sink, but it is not complete yet.

Councilor Edwards asked if there was a way to make him speed up on his variance request since this issue has been going on a long time now. Mr. Crook explained that what they normally do is send an inquiry letter notifying them know they have a reasonable amount of time to take the necessary steps to complete. He estimated it could take a couple of months if Mr. Sink has an architect that can help him. That is a reasonable amount of time to figure out what he can or cannot meet, submit the application, and get on the schedule to be heard.

Councilor Edwards asked if there is any way to get Mr. Sink to clean up all the mess out there in the meantime. Mr. Crook responded that would be just a normal notice of violation. He added that this situation is complicated because there was a mistake made in Central Permitting at the County. Mr. Crook explained that Mr. Sink is legally permitted to be exactly where he is with the building. Mr. Sink got all the permits that he thought he was supposed to; however, the Tech who issued the permit did not realize that the addition was outside the scope of the original building permit which was for bathrooms and electrical up fit to the old building. Mr. Sink met with inspectors and did everything he thought he was supposed to do. Mr. Crook said this was initially approved by their office as an exemption because the scope of the permit was for a bathroom and an electrical upfit but then the footprint of the building changed.

Mayor Pro Tem Mike McAlpine stated he had talked to Mr. Sink and explained to him that he needed an architect to help walk him through the process. He gave Mr. Sink several names of architects he could contact.

Mr. Crook said Mr. Sink is in a hurry to get this done. He does not believe Mr. Sink is trying to drag it out. He wants some sort of resolution to it, one way or another.

Mayor Pro Tem McAlpine asked Mr. Crook if he thought the new CCOD document was going to be a lot more helpful in the process. Mr. Crook said he thought it would be a lot clearer. He added that what Jose Colon with the Piedmont Triad Regional Council has done has already helped. The pagination and diagrams will be very helpful.

Mr. Crook said there had been talk about offering some type of deviation to the CCOD for public health, safety, and general welfare reasons. He pointed out that the Planning Board had been doing that. Mr. Crook used the Cash Points machine as an example. The Planning Board approved not requiring landscaping around the Cash Points machine for safety reasons. It was determined that the landscaping could provide a place for someone to hide and possibly rob someone using the machine.

Mr. Crook and Town Attorney Jim Lanik have talked at length about how to install such deviations into the CCOD and the criteria laid out for it. Those deviations would only apply in certain instances and would not require Planning Board approval.

It was the consensus of the Council to add deviations to the CCOD for public health, safety, and general welfare.

Councilor Moon expressed his concerns about the landscaping of the side parking lot at Dollar General. He said it is hard to see going out of the parking lot and there are people speeding through there. Mr. Crook said the CCOD calls for full screening of the parking lot and that is what was done. He added that the CCOD also calls for maintenance of the landscaping and technically, Dollar General is in violation. Notices of violation have been sent and the hedges were trimmed.

Mayor Pro Tem Mike McAlpine led the discussion about landscaping requirements and the types of plants listed in the specifications. He suggested developing a Landscape Design Committee to approve landscaping in plans. It was the consensus of Council to develop a Landscape Design Committee and require the Committee's approval of landscaping plan.

Council also discussed the Council having final approval on CCOD decisions. The Planning Board would review and recommend action to Council.

Town Attorney Jim Lanik suggested Council consider making the Planning Board more like an advisory body. He said the vast majority of Planning and Zoning Boards are advisory bodies. In the future that could avoid some of the things that the Council has been through lately.

Various issues within the CCOD were discussed.

Mayor Pro Tem Mike McAlpine said there are two deficiencies within the CCOD that he sees

1. There is not a narrative explaining what new construction is
2. Does not address existing development. It was the consensus of Council to set standards for existing development.

Planning Director Scott Leonard left the meeting at 10:20 a.m. Zoning Administrator Lee Crook left the meeting at 11:25 a.m.

**OTHER BUSINESS**

**ALLIANCE CODE ENFORCEMENT LLC**

Councilor Keith Leonard told Council that he, Councilor Robin Moon, and Town Manager Tammy Michael met with Brandon Emory, President of Alliance Code Enforcement LLC about enforcement of solid waste violations. Copies of an information packet on the company were distributed to Council.

Points for consideration made by Councilors Leonard and Moon:

- Appears County is overworked and understaffed
- Would like to see violations resolved quicker
- Looking for a change in code enforcement
  - Is not knocking on the County at all
  - Is just a matter of cases being open for years and not getting resolved. Things are not getting done and people are wondering why. Residents are calling and wanting to know why this is happening.
- Alliance Code Enforcement - Mr. Brandon Emory
  - Has a number of employees who have worked in law enforcement and military
  - Has workforce to visit sites and talk to the people more often instead of waiting the 30 days
  - Working with thirty different locations in North Carolina
  - Has ten employees
  - Located only 10 minutes away
  - Has performed all kinds of planning and zoning duties, including writing ordinances
  - Could handle tall grass complaints
  - Would be call generated
  - Willing to present proposal to the rest of Council if Council desires

Mr. Lanik said he would contact the reference listed for the City of Archdale and Municipal Attorney T. C. Morphis with Brough Law Firm.

Mr. Lanik recommended this be for code enforcement only, leaving the rest with the County. Council was in agreement with the recommendation.

Mayor Pro Tem McAlpine questioned if Alliance could fast track something quicker than the County. Councilor Moon responded that they could. Alliance goes to court and obtains show cause orders for repeat offenders. Councilor Leonard said Mr. Emory would work with the Town's attorney on these matters.

Town Manager Tammy Michael said Mr. Emory could also review the ordinances to see how they are written. She pointed out that it was stressed to Mr. Emory that Council is not concerned with minimum housing.

Mayor Pro Tem McAlpine asked if Alliance handles all of Archdale's planning and zoning duties. Mr. Lanik said he did not think so, but he will check on that.

Mayor Pro Tem McAlpine asked how many of the solid waste issues going on right now that are listed on the spreadsheet are "hot button" things that are probably not going to get resolved. He asked if things are getting better since Covid. Mr. Lanik said there are probably three or four that are "hot button" items. Most of them are transient. Mayor Pro Tem McAlpine asked how Mr. Emory would do anything different than what the County is doing. Mr. Lanik said that Mr. Emory would be able to focus just on those issues. He explained that Mr. Emory can be a little more hands on. He can get things done.

Councilor Moon commented that Mr. Emory can see them more often and after awhile they just get tired of seeing him.

This was for discussion only.

**ADJOURNMENT**

On motion by Councilor Robin Moon, seconded by Councilor Jackie Edwards, Council voted unanimously to adjourn the meeting at 11:45 a.m.

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Mike McAlpine, Mayor Pro Tem

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Linda A. Hunt, Town Clerk