

# RECORD OF PROCEEDINGS

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## MIDDLETON CITY COUNCIL MEETING MARCH 4, 2015

The City Council Meeting of March 4, 2015 was called to order by Mayor Taylor at 6:37 p.m.

**Roll Call:** Council Members, Carrie Huggins, Rob Kiser, Beverlee Furner and Council President Lenny Riccio were present.

Mayor Taylor declared a quorum of Council Members present, and proceeded with Council business.

Mayor Taylor introduced the following City officials in attendance: City Engineer Amy Woodruff of Civil Dynamics, City Attorney Chris Yorgason of Yorgason & Associates, Middleton Police Chief Brian Zimmerman and City Clerk/Treasurer Pauline Newman.

**Motion:** Motion by Council President Riccio to accept the agenda as posted was seconded by Council Member Furner and carried unanimously.

### **Administrative Action/Consent Agenda:**

3. Mayor Taylor introduced the item and answered Council's questions.

- a. Payroll and miscellaneous accounts payable

**Motion:** Motion by Council President Riccio to approve the Consent Agenda item was seconded by Council Member Huggins and carried unanimously.

### **New Business:**

**4a. Consider approving Special Events Permit for Helping Hands Chili Cook-off and a waiver of fees.**

Mayor Taylor introduced the item and answered Council's questions.

Mayor Taylor asked if anyone in the audience would like to speak on this item: Bob Claridge from Helping Hands spoke about the success of the chili cook off over the years and how it has grown. He then thanked the Mayor and Council for their help and answered any of their questions.

**Motion:** Motion by Council President Riccio to approve Special Events Permit for Helping Hands Chili Cook-off and a waiver of fees was seconded by Council Member Huggins and carried unanimously.

**4b. Consider approving Special Events Permit for MCHAT Health Fair and Community 5k Run 4 Fun and a waiver of fees.**

Mayor Taylor introduced the item and answered Council's questions.

Mayor Taylor asked if anyone in the audience would like to speak on this item: None

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**Motion:** Motion by Council President Riccio to approve Special Events Permit for MCHAT Health Fair and Community 5k Run 4 Fun and a waiver of fees was seconded by Council Member Kiser and carried unanimously.

**4c. Consider approving Special Events Permit for Oasis Summer Feeding Program and a waiver of fees.**

Mayor Taylor introduced the item and answered Council's questions.

Mayor Taylor asked if anyone in the audience would like to speak on this item: none.

**Motion:** Motion by Council President Riccio to approve Special Events Permit for Oasis Summer Feeding Program and a waiver of fees was seconded by Council Member Huggins and carried unanimously.

**4d. Consider waiving fees for Nampa Boys and Girls Club Special Events Permit previously approved.**

Mayor Taylor introduced the item and informed Council that the proper paperwork had not yet been received so no action was taken on the item.

**4e. Consider acknowledging Communities in Motion 2040 as the regional transportation plan.**

Mayor Taylor introduced the item and answered Council's questions.

Mayor Taylor asked if anyone in the audience would like to speak on this item: none.

**Motion:** Motion by Council President Riccio to acknowledge Communities in Motion 204 as the regional transportation plan was seconded by Council Member Kiser and carried unanimously.

**4g. Consider approving Task Order No. 2 with Keller Associates Inc. for West Middleton Wastewater Collection Planning Study in an amount not to exceed \$34,445.**

Mayor Taylor introduced the item and answered Council's questions.

Larry Rupp with Keller Associates spoke about the study and how the model works.

Council member Huggins asked about the sewer fund and if the item was budgeted for. Mayor Taylor responded that the item was budgeted for and there are adequate funds to cover the expenditure.

**Motion:** Motion by Council President Riccio to approve Task Order No. 2 with Keller Associates Inc. for West Middleton Wastewater Collection Planning Study in an amount not to exceed \$34,445 was seconded by Council Member Furner and carried unanimously.

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**4f. Consider approving Task Order No. 1 with Keller Associates Inc. for public sewer system engineering services for the Emmett Road lift station and force main in an amount not to exceed \$124,730.**

Larry Rupp of Keller Associates said that a study should be done before approving. Mayor Taylor recommended Council table the item. No action was taken.

**4h. Consider confirming the Mayor's appointment of Brett Bishop to the Urban Renewal District Board of Directors.**

Mayor Taylor introduced Mr. Bishop to the Council and he explained his background to the Council and answered questions.

Council President Riccio asked why he wanted to be involved with the Urban Renewal District and Mr. Bishop responded that he likes to be involved in the community and, when speaking with Mayor Taylor, Mr. Taylor had expressed that Mr. Bishop's construction background would be beneficial.

Mayor Taylor then appointed Bret Bishop to the Urban Renewal District Board of Directors.

**Motion:** Motion by Council President Riccio to confirm the Mayor's appointment of Brett Bishop to the Urban Renewal District Board of Directors was seconded by Council Member Huggins and carried unanimously.

**4i. Consider approving Task Order 15-1 with Horrocks Engineers in an amount not to exceed \$5,257.50 for intersection evaluations and to review a traffic impact study for West Highlands Ranch Estates Subdivision pending application.**

Mayor Taylor introduced the item and answered Council's questions.

Middleton Police Chief Brian Zimmerman advised that there have been twenty four (24) accidents at HWY 44 and Murphy St. in the last three years and added that the intersection at HWY 44 and Skyline also needs to be evaluated.

Council member Huggins asked if this study would come out of the streets fund and Mayor Taylor answered that yes it would.

**Motion:** Motion by Council President Riccio to approve Task Order 15-1 with Horrocks Engineers in an amount not to exceed \$5,257.50 for intersection evaluations and to review a traffic impact study for West Highlands Ranch Estates Subdivision pending application was seconded by Council Member Furner and carried unanimously.

**4l. Consider approving agreement with the developer of Powder River Subdivision No. 2**

Mayor Taylor introduced the item and answered Council's questions.

Mayor Taylor asked if anyone in the audience would like to speak on this item: none.

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**Motion:** Motion by Council President Riccio to approve agreement with the developer of Powder River Subdivision No. 2 was seconded by Council Member Huggins and carried unanimously by roll call vote.

### **4m. Consider approving final plat for Powder River Subdivision No. 2**

City Engineer Woodruff introduced the item and answered Council's questions and recommended the plat for approval.

Council President Riccio asked regarding the recent agreement if is there a need to reference the instrument number and slab on grade requirement. Engineer Woodruff responded that she does not believe that it is necessary but that she would defer to Mayor Taylor and the City Attorney. Mayor Taylor concurred that the recorded development agreement will show as a encumbrance on those lots and most people only obtain an 8 ½ x 11 copy of their plats so the more benefit is done by the recorded agreement.

**Motion:** Motion by Council President Riccio to approve final plat for Powder River Subdivision No. 2 was seconded by Council Member Furner and carried unanimously.

### **Old Business:**

#### **5a. Consider approving Ordinance 550, third reading.**

AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO, AMENDING TITLE 4 OF THE MIDDLETON CITY CODE, UPDATING AND CLARIFYING BUILDING CODE REGULATIONS, UPDATING THE REGULATIONS FOR MOBILE HOMES AND MANUFACTURED HOMES, UPDATING AND CLARIFYING FENCE STANDARDS, UPDATING OFF-STREET PARKING REQUIREMENTS, MODIFYING THE STANDARDS FOR COMMERCIAL AND INDUSTRIAL DEVELOPMENTS, AND PROVIDING AN EFFECTIVE DATE.

City Attorney Yorgason presented the item and answered Council's questions.

**Motion:** Motion by Council President Riccio to read by title only was seconded by Council Member Kiser and carried unanimously, and the ordinance was read by title only.

**Motion:** Motion by Council President Riccio to approve Ordinance 550 was seconded by Council member Kiser and carried unanimously by roll call vote.

#### **5b. Consider approving Ordinance 553, second reading.**

AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO, AMENDING TITLE 7 OF THE MIDDLETON CITY CODE, AMENDING THE

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WATER AND SEWER REGULATIONS, UPDATING AND REORGANIZING THE PARK REGULATIONS, CREATING A NEW CHAPTER REGULATING NON-SUBDIVISION DEDICATIONS AND VACATIONS OF RIGHT-OF-WAY, UPDATING THE STANDARDS FOR RIGHT-OF-WAY EXCAVATIONS, UPDATING SIDEWALK MAINTENANCE AND REPAIR STANDARDS, RELOCATING STORMWATER REGULATIONS AND PROVIDING AN EFFECTIVE DATE.

City Attorney Yorgason presented the item and answered Council's questions.

**Motion:** Motion by Council President Riccio to read by title only was seconded by Council Member Kiser and carried unanimously, and the ordinance was read by title only.

### **5c. Consider approving Ordinance 554, second reading.**

AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO, AMENDING TITLE 8 OF THE MIDDLETON CITY CODE UPDATING NUISANCE REGULATIONS, MAKING MINOR CHANGES TO THE CROSS-CONNECTION RESTRICTIONS, UPDATING THE CLEAN AIR ACT TO COMPLY WITH THE IDAHO DEPARTMENT OF ENVIRONMENTAL QUALITY AND PROVIDING AN EFFECTIVE DATE.

City Attorney Yorgason presented the item and answered Council's questions.

**Motion:** Motion by Council President Riccio to read by title only was seconded by Council Member Kiser and carried unanimously, and the ordinance was read by title only.

### **5d. Consider approving Ordinance 555, second reading.**

AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO, AMENDING TITLE 9, CHAPTER 1 MAKING MINOR MODIFICATIONS TO THE FIRE CODE, AMENDING CHAPTER 2 TO REMOVE REFERENCES DUPLICATIVE OF STATE CODE AND CONSOLIDATING FIREWORKS REGULATIONS, AND PROVIDING AN EFFECTIVE DATE.

City Attorney Yorgason presented the item and answered Council's questions.

**Motion:** Motion by Council President Riccio to read by title only was seconded by Council Member Kiser and carried unanimously, and the ordinance was read by title only.

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### **5e. Consider approving Ordinance 556, second reading.**

AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO, AMENDING TITLE 10 OF THE MIDDLETON CITY CODE, UPDATING DISORDERLY CONDUCT REGULATIONS, CONSOLIDATING LOITERING OFFENSES, UPDATING CONTROLLED SUBSTANCES, RELOCATING DEFINITIONS, REMOVING CONCEALED WEAPONS REGULATIONS TO RELY ON STATE CODE, MAKING MINOR MODIFICATIONS TO ANIMAL CONTROL, ADDING REGULATIONS FOR BITING ANIMALS AND PROVIDING AN EFFECTIVE DATE.

City Attorney Yorgason presented the item and answered Council's questions.

**Motion:** Motion by Council President Riccio to read by title only was seconded by Council Member Kiser and carried unanimously, and the ordinance was read by title only.

### **5f. Consider approving Ordinance 557, second reading.**

AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO, AMENDING TITLE 11 OF THE MIDDLETON CITY CODE, MODIFYING SPEED RESTRICTIONS, STOPPING, STANDING AND PARKING STANDARDS, RELOCATING DEFINITIONS AND PROVIDING AN EFFECTIVE DATE.

City Attorney Yorgason presented the item and answered Council's questions.

**Motion:** Motion by Council President Riccio to read by title only was seconded by Council Member Kiser and carried unanimously, and the ordinance was read by title only.

### **5g. Consider approving the Third Amendment to and Restatement of Joint Exercise of Powers Agreement For the Purpose of Creating a Multi-County/City Housing Authority to Foster Housing Development in the Jurisdictions of Participating Public Agencies (an amended agreement with SICHA to provide low-income housing in Middleton).**

Mayor Taylor presented the item and answered Council's questions.

Council President Riccio commented that the applicant did not provide all of the information he had requested.

**Motion:** Motion by Council President Riccio to approve the Third Amendment to and Restatement of Joint Exercise of Powers Agreement For the Purpose of Creating a Multi-County/City Housing Authority to Foster Housing Development in the Jurisdictions of Participating Public Agencies (an amended agreement with SICHA to provide low-income housing in Middleton) was seconded by Council Member Furner and carried unanimously by roll call vote.

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Mayor Taylor declared a recess and then reconvened the meeting.

### **4k. Consider ratifying land conveyance from the City to Luna Property Trust LLC.**

Mayor Taylor presented the item and answered Council's questions.

Mayor Taylor asked if anyone in the audience would like to speak on this item:

Martin Galvin asked for clarification that the City will acquire the rest of the thirty (30) foot right-of-way over to the Metzger's property and Mayor Taylor responded that yes that was the agreement. Mr. Galvin said that he believes it is best to have all documents and contracts to be signed at the same time. Mr. Galvin then spoke about the history of the area, owns 22 acres that join the property being discussed in this item. There is a joint road between the two properties that has a pin placed in it designating where each property starts and stops, years ago the Black Canyon Irrigation District stated that the pin was further on the Luna Property. Mr. Galvin also has a drain ditch at the bottom of the 22 acres. Mr. Galvin said that as new land owners have come along they have written letters of legal rights to use the drain ditch as well as the road for access in order to circle the fields. He said that in 2011 when Mr. Luna first bought the property he said that h would recognize Mr. Galvin's legal rights and then Mrs. Luna called him to ask if they could walk along his 22 acres. Mr. Galvin said that he explained that throughout his property the canal gets very deep and he could not grant them right-of-way on Black Canyon's right-of-way even though he owns the ground. He also added that many people trespass along the canal but that he has denied anyone that has asked. He then stated that since he denied Mrs. Luna the opportunity to walk around is 22 acres she denied him the ability to use the road he had been driving on for 65 years and helped build. He then decided that he was going to move his ditch to the south and wasn't going to carry a lot of gravel in he would just have a dirt road across which would also help the neighbor to the east. When he and the surveyor he hired were surveying the road he said that they were threatened to be shot by Mr. Luna. Mr. Galvin said that after the survey was complete he found the survey lines to be consistent with what the surveyor Mr. Luna had hired found. He then asked the Mayor and Council to consider his legal rights to use the road since the City owned half of the road and stated that he was very happy with the agreement the City had made with Mr. Luna.

James Nunley asked why he was not made aware of this purchase since the south western end of N. Middleton Rd. is part of his easement and also wanted to know what the City will be responsible for now on that piece of land. Mayor Taylor asked City Attorney Yorgason to look into whose obligation it is to improve the approach from Middleton Rd. at the north end of parcel #4 of the record of survey instrument #2014-042867. Mr. Nunley then said that Mr. Allaire moved his water to low end the ladder will go down so it will flow back up hill which Mr. Allaire put a culvert in so now he is unable to get water even 90ft. Mr. Nunley then said that since the City has purchased the land making it public land he will go and tie into and put his water in. Mayor Taylor asked Mr. Nunley why Mr. Allaire denied him water and tore up his irrigation last year and Mr. Nunley said that he did not know why. He said that he asked Mr. Allaire why and that he would answer by pointing a firearm at him. Mayor Taylor asked him the name of his attorney and he answered that is was Al Barker, Bill Pope and Ryan Hinson all from different firms.

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Martin Galvin said that if the City could acquire the 660 ft. it would solve a lot of problems and would be willing to help the City purchase it. Mayor Taylor thanked Mr. Galvin for offering and responded knowing the relationship between Mr. Galvin and the owners of that property he thinks it is best that the City work with each party individually.

Gloree Galvin said that as spring is coming along it is soon time to start irrigating, trapping gophers and spraying weeds so as far as access up the road she wanted to clarify that the City owns access to the road now. Mayor Taylor responded that yes that was correct. Ms. Galvin then asked if they could then use the road and inquired about a fence being built on the property purchased by the City. Mayor Taylor responded that they did not have access to the road and that he has put a stop hold on the fence project as it is in the City right-of-way. He also added that access to the road may change as the process continues.

James Nunley asked when he would be able to find out about his irrigation and water rights that are on the City's land and Mayor responded that he should know by April 2015.

Council Member Huggins asked for clarification that this conveyance is the next step to get the rest of the right-of-way in the future and Mayor Taylor responded that is was.

**Motion:** Motion by Council President Riccio to ratify land conveyance from the City to Luna Property Trust LLC was seconded by Council member Kiser and carried unanimously.

#### **4o. Consider approving Ordinance 552, first reading.**

AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO, AMENDING TITLE 6, CHAPTER 1 OF THE MIDDLETON CITY CODE, UPDATING THE GENERAL SUBDIVISION AND DEVELOPMENT REGULATIONS; AMENDING TITLE 6 CHAPTER 2 MAKING MODIFICATIONS TO AND STREAMLINING THE SUBDIVISION PROCEDURES; AMENDING TITLE 6, CHAPTER 3 UPDATING DESIGN AND DEVELOPMENT STANDARDS, INCLUDING ROAD STANDARDS; AMENDING TITLE 6, CHAPTER 4 UPDATING INSPECTION REQUIREMENTS; MAKING MINOR MODIFICATIONS TO TITLE 6, CHAPTER 5 AND CHAPTER 6, AND PROVIDING AN EFFECTIVE DATE.

City Attorney Yorgason presented the item and answered Council's questions.

**Motion:** Motion by Council President Ricco to read Ordinance 552 by title only was seconded by Council Member Kiser and carried unanimously, and the ordinance was read by title only.

#### **City Engineer Woodruff reported:**

Concord water reconstruction project - the project is substantially complete. Council will see a final payout at the next Council meeting.

Concord sewer project-the project is substantially complete. Council will see a final pay out at the next Council meeting.

Council Member Kiser asked how the old holes in the ground are filled where the old large blue pipe was. Engineer Woodruff responded that pvc pipe was in steel casing,



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there were no spacers, and the steel casing was just placed in the ground and backfilled around it so when that was exposed the pipes were filled with grout and then backfilled the excavation with pit run.

Concord St. reconstruction project- preconstruction meeting was held and a notice to proceed has been issued and the effective date is March 9, 2015.

Canyon Villa Project- working on getting the Middleton supplemental specification finalized.

Mapping- updating Middleton Connects to reflect the recent Council approved platting and road construction projects.

#### **4j. Consider adopting Ordinance No. 558 amending Fiscal Year 2014-2015 budget.**

City Clerk/Treasurer Newman presented the item and answered Council's questions. Mayor Taylor asked if anyone in the audience would like to speak on this item: none.

Mayor Taylor asked if anyone in the audience would like to speak on this item: none.

**Motion:** Motion by Council President Riccio to read Ordinance No. 558 by amending Fiscal Year 2014-2015 budget by title only was seconded by Council Member Kiser and carried unanimously, and the ordinance was read by title only.

**Motion:** Motion by Council President Riccio to waive the three reading and adopt Ordinance No. 558 amending Fiscal Year 2014-2015 budget was seconded by Council Member Kiser and carried unanimously by roll call vote.

**Council Comments:** None

#### **Mayor's Comments:**

- Ryan Anderson resigned from his recent employment by the City of Middleton; he went to work for Intermountain Gas Company. Mayor along with the Public Works Foreman interviewed applicants and offered the job Terrell Mendive to one who accepted and will begin working on March 23, 2015.

#### **4n. Consider approving Ordinance 551, first reading.**

AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO, AMENDING TITLE 5, CHAPTER 1 OF THE MIDDLETON CITY CODE MAKING MINOR MODIFICATIONS; AMENDING TITLE 5 CHAPTER 2 UPDATING THE ZONING AND LOT USE TABLES; AMENDING TITLE 5 CHAPTER 3 UPDATING AND CLARIFYING THE ADMINISTRATIVE PROCEDURES; UPDATING THE DEVELOPMENT AGREEMENT PROCEDURES IN TITLE 5, CHAPTER 4; AMENDING TITLE 5, CHAPTER 5 UPDATING THE DESIGN

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REVIEW REGULATIONS; MAKING MINOR MODIFICATIONS TO TITLE 5, CHAPTER 6; AND PROVIDING AN EFFECTIVE DATE.


**Motion:** Motion by Council President Riccio to table the item until the March 18, 2015 meeting was seconded by Council Member Kiser and carried unanimously, and the ordinance was read by title only.

**Adjourn:**

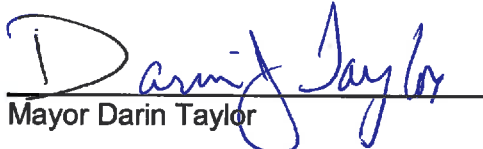
**Motion:** Motion by Council President Riccio to adjourn the meeting was seconded by Council Member Huggins and carried unanimously.

Mayor Taylor declared the meeting adjourned at 10:12 p.m.

ATTEST:

  
Kandice Cotterell, Deputy Clerk  
Approved: April 1, 2015



  
Mayor Darin Taylor