

RECORD OF PROCEEDINGS

MIDDLETON CITY COUNCIL MEETING SEPTEMBER 16, 2015

The City Council Meeting of September 16, 2015 was called to order by Mayor Taylor at 6:30 p.m.

Mayor Taylor introduced the following City officials in attendance: City Attorney Chris Yorgason of Yorgason Law, City Clerk Pauline Newman, Sergeant Walker from the Middleton Police Department, Victor Islas from the Middleton Rural Fire Department, and Don Watt who is President of the Middleton Library Board.

Roll Call: Council Members Carrie Huggins, Rob Kiser, Beverlee Furner and Council President Lenny Riccio were all present. Mayor Taylor declared a quorum of Council Members present, and proceeded. Mayor Taylor requested to add to the agenda as item "k," authorizing the Idaho Gem Grant application.

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

3) Administrative Action/Consent Agenda:

Motion: Motion by Council President Riccio to approve payroll and miscellaneous accounts payable was seconded by Council Member Huggins and carried unanimously.

4a) Consider approving the final plat for West Highlands Subdivision No. 6.

Mayor Taylor said the City has not yet received the revised final plat and requested this item be tabled.

Motion: Motion by Council President Riccio to table item 4a until the October 7, 2015 meeting was seconded by Council Member Furner and carried unanimously. Mayor said this item would be added to the first agenda following receipt of the plat, and it did not need continued to a date and time certain since a public hearing is not required when considering a final plat.

4b) Consider approving Middleton Road Corridor Study scope from Precision Engineering in an amount to be negotiated and approved by City Council prior to work commencing.

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

Council President Riccio noted that the project seems to have a pretty aggressive timeline and asked if participating parties do not approve or drag their feet can the City still move forward, and Mayor Taylor answered yes, the City can still move forward.

Motion: Motion by Council President Riccio to approve the Middleton Road Corridor Study scope from Precision Engineering in an amount to be negotiated and approved by City Council prior to work commencing was seconded by Council Member Kiser and carried unanimously.

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5b) Consider appointing Kassie Knapp to the Library Board of Directors to finish former Board Member Nichole Thomas' term ending January 31, 2016.

Mayor Taylor introduced Ms. Knapp and she introduced herself to the Council and spoke about why she wanted to be involved with the library and the City.

Council President Riccio asked what Ms. Knapp's thoughts were on her availability after the expiration of her term, and she replied that she would be willing to fill another term.

Mayor Taylor appointed Kassie Knapp to the Middleton Library Board and requested City Council confirm the appointment.

Motion: Motion by Council President Riccio to confirm the appointment of Kassie Knapp to the Library Board of Directors to finish former Board Member Nichole Thomas' term ending January 31, 2016 was seconded by Council Member Huggins and carried unanimously.

Library Board President Don Watt said that he and the library appreciate members of the community being willing to take time to serve on board and that he looks forward to working with Ms. Knapp. He then thanked the public for their participation and support.

5c) Consider accepting the Quotation from, and hiring, Northwest Interiors LLC to stucco the Trolley Station and Lee Moberly Museum buildings in an amount not to exceed \$38,008.

Mayor Taylor presented the item and answered Council's questions. Mayor Taylor asked if there was anyone in the audience that would like to comment on the item: none.

Motion: Motion by Council President Riccio to accept the Quotation from and hire Northwest Interiors LLC to stucco the Trolley Station and Lee Moberly Museum buildings in an amount not to exceed \$38,008 was seconded by Council Member Kiser and carried unanimously.

5d) Consider accepting the Bid Proposal from, and hiring, National Coatings Inc. to clean and repaint in April 2016 the exterior of the City's existing water storage tank for an amount not to exceed \$46,415.

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

Council Member Huggins asked if the current low bid will be voided and other bids will be taken, and Mayor Taylor answered that other companies will be solicited for bids. Council Member Huggins clarified that if the project is re-bid and the bid comes in higher can the current bid still be used, and Mayor Taylor answered that he is not sure and that National Coatings' proposal says it is good until June 2016.

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Council Member Furner asked which budget year this project is in, and Mayor Taylor responded that it is the fiscal year 2015 budget and that it can be carried over into the FY2016 budget by way of a budget amendment.

Mayor Taylor asked if there was anyone in the audience that would like to comment on the item:

Steve Peel of Rule Steel suggested that the City re-bid the project. He said that he would be very surprised if the City would be unable to receive a bid that was at least equal if not better and added that he would be willing to assist the City in sourcing other options.

Motion: Motion by Council President Riccio to table item 5d to the October 7, 2015 meeting was seconded by Council Member Kiser and carried unanimously.

5e) Consider accepting the proposal from, and hiring, Bowen Collins in an amount not to exceed \$4,000 to review Grindline Design and Construction's skate park plans and propose mitigation measures for fill in the floodway that are in compliance with Middleton City Code Title 4 Chapter 3.

Mayor Taylor presented the item and answered Council's questions. Mayor Taylor asked if there was anyone in the audience that would like to comment on the item: none.

Motion: Motion by Council President Riccio to accept the proposal from, and hiring, Bowen Collins in an amount not to exceed \$4,000 to review Grindline Design and Construction's skate park plans and propose mitigation measures for fill in the floodway that are in compliance with Middleton City Code Title 4 Chapter 3 was seconded by Council Member Furner and carried unanimously.

5f) Consider adopting Ordinance No. 563 deleting Middleton City Code 7-3-1-A-12 since Idaho has already passed laws regarding possession of weapons and firearms.

Mayor Taylor presented the item and answered Council's questions. Mayor Taylor asked if there was anyone in the audience that would like to comment on the item: none.

Council President asked if removal of the code provision that prohibits possession of firearms and weapons in public places also applies to the library, and Mayor Taylor answered that it does.

City Attorney Yorgason added that doctrine of preemption does not allow cities to make more restrictive rules. The State has adopted a new statute that says it is taking over regulation of firearms in the state and provided exceptions, one of which is regulations re: discharge. He added that this ordinance does not conflict with the statute.

Motion: Motion by Council President Riccio to read Ordinance 563 by title only was seconded by Council Member Kiser and carried unanimously.

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Motion: Motion by Council President Riccio to waive the three reading rule and adopt Ordinance 563 deleting Middleton City Code 7-3-1-A-12 since Idaho has already passed laws regarding possession of weapons and firearms was seconded by Council Member Kiser and carried unanimously by roll call vote.

5g) Consider accepting the proposal from, and hiring, Compass Land Surveying PLLC to survey topography and features along State Highway 44 between Whiffin Lane and 200 feet west of Canyon Lane for an amount not to exceed \$8,600.

Mayor Taylor presented the item and answered Council's questions. Mayor Taylor asked if there was anyone in the audience that would like to comment on the item: none.

Council Member Huggins asked if the cost would be a shared water and sewer expense, and Mayor Taylor answered that yes it would be.

Motion: Motion by Council President Riccio to accept the proposal from, and hiring, Compass Land Surveying PLLC to survey topography and features along State Highway 44 between Whiffin Lane and 200 feet west of Canyon Lane for an amount not to exceed \$8,600 was seconded by Council Member Huggins and carried unanimously.

5h) Consider accepting the Middleton Place Subdivision Reconstruction Topography Scope of Work, Schedule and Budget from, and hiring, T-O Engineers in an amount not to exceed \$6,000.

Mayor Taylor presented the item and answered Council's questions. Mayor Taylor asked if there was anyone in the audience that would like to comment on the item: none.

Motion: Motion by Council President Riccio to accept the Middleton Place Subdivision Reconstruction Topography Scope of Work, Schedule and Budget from, and hiring, T-O Engineers in an amount not to exceed \$6,000 was seconded by Council Member Kiser and carried unanimously.

5j) Consider approving Change Order No. 2 with ALTA Construction for work on Concord Street and Willow Drive in the amount of \$24,141.82.

Mayor Taylor presented the item and answered Council's questions. Mayor Taylor asked if there was anyone in the audience that would like to comment on the item: none.

Council Member Huggins asked to confirm that the change orders on this project are less than five percent (5%) and added that amount of total change orders is very reasonable for a project of this size. Mayor Taylor answered that yes it is under five percent (5%).

Motion: Motion by Council President Riccio to approve Change Order No. 2 with ALTA Construction for work on Concord Street and Willow Drive in the amount of \$24,141.82 was seconded by Council Member Huggins and carried unanimously.

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5i) Consider approving a pay application from ALTA Construction for work on Concord Street and Willow Drive in the amount of \$77,543.98.

Mayor Taylor presented the item and answered Council's questions. Mayor Taylor asked if there was anyone in the audience that would like to comment on the item: none.

Council Member Huggins asked if this amount includes the retainage. Mayor Taylor answered that it does not, and that the request to release retainage will be before Council at a future meeting.

Motion: Motion by Council President Riccio to approve a pay application from ALTA Construction for work on Concord Street and Willow Drive in the amount of \$77,543.98 was seconded by Council Member Kiser and carried unanimously.

5k) Consider approving Idaho Gem Grant application resolution

Mayor Taylor presented the item and answered Council's questions. Mayor Taylor asked if there was anyone in the audience that would like to comment on the item: none.

Motion: Motion by Council President Riccio to approve Idaho Gem Grant application resolution was seconded by Council Member Kiser and carried unanimously.

Public Hearing:

6a) Consider approving a request by Marjorie Curry to vacate the west half of the public road right-of-way for Elderberry Drive and convey the vacated right-of-way to the owners of land abutting the west side of Elderberry Drive. Elderberry Drive is located on the south side of Concord Drive approximately 100 feet east of North 2nd Ave. West, Middleton, Idaho.

Mayor Taylor declared the public hearing open, presented the item and answered Council's questions. He added that the applicant also requested a waiver of the application fee.

Mrs. Curry spoke about why they have submitted their request and the work they have put in over the years to keep the area looking nice.

Council Member Furner asked Mrs. Curry if 920 feet was acceptable, although they were asking for 930. Mrs. Curry asked for clarification on where the 10 foot section was and Mayor Taylor pointed out on the map where the 10 foot utility easement was. Mr. Curry said that he knows where the sewer line is and Mrs. Curry said that 920 feet was fine.

Council President Riccio asked for clarification on the amount of property being vacated after looking at the map and Mayor Taylor responded that the actual amount is 2869.49 square feet with a fair market value of approximately \$132 using a \$0.46 per square foot figure.

Mayor Taylor asked if there was anyone in the audience that would like to comment on the item.

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Steven Sproat is the property owner on east side of the subject property and asked for clarification on the 10 foot utility easement. After Mayor Taylor pointed to the area on the map he stated that he has no objections to vacation and that it would not restrict his access.

Mayor Taylor closed the public comment portion of the hearing.

Motion: Motion by Council President Riccio to approve a request by Fred and Marjorie Curry to vacate the west half of the public road right-of-way for Elderberry Drive and convey the vacated right-of-way to the owners of land abutting the west side of Elderberry Drive. Elderberry Drive is located on the south side of Concord Drive approximately 100 feet east of North 2nd Ave. West, Middleton, Idaho was seconded by Council Member Furner and carried unanimously.

Motion: Motion by Council Member Furner to waive the application fee was seconded by Council Member Kiser and carried unanimously.

5a) Consider appointing Clinton Minor to the Planning and Zoning Commission to finish former Commissioner Paul Chaumont's term ending August 21, 2016.

Mayor Taylor introduced Mr. Minor, who told the Council about himself and why he wanted to be on the Planning and Zoning Commission. Mayor Taylor appointed Clinton Minor to the Middleton Planning and Zoning Commission and requested City Council confirm the appointment.

Motion: Motion by Council President Riccio to confirm the appointment of Clinton Minor to the Planning and Zoning Commission to finish former Commissioner Paul Chaumont's term ending August 21, 2016 was seconded by Council Member Huggins and carried unanimously.

6b) Consider approving a request by Premiere Industrial, LLC to annex approximately 81 acres into City limits, zone the property light-industrial, and to approve a development agreement. The subject property is located approximately three-quarters of a mile south of Highway 44 (and three-quarters of a mile north of Lincoln Rd.) on the east and west sides of S. Middleton Rd., including Bass Lane and a portion of S. Middleton Rd.

Mayor Taylor declared the public hearing open, presented the item and answered Council's questions. He added that the City hired J-U-B Engineering to design the gravity sewer line extension, and SPF Engineering to design water line extension, into the City's impact area south of the Boise River. Both engineering firms have a limited scope and design so that the first phase of the project, extending to Rule Steel, would be timely and the annexation agreement could be finalized. The Planning and Zoning Commission held a public hearing and recommended City Council approve the annexation request. The only agency that responded to the public notice was Canyon Highway District #4, which requesting a Middleton Road traffic or corridor study.

Steve Peel, owner of Premier Industrial LLC, spoke in support of the application and answered Council's questions. He addressed a property-line dispute that had come up with a neighbor during the Planning and Zoning Commission hearing. Mr. Peel stated that the neighbor acquired his property from a prior owner who had concern with the parcel on the north side of Bass Lane at the furthest west property-line, and the location of line was surveyed and included

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in application. He respectfully disagrees with the dispute based on the many surveys that have been done dating back to 2005 and added that he is working with the neighbor to ensure the dispute is resolved.

Mayor Taylor said the applicant provided a proposed annexation agreement that was negotiated between the applicant and staff. Mayor Taylor requested an updated legal description from the applicant to include in the annexation ordinance, and said attorneys for both sides have talked through and resolved 99% of subjects discussed in the draft annexation agreement. The one thing remaining is fire flows and financial participation in construction of a looped system. Mayor Taylor recommended that City Council accept public comments tonight and table a final decision on this item until the annexation agreement is finished.

City Attorney Yorgason said that he had a conversation this morning with the applicant's attorney and the concern of the City was having a conditional annexation with unknown development on the vacant 31-acre portion of the property. They looked for a way to verify exact sewer and water capacity that the City has today so the applicant could rely on that number. The agreement as drafted will say that the City will make representations of what capacities are as of today, and the conditional piece future development, has been removed. Under the proposed annexation agreement, if the City has misrepresented capacities it will be held liable but it will not result in automatic de-annexation. The applicant will have a remedy in case the City is not accurate, and this was important to the applicant due to failed results of past attempts to annex with City.

Mayor Taylor added that the applicant requested the City waive connection fees and building permit fees on the 81 acres for buildings Rule Steel constructs, and the County tax assessor notified City that real property tax anticipated from the property with its existing buildings is approximately \$18,000 per year. At a minimum, Rule Steel anticipates constructing three additional buildings at its existing facility and Rule Steel requested waiving the connection fees for those buildings.

Mayor Taylor asked if there was anyone in the audience that would like to comment on the item.

Jim Taylor asked if, by signing the annexation agreement, the City be accepting two private roads as is or will the City expect the applicant to improve them to meet City code. Mayor Taylor responded that Bass Lane as constructed exceeds City standards, and base and sub-base will be added to widen the road with water and sewer utilities extended under the road. Mayor Taylor asked where the second road was that Jim Taylor was asking about, and he said it was on the south side of Rule Steel. Mayor Taylor responded that road is now owned by the applicant and belongs to Nampa Paving's property.

Jim Taylor then asked if the applicant is going to use its existing private wells or if the City was going to make them part of the city's water system. Mayor Taylor responded that the City lead water operator had looked into that with the City Engineer, who both said the existing wells providing water to Rule Steel were not adequate or beneficial to the City's system so would not be taken over by the City. Jim Taylor restated his question and asked will applicant continue to use private wells, and Mayor Taylor answered no, the annexation agreement requires the applicant to extend water and sewer down Bass Lane and connect the existing and future buildings to the City system.

Jim Taylor asked if City Council has considered the bridges crossing the Boise River and whether or not the City is taking on the responsibility for maintenance, and liability, of the bridge.

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Mayor Taylor answered that the City annexed the bridges into City limits years ago with the Garnett Energy, Idaho Power substation, so the liability has been with the City since then. Jim Taylor asked if the City maintained Middleton Road and the bridges, or if Canyon Highway District did. Mayor Taylor answered that the City and Canyon Highway District have a road maintenance agreement, which states the Highway District will maintain the bridges and Middleton Road south of Sawtooth Lake Drive. Mayor Taylor added that the agreement would probably be amended so the City would maintain the bridges and Middleton Road, at least to the south boundary of the Rule Steel property, if the property is annexed.

Council President Riccio asked Jim Taylor if he was in favor of the annexation and light-industrial zoning, and Jim Taylor responded that he is in favor of anything that brings jobs to the Middleton area. He is not opposed to the annexation as long as the City isn't giving away the farm. He then asked what the sewer connection costs for industrial project, and Mayor Taylor responded that he has not heard a final number from the Building Official but that on a residential project the sewer connection cost is \$3,875. Jim Taylor then asked if it would be safe to say an industrial connection fee would be three times that, and Mayor Taylor responded that he did not know as he has not heard final numbers from the Building Official. Jim Taylor finished that he would like to see a development agreement and is not opposed to annexation as long as they are being treated fair and are treating the City fair.

Tyson Sparrow asked regarding the development agreement for the undeveloped land the City will be waiving fees for what period of time. Mayor Taylor responded the provision in the proposed annexation agreement that talks about waiving connection fees for buildings constructed by the applicant or applicant's companies, does not have a time limit but applies to any building they construct on the properties to be annexed. Mr. Sparrow asked if the connection-fee waiver applies only to the applicant and their companies, or if it transfers with the land. Mayor Taylor said it applies only to the applicant and their companies that construct a building on the property; the waiver of connection feeds does not transfer with the property or apply to other building contractors.

Mayor Taylor asked if Mr. Sparrow if he was in favor of the annexation, and Mr. Sparrow answered that he absolutely was in favor of the application. Mayor Taylor asked if there was anyone else in the audience that would like to comment on this item: none.

Mayor Taylor closed the public comment portion of the hearing except for discussion regarding the draft annexation agreement. He then recommended continuing the hearing to the October 7, 2015 meeting or until a date before then that would be a special meeting. The applicant would like to get started on adding a building to its facility this fall and winter, and believes the City and applicant would have a tentatively agreed-to draft annexation agreement within the next two or three days.

Motion: Motion by Council President Riccio to continue item Wednesday, September 23, 2015 at 6:30 pm was seconded by Council Member Kiser and carried unanimously.

Tyson Sparrow asked if the public was able to attend the September 23, 2015 special meeting, and Mayor Taylor answered that yes they were, the meeting is a public meeting open to anyone who would like to attend.

Department Comments: Mayor Taylor referred to City Engineer Woodruff's memo and discussed wrapping up contracts for the season.

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Mayor's Comments: Mayor Taylor reported that the City received a letter from Kevin Dinnius, who represents Jim Taylor, which pointed out the City did not have a public hearing prior to selling the Murphy Ave. property to the Halls, and did not sell the property at an auction. Mayor Taylor said the City is taking steps to follow proper procedure, and this item would be on the agenda at Council's next regularly-scheduled meeting.

Council Comments:

Council Member Huggins reported that she did not make it to school board meeting and the only thing to report is growth and the struggle with the growth. She added that the district is finding a number of families who are living out of district but planning on moving here started kids in school before actually moving here but the problem should be correcting itself before too long.

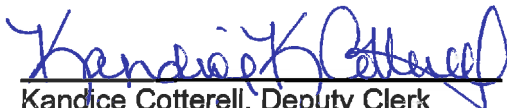
Council Member Kiser reminded everyone about the upcoming Harvest Festival on September 26, 2015 at Foote Park.

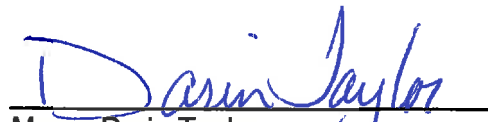
Council Member Furner said that she did not make it to fire district meeting but that there is not a lot to report at this time.

Motion: Motion by Council President Riccio to adjourn was seconded by Council Member Kiser and carried unanimously.

Mayor Taylor declared the meeting adjourned at 9:28 p.m.

ATTEST:


Kandice Cotterell, Deputy Clerk
Approved: October 7, 2015



Mayor Darin Taylor

