

# RECORD OF PROCEEDINGS

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## MIDDLETON CITY COUNCIL MEETING MAY 20, 2015

The City Council Meeting of May 20, 2015 was called to order by Mayor Taylor at 6:30 p.m.

Mayor Taylor introduced the following City officials in attendance: City Engineer Amy Woodruff of Civil Dynamics, City Attorney Chris Yorgason of Yorgason & Associates, Deputy City Clerk Kandice Cotterell, Middleton Police Department's (MPD) Chief Zimmerman and Officer Walker, Library Board President Dr. Don Watt and Dr. Bauscher Superintendent of the Middleton School District.

**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 with Council business.

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

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

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

- a. Payroll and miscellaneous accounts payable
- b. Consider approving Minutes of May 6, 2015
- c. Consider approving annual liquor licenses for beer and wine effective June 1, 2015 through May 31, 2016 for: Chaparral Tavern at 3 N. Dewey Ave., Garbonzo's Pizza, Inc. at 250 E. Main St., Gem Stop at 802 Main St., Jacksons Food at 7 E. Main St., and Our Place Saloon at 21 N. Dewey Ave.

### **New Business:**

**4a Consider approving an application by Outlet Fireworks LLC to sell fireworks at Middleton Village, 206 E. Main St. during the Fourth of July season 2015.**

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: none.

**Motion:** Motion by Council President Riccio to approve an application by Outlet Fireworks LLC to sell fireworks at Middleton Village, 206 E. Main St. during the Fourth of July season 2015 was seconded by Council Member Furner and carried unanimously.

**4b. Consider approving an application by Middleton Chamber of Commerce for a Special Events permit for the 4<sup>th</sup> of July parade and celebration, and to waive the application fee.**

## RECORD OF PROCEEDINGS

---

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: none.

Council President commented that most special event permits that are approved by Council also have the application fee waived and inquired if it would be best to just remove the fee all together. Mayor Taylor replied that the majority of special event permits are community events which typically have the fee waived but not all applications are. Therefore he believes it is best to keep consistency and not remove the fee, if an applicant wishes to ask for the waiver they are welcome to do so.

**Motion:** Motion by Council President Riccio to approve an application by Middleton Chamber of Commerce for a Special Events permit for the 4<sup>th</sup> of July parade and celebration, and to waive the application fee was seconded by Council member Furner and carried unanimously.

#### **4c. Consider approving an application by Pioneer Federal Credit Union for a Special Events permit for the Branch Bash 2015, and to waive the application fee.**

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: none.

**Motion:** Motion by Council President Riccio to approve an application by Pioneer Federal Credit Union for a Special Events permit for the Branch Bash 2015, and to waive the application fee was seconded by Council Member Kiser and carried unanimously.

#### **4d. Consider approving an agreement with U.S. Postal Service to have signature on file for certified mail returns.**

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. A women in the audience asked if this agreement was just for City business and Mayor Taylor responded that it was.

**Motion:** Motion by Council President Riccio to approve an agreement with U.S. Postal Service to have signature on file for certified mail returns was seconded by Council Member Furner and carried unanimously by roll call vote.

#### **4e Consider approving time extension request by Alta Construction.**

City Engineer Woodruff presented the item and answered Council's questions.

Mayor Taylor asked if anyone in the audience would like to speak on this item. A man in the audience asked if there would be any additional cost to the City because of the delay and Mayor Taylor responded that there would not be since the extension was due to a third-party's delay (Idaho Power and Intermountain Gas delays).

Council Member Huggins asked if all third parties are now out of the way so Alta Construction can move forward and Engineer Woodruff responded that Alta Construction work is already

## RECORD OF PROCEEDINGS

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under way. There are a few small issues they are working through but nothing large and that the extension will become a change order which will come before the Council in the future.

**Motion:** Motion by Council President Riccio to approve a time extension request by Alta Construction was seconded by Council Member Huggins and carried unanimously.

**4f Information: Horrocks Engineers present draft traffic studies for the following intersections: Murphy Avenue and State Highway 44, and Skyline Drive and State Highway 44.**

Bryan Foote of Horrocks Engineers presented the item and answered Council's questions. Middleton Police Officer Walker gave an accident report for the Skyline intersection and answered Council's questions.

Mayor Taylor asked Mr. Foote what the City's next step should be. Mr. Foote replied that talking to Middleton Rural Fire Department (MRFD), which Mayor Taylor did. MRFD reported that closing Skyline Drive would have very minimal effect on their ability to service residents in the Canyon Villa Subdivision. So the next step would be design and talking with residents. Mayor Taylor added, when he and City staff spoke with residents during the Canyon Villa Subdivision road and sewer reconstruction project, he did not receive one negative response to the possible closure of Skyline Drive.

Council President Riccio asked what Horrocks' thoughts were on making Skyline Drive a right turn out only intersection. Mr. Foote responded that having a right-out only would be preferable as a right-in, right-out intersection would not work as well because a median would be needed and would then back up Main Street in front of Ridley's even more. He added that if a right out only intersection can be difficult to enforce unless they are designed well but that it is definitely an option.

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

**Motion:** Motion by Council President Riccio to table items 4g, 4h and 4i until the June 3, 2015 meeting was seconded by Council Member Furner and carried unanimously.

**Public Hearing:**

**5A Consider approving an application by West Highlands Land Development LLC to amend the West Highlands Ranch Subdivision preliminary plat and development agreement.**

Mayor Taylor opened the public hearing, presented the item and answered Council's questions.

Council President Riccio asked regarding the traffic impact study using the 2020 horizon and if that was in line with City code, Mayor Taylor responded that it is not in City code and that those dates are negotiable. Council President Riccio added that a request for a 2025 study seems reasonable and makes sense due to the background data and build out year. Mayor added that

## RECORD OF PROCEEDINGS

---

Horrocks Engineers did not find any deficiencies with the submitted study.

Mayor Taylor invited Becky McKay of Engineering Solutions, the applicant's representative, to present for the applicant and answer questions from the Council, if any. Ms. McKay presented the item and answered the Council's questions.

Deborah Nelson of Givens Pursley Law Office spoke about impact fees and the prior development agreement.

Thomas Coleman gave background on the item. He added that he is looking for a yes or no from the Council tonight. He will be moving forward in the morning in one direction or the other but would like and answer from Council tonight and hopes that they will not table the decision.

Council President Riccio asked where the information was gathered from for the calculations provided and Mr. Coleman answered that it is a formula in the Capital Improvement Plan using \$70,000 per acre of vacant land. Mayor Taylor added that it is present value of where the land will be built as not all lots will be worth the same amount of money. Council President Riccio then stated that that this project and intersection does not need to use a 2030 horizon Ms. McKay responded that today the turn lanes on State Highway 44 are warranted even without this project therefore it is not the duty of this project to improve the intersection.

City Attorney Yorgason added that any exaction is done based on the impact the development causes. When you have a certain level of service you cannot collect fees to improve it. The amount of exaction is based on the relationship of the project and the impact.

Bryan Foote said that a traffic study is based on the percentage of impact. What was intended in this particular study is that the developer only be charged for the impact of their development. As you move further away from the development the percentage of impact does lessen. He believes it is fair of the City to charge developers for the impact of their project.

Mayor Taylor asked Mr. Foote if the City can expect the developer to pay their share to improve those intersections as they build even if those intersections are warranted at the time the development begins and Mr. Foote responded that yes he believes it is fair and as the project continues more improvements will more than likely be warranted.

Ms. McKay stated that the traffic study was done on nine different intersections and that if the City were to fix the deficiency at the State Highway 44 and Cemetery Rd. intersection this project would not make an effect.

Councilman Riccio questioned Ms. McKay's comment, and stated the traffic study indicates the West Highlands Subdivision does impact the State Highway 44 intersections with Emmett Road, Hartley Lane, and Cemetery Road by the certain percentages identified in the traffic study, even though the impact may not be enough to lower the level of service.

Mr. Coleman stated that he preferred that improvements be done on Hartley and that it was the City that wanted improvements on Cemetery Road. He also added that there was a completely different traffic plan and study at the time of the original agreement.

Mayor Taylor stated that since 2012 the City has amended its ordinance and removed requirement for open space. Ms. McKay mentioned the land previously donated to the

## RECORD OF PROCEEDINGS

---

Middleton School District from the developer, Mayor Taylor asked what that land is used for. Dr. Bauscher responded that is used as part of school playground for the Heights Elementary School.

Mayor Taylor addressed Ms. McKay's statement regarding Community Planning Association of Southwest Idaho (COMPASS) and its 2040 plan, COMPASS deals only with regional roads does not plan local roads.

Ms. McKay said that with her experience she can say that there is no way this project will be done in 10 years.

Ms. Nelson discussed prior impact fees and development agreement, she added that there should be no effect to the developer because of new ordinances were adopted so impact fees would now be due for home built forward if no additional park land is donated.

Mayor Taylor declared a recess at 9:07 p.m. and reconvened at 9:20 p.m.

### **Item 5A continued:**

City Engineer Woodruff reported that the plat has been reviewed twice and now generally conforms to City code. There are a couple of outstanding items: the first is the plats in relationship to the development agreement do not comply with all standards in R-3 zone, the second item is in regard to improvement of 9th Street and extension of Cemetery Road. Just a little disconnect, right-of-way is not shown on plat which is consistent with development agreement. The City did request analysis at the build-out year, and that there is where the 2025 horizon came from.

City Attorney Yorgason reported on how to calculate credits, under code an applicant is entitled to receive credit for land that goes directly toward improvements. There is some discretion among entities in state code but is not required. Additional improvements can be given credit as long as they are tied to the dedicated park land, if they only benefit subdivision they do not qualify to receive credit. Council needs to look at credits that would add value to park or if they are project related to improve the subdivision and would not necessarily improve the park.

Dr. Bauscher stated that the Middleton School District has a great working relationship with both the City and Coleman Homes and is trying to be a good steward to its patrons and be proactive. Would like to be a part of three way joint agreement, also fine with city owning green space and sees a lot of value in the idea with city owning and developing eight acres.

Council Member Kiser asked in terms of fencing, how would school district separate school kids from City green space. Dr. Bauscher answered that the School District fences all of its sites, and has asked to fence all along inside of berm at this particular site, they have also discussed widening a walkway that can have a gate. At this time, they intend to fence right around approximately five acres but that is negotiable. Mayor Taylor added that he and Becky Crofts have been involved in those discussions and believes those details can be worked out.

Council Member Furner asked what the anticipated date to start building the school was and Dr. Bauscher answered MSD has projected asking for a bond in the spring of 2016 depending on bond capacity so a starting build date possibly in March or May of 2016. Design would be 80% complete at that time and open in August of 2017.



## RECORD OF PROCEEDINGS

---

Don Watt asked how many students are projected to use the school. Dr. Bauscher answered that it is designed to hold 700. Mayor Taylor asked how many are anticipated to come from the West Highlands subdivision. Dr. Bauscher said that on average K-12, 1.5 students per home, at buildout that could easily fill the school. He also added that they tend to find the smaller the home the more kids going to an elementary school.

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

Wendy Younger has been to a lot of meetings regarding this item and has learned a lot. She said that this development will have a large impact on Emmett Road which she believes has not been adequately addressed. She is still very concerned with small lot sizes. She understands the need for elementary school but questions if this one needed right now, Mayor Taylor responded that from what he has been told from School District that this one is the one that is needed first. She then thanked Mayor, Council and the applicant for the process and helping her to learn.

Mayor asked if council had all information needed to make a decision. Council Member Kiser said that he does not see anything in the paperwork about 9th Street.

Ms. McKay offered rebuttal comments. The developer will construct collector roadways, 9th St. required to build to eastern perimeter 500 ft. from east boundary. The original traffic study did not assume that would go through therefor it is considered an offsite improvement.

In regard to the lot sizes, currently they have an approved preliminary plat with set lot amount. Ordinance has changed to provide for diversity of lot sizes.

She has done a combination school and park site before therefore she knows that it can be done and done well.

Deb Nelson offered rebuttal comments. Offsite intersection law provides legal backdrop exact what is proportionate. Applicant must maintain level of service.

Thomas Coleman offered rebuttal comments. Feels it is a good application and hopes approve. Feels this is what Coleman can do. He is looking for "yes" or "no," and will move forward tomorrow with either this agreement or old one.

Council Member Huggins asked, while City and applicant have been living and breathing this issue for a while this is the first time Council is seeing it and it is a lot to absorb. She appreciates the applicant wanting to move forward but it is a lot to absorb. Council Member Kiser concurred that he is trying to absorb as much as possible but he wants to do what is right and would like time to process. Council Member Furner added that she cannot give a good decision for the City and residents tonight without taking more time

Council Member Huggins feels like the City would be paying for School District property. She struggles with the idea of giving a credit for the school property.

Council President Riccio said it is a nice project that will be a nice benefit to City and residents. He said he likes the idea of changing to a publicly-owned park being taken care of by City instead of the homeowners association, which he does not think is fair. He feels that City and applicant are getting close. Direction of where to go today, he thinks it's clumsy to negotiate at a City Council meeting and thinks it is warranted to table item to next meeting. Let's tie-up the

## RECORD OF PROCEEDINGS

---

2025 or 2030, pm and am peak traffic study hours, and 9th street off-site improvements. Let's come up with a solution. President Riccio said he has no doubt a lot of time and money has been spent, and we can come to a reasonable decision where all parties walk away happy. He encouraged staff to meet with applicant and work through issues before next meeting.

Council Member Kiser thanked Mr. Coleman for all he has done in community, and feels the project is close. A couple things he is hung up on; he understands they are minor but does not want to get down the road and find out they are big. He understands Mr. Coleman wants an answer tonight, and he strongly encouraged Mr. Coleman to please not walk out and go back to old agreement. The City would really love to see this product come to light, it makes a great project.

**Motion:** Motion by Council President Riccio to table item 5a until the June 3, 2015 meeting was seconded by Council Member Furner and carried unanimously.

### **5B Consider approving an application for preliminary plat by Estates at West Highlands LLC for The Estates No. 2 at Meadow Park.**

Mayor presented the item and answered Council's questions. Engineer Woodruff stated that this application is very similar to the West Highlands application. The only outstanding item is right of way dedication, other than that it is very straight forward.

Mayor Taylor invited Becky McKay of Engineering Solutions, the applicant's representative, to present for the applicant and answer questions from the Council, if any. Ms. McKay presented the item and answered the Council's questions.

Mayor addressed conditions that were removed were in the findings that the Planning and Zoning Commission removed because it was added by error. All provisions referring to West Highlands Subdivision do not apply.

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

Council President Riccio would like to hammer out traffic impact study before making a decision.

**Motion:** Motion by Council President Riccio to table item 5b until the June 3, 2015 meeting was seconded by Council Member Furner and carried unanimously.

### **Department Comments:**

- MYAC is preparing for the Association of Idaho Cities Conference June 10-12, 2015.
- MYAC is working on Battle ball for June 20, 2015.

### **Mayor Comments:**

-County Commissioner Tom Dale is scheduled to host a town hall meeting in Middleton on May 28, 2015.

-Signed request with Canyon Highway District No. 4 to provide labor to help chip seal City roads this fall. It is not a contract, so not action is required by the Council at this time.

## RECORD OF PROCEEDINGS

---

- The Idaho Statesman reported more people are moving to Idaho from surround states than are leaving Idaho for those same states, with a minor exception.
- Fire Ops 101 training scheduled for June 6, 2015. Mayor is performing wedding and Council Member Kiser cannot go, Council President Riccio is working, so Council Member Furner will go.
- City did receive a record-of-survey that is part of the Luna Property Trust right-of-way transfer agreement.

### Council Comments:

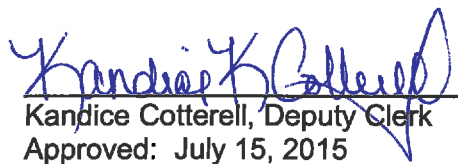
Council Member Furner reported that the Fire District levy passed

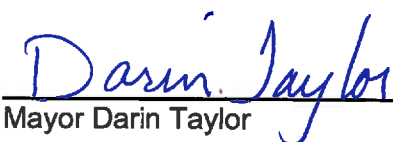
### Adjourn:

**Motion:** Motion by Council Member Kiser to adjourn the meeting was seconded by Council Member Furner and carried unanimously.

Mayor Taylor declared the meeting adjourned at 11:13 p.m.

ATTEST:

  
Kandice Cotterell, Deputy Clerk  
Approved: July 15, 2015

  
Mayor Darin Taylor

