
**MIDDLETON CITY COUNCIL
SEPTEMBER 2, 2020**

The Middleton City Council meeting on September 2, 2020 was called-to-order at 5:32 p.m. by Council President Kiser.

Roll Call: Council President Rob Kiser and Council Members Carrie Huggins, Jeff Garner and Tim O'Meara were present. Mayor Rule was Absent.

Pledge of Allegiance, Invocation: Craig Bennet

Discussion item

1. Early payoff of Bond Loan No. 92-01 – Wendy Miles

City Treasurer gave a brief update of the terms and amount of the bond loan and the options to pay it off early and save \$30,000. It was requested to bring this back to Council as an action item.

Action Items

1. Consent Agenda (items of routine administrative business)

- a. Consider approving minutes for Council's August 19, 2020 regular meeting.
- b. Consider ratifying August 28, 2020 payroll in the amount of \$ \$99,566.55 and accounts payable thru August 25, 2020 in the amount of \$215,665.62.

Council President called the item. He gave a brief explanation of the account's payable registers.

Motion: Motion by Council President Kiser to approve consent agenda items a and b. Seconded by Council Member Garner. Approved unanimously

2. Appeal Hearing: Design Review Permit for Idahome RV Resort Building located at 0 Hartley Ln, Parcel # R34440017 Middleton, Idaho. – Chris Yorgason

Council President called the item.

City Attorney Chris Yorgason gave an explanation of the appeal process. He stated that the City Council's role on a Design Review is not to rehear the Design Review Application. The role is to determine whether Planning and Zoning Commission had a reasonable basis for coming to the decision that they did, based on facts sufficient enough to support that decision. There are three options before Council. The first is to deny the appeal and the approval would stand as is, at which point the applicant could go to the court to through the legal appeal process. Second, if the Council decides the Planning and Zoning Commission did not decide appropriately, then instead of redoing the hearing in front of City Council they could remand it back to Planning and Zoning commission and have them rehear it with instruction it be done correctly. A third option is if there are certain conditions City Council does not feel are appropriate council could

cross those conditions off and approve it with the conditions the Council feels are appropriate at which time the applicant could also go through the appeals process.

At this point the applicant should have time to present the appeal after which the City Attorney comments in response to the appeal will be addressed. Chris noted that he wants to make sure the council knows his comments should not be taken as if he is right and they are wrong. The comments are part of the Cities position in regard to the appeal. Then the applicant will have the final comment and the City Council will open for a deliberation and decision. This is not a hearing that is open to public.

Council President Kiser called the applicant to the stand.

The Applicant: Jan Arrowsmith gave a presentation of the Appeal from Okamura 5. She stated that for the record the agenda item 4 on tonight's meeting does not apply to their project as it is after the fact and retroactive. She said that Okamura 5 consists of her parents, siblings and herself. She stated that treating this property as residential is arbitrary and no finding of fact. The property is taxed as commercial, and not residential. Instead of comparing their project to a residential neighborhood a better comparison would be to that of a hotel. Expert testimony from G7 CEO who owns 9 RV Resorts rated in the top 200 in the nation stated it is "hotel accommodation on wheels". RV's are licensed registered vehicles, not permanent residences. Their project has a 168 spaces and according to City code 1-3-1 the definition of a recreational vehicle park "an area for temporary placing of moveable vehicles designed and used for human occupation and housekeeping which involves land under single ownership with lots rented from the location of recreational vehicles and provisions of facilities and services to campers by management." This code also counts a recreational vehicle as a self-contained vehicle designed for human habitation with its own motor power and with a pass way for the body of the home to the drivers and front passenger seat. The Resort will have a pool, pickleball court, dog park and a walking path. She said as they go through the conditions of the Design Review, the Design Review contains several of conditions that are not within the Design Review guidelines or any other businesses that have had design reviews. She then introduced the Engineer, Will Mason to go over Condition E.

Project Engineer: Will Mason, Mason and Associates: Condition E is secondary access. Middleton code 5-4-10-2-H6 states "access for any use along section and quarter section line roads shall be limited by the city to maximize traffic efficiency." Emmett Rd and Hwy 44 are section line roads. The proposal is to provide a single, full open access on Hwy 44 and lockable emergency access on Emmett Rd. The fire department has agreed to a lockable access as their emergency access off Emmett Rd. If we do full open access there is an additional area of conflict with traffic on Emmett Rd and we have 9 additional areas of potential conflict on the private roads inside the park itself. Highway district standards do not allow private roads to connect to arterials, this also creates an issue for the Emmett Rd full open access. CR Engineering performed a Traffic Impact Study to evaluate the site for traffic generation. The traffic engineer analyzed the single access on Hwy 44 and determined that it will operate at a level C. when it is 100% occupied. The Cities level of service acceptance is a C or better. With that traffic impact study, he was asked to model it as 50% mobile homes and 50% RV's. by the City Engineer. Mobile homes generate a higher traffic use because they are a

larger living space. With his analysis he determined that during peak hours there would be 61 vehicles total either entering or exiting the park. Mr. Mason asked City Council to consider the secondary access increases the potential for outside traffic conflict both on Emmett Rd and inside of the project. And Middleton Fire has no problems with a lockable emergency access. ITD has reviewed the application and has requested a turn lane be put in. The City Council has previously approved at least 2 projects that they know of that exceed the 50 EDU count for required a secondary access. They request that the City Council consider that a single access contributes to the safety and traffic in this area, and a secondary, locked access on Emmett Rd.

The Applicant Jan Arrowsmith: Condition F: They are asking that the Traffic Study not be based on a Mobile home, but RV's. Condition C: They have yet to receive the proposed amount and have asked been requesting it since July. They believe that because Emmett Rd is not in City Limits, the City has no jurisdiction to collect fees for these funds. Condition G: Land use application Sept 17, 2019 accepted by Bruce Bayne that states proposed Development Agreement was not applicable. They are hooking into an already existing manhole and are paying to put in their own lift station for improvement of the line, and no additional improvements need to be done to the existing line. Condition H: Being C-3 commercial they have a Traffic Impact Fee to pay, this is a double tax of impact to extend additional fees and Emmett Rd is not in City Limits for the City to collect fees on. Condition I: There is a posted fee schedule, based on the current fee schedule the cost to hook up one water and one sewer pipe is \$259,080.00. They believe there are inconsistencies with other building permits and the fee schedules. Condition K: Middleton has an RV Park code. They believe that they should not have to pay the parks impact fee because they are not residential. Condition R: Is seen in Design Review process regarding the fencing. They do not agree with the fencing required by Planning and Zoning. 4 ft wrought iron on south side, 8 ft vinyl on the east and west side and a 6 ft privacy chain-link on the north side. This does not meet City code of continuity. They also drove around town and cannot find an 8 ft fence anywhere. They are proposing 6ft vinyl on south, east and west sides for privacy of the guests and those driving by. And a 6 ft privacy chain-link fence on the north side next to the canal. The color scheme should have continuity. Planning and Zoning changed the color scheme and it does not provide continuity. Condition B: is out of scope of Design Review. Condition D: is out of scope of Design Review. Condition L, M, N not currently fees required and also out of the scope of Design Review. They believe per the G7 testimony their RV park would bring in an additional estimated monthly revenue to City business of \$429,000.

Council President Kiser asked for staff comments. City Attorney, Chris Yorgason read his Response to the Appeal to the Council. He stated that some of the conditions that were listed as conditions of approval were probably not appropriate for the Design Review process. Under the City's design review code, the City looks at both the facilities/buildings architectural look, design of the building and also the code requires to look at the circulation pattern which brings traffic into play. Requirements that they pay impact fees are not really a design review issue, impact fees will be charged whether they are required, and if they are not required, they won't be. Impact fees will be applied when the building permit application is submitted based on the fee schedule with the coinciding fees. He said any impacts that developers are required to do, proportionate share or otherwise that are in the Traffic Impact Analyses, historically Middleton has

required them to make those improvements. If there is an overlap of impact fees, the City should not be double dipping and having them build something and taking the fee that basically builds the same project. In Chris's opinion because circulation is specifically included as a Design Review standard, it is something the City should consider. The way this was looked at based on TIS and vehicle trips per day, it appeared that the equivalent would be based on about 61 houses. The standard from City code states if there are more than 50 residences there must be a secondary access at some point. This is clearly zoned commercial and has a C-3 Zoning designation. As City Staff looked at this, the use seemed to be more residential. It is his understanding there are over 100 full time-long term spaces. Unlike other RV parks where guests are limited to no more than 14-30 days in their stay. An RV park where someone is staying for months, is less like a hotel and more like an apartment building with long-term stays/residential. That is why the City chose to look at this as more of a residential use. The residents will stay there, and the impact would be on Parks and other things that would be more residential in nature than commercial in nature. There was an agreement with Rule Steel that was tied to the annexation of the property that allows for some waiver of fees for that project. Other projects have had to pay the fees.

Planning and Zoning Official, Bruce Bayne said that the connection fees are based on the size of the water connection line. The applicant is asking for a 4-inch water service therefore they will be charged for a 4-inch water service and 4-inch sewer service, which is all in code.

City Attorney, Chris Yorgason said regarding the fence the City code requires any commercial zones that abut residential use or zones require a minimum 8 ft high perimeter landscape berm or landscape berm and fence.

Planning and Zoning Official, Bruce Bayne said that in commercial the Applicant or City can impose up to an 8 ft high fence. Design Review looked at this, the applicant asked for one thing and Design Review looked at it and they decided on these different heights of fences, all of them are appropriate and they all meet within the commercial zoning.

City Attorney said under state and City code the applicant can always request an individual assessment or request a credit if they think they have already paid enough for the impact fee and shouldn't have to pay.

City Administrator, Becky Crofts commented that the applicant did submit an application for an Individual Assessment on August 27, 2020. It is not being heard here tonight, it will follow the City Code which requires 15-day notice and then to be heard by a hearing officer. The City hasn't completed or done an individual assessment in the past, not under this administration. On the agenda tonight is also to consider appointing an Impact Fee Appeal Administrator and once that happens the appeal will be heard within 30 days according to City code.

Council President Kiser said the Impact fees will be addressed at a later time. He said looking at the secondary access. In the letter from Chief Victor Islas it states that he wants a secondary access. Council President Kiser's concern is that the secondary

access could potentially become a shortcut for traffic avoiding the intersection of Emmett and Hwy 44. Kiser and O'Meara agree that the secondary access could be a secure locked box that is available to Emergency Services.

Applicant Jan Arrowsmith: The secondary access creates issues with shelter in place. They have said nothing has been stated saying long-term.

Chris Yorgason asked if they are restricting use to 30 days or less?

Applicant Jan Arrowsmith: They will have a 30-day contract. There will be no long-term leases. The EDU's that are being used are from the IDAPA code, in reference to putting in a septic tank if an RV is to be hooked up to a septic tank. There is nothing else that states the EDU's should be used in that manner, that is a manner of the City Planner's opinion. The applicant had a study done by Mason and Associates, according to their study it cuts the EDU rate to 4:1 which takes it well below the 50 required for a secondary access. It is a private road, the police cannot police inside the park. There is a safety concern if there is not a locked access.

Council President Kiser said regarding the fencing the property is not abutting residential and higher the fence is, the faster it will come down when the wind blows. Council Member's Garner and O'Meara agreed. Council President Kiser said the connection fees are according to City Code.

Applicant said regarding the color scheme, it was not a condition of approval, but at the Planning and Zoning meeting Design Review Committee said they would not approve it unless they changed the stucco to an olive green, but they kept the trim as brown. This item was a hot topic but is not listed as one of the conditions of the findings of facts. However, the applicant does want to discuss it with Council.

City Administrator, Becky Crofts asked Planning and Zoning Official Bruce Bayne if it is within the scope of Planning and Zoning's authority to change a color? City Attorney, Chris Yorgason said that Design Review can comment on the colors, and colors are certainly part of the design review process.

Planning and Zoning Official, Bruce Bayne said the pro-rata share is handled like the traffic impact fee because they are hooking up to the new 30 inch Hartley Sewer and all projects that come into contact with that sewer will have to pay a pro-rata share.

City Administrator, Becky Crofts asked for clarification from the previous meeting at City Hall. She heard that there would be 51% of the spaces that would be rented month to month to month. So, when she hears month to month, she is considering that to be one month and then the guest can do another month and then another month. Versus one month and then the guest vacates. So, for the record is it month to month to month, month over month? Or is it month and vacate?

Applicant: The contract will be for 30 days, and it could possibly be renewed at the end of 30 days.

Council President Kiser clarified that approximately 50% of the spaces (84) could be renewed at the end of 30 days.

Motion: Motion by Council President Kiser to deny the Appeal with an exception that it goes back to Planning and Zoning regarding the secondary access, the fencing requirements, and to remove anything that doesn't have to do with Design Review: Impact fees, pro-rata shares or traffic improvement monies. Motion seconded by Council Member O'Meara.

Council Member Huggins commented that Design Review has been asked to keep Middleton attractive. And she wants to make sure that the City continue to adhere to the code. Council Member O'Meara asked if it goes back to Design Review and is approved. The applicant can still approach the City for fee reductions or fee waivers? Chris Yorgason said that a reduction of the 4-inch waterline would be a decision by City Council.

Motion Approved unanimously.

3. Consider adopting Ordinance 639 AN ORDINANCE OF THE CITY OF MIDDLETON, CANYON COUNTY, IDAHO, AMENDING TITLE 1, CHAPTER 15 OF THE MIDDLETON CITY CODE UPDATING DESIGN REVIEW STANDARDS AND PROCEDURES; AMENDING TITLE 1, CHAPTER 5 OF THE MIDDLETON CITY CODE, UPDATING CITY COUNCIL MEETING SCHEDULE; AND PROVIDING AN EFFECTIVE DATE

Council President Kiser called the item and read the Ordinance by title only and then explained this is the Ordinance for the changes that Council approved previously, Council now needs to adopt the Ordinance for those changes. Bruce Bayne stated that the item about the color of exposed plumbing on roof of buildings had been removed.

Motion: Motion by Council President Kiser to waive the three-reading rule. Seconded by Council Member Garner. Approved unanimously.

Motion: Motion by Council President Kiser to adopt Ordinance 639 after having read once by tile only. Motion seconded by Council Member Garner and approved unanimously by Roll Call Vote.

4. Public Hearing: Consider adopting Ordinance No. 633: An Ordinance of the City of Middleton, Canyon County, Idaho, amending Title 5 of the Middleton city code updating general provisions, modifying and updating land use, setback table, subdivision of land, road standards and recreational vehicle park requirements, making other minor modifications and providing an effective date.

Council President called the item and opened the public hearing at 7:02 p.m. Planning and Zoning Official Bruce Bayne went through the proposed changes/amendments in Title 5.

Council President Kiser opened the public portion comment at 7:13 p.m.

Paul Okamura: 1882 Horseshoe Canyon Dr.: He objects to item 4, Ordinance 633 because they couldn't get a copy of the changes prior to the meeting. He wants to go on record asking that this code change not be retroactive.

Bruce said this doesn't impact anything in the City currently.

Marty Okamura: 23123 Hartley Lane. He doesn't understand how RV parks are being viewed as residential, but then this new code is putting them in heavy industrial zoning?

Mike Okamura: 23190 Canyon Lane, Caldwell ID: Please keep in mind why people are coming to Middleton. Where does the Council regulation stop?

Stacy Bennett: 9809 Hayden Way: She wants to go on record that the changing of the zoning of the Recreational Vehicles, why are you changing it to M-2 if it is being used at residential with their application. Why isn't it being changed to residential? She thinks it is interesting that the zoning is being changed now and wants to know if it will be retroactive with their application.

Sandy Sinclair: 1871 Ridge Way: She thought changes had been made a year ago and doesn't understand what these new changes will do and what is the purpose of the changes of the M-2 zone.

Planning and Zoning Official Bruce Bayne said this is changing the zone, not the use. The uses are very different from the zone. The reason why the City is proposing these changes is that the City wishes to have the mini warehouse storage and Recreational Vehicles in the M-2 zones. We have several applicants coming in asking for this, and the City believes that is the best area for those applications to be done. We are creating a zoning in order to change the use.

Jan Arrowsmith: 12981 Okie Ridge, Caldwell Id: She objects because this was not released to the public for the public to come comment. It wasn't available for someone to see. She also asked with the traffic studies, who reviews and gets to deny them?

Planning and Zoning Official Bruce Bayne said the traffic studies are reviewed by the Planning and Zoning and by the City Engineer. There is typically a back and forth to with the traffic engineer that prepares it to make sure it meets the requirements. Once the back and forth is done it is approved by the City.

City Administrator Becky Crofts commented on the notice of the paper. These Title 5 codes were noticed in the paper according to state statute 15 days prior to being heard at the Planning and Zoning Commission meeting. Once they were heard at the Planning and Zoning meeting they were noticed for this meeting. Although the Ordinance 633 was not available today, it was still being drafted. The notes and conditions were forwarded to the applicant.

Council President Kiser closed the public comment portion at 7:30 p.m.

He opened the discussion for Council. He is questioning why they are changing the availability in the zoning from C2 or C-3 to M-2. Bruce said the difference between zoning and use. The purpose of this ordinance is to specify the uses that are allowed in the M-2 zone, which is further detailed in the revised Land Use Table 5-2-4-1. Chris Yorgason said in regard to the gravel extraction, a special use permit allows the City to

have a say as to what the site area looks like during and after the gravel extraction. And allows the City to put conditions on the use.

Becky Crofts asked for clarification. When the pro-rata shares and Traffic Impact Studies are paid, it said they were paid at final plat; what if an applicant does not have a final plat? Where are those fees assessed and when are they paid? Bruce said they are paid according to City code and received at final plat or final plat at 1st phase. Becky asked if that was a change that needs to be looked at? Chris said that needs to be looked at in code.

Council Member Huggins said she isn't feeling it is crucial to waive the 3-reading rule. She would like to look at it again. And Council President Kiser said he still doesn't like the mini warehouse storage and RV Park being in the one zone. That can be changed at the next meeting.

Motion: Motion by Council President Kiser to read Ordinance No. 633 by Title only for its first reading. Motion seconded by Council Member Huggins and approved unanimously.

President Kiser read: Ordinance 633: An Ordinance of the City of Middleton, Canyon County, Idaho, amending Title 5 of the Middleton city code updating general provisions, modifying and updating land use, setback table, subdivision of land, road standards and recreational vehicle park requirements, making other minor modifications and providing an effective date

Council President Kiser closed the public hearing at 7:42 p.m.

5. **Public Hearing:** A request by Neva Coburn to annex and zone into Middleton City limits approximately 15.28 acres and rezone from Canyon County Agriculture (AG) to City of Middleton Mixed Use (M-U) along with a Development Agreement, according to Middleton City Code 5-1-5. The property is addressed as 23624 Lansing Lane, Middleton, Idaho and commonly referred to as Canyon County Parcel R3383601.

Council President Kiser called the public hearing open at 7:43 p.m.

Planning and Zoning Official Bruce Bayne read the Administrative Staff Report and the Development agreement.

The applicant was not present and no one from the public chose to testify.

Council President Kiser closed the public hearing at 7:51 p.m.

Motion: Motion by Council President Kiser to approve a request by Neva Coburn to annex and zone into Middleton City limits approximately 15.28 acres and rezone from Canyon County Agriculture (AG) to City of Middleton Mixed Use (M-U) along with a Development Agreement, according to Middleton City Code 5-1-5. The property is addressed as 23624 Lansing Lane, Middleton, Idaho and commonly referred to as Canyon County Parcel R3383601.

Motion seconded by Council Member Huggins and approved unanimously.

Council President Kiser called a recess at 7:53 p.m. He resumed the meeting at 8:06 p.m.

6. Public Hearing: Middleton Rural Fire District

- a. Consider approving adoption of Resolution No. 451-20 : Adoption of the Middleton Rural Fire District Impact Fee Study and Capital Improvement Plan for the purpose of entering into an intergovernmental agreement with the Middleton Rural Fire District for the collection and expending of development impact fees for the Fire District's systems improvements as identified in the Capital Improvements Plan.
- b. Consider adopting Ordinance No. 634: AN ORDINANCE AMENDING THE CITY OF MIDDLETON CITY CODE BY THE ADDITION OF A NEW CHAPTER 18 TO TITLE 1 PROVIDING FOR MIDDLETON RURAL FIRE DISTRICT DEVELOPMENT IMPACT FEES
- c. Consider adopting development impact fees for Middleton Rural Fire District:
New Residential (per unit) \$849/per unit
New Non-Residential (per square foot) \$0.42/per square foot
- d. Consider approving Resolution No. 449-20: Intergovernmental agreement with the Middleton Rural Fire District for the collection and expending of development impact fees for the Fire District's systems improvements as identified in the Capital Improvements Plan.

Council President Kiser called the public hearing for agenda items 6a, and 6c open at 8:06 p.m.

City Attorney Chris Yorgason gave an explanation of the items, and the history of when they were presented to Planning and Zoning and then City Council. At the time the items were brought before Council, they were all lumped sum. City Staff wanted to clean each item up and do a separate Ordinance and Resolution for each item.

Bill Gigray: Attorney for Middleton Fire District 5700 E Franklin Rd, Nampa, ID: Regarding Capital Improvement Plan of the Middleton Rural Fire District. In December of 2019 Ordinance 626 was passed at City Council, but with the transition, the Ordinance was never published. The County has already approved and enacted the impact fees as of June 2020. This capital improvement plan includes all of the area in the Middleton Rural Fire District.

Council President Kiser closed the public hearing portion at 8:16 p.m.

Council Member Huggins asked that all items be adopted and passed at the meeting of the third reading of the Ordinances.

City Attorney Chris Yorgason said the only real difference between these ordinances and the original Ordinance 626 is that the new ones split out each impact fee separately and 626 had all three impact fees lumped together. Bill Gigray said he appreciates the separating of the ordinances. Originally, they were meant to be separate, but somehow got lumped together. It is a cleaner process when they are separate.

Motion: Motion by Council President Kiser to table Resolution 451-20 and the development of the impact fees for the New Residential and New Non-Residential pricing and Resolution No. 449-20: Intergovernmental agreement to the third reading of Ordinance 634. Tonight, is the first reading of Ordinance 634.

President Kiser said they will have the second reading at a special meeting, and the third reading will be on the next scheduled City Council meeting, September 16, 2020.

Motion seconded by Council Member Huggins. Approved unanimously.

Council President Kiser opened the public hearing for 6b: Ordinance 634 open at 8:29 p.m.

City Attorney Chris Yorgason explained this is the Ordinance 634 for the Impact fees for Middleton Rural Fire.

Council President Kiser closed the public hearing at 8:31 p.m.

Motion: Motion by Council President to read Ordinance 634 by title only for it's first reading. Motion seconded by Council Member Garner. Motion approved unanimously.

Council President Kiser read Ordinance 634: AN ORDINANCE AMENDING THE CITY OF MIDDLETON CITY CODE BY THE ADDITION OF A NEW CHAPTER 18 TO TITLE 1 PROVIDING FOR MIDDLETON RURAL FIRE DISTRICT DEVELOPMENT IMPACT FEES by title only.

7. Public Hearing: The City of Caldwell Fire Department & Caldwell Rural Fire District Impact Fee

- a. Consider approving Resolution No. 443-20: Adoption of the City of Caldwell Fire Department & Caldwell Rural Fire District Impact Fee Study and Capital Improvement Plans for the purpose of entering into an intergovernmental agreement with the Caldwell Rural Fire Protection District, City of Caldwell and Canyon County for the collection and expending of development impact fees for the Fire District's systems improvements as identified in the Capital Improvements Plan.
- b. Consider adopting Ordinance No. 635: AN ORDINANCE AMENDING THE CITY OF MIDDLETON CITY CODE BY THE ADDITION OF A NEW CHAPTER 19 TO TITLE 1 PROVIDING FOR CALDWELL RURAL FIRE PROTECTION DISTRICT DEVELOPMENT IMPACT FEES
- c. Consider adopting development impact fees for City of Caldwell Fire Department & Caldwell Rural Fire District:
 - New Residential (per unit) \$665/per unit
 - New Non-Residential (per square foot) \$0.33/per square foot
- d. Consider approving Resolution No.450-20: Intergovernmental Agreement with the Caldwell Rural Fire Protection District, City of Caldwell and Canyon County for the collection and expending of development impact fees for the Fire District's systems improvements as identified in the Capital Improvements Plan.

Council President Kiser called the public hearing open for agenda item 7 at 8:32 p.m.

Bill Gigray: Attorney for Caldwell Rural Fire District: 5700 E Franklin Rd, Nampa, ID: Ordinance 635 is the same as originally proposed that was presented in December 2019. The Capital Improvement Plan is a little different than Middleton Rural Fire District and the because Caldwell Rural Fire Protection District contracts with the City of Caldwell Fire Department to provide the fire protection and life preservation services, and therefore the CIP not only goes through the analysis, but also provides the use of those funds can be used for the acquisition of apparatuses and with the facilities that are the City of Caldwell. That is why the City of Caldwell is involved in the Intergovernmental Agreement as well. This is allowable under the development impact fee law. He explained how the funds will work, between the City of Caldwell Fire and Caldwell Rural Fire.

City Attorney Chris Yorgason said for the record the CIP for this was approved just like the other one and has been recommended by Middleton City Planning and Zoning to be adopted.

Planning and Zoning Official Bruce Bayne stated this is only for the area south of the Boise River, which is the dividing line and the reason the City has 2 fire districts in its jurisdiction.

City Administrator Becky Crofts asked Bill Gigray if this fee/plan has also been adopted by Canyon County?

Bill Gigray confirmed that yes that action to approve all ordinances, intergovernmental agreements and resolutions was taken at the same time in June 2020. This plan as with Middleton Rural has not changed since Council saw it in December 2019.

Council President Kiser closed the public hearing at 8:39 p.m.

Motion: Motion by Council President Kiser to table items 7a,c and d to the third reading of Ordinance No. 635. The third reading will occur September 16, 2020 at the regularly scheduled Council meeting. Motion seconded by Council Member Huggins. Approved Unanimously.

Motion: Motion by Council President Kiser to read Ordinance 635 by title only for its first reading. Motion seconded by Council Member Huggins. Motion approved unanimously.

Council President Kiser read Ordinance 635: AN ORDINANCE AMENDING THE CITY OF MIDDLETON CITY CODE BY THE ADDITION OF A NEW CHAPTER 19 TO TITLE 1 PROVIDING FOR CALDWELL RURAL FIRE PROTECTION DISTRICT DEVELOPMENT IMPACT FEES by title only for its first hearing.

8. Public Hearing Greater Middleton Parks and Recreation District Impact Fee

- a. Consider approving Resolution 444-20 City of Middleton/Canyon County Intergovernmental Agreement with and Joint Powers Agreement for the Development of Joint Plans for Capital Improvements and to Collect and Expend Development Impact Fees for Parks and Recreational Facilities System Improvements.

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- b. Consider approving Resolution No. Adoption of the Middleton Parks and Recreation District Impact Fee Study and Capital Improvement Plan for the purpose of entering into an intergovernmental agreement with Canyon County for the collection and expending of development impact fees for System Improvements are for Parks and Recreational Facilities Capital Facilities within the Greater Middleton Area Recreation District as identified in the Capital Improvements Plan.
 - c. Consider adoption Ordinance No. 636: AN ORDINANCE AMENDING THE CITY OF MIDDLETON CITY CODE BY THE ADDITION OF A NEW CHAPTER 20 TO TITLE 1 PROVIDING FOR GREATER MIDDLETON AREA RECREATION DISTRICT PARKS AND RECREATIONAL FACILITIES DEVELOPMENT IMPACT FEES
 - d. Consider adopting development impact fees for Greater Middleton Parks and Recreation District:

New Residential (per unit) \$478/per unit
 - e. Consider approving Resolution No. 445-20 City of Middleton/Canyon County/Greater Middleton Area Recreation District Interagency Contract for Parks and Recreational Facilities Impact Fees Administrative Services

Council President Kiser called item 8 and asked Council Member O'Meara given his involvement with the Greater Middleton Parks and Recreation District if it is in the best interest for him (O'Meara) to recuse himself from this item? Council Member O'Meara said that he is also in a situation with the Middleton Rural Fire District where is an authority there as a Commissioner. He has stated in the past that he has no financial gain possible from the passing of these fees, they cannot directly impact his position or financing in any way. He doesn't see a problem voting on these items but will take recommendation from Council.

City Attorney, Chris Yorgason said he thinks it is an appropriate conversation to have, but also would like to indicate that in working with Mr. Gigray this week we are not ready for Item 8 tonight. We had everything drafted but have realized that while going through the documents closely there need to be revisions in the Intergovernmental Agreement and Ordinance, in order to clean up the language so it works correctly. The previous ones just adopted are collecting impact fees it is very clear that they get passed through the fire districts. Because Greater Middleton Parks and Rec District is not an authorized district under the state code to collect impact fees, the way this looks is these would actually be city impact fees. The city collects them, they go into a city trust account using the Parks and Rec District capital improvement plan and they would be expended based on that plan, in conversation with the district and how that will work. This is a very unique process, probably the first of its kind in Idaho. We need to make sure everything is correct and so need to table this indefinitely so that we can work on making sure the documents are in order and agreeable to the City, District and County as even the County has questions on how administratively this will work and what the logistics are before it is brought fully before City Council.

Council President Kiser asked Mr. Gigray to comment: Mr. Gigray said he agrees with the comments of the City Attorney. He is not aware of anything they will be discussing

that will affect the capital improvement plan in any way. The questions come with the Intergovernmental Agreement that is between the City and County, that is the authority to do it as it is an interagency service agreement with the Rec district to administer the ordinance and impact fee, and the capital improvement plan drives what the facilities would be that the impact fees will be used for. The City Attorney and Clerk want to have more finality with regards to the payout of the actual expenditure of the impact fees and how that works. Under the development impact fee law, it is driven by (in his opinion) the provisions that outline what the capital improvement plan and the elements it has to have in it which provides that when funds are going to be used for facilities that are not owned by the entity that has ordinance authority (in this case the City and the County) then there has to be an agreement entered into with regards to what those funds are going to be expended for and that agreement has to identify what the proportionality is for each entity that would fund whatever facilities the impact fee could be used for. That agreement/form must be crafted that details what that would look like procedurally. If the District were going to expend the fund that would require a development agreement put into place. When we originally proposed this, these two things were not addressed specifically because Bill wasn't sure exactly what the monies would be used for. He believes conversations need to be had between the auditors of the District, County and City to determine the logistics and ability to administer it. He thinks is legal. But there is not a lot of case law that shows how to put it together.

Motion: Motion by Council President Kiser to table items 8a, b, c, d and e to October 21, 2020. Seconded by Council Member Huggins.

Council Member Huggins said she would like something a little stronger from City staff and the City Attorney than "I think it's legal". City Administrator Becky Crofts said this is much more complex than dealing with the fire districts. The fire district process is very simple, we collect the fee, we keep a running history of the fee, who paid, when and then we send the district a quarterly update, and then write the district a check. The district then appropriates the funds according to their CIP. When we are looking at the GMPRD impact fee it is very different. The agreement is between the City and the County to collect and to create a plan. It becomes a City/County fee. Our ordinance, our fee. It is very different. The collection of that fee is not the problem. It is the administration of that fee along the way. For example, the City would collect the fee, holds the monies in a trust account. When the fee needs to be expended someone from GMPRD would approach the City and say, "please budget for this project for this project". The City would then budget the funds, the funds would be appropriated by Council, they would be spent by the City, tracked by the City and the County. It becomes difficult it is a shared project. The concern for her is that if this truly is a city fee, and it truly is appropriated by Council and it is spent by the City, who owns the asset? We need to work with auditors to understand if it is city budgeted funds and in the ordinance it states that it is city project, even if it is part of a CIP from another district, how does this really work, can it be done, should it be done? The collection is not a problem, it is when the funds get appropriated that it gets tricky.

City Attorney Chris Yorgason added that in state code it says that fire districts and other districts can contract with the city to collect fees. But they did not include park and rec districts for some reason. We use the phrase "we think it is legal" because this really is

unique and is the first time in the state of Idaho that he is aware of that it is being done. We believe we are following all the requirements in state code to set the process up to do it this way. There are a lot of logistical pieces we are trying to get sorted out because it is different than the fire district fees. The County has similar questions, and we have to be on the same page with the County because our agreement is with the County. We need to make sure that all three entities are on the same page as we move forward to minimize confusion as we go down the road.

Council President Kiser called for the motion vote to table the Item 8.

Council Members Kiser, Huggins and Garner-Ayes.

Council Member O'Meara – Nay

Motion passes.

- 9. Consider approving Resolution No. 452-20: A RESOLUTION OF THE MIDDLETON CITY COUNCIL, MIDDLETON, CANYON COUNTY, IDAHO, ADDING FEES, FOR MIDDLETON RURAL FIRE DISTRICT IMPACT FEE, CITY OF CALDWELL FIRE/CALDWELL RURAL FIRE DISTRICT IMPACT FEE, GREATER MIDDLETON PARKS AND RECREATION DISTRICT IMPACT FEE AND PROVIDING AN EFFECTIVE DATE**

Council President called this item

Motion: Motion by Council President Kiser to table Resolution 452-20 to September 16, 2020 meeting. Seconded by Council Member Garner. Approved unanimously.

- 10. Consider approving a State/Local Agreement (Construction) Project No. A020(430) Intersection North Middleton Road & Cornell Street Canyon County Key No. 20430 in an amount not to exceed \$ 34,920.00 and to approve Resolution 448-20 as part of the agreement. – Becky Crofts**

Council President Kiser called this item. City Administrator Becky Crofts said this is the State and Local Agreement that the City is required to sign for the locally funded project. This is the Cities 7.34% contribution to about a \$493,000 project. 93% of this is funded through local funds through Idaho Transportation Department or LTAC. This is the mini roundabout at the intersection of N. Middleton Rd and Cornell. This is a good test to see if this type of roundabout will work well for Middleton. It is funded through grant funds and is a good way to see what residents think about this type of intersection control.

Motion: Motion by Council President Kiser approve a State/Local Agreement (Construction) Project No. A020(430) Intersection North Middleton Road & Cornell Street Canyon County Key No. 20430 in an amount not to exceed \$ 34,920.00 and to approve Resolution 448-20 as part of the agreement. Motion seconded by Council Member Garner and approved unanimously.

11. Consider approving a License Agreement for South Cemetery Road between Canyon County Water Company and City of Middleton for the “Town Ditch aka Canyon Canal”. – Becky Crofts

Council President Kiser called the item. City Administrator Becky Crofts said this is the licensing agreement for different crossings that the City needs to sign this to move forward with the South Cemetery Road project. It has been reviewed by the City Attorney.

Motion: Motion by Council President Kiser to approve a License Agreement for South Cemetery Road between Canyon County Water Company and City of Middleton for the “Town Ditch aka Canyon Canal”. Motion seconded by Council Member Huggins and approved unanimously.

12. Consider approving a quote from Prime Construction & Asphalt for repaving City Hall parking lot in an amount not to exceed \$16,723.50 – Becky Crofts

Council President Kiser called the item. City Administrator Becky Crofts said this is to pave a portion of the parking lot to help with drainage problems and to allow residents to use the new dropbox location. This will come out of a budget surplus in the General Fund. City staff has started to fix the drainage issues by digging it out and fixing the grading. If Council approves, they will pave it, if not, they will lay gravel over the top.

Public Works Superintendent, Bruce Bayne said last year when they were looking at this, the entire project was going to be about \$60,000. This cost is significantly less.

Motion: Motion by Council President to approve a quote from Prime Construction & Asphalt for repaving City Hall parking lot in an amount not to exceed \$16,723.50. Motion seconded by Council Member O'Meara and approved unanimously.

13. Consider appointing ElJay Waite as City of Middleton Impact Fee Appeal Administrator. – Becky Crofts

Council President Kiser called the item. City Administrator Becky Crofts said that for appeals the code requires a hearing body and that City Council appoint a designee to fill that role. She and the Mayor have discussed the desire to have someone who can be neutral. El Jay Waite understands city finances, growth and development. They believe he is a good candidate for this.

Motion: Motion by Council President Kiser to appoint ElJay Waite as City of Middleton Impact Fee Appeal Administrator. Motion seconded by Council Member Garner, approved unanimously.

14. Consider approving Quality Materials Testing, Inc proposal for Gravel Source Investigation for Subbase, Base, Plant-mix and Cover Coat Aggregates, for mineral extraction in River Park in an amount not to exceed \$6,750.00 – Bruce Bayne

Council President Kiser called the item. Public Works Superintendent Bruce Bayne explained that the City has been approved by the State to do the water feature down in River Park, which by producing that water feature we will be extracting minerals out. In order to do the federally funded project of S. Cemetery Rd the source of minerals used have to be certified to meet federal standards. If we can use the gravel from the extraction it will greatly reduce the cost of the road projects the city has planned. We will be testing 20 pits.

Motion: Motion by Council President Kiser to approve Quality Materials Testing, Inc proposal for Gravel Source Investigation for Subbase, Base, Plant-mix and Cover Coat Aggregates, for mineral extraction in River Park in an amount not to exceed \$6,750.00. Motion seconded by Council Member O'Meara and approved unanimously.

15. Consider approving bid from Irvco Asphalt/Gravel for Sawtooth Lake Drive Crossing Project in an amount not to exceed \$775,178.00 – Bruce Bayne

Council President Kiser called the item. Public Works Superintendent Bruce Bayne explained the true number is \$765,863.36. There was a math error from the company that worked in City favor. This for the project at south end of Cemetery Rd to connect Sawtooth Lake Dr and come across the Mill Slough with two concrete box structures that will act as a bridge across that creek for about 150 ft. This will allow us to actually haul across the field over to the site and not have to drive on City streets. The City received 4 bids. Bruce said the City has never done business with this company but Irvco has supplied a full Bid Bond so that if they didn't finish the project, the City would have the funds to do finish the project ourselves.

Motion: Motion by Council President Kiser to approve bid from Irvco Asphalt/Gravel for Sawtooth Lake Drive Crossing Project in an amount not to exceed \$765,863.36. Motion seconded by Council Member O'Meara and approved unanimously.

Council President Kiser said he would open up for public comment before the Council went into executive session.

Public Comments, Mayor Comments, Council Comments:

Jim Taylor: There were 14 people who were in this meeting who claimed to be residents of the city. Most of them do not live in town, they are not citizens in town. There are 168 residential lots going in. He owns part of an RV park and his portion has made him money. The problems you will have on this is the same problems you will have with apartments; they will say they shouldn't have to pay connections and impact fees. Treat this like it is residential, it is not an RV park, it is a trailer park, people will live there all year long. They don't understand what goes into running the City because they don't live in town, and they don't care because they don't live in town. They are farmers trying to be developers. Stick to your guns. It is going to be an expense.

Mike Graeffe: He is a stickler on making exemptions and special use permits. Whatever you do, someone else will have to follow through and deal with your decisions. Idaho RV park said it is not long term residential, he doesn't think that is correct. He didn't have a problem with what was originally proposed. He thinks the Design Review Committee is a little too strict. Stick to

guns on ordinances and special use permits. Nail them down on the actual time they can stay as residences.

Council President Kiser said for the record the special meeting will be held Tuesday, September 8, 2020, to call in at 2:30 p.m. or in person at City Hall to handle the second readings.

**16. Executive Session pursuant to Idaho Code and possible decision(s) to follow:
74-206(1)(c) Land acquisition.**

Motion: Motion by Council President Kiser to move into Executive Session pursuant to Idaho Code and possible decision(s) to follow pursuant to 74-206(1)(c) Land acquisition. Motion seconded by Council Member Garner. Approved unanimously by roll call vote.

Off the record at 9:34 p.m.

Back on the record at 10:02 p.m.

Council President Kiser said the Executive Session was concluded. No decisions were reached at this time.

Adjourn: Council President Kiser adjourned the meeting at 10:03 p.m.

ATTEST:


Jennica Reynolds, Deputy Clerk
Minutes Approved: October 7, 2020



Rob Kiser, City Council President



Ordinance 633-Amending Title 5

September 2, 2020 - City Council Public Hearing

Please check

	Name	Address	Phone or Email	In Favor	Neutral	Opposed	Testify
✓ 1	Paul Okamura	1882 Horseshoe Canyon	208 880-2220			✓	✓
2	Mike Grube	1849 Ridge Way	408-577-6227				
✓ 3	Marty Okamura	23123 Hartley Ln Middleton	208 880-1308			X	X
4	Stacy Bennett	9809 Hayden Way Middleton	208 573-4548			X	X
✓ 5	Mike Okamura	23190 Canyon Lane Caldwell	(208) 880-3540			X	X
✓ 6	Janet Okamura	1882 Horseshoe Canyon, OR	208-880-7497			X	X
✓ 7	Jan Quasmita	12981 Okie Ridge, Caldwell	208-989-2425			X	X
✓ 8	Stacy Bennett	9809 Hayden Way Middleton	208-573-4548			X	X
✓ 9	Jill Blue	23245 Hartley Ln	208-880-6596			X	X
✓ 10	Dan Blue	"	208-899-0360			X	X
✓ 11	Andy Anselius	1871 Ridge Way Middleton	208-585-6919				
12	Jan Quasmita					X	X
13							
14							
15							
16							



Neva Coburn - Annexation

September 2, 2020 - City Council Public Hearing

Please check

	Name	Address	Phone or Email	In Favor	Neutral	Opposed	Testify
1	Loretta C. Pfoest	23816 Lansing Ln.	208.585-6668				
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Middleton Rural Fire District - Items 6

September 2, 2020 - City Council Public Hearing

Please check

	Name	Address	Phone or Email	In Favor	Neutral	Opposed	Testify
1	Wm. F. Gigney Jr	5700 E. Franklin Rd		X			
2	Attorney	Suite 200 Nampa Id					
3	Fire Dist		208-466-9272				
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The City of Caldwell Fire/ Caldwell Rural Fire District - Items 7

September 2, 2020 - City Council Public Hearing

Please check

	Name	Address	Phone or Email	In Favor	Neutral	Opposed	Testify
1	Wm. F. Gregory III	5700 E. Franklin Rd		X			
2	Attorney	Suite 200 Nampa Id 208-3669272					
3	Fire Dist						
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Greater Middleton Rural Parks and Recreation District - Items 8

September 2, 2020 - City Council Public Hearing

Please check

	Name	Address	Phone or Email	In Favor	Neutral	Opposed	Testify
1	Wm. F. Grogan III	5700 E. Franklin Rd		X			
2	Attorney	Suite 200 Nampa Idaho					
3	Recreation Dist.		208-466-9272				
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