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**MIDDLETON CITY COUNCIL  
DECEMBER 16, 2020**

The Middleton City Council meeting on December 16, 2020 was called-to-order at 5:33 p.m. by Mayor Rule.

***The City is following the CDC/COVID-19 Social Distancing guidelines as directed by the Governor. This Meeting was streamed live via Facebook.***

**Roll Call:** Mayor Rule, Council President Kiser, Council Member Huggins and Garner were present. Council Member O'Meara was en-route and arrived at 5:38 p.m.

Pledge of Allegiance, Invocation: Amber Woods

**Action Items**

**A. Approve Amended Agenda**

Mayor Rule explained that there was a change from the original agenda posted and asked for a motion to approve the amended agenda.

Council President Kiser discussed with Public Works Superintendent Bruce Bayne questions regarding the change orders with Irminger Construction in the accounts payable.

**Motion:** Motion by Council President Kiser to approve the Amended Agenda. Motion seconded by Council Member Garner and approved unanimously.

**Information Item**

1. Equivalent Dwelling Unit power requirements to be able to charge electric vehicles. – Bruce Bayne

Planning and Zoning Official Bruce Bayne gave information on City of Boise's recently approved code changes for additional power requirements in equivalent dwelling units for the purpose of charging electric vehicles.

2. Economic and Commercial Growth needs – Tyler Hess

Tyler was not present, so the Mayor reviewed this item. There are some restaurants that would potentially look at coming to Middleton, however because Middleton does not allow serving liquor by the drink some businesses are going elsewhere. Discussion ensued and the council agreed they would like to address this as soon as possible.

**Action Items**

1. **Consent Agenda (items of routine administrative business)**
  - a. **Consider approving minutes for Council's December 2, 2020 regular meeting. Consider ratifying December 4, 2020 payroll in the amount of \$83,762.38 and accounts payable thru December 9, 2020 in the amount of \$445,770.95.**

Mayor Rule called the items. Council President Kiser explained the larger ticket items were payments to Republic Services, and the last payment on the police Tahoe. He also

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discussed the change orders from Irminger and asked that future projects not be under designed at time of bid so that they do require change orders. Mayor Rule said his request is noted and City staff will make a better effort to do so.

**Motion:** Motion by Council President Kiser to approve the consent agenda item a. Seconded by Council Member Garner. Approved unanimously.

## **2. Consider approving Final Plat – West Highlands No. 10 – Bruce Bayne**

Planning and Zoning Official Bruce Bayne said this item needs to be tabled to a date yet to be determined, the developer and city are waiting on information needed from the Bureau of Reclamation. They mentioned they could possibly hold a special council meeting if needed to approve the final plat.

**Motion:** Motion by Council President Kiser to table consider approving Final Plat – West Highlands No. 10 to a future date yet to be determined. Motion seconded by Council Member O'Meara and approved unanimously.

## **3. Consider approving Final Plat – McKinley Meadows No. 2 – Bruce Bayne**

Mayor Rule called the item. Planning and Zoning Official Bruce Bayne explained the final plat and the recommendations from Civil Dynamics Engineer Amy Woodruff. Bruce explained the 2 items that need to be completed before the first Certificate of Occupancy is allowed. Council Member Huggins asked if there is a difference between the March 16<sup>th</sup> date on the recommendation and the first Certificate of Occupancy is issued? Bruce said he doesn't see that coming into play because this is a four-unit complex and will not be able to be built in 3 months. He doesn't think the buildings will be ready for a TCofO before that date. Council Member Huggins confirmed that both items need to be done before a CofO can be issued.

**Motion:** Motion by Council President Kiser to approve Final Plat – McKinley Meadows No. 2 provided they completed with the following conditions set forth by the engineer:

1. Prior to the first Certificate of Occupancy being issued, the developer is to install and demonstrate to the City a fully functional irrigation system. The irrigation system to be installed is to provide irrigation water for the complete McKinley Meadows 2 project and is to be independent of the system installed for McKinley Meadows No. 1.
2. On or before March 16, 2021, a fully executed license agreement shall be provided to City for the installation of a 10 ft public pathway in the Mill Slough easement/right of way.

All of this will be done prior to the first Certificate of Occupancy being issued. Motion was seconded by Council Member Huggins and approved unanimously by Roll Call Vote.

## **4. Consider approving West Highlands revised parks dedication agreement and remove lien. – Chris Yorgason**

Mayor Rule called the item and introduced City Attorney Chris Yorgason who gave a brief explanation of the history of the original agreement of 2011 whereby they would waive West Highlands park impact fees in exchange for West Highlands making available for public use 12.8 acres of park property within their development. All the parks must be at least an acre in size under the existing agreement and they are required to do one major and one minor

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amenity, and as those parks are provided to the city they would be identified and the legal description will be added to the agreement. Several years ago, the City got in a lawsuit with West Highlands over the effectiveness of this agreement which the City won. The court determined that the agreement was valid, and that West Highlands was required to put up 12.8 acres of park ground to be made available for city use and the City won attorney's fees. That judgement was recorded as a lien over all of the West Highlands property. Those fees have been paid. There is no more money owed to the City, and that is the lien this item is referring to. The City was approached by Toll Brothers who now owns West Highlands proposing that the City amend the parks dedication agreement and basically update it. This agreement only applies to the property north of Willis Rd. West Highlands has already provided 5.8 acres of land south of Willis to the City and this agreement contemplates another 7 acres in the north part which gets to the 12.8. They have agreed to 1 major and 3 minor amenities per park as part of this agreement. There were a few suggested changes sent to Toll Brothers attorney and he was in agreement to all but one of the proposed changes, but he had not had a chance to talk to Toll Brothers yet, but he didn't see any issues. From the City side, we can work through that one item pretty easily. The recommendation tonight is to approve the revised agreement. It cleans up what we have been looking for in the past and it provides the plat map that identifies exactly what parks will be available to the City. As part of the approval he recommends that we release the Judgement Lien that continues to sit on the property. The judgement remains valid even if the lien is removed, and they have paid all the fees. In addition, if the lien remains on the property every time a lot, or parcel sells on the property north of Willis the title company shows this lien on the property. Potentially the City is looking at having to do lien releases/partial lien releases on all the lots north of Willis which will be several hundred lots. This is an administrative headache but can also be a deterrent for potential buyers. It is appropriate to approve the agreement subject to final approval from Toll Brothers, and agree to release the Judgement Lien. Borton Lakey (the attorney who handled the Judgement Lien) said they are comfortable releasing the lien with the map Toll Brothers has provided.

**Motion:** Motion by Council President Kiser to approve the West Highlands revised park dedication agreement subject to final approval by Toll Brothers and removal of the Judgement Lien. Motion seconded by Council Member Garner and approved unanimously.

##### **5. Consider approving Blue Meadows Late Comer Agreement. – Chris Yorgason**

Mayor Rule called the item and City Attorney Chris Yorgason explained this is a Late Comer Agreement between the City and Blue Meadows Subdivision. We have been working with the developer of Blue Meadows – Spencer Kofoed who has been very patient. This started being drafted before Mayor Taylor left office. This agreement allows Mr. Kofoed to be reimbursed for money he expended to construct offsite water facilities and oversizing onsite water facilities. The City gets 10% of the fee as an administrative cost and Blue Meadows gets the rest. This agreement is a 10 year agreement with 2, 5-year renewal terms, which is typical of agreements the City has done in the past.

Council President Kiser said we have known this agreement has been coming when Mr. Kofoed put in the water line a while ago.

**Motion:** Motion by Council President Kiser to approve the Blue Meadows Late Comer Agreement. Motion seconded by Council Member O'Meara and approved unanimously.

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**6. Consider declaring property located at 0 Purple Sage Road, Middleton ID 83644, Canyon County parcel number R37581012B0 as surplus property and set a minimum price per acre. – Mayor Rule**

Mayor Rule called the item. He reminded the Council that he was asked to bring some proposals. He was able to get 4 different real estate professionals to give us an Opinion of Market or Market Analysis. The proposals range from \$150,000 to \$200,000. The Mayor suggests that we start at a \$145,000 to 150,000 value hoping to get bidding started. There is a lot of interest in this piece and he believes it will auction well.

Discussion ensued of where the money would be best spent. Council Member Garner liked the idea of starting off with a minimum bid of \$150,000.00. Council Member O'Meara asked that the money be used to develop one of the parks that is underdeveloped. Mayor Rule said he proposed the auctioning off of this surplus property in an effort to try to complete an intersection light at Hartley, that was committed by another administration and not funded particularly well. He is trying to gather up dollars to complete that. His desire to put it to the parks is not as great as Council Member O'Meara's as the Parks Director, He is the Mayor, trying to build lights and traffic intersections. Council Member Huggins said she likes developing/improving the parks, but she is not tied to that plan. Land when donated to the city can be used for various projects including intersection improvements. Wherever the money is spent is should be where it will best benefit city residents.

**Motion:** Motion by Council President Kiser to declare property located at 0 Purple Sage Road, Middleton ID 83644, Canyon County parcel number R37581012B0 as surplus property and set a minimum bid price for the total parcel to start at \$150,000.00.

Council President Kiser said he is in agreeance with the Council, as much as he would like to see the parks built out right away, we have dire needs within our City when it comes to traffic impact and intersections. If this money can move things to happen in a more rapid pace than they have been, he would say we use this money in the greatest concerns he sees are in the mornings and evenings at the intersections in the community. In his opinion intersection improvement gives the greatest impact to Middleton residents going forward.

Mayor Rule said this will go forward for a public hearing where additional public comment will be heard.

Motion seconded by Council Member Garner and approved unanimously.

**7. Consider approving Request for Proposal for a water feature in River Park. – Mayor Rule**

Mayor Rule called the item. This is a follow up from last City Council. He doesn't think it is wise for the City to invest in scales and labor and other things to sell gravel. Instead that we should look at management proposals submitted from companies that do that every day as their profession. The City Engineer Rachel Speer has put this request for proposal together. It is very simple and allows flexibility for these companies to tell the City, "here is what we can do for you". We are going to order a couple borings to find out how deep the gravel is.

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We need to be able to tell the companies what the resource looks like. The ultimate goal is to have a large pond or small lake, a water amenity in our park.

**Motion:** Motion by Council President Kiser approve Request for Proposal for a water feature in River Park. Motion seconded by Council Member O'Meara and approved unanimously.

**8. Consider approving Memorandum of Understanding between City of Middleton and Challenger Development, Inc for bridge extension on Duff Lane over the Middleton Mill Ditch. – Becky Crofts**

Mayor Rule called the item and introduced Planning and Zoning Official Bruce Bayne who explained this has to do with Phase 7 of Falcon Valley Subdivision. Phase 7 fronts onto Duff Road and at the very northern portion of the property there is a bridge that spans the irrigation canal that is run by Middleton Mill ditch. The developer at the request of the City, CHD4 and the Irrigation District has chosen not to build their portion of the bridge, in order to avoid building the structure in phases. In lieu of building their portion of the bridge the City has chosen to receive money from the developer. Their portion is 40% of the whole bridge. In this agreement they are willing to pay the City for that 40%. Because they chose not to build it, as with any bond that the City would take on any infrastructure that is not built, we have upped that percentage so that it is 1.5 times the amount that they are willing to pay. If they were building it today we have an estimate for that number. The further in the future we look at the price is likely to increase, thus the reason for the developers 40% times by 1.5. However, once it is all built if the 40% is more than is needed the City will reimburse them the amount not needed. The other developer coming in on the other side of Duff will contribute to the additional and then the portion that is part of the road will be done by the City or CHD4.

Discussion ensued about how to collect money from the developer prior to the bridge being built as one complete structure and if the 1.5 times of the 40% enough to cover the monies needed in the future. Bruce believes that this agreement puts the City in the best position outside of having a crystal ball to tell the future. Council Member O'Meara agrees that building bridges in sections is not a good way to build a bridge. Council Member Garner suggested the developer build the bridge and then get a latecomer fee in the future. It is less expensive now than it will be in the future to build the bridge. Council President Kiser likes the idea of a latecomer agreement. He doesn't want to collect money and then in the future the City has to come up with additional funds because of construction costs going up. He doesn't want this to be put off 5 or 6 years. He has a hard time with the timeline, and not knowing. He does want the bridge built in the proper way. Bruce said this is the way other projects are also done, for example the traffic improvements on Duff and Highway 44 intersection the developer will pay a prorated share towards the improvement required by the City. ITD has said that today that light will cost 1.8 million dollars to put in today, however when the light is installed in the future the cost most likely will increase, but the developer will not be asked to pay additional money towards it. The City received the money and has it captured.

Council President Kiser would like Bruce to talk to the developer and see if they are willing to build the bridge with the understanding of a latecomer fee being put into place. He would like to see what options the City has and what the timeline of the developer to the east is.

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Also, it would be helpful to get a price estimate from CHD4 that will help to know what the cost of a bridge like this is, and when the maintenance for this bridge is scheduled.

**Motion:** Motion by Council President Kiser to table action item number 8: Considering approving Memorandum of Understanding between City of Middleton and Challenger Development, Inc for bridge extension on Duff Lane over the Middleton Mill Ditch to the next regularly scheduled meeting. Motion seconded by Council Member O'Meara and approved unanimously.

**Public Comments, Mayor Comments, Council Comments:**

Mayor said if the public would like to call in to comment they can. No one called in.

**Staff Comment:**

Bruce Bayne: Phase 2 of the South Cemetery Road has been brought up to subgrade. That project is complete. Lure came in and really did an awesome job. Their bills will be forthcoming.

Mayor Rule: The City authorized Lure to do some extra work not on the road but on the water plant maintenance while their trucks are there to build up the mill slough bank and place some of the ripwrap we have in a giant pile there. If you get down to the end of Sawtooth, walk out there and take a look, it is very impressive. Lure did a great job and Mother Nature cooperated this time of year which is a small miracle in and of itself.

Bruce Bayne: The roundabout was for Cornell and Middleton Rd was bid out. The engineers estimate was \$370 some thousand dollars it came in at just over \$300,000. So that is \$70,000 less than the estimate. That is great news.

The Hartley lane intersection – With these bid prices if the City can do it, Bruce thinks it well behooves us to try and move the traffic light ahead as fast as we possibly can to get a bid out. He talked with the Joel Grounds that does the intersection designs for the City. He said there was a similar intersection that just bid out and came in under \$180,000 under the engineers estimate. If we have an opportunity this spring, it would be a great time for the City.

Becky Crofts said we have 100% design on this so if we want to put it out for bid there is nothing stopping us from doing that right now other than shoring up some funding which we are getting very close.

**Mayor and Council Comments:**

Mayor Rule: Huge pile of topsoil is being leveled out and being distributed, removing some old gravel road at the old Gabica homesite and bringing that topsoil so that perhaps in a future date and time should our subsurface wastewater project work and become approved that that could be turned into wastewater treatment ground as well.

Mayor Rule: Council Member O'Meara had asked for property values on the park in Falcon Valley, he is still working on getting property values.

Council Member O'Meara would like the City to enter into an agreement with the Parks and Rec District to improve that park.

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Mayor Rule: In spare time City employees have been working to remodel the old police station into a state where we can consider using it for council chambers so that the public can again use the Trolley Station as an event center.

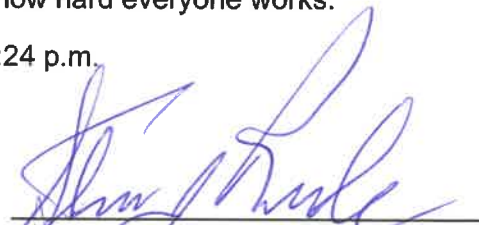
In a meeting last week ITD conveyed to the City (for the first time as far as he knows since he has been mayor for 11 months now) that if the alternative route goes around Middleton, Highway 44 will be blocked off at each end. There will not be access off the expressway or alternative route onto what at that point would be our main street – Old Highway 44. This has caused great concern to the City of Middleton and we are in the middle of trying to work through what is best for Middleton. He personally doesn't think blocking off 44 is good at all. But there will be discussions. ITD says they have been talking about this all along. Bruce has maps that shows that's not what they showed us earlier. That's a problem and we are working on it and see how it plays out.

It is Christmas, the City of Middleton is very appreciative to our community and wishes everyone a very Merry Christmas and can only hope that 2021 is much better in lots of ways. He expressed his appreciation for everyone here and how hard everyone works.

**Adjourn:** Mayor Rule adjourned the meeting at 7:24 p.m.

ATTEST:

  
Jennica Reynolds, Deputy Clerk  
Minutes Approved: January 6, 2021

  
Steven J. Rule, Mayor

