

Attendance: Mayor John Crump; Mayor Pro Tem Darren Hartsell; Councilmembers: Allen Burnette, Mike Tallent and Rich Wise; Town Manager, Doug Paris; Town Clerk, Nancy E. Boyden, *CMC, NCCMC*; Finance Officer, Beverly Love; Town Attorney, Anthony Fox; Planning, Zoning & Subdivision Administrator, Kassie Watts, *AICP, CZO*; Town Engineer, Richard McMillan, *P.E.*; Cabarrus County Captain, Marc Nesbit; Midland Firefighter, Chase Abernathy.  
Also Present: None.  
Absent: None.  
Late: None.  
Guests: Bethel Elementary School Teacher Carrie Whitley and student members of the School Safety Patrol.

All items are for discussion and possible action unless otherwise specified.

*\*SR denotes staff memo/report included*

1. Mayor Crump pronounced the *Invocation*.
2. Open Meeting: Mayor Crump opened the meeting at 6:02pm and called the room to order.
  - a. The Room stood for the *Pledge of Allegiance*.
3. Announcements: Mayor Crump gave the announcements:
  - a. The American Legion BBQ is on Saturday October 14<sup>th</sup>. American Legion Black-Phillips Post 433, 12975 Cabarrus Station Rd. 10:00am until sold out. \$10.00 per plate. Support Your Veterans! Flyers available at the back table.
  - b. *Proclamation #2018-79* October is Breast Cancer Awareness Month.

Mayor Crump proclaimed the following:

***Proclamation  
Office of the Mayor of Midland***

#2018-79

***NATIONAL BREAST CANCER AWARENESS MONTH***

*Whereas, Breast cancer affects so many women and their families, not only in Midland, N.C. but throughout the country. One in eight women are diagnosed with breast cancer during their lifetime, making this disease the most frequently diagnosed cancer among women in the U.S., other than skin cancer; and*

*Whereas, The 2.8 million breast cancer survivors living in the U.S. today are a testament to courage, as well as to the importance of promoting awareness about breast cancer, providing information, funding research, following recommended screening guidelines and offering treatment to those who are affected; and*

*Whereas, There continues to be a need to increase awareness of breast cancer screening and to promote research for the prevention and cure of breast cancer; and*

*Whereas, October is designated as National Breast Cancer Awareness Month and the pink ribbon is the internationally recognized symbol of breast cancer awareness.*

***NOW, THEREFORE,** The Midland Town Council, hereby proclaims the month of October, 2017 as “**NATIONAL BREAST CANCER AWARENESS MONTH**” in the Town of Midland and urges all citizens to wear pink ribbons in recognition of breast cancer awareness in honor of women who have lost their lives including our beloved Mayor Kathy Kitts to breast cancer and of those women who are now bravely fighting the battle.*

*Adopted this 10<sup>th</sup> day of October, 2017.*

4. Approval of Agenda:

**Motion** was made by Councilmember Wise and seconded by Mayor Pro Tem Hartsell to approve the Agenda as presented. **Motion carried 4-0.**

5. Consent Agenda: Minutes: Regular Session 9-12-2017; Attorney Bills

**Motion** was made by Councilmember Wise and seconded by Councilmember Burnette to approve the Consent Agenda as presented. **Motion carried 4-0.**

6. Presentation: Ms. Carrie Whitley of Bethel Elementary School for, “Annual Community Fall Festival” and “Annual Pink Out Day” in Honor of Mayor Kathy Kitts.

Bethel Elementary School teacher, Ms. Carrie Whitley:

- The Bethel Fall Festival was held this past Saturday;
- The Safety Patrol students are in the 4<sup>th</sup> and 5<sup>th</sup> grade. They were very enthused about, “Pink Out Day” held annually at the school.

The students came forward and spoke about the importance of Breast Cancer Awareness Month and thanked Mayor Kathy Kitts for being an inspiration for their school and this year’s event.

- They raised money which was donated to the American Cancer Society;
- Breast cancer awareness is important because it affects so many families;
- Mayor Kitts did a lot of work to help their school and the Town of Midland and this is important;
- Mayor Kitts came out to visit the students on their 1<sup>st</sup> day of school last year.

Every student spoke very highly of Mayor Kathy Kitts in their short speeches.

The children paraded posters they made for, “Pink Out Day” and Breast Cancer Awareness Month.

Council and Mayor Crump shook all the children’s’ hands as they came to the Chamber’s table.

7. Public Comment: No comments forthcoming.

8. Public Safety:

- a. Police Report - Cabarrus County Sheriff for Midland

Captain Nesbit reported the following for the month of September 2017:

725 Self-initiated calls for service- some of which were:

- 2 B/E of vehicles;
- 625 Security checks;
- 1 Suspicious subject;
- 11 Suspicious vehicles;

- 56 Traffic stops.

92 Dispatched calls for service- some of which were:

- 2 B/E of residences;
- 3 B/E of vehicles;
- 9 Disputes;
- 3 Property damage;
- 1 Security check;
- 2 Stolen vehicles;
- 6 Suspicious subjects;
- 4 Suspicious vehicles;
- 8 Traffic accidents- property damage only;
- 2 Traffic accidents- personal injury.

Captain Nesbit referenced an email he sent regarding Neighborhood Watch Programs in the community.

Email hereby referenced:

“I spoke to Sergeant Sara Price about information that was asked about neighborhood watch programs. She stated that typically someone from a neighborhood will contact her and they will work to set up a meeting for the neighborhood. With her participation, the initial meeting is about trying to set the foundation with those in the neighborhood. There are things discussed in that meeting, that those who wished to continue to build the watch program, work on after the meeting, until they designate another time/date for a meeting. When they are prepared for the second (2<sup>nd</sup>) meeting, they contact Sgt. Price again and she meets with them to continue to grow the watch program.

Sgt. Price told me that she has met once with both the Saddlebrook and Tucker Chase neighborhoods, but they have never contacted her about the second (2<sup>nd</sup>) meeting. If you have had someone from these neighborhoods and/or other areas inquire about the program, please have them contact Sgt. Sara Price at (704)920-3166 and she will be glad to help them”.

**END**

Captain Nesbit also reported that he had the officers move the radar trailer as requested.

Mayor Crump said he received a phone call about a car rear ending a tractor trailer yesterday in front of the B&D Mart on NC Hwy. 24-27 E. He asked Captain Nesbit if he had any information on that accident.

Captain Nesbit said he didn't but will find out and email the Council on what he learns.

b. Midland Volunteer Fire Department Report

Fireman Chase Abernathy gave the Fire Department Report for September 2017:

- 1 Structure fire;
- 1 Residential fire alarm;
- 5 Commercial fire alarms;
- 2 Brush fires;
- 1 Vehicle fire;
- 11 Local alarms;
- 7 Motor vehicle accidents;
- 33 Medical calls.

**Total calls for service= 61**

9. Planning: Planning, Zoning & Subdivision Administrator- *K. Watts*

a. Public Hearing for Contiguous Annexation CF Steel/Smiths 261 NC Hwy. 27 W

i. \*SR Presentation by Planner Watts

Ms. Watts presented:

Re: Voluntary Annexation of Contiguous Property of William & Sheila Smith

**BACKGROUND**

On August 7, 2017 the owner of property located at 12336 Old Camden Road, Midland, NC 28107, a portion of Cabarrus County PIN 5524-98-3252 totaling 1.92 acres; submitted a petition for voluntary contiguous annexation into the town limits of the Town of Midland.

**FINDINGS AND CONCLUSIONS**

The standards for annexation require that the property must be contiguous to the “primary corporate limits”. Attachment “B” demonstrates the contiguity requirements are satisfactorily met by this petition to the Town of Midland.

**FISCAL IMPACT**

The property is un-developed. The property will not require solid waste collection and recycling services at this time. The Town will receive additional revenue from Ad Valorem tax assessments.

**RECOMMENDATION FOR ACTION**

There are several steps required to annex this property. The following outline illustrates how this process may be completed in two regular meetings of the Town Council.

The actions taken at the September 12, 2017 meeting included (in order of due process):

- a. Petition for voluntary contiguous annexation (Attachment “A”).
- b. Direct (#2018-183A) for the Town Clerk to investigate the sufficiency of the petition.
- c. Upon receipt of petition certification by Town Clerk, call (#2018-184A) for public hearing at next regular meeting.

The actions that may be taken at the October 10, 2017 meeting include:

- d. Conducting the required Public Hearing for the purpose of receiving input from citizens and/or persons owning an interest in the subject property.
- e. Consideration (adoption or rejection) of an ordinance (#2018-216A) extending the corporate limits to include the subject property.

Should the Midland Town Council vote to approve this annexation request of the properties; staff will be preparing the documents to establish initial Town of Midland zoning on the property. The property lies within the area designated on the Town Plan 2030 Future Land Use Map for “Commercial” uses; is adjacent to an area designated for “Industrial” uses; and is consistent with the principles of the *Town Plan 2030 Land Use & Comprehensive Master Plan*, adopted April 11, 2017. The owner is requesting the subject property be recommended for the “NC 24/27 Commercial” (C 24/27) zoning classification.

***END***

There were no questions from Council.

ii. Open Public Hearing

Mayor Crump opened the public hearing at 6:22pm. No comments were heard so he closed at 6:22pm.

iii. Consider Ordinance #2018-216A

**Motion** was made by Councilmember Wise and seconded by Councilmember Burnette to adopt Ordinance #2018-216A extending the corporate limits to include the 1.92 acres at 12322 Old Camden Rd. also known as 261 NC Hwy. 24/27 W., Midland, NC 28107. **Motion carried 4-0.**

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF MIDLAND AND INCORPORATE BY ANNEXATION A CONTIGUOUS AREA INTO THE TOWN OF MIDLAND, NORTH CAROLINA**

*Ordinance #2018-216(A)*

WHEREAS, a Petition signed by William and Sheila Smith, being the owner of the certain land areas hereinafter described in Exhibit A attached hereto, was received by the Town of Midland on August 7, 2017; and

WHEREAS, the owner Petitioned that said area be annexed into the corporate limits of the Town of Midland, North Carolina, as authorized by Part 1, Article 4A, Chapter 160A of the General Statutes of North Carolina; and

WHEREAS, the Petition was presented to the Town Council during the regular meeting of September 12, 2017; and WHEREAS, on September 12, 2017 the Town Council directed, by Resolution duly adopted, the Town Clerk of the Town of Midland, North Carolina, to investigate the sufficiency of said Petition and to certify the results to the Town Council; and

WHEREAS, at the regular meeting of the Town Council held on September 12, 2017, a Certificate of Sufficiency from the Town Clerk of the Town of Midland was presented to the Town Council wherein the Town Clerk certified that upon due investigation found the above individual who signed the aforementioned Petition constitute the owner of the land within the boundaries described in said Petition and, as hereinafter described, that said boundaries are contiguous to the present Town limit primary boundaries, and are eligible to be annexed pursuant to G.S. 160A-31, et seq. of the General Statutes of North Carolina; and

WHEREAS, following the receipt by the Town Council of the Town of Midland, North Carolina, of a Certificate of Sufficiency from the Town Clerk of the Town of Midland, said information and due consideration thereof by the Council, passed a motion to adopt a Resolution whereby a public hearing upon the question of such annexation was called to be had before the Town Council of the Town of Midland at 6:00 p.m. on the 10th day of October, 2017; and

WHEREAS, the Town Clerk was duly authorized and did so cause notice of such public hearing to be published in the Charlotte Observer, a newspaper having general circulation in the Town of Midland, North Carolina, at least ten (10) days prior to the date of such public hearing, such notice contained Cabarrus County property identification numbers of the areas proposed to be annexed as set forth in the Petition; and

WHEREAS, it appears to the Town Council from the publisher's Affidavit with clipping attached thereto, duly filed with the Town Clerk, that a notice of such public hearing as directed by the Town Council was duly published in the Charlotte Observer in its issue of the 30th day of September, 2017, which date of publication was at least ten (10) days prior to the date set for such public hearing; and

WHEREAS, a public hearing was held by the Town Council of the Town of Midland on the 10th day of October, 2017 at the stated time and place where the petitioner and any other residents of the Town of Midland were given an opportunity to appear and be heard on the question of the sufficiency of the Petition and the desirability of the annexation; and

WHEREAS, the Town Council, after due deliberation and consideration during the regular Town Council meeting held on October 10, 2017, now finds that the Petition meet the requirements of G.S. 160A-31, et seq. of the General Statutes of North Carolina, that the Petition contained the signature of the owner of the real property within the area

proposed for annexation, that the Petition is otherwise valid and that the public health, safety and welfare of the inhabitants of the Town and of the area proposed for annexation will be best served by the annexation.

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED by the Town Council of the Town of Midland, North Carolina, in regular meeting assembled the 10th day of October, 2017, as follows:

SECTION 1: That the area described in the Petition for contiguous annexation be and the same is hereby annexed to and is made a part of the corporate limits of the Town of Midland, North Carolina, the areas being described in Exhibit "A" hereto, and as shown on the map contained in Attachment "B" hereto.

SECTION 2: From and after the effective date of this Ordinance, the territory so annexed and the property therein located shall be subject to all debts, laws, ordinances and regulations in force in the Town of Midland, North Carolina, and shall be entitled to the privileges and benefits available to other parts of the municipality. The newly annexed territory shall be subject to municipal taxes levied as provided in Section 160A-58.10 of the General Statutes of North Carolina.

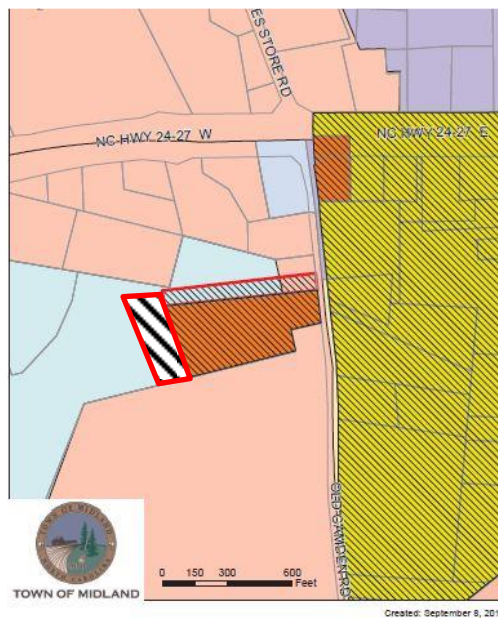
SECTION 3: It shall be the duty of the Mayor of the Town of Midland to cause an accurate map of such annexed territory, together with a copy of this Ordinance duly certified, to be recorded in the office of the Register of Deeds of Cabarrus County, North Carolina, and in the office of the Secretary of State of North Carolina.

SECTION 4: This Ordinance shall become and be effective on, from and after October 10, 2017.

*Adopted this 10<sup>th</sup> day of October, 2017.*

## Attachment "B"

### Smith Annexation - 1.92 Acres



**Motion** was made by Councilmember Burnette and seconded by Councilmember Wise to set a Public Hearing for the zoning designation of subject property on November 14<sup>th</sup>, 2017 at 6:00pm at Midland Town Hall 4293 Hwy. 24/27 E. Midland, NC 28107. **Motion carried 4-0.**

- b. Public Hearing for Non- Contiguous Annexation Brock & Gullede 1351, 1376 and 1426 NC Hwy. 24/27 W
  - i. \*SR Presentation by Planner Watts

Ms. Watts presented:

Re: Voluntary Annexation of Non-Contiguous Property of **Julia A. Brock & Suzanne A. Gullede**

#### **BACKGROUND**

On August 30, 2017 the owner of properties located at 1351, 1376, and 1426 NC Hwy 24-27 West; Midland, NC 28107 (Cabarrus County PIN#'s 5524-34-9781 & 5524-25-8109) submitted a petition for voluntary non-contiguous annexation into the town limits of the Town of Midland. The properties consist of approximately 105+/- acres.

#### **FINDINGS AND CONCLUSIONS**

The statutory standards for annexation require non-contiguous property be closer to the "primary corporate limits" of the annexing municipality and our annexation agreement with the City of Charlotte requires that it lie within Cabarrus County. Attachment "B" demonstrates the requirements are satisfactorily met by this petition to the Town of Midland.

#### **FISCAL IMPACT**

The property is undeveloped. The property will not require solid waste collection and recycling services at this time. The Town will receive additional revenues from Ad Valorem tax assessments.

#### **RECOMMENDATION FOR ACTION**

There are several steps required to annex these properties. The following outline illustrates how this process may be completed in two regular meetings of the Town Council.

The actions taken at the September 12, 2017 meeting included (in order of due process):

- a. Petition for voluntary non-contiguous annexation (Attachment "A")
- b. Direct (#2018-185A) for the Town Clerk to investigate the sufficiency of the petition.
- c. Upon receipt of petition certification by Town Clerk, call (#2018-186A) for public hearing at next regular meeting.

The actions that may be taken at the October 10, 2017 meeting include:

- d. Conducting the required public hearing for the purpose of receiving input from citizens and/or persons owning an interest in the subject properties.
- e. Consideration (adoption or rejection) of an ordinance (#2018-217A) extending the corporate limits to include the subject properties.

Should the Midland Town Council vote to approve this annexation request; staff will be preparing the documents to establish initial Town of Midland zoning on the property. A majority of the property lies within the area designated on the Town Plan 2030 Future Land Use Map for "Industrial" uses and is consistent with the principles of the *Town Plan 2030 Land Use & Comprehensive Master Plan*, adopted April 11, 2017; therefore, it is anticipated the area will be recommended for the "Industrial" (IND) zoning classification.

***END***

There were no questions from Council.

ii. Open Public Hearing

Mayor Crump opened the public hearing at 6:27pm. No comments were heard so he closed at 6:28pm.

iii. Consider Ordinance #2018-217A

**Motion** was made by Councilmember Wise and seconded by Mayor Pro Tem Hartsell to adopt Ordinance #2018-217A extending the corporate limits to include the properties at 1351, 1376 & 1426 NC Hwy. 24/27 West, Midland, NC 28107. **Motion carried 4-0.**

**AN ORDINANCE TO EXTEND THE CORPORATE LIMITS OF THE TOWN OF MIDLAND AND INCORPORATE BY ANNEXATION A NON-CONTIGUOUS AREA INTO THE TOWN OF MIDLAND, NORTH CAROLINA**

*Ordinance #2018-217(A)*

WHEREAS, a Petition signed by Julia A. Brock and Suzanne A. Gullede, being the owners of the certain land areas hereinafter described in Exhibit A attached hereto, was received by the Town of Midland on August 30, 2017; and,

WHEREAS, the owners Petitioned that said area be annexed into the corporate limits of the Town of Midland, North Carolina, as authorized by 160A-58.1, Article 4A, Chapter 160A of the General Statutes of North Carolina; and,

WHEREAS, the Petition was presented to the Town Council during the regular meeting of September 12, 2017; and,

WHEREAS, on September 12, 2017, the Town Council directed, by Resolution duly adopted, the Town Clerk of the Town of Midland, North Carolina, to investigate the sufficiency of said Petition and to certify the results to the Town Council; and,

WHEREAS, at the regular meeting of the Town Council held on September 12, 2017, a Certificate of Sufficiency from the Town Clerk of the Town of Midland was presented to the Town Council wherein the Town Clerk certified that upon due investigation found the above individuals who signed the aforementioned Petition constitute the owners of the land within the boundaries described in said Petition and, as hereinafter described, that said boundaries are not contiguous to the present Town limit primary boundaries, and are eligible to be annexed pursuant to G.S. 160A-58.1, et seq. of the General Statutes of North Carolina; and,

WHEREAS, following the receipt by the Town Council of the Town of Midland, North Carolina, of a Certificate of Sufficiency from the Town Clerk of the Town of Midland, said information and due consideration thereof by the Council, passed a motion to adopt a Resolution whereby a public hearing upon the question of such annexation was called to be had before the Town Council of the Town of Midland at 6:00 p.m. on the 10th day of October, 2017; and,

WHEREAS, the Town Clerk was duly authorized and did so cause notice of such public hearing to be published in the Charlotte Observer, a newspaper having general circulation in the Town of Midland, North Carolina, at least ten (10) days prior to the date of such public hearing, such notice contained Cabarrus County property identification numbers of the areas proposed to be annexed as set forth in the Petitions; and,

WHEREAS, it appears to the Town Council from the publisher's Affidavit with clipping attached thereto, duly filed with the Town Clerk, that a notice of such public hearing as directed by the Town Council was duly published in the Charlotte Observer in its issue of the 30th day of September, 2017, which date of publication was at least ten (10) days prior to the date set for such public hearing; and,

WHEREAS, a public hearing was held by the Town Council of the Town of Midland on the 10th day of October, 2017 at the stated time and place where the petitioners and any other residents of the Town of Midland were given an



Minutes Tuesday, October 10<sup>th</sup>, 2017  
Regular Meeting of Town Council  
6:00pm, 4293-B Hwy. 24/27 E. Midland, NC 28107

opportunity to appear and be heard on the question of the sufficiency of the Petition and the desirability of the annexation; and,

WHEREAS, the Town Council, after due deliberation and consideration during the regular Town Council meeting held on October 10, 2017, now finds that the Petition meets the requirements of G.S. 160A-58.1, et seq. of the General Statutes of North Carolina, that the Petition contained the signatures of the owners of the real property within the area proposed for annexation, that the Petitions are otherwise valid and that the public health, safety and welfare of the inhabitants of the Town and of the area proposed for annexation will be best served by the annexation.

NOW, THEREFORE, BE IT AND IT IS HEREBY ORDAINED by the Town Council of the Town of Midland, North Carolina, in regular meeting assembled the 10th day of October, 2017, as follows:

SECTION 1: That the area described in the Petition for contiguous annexation be and the same is hereby annexed to and is made a part of the corporate limits of the Town of Midland, North Carolina, the areas being described in Exhibit "A" hereto, and as shown on the map contained in Attachment "B" hereto.

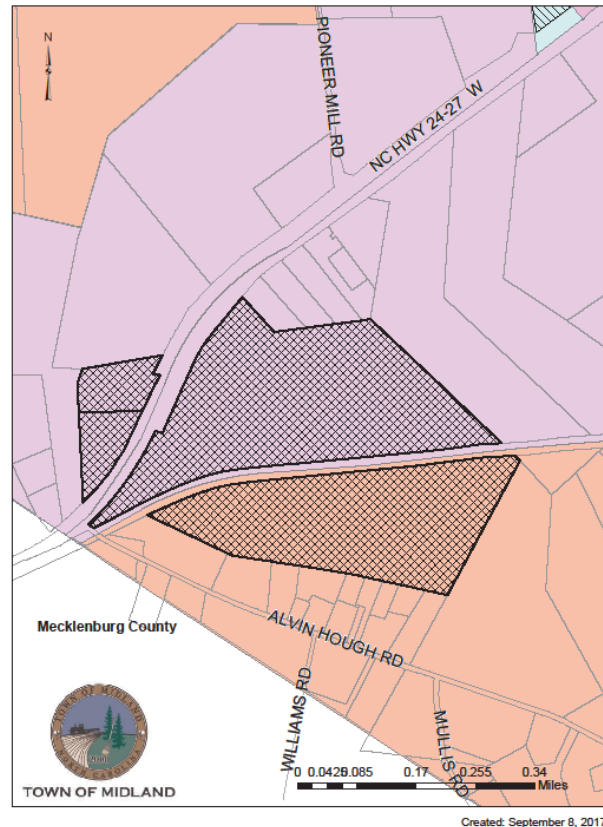
SECTION 2: From and after the effective date of this Ordinance, the territory so annexed and the property therein located shall be subject to all debts, laws, ordinances and regulations in force in the Town of Midland, North Carolina, and shall be entitled to the privileges and benefits available to other parts of the municipality. The newly annexed territory shall be subject to municipal taxes levied as provided in Section 160A-58.10 of the General Statutes of North Carolina.

SECTION 3: It shall be the duty of the Mayor of the Town of Midland to cause an accurate map of such annexed territory, together with a copy of this Ordinance duly certified, to be recorded in the office of the Register of Deeds of Cabarrus County, North Carolina, and in the office of the Secretary of State of North Carolina.

SECTION 4: This Ordinance shall become and be effective on, from and after October 10, 2017.

*Adopted this 10th day of October, 2017.*

**Attachment "B"**  
**Brock/Gulledge Annexation - 105 Acres**



**Motion** was made by Councilmember Burnette and seconded by Councilmember Wise to set a Public Hearing for the zoning designation of subject property on November 14<sup>th</sup>, 2017 at 6:00pm at Midland Town Hall 4293 Hwy. 24/27 E. Midland, NC 28107. **Motion carried 4-0.**

c. \*SR Adoption of P&Z Rules of Procedure- Policy #2018-32PZ

Ms. Watts said that Attorney Fox made a few corrections to the document. Those corrections are in the following P&Z Rules of Procedure.

Ms. Watts presented:

Staff has been directed to draft Rules of Procedure for the Planning and Zoning Commission. The Commission currently has no such document in place. The attached language was reviewed and discussed in detail at the Planning and Zoning Commission regular meeting on September 26, 2017. The P&Z Commission recommended approval of the Rules of Procedure. The revised document is attached for your consideration.

#### BACKGROUND

Members of the Planning and Zoning Commission also double as the members of the Board of Adjustment. While they are the same body of individuals, the rules governing these two Boards are significantly different because of the various functions (legislative vs. quasi-judicial) assigned to each.

The Board of Adjustment has an adopted set of Rules of Procedure; however those procedures are specific to quasi-judicial actions. The NC State Legislature has outlined specific processes for all Board of Adjustment hearings. For example, a Variance heard by the Board of Adjustment must have a 4/5ths vote of the members in order to grant

approval of a variance. Whereas, the Planning and Zoning Commission is not held to that voting standard because it is an advisory commission only requiring a simple-majority vote to make a positive recommendation to Town Council; not the final decision making authority.

The Midland Development Ordinance has language allowing for the Town Council to appoint two (2) Alternates to the Board of Adjustment, but it does not have that language included for the Planning and Zoning Commission. There has been a question as to whether or not the Planning and Zoning Commission needs Alternates in case of absences or recusals in order to have enough members to constitute a quorum for voting purposes, however, due to the need for only a simple majority vote, it is unlikely that we will have a need for Alternates on the Planning and Zoning Commission like we do for the Board of Adjustment. With that being said, in the interest of consistency and “worst case scenario”, as well as the fact that these two Boards are comprised of the same group of individuals, it is reasonable to have the Alternate positions as an option for both Boards, as opposed to only the Board of Adjustment.

This item will address two issues:

1. The need/adoption of Rules of Procedure for the Planning and Zoning Commission
2. The addition of language to the MDO to allow for Alternate positions on the Planning and Zoning Commission.

Should the Town Council vote to approve the Rules of Procedure as written, staff will bring forth a zoning text amendment to revise the MDO to add two (2) alternate positions to the Planning and Zoning Commission. The Town of Midland will begin to scout out qualified town citizens to fill those two (2) alternate positions.

#### RECOMMENDATION

Being that the language in these documents, the Rules of Procedure and the Midland Development Ordinance, need to be consistent, Staff recommends adopting the Rules of Procedure for the Planning and Zoning Commission.

***END***

Mayor Crump asked if the Alternates have the responsibility to attend all meetings.

Attorney Fox replied that there is an attendance requirement and all board members have to attend.

Changes to the document also include that members may be removed by the Council and the Clerk is not a member of the Board.

Ms. Watts said there will be the zoning text amendment to the MDO for the Rules for the next meeting.

Manager Paris said the town will solicit for new members and those who apply will be calendared into the meeting in November.

**Motion** was made by Councilmember Wise and seconded by Mayor Pro Tem Hartsell to adopt ***Policy #2018-32PZ***, Planning and Zoning Commission Rules of Procedure as amended by Town Attorney Fox. **Motion carried 4-0.**

Town of Midland Planning and Zoning Commission  
Rules of Procedure

***(Policy #2018-32PZ)***

**PURPOSE:** The Town of Midland Planning and Zoning Commission, an advisory Commission, was created pursuant to the authority of Chapter 160A-361 of the North Carolina General Statutes. The purpose of the Commission shall be to guide and promote the efficient, coordinated development of the Town of Midland in a manner which will best promote the health, safety, and general welfare of its people; preserve and protect the Town of Midland and its natural resources; and to address the goals and recommendations of the Town Plan 2030 - Land Use and Comprehensive Master Plan. The Commission provides recommendations to the Midland Town Council that considerably affect the value of properties and the rights of individual citizens within the corporate limits of the Town of Midland. This

Commission is charged by the governing Town Council with adopting and consistently observing appropriate rules of procedure for ethical conduct of the proceedings brought before them for consideration.

Administrative Rule: This Administrative Rule shall be policy upon approval by the Town Council. The Planning and Zoning Commission Rules of Procedure pertains to and shall be adhered by Town Council, Midland citizens and developers, the Planning, Zoning, and Subdivision Administrator, Planning and Zoning Commission members and all individuals involved with Planning and Zoning Commission hearings in the Town of Midland. The Rules shall be distributed to and signed by the Planning and Zoning Commission membership and staff with the original signed copy kept on file for each. The Planning and Zoning Commission is a volunteer Commission. Members shall receive no monetary compensation other than what is stated in Policy #2004-09 TRAVEL, TRAINING BUSINESS EXPENSES.

This policy shall remain in effect until such time that it is altered, modified, or rescinded by the Midland Town Council.

Scope/Coverage:

#### ARTICLE I COMMISSION STRUCTURE APPOINTMENTS

A. Members Appointed. Applications shall be submitted in writing to the Town Clerk on forms furnished by the Town. The Commission, by appointment, is composed in this manner:

a. Town Limits Representatives - seven (7) regular members, all of whom reside within the corporate limits of the Town, shall be appointed by the Town Council.

B. Term. The initial term of membership of the Planning and Zoning Commission members shall be for three (3) years, provided that upon initial appointment the terms of the office may be staggered. The terms of all Commission members shall not expire at the same time. All subsequent appointments to the Commission shall serve a term of three (3) years. No such member shall serve more than five (5) consecutive full terms. Members who have served (5) consecutive terms may be appointed to another term on the Planning and Zoning Commission after a one term (3 year) hiatus from the Commission

C. Rights and Privileges. The "sitting" regular Commission shall consist of seven (7) persons. All sitting members of the Commission shall have voting powers on all matters of business by the Planning and Zoning Commission.

D. Alternates. The Town Council may, in its discretion, appoint two (2) alternate members to serve on the Planning and Zoning Commission in the absence or temporary disqualification of any regular member or to fill a vacancy pending appointment of a member. Alternate members shall be appointed for the same term, at the same time, and in the same manner as regular members. Each alternate member, while attending any regular or special meeting of the Commission and serving on behalf of any regular member, shall have and may exercise all the powers and duties of a regular member. The alternate is to be seated by rotating between the Alternate 1 and Alternate 2.

#### OFFICERS

A. Election. A Chair and Vice-Chair shall be elected by the Planning and Zoning Commission. The Planning Clerk, or his/her designee, shall serve as Clerk to the Commission. The Chair and Vice-Chair shall serve two year terms and may be elected to successive terms by their respective appointive bodies. In filling vacancies for unexpired terms, an officer who has served more than half of a term is considered to have served a full term in that office.

#### DUTIES

A. Chair. The Chair shall preside at all meetings, and shall serve as a voting member of the Commission. The Chair shall decide on all points of order and procedure, subject to these rules, unless directed

otherwise by a majority of the Commission in session at the time. The Chair shall appoint any committees found necessary to investigate any matters before the Commission.

- B. Vice-Chair. The Vice-Chair shall serve as Acting Chair in the Chair's absence and at such times shall have the same powers and duties as the Chair. The Vice-Chair shall serve as a voting member of the Commission. In the event the office of the Chair becomes vacant, the Vice-Chair shall succeed to this office for the unexpired term, and the Commission shall elect a successor to the office of the Vice-Chair for the unexpired term.
- C. Clerk. A Clerk shall be assigned and shall serve the Commission. The Clerk, subject to direction of the Chair and the Commission, shall keep all records; shall conduct correspondence of the Commission; shall arrange for all public notices to be given; shall notify members of pending meetings, regular and special, and their agenda; shall notify parties to cases before the Commission of its decision on such cases; and shall generally supervise the clerical work of the Commission. The Clerk shall keep a printed copy of the official minutes of every Commission meeting in a permanent volume. The minutes shall show the record of discussion pertaining to each meeting and hearing, every resolution acted on by the Commission, and all votes of members of the Commission on any recommendation, resolution or on the final determination of any question, indicating the names of members who are absent or fail to vote. In the case of non-unanimous Commission decisions, the vote of each member shall be recorded in the official minutes in a manner that clearly identifies the name of member casting the affirmative and the dissenting votes on each motion.

## ARTICLE II CODE OF CONDUCT

- A. Parliamentary Procedure. Meetings shall be conducted in accordance with generally accepted principles of parliamentary procedure unless stated otherwise within these Rules of Procedure.
- B. Attendance. Faithful attendance at all Commission meetings and conscientious performance of the duties required of Commission members shall be considered to be a prerequisite. Any member who misses three or more consecutive meetings of the Commission may be removed from the Commission by the Town Council. No Commission member shall vote on any matter that decides an application unless he has attended the public hearing on that application.
- C. Removal from the Commission. Members of the Planning and Zoning Commission may only be removed from the Commission for cause, including but not limited to violations of the rules stated in these Rules of Procedure. The Town Council shall be authorize to remove, as appropriate, and shall appoint a replacement for members removed for cause.
- D. Conflict of Interest. Each member shall abstain from taking part in the hearing, consideration or determination of any case in which the member has a personal or financial interest, as defined by NCGSS 160A-388) and Section 4.3-5(B) of the Midland Development Ordinance. Abstaining members shall disclose the general nature of the conflict interest. If the majority of the sitting Commission determines the conflict prevents the member from participation in discussion and in voting on a matter before them, the abstainer shall not participate in deliberations or voting on the issue.
- E. Failure to vote. All Commission members seated to hear a case shall be required to cast a vote either in the affirmative or in dissent of each and every motion within the proceeding. If a member abstains from voting, his abstention shall count as a positive vote in favor of the presented motion. Repeated abstentions shall be cause for dismissal from the Commission.
- F. Opinions of Individual Commission Members. Members of the Commission shall not express individual opinions on any case before that case is heard and determined by the Commission. Violation of this rule may be cause for dismissal from the Commission.

### ARTICLE III MEETINGS

The North Carolina Open Meetings Law (NCGS§ 143-318.9 through NCGS§ 143-318.18) extends to all public bodies including the Planning and Zoning Commission. All official meetings of a public body shall be open to members of the public. Such meetings occur whenever a majority of the members of a public body gather to take action, to hold a hearing, to deliberate, or to otherwise transact the official business of the body, including informal gatherings, so long as the statutory requisites are met.

- A. Regular Meetings. Regular meetings of the Commission shall be held on the fourth Tuesday beginning at 7:00 PM at the Midland Town Hall. If there are no applications for zoning map amendments or zoning text amendments, or other business of the Commission, or if so many regular and alternate members notify the Clerk that they cannot attend that a quorum will not be available, the Chair may dispense with a regular meeting by instructing the Clerk to give written or verbal notice to all members not less than twenty-four (24) hours prior to the regularly scheduled monthly meeting.
- B. Special Meetings. The Chair may call special meetings of the Commission at any time. At a minimum, forty-eight (48) hours' written notice of the time, location and purpose of special meetings shall be given by the Planning Clerk to each member of the Commission and a notice shall be issued to the Commission and to the media. A copy of the meeting notice shall be posted on the principal bulletin board of the Town Hall, or posted on the meeting room door. Notice shall be mailed to any person who has made a written request for notice of special meetings.
- C. Recessed Meetings. In any properly noticed meeting or regular meeting, the Commission may recess that meeting to a specific time, date, and place. If the motion calling for the recess is made in open session, or if the details of the recessed meeting are announced in open session, no further notice of the recessed meeting is required.
- D. Quorum. A quorum shall consist of four (4) members of the Commission.
- E. Voting. All regular members may vote on any issue unless they have disqualified themselves for one or more of the reasons stated in Article II.
- F. Conduct of Meetings. All meetings shall be open to the public. The order of business at regular meetings shall be as follows, unless the Chair chooses to modify the order of business of the meeting if necessary:
  - a. Roll call and recognition of a quorum
  - b. Approval of minutes of the previous meeting
  - c. Staff Presentation of applications being considered
  - d. Consideration and discussion
  - e. Determination and Recommendation on cases heard
  - f. Unfinished business
  - g. New Business
  - h. Administrator's Report
  - i. Adjournment

### ARTICLE IV REVIEW AND RECOMMENDATIONS

- A. Review.
  - a. Time and Notice. After an application is received, the Clerk shall schedule the request for review by the Planning and Zoning Commission, which shall be at a regular or special meeting at least thirty (30) days later from the filing of such notice of application. The Clerk is responsible for giving public notice as required by

Article 5 of the Midland Development Ordinance. Such notice shall provide a brief description of the requested amendment; the time, date, and place at which the request will be considered; and contact information for staff receiving comments concerning the request.

- b. Recommendations.
- i. Time. Recommendations by the Commission shall be made not later than thirty (30) days of first considering the request. Ordinarily, a decision can be rendered at the meeting at which the case is heard by the Commission. If the Midland Planning and Zoning Commission has made neither a positive or negative recommendation on a proposed amendment within 30 days of first considering it, the proposed amendment shall be forwarded to the Town Council for consideration.
  - ii. Notice and Public Record of Recommendations. A copy of each recommendation rendered by the Commission shall be filed in the Town Clerk's office as specified in the Midland Development Ordinance. The recommendation shall be a public record, available for inspection at all reasonable times.

#### ARTICLE V AMENDMENTS

These Rules of Procedure may, within limits allowed by law, be amended at any time by an affirmative vote of a simple majority of the Planning and Zoning Commission, provided that such amendment be presented in writing at a regular or special meeting before the meeting at which the vote is taken.

This Policy shall become effective on October 10, 2017 and may be amended from time to time. All appointments to the Planning and Zoning Commission by the Town Council shall follow the provisions of this policy.

*Policy adopted this the 10<sup>th</sup> day of October, 2017.*

**END**

d. Planning Projects- *Verbal Update*

Ms. Watts reported the following:

- Fox Creek (formally Brentwood): The final plat was signed today. There are 87 lots on the 1<sup>st</sup> map. They have their curb/guttering in and stone down. They also have secured all the approvals from the state in regards to the issues with the wetlands and drainage;
- Wyndam Forest: 4 foundations have been poured;
- Banks Massey: Paving is complete and the road is in. Mr. Turner has secured his building permit and is working on his foundation;
- Allen Mini Storage: Staff received the final set of site plans last week and will issue their zoning permit so they can get started with the road and building construction;
- CF Steel: Moving along and have their site plan and zoning permit approvals. They have been grading and should begin building their foundation soon.

10. Engineering: *Richard McMillan*

- a. \*SR Update on Bids for Old Camden Estates Paving

Mr. McMillan reported:

**Background:**

In February 2017, staff presented the Pavement Condition Rating (PCR) to the Council. The PCR rated all streets maintained by the Town and recommended paving projects for the next three fiscal years. The recommendation for 2017 resurfacing was to resurface the Old Camden Estates neighborhood, with an average rating of 44.8 (out of 100).

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The streets to be resurfaced include Community, Neighbors, and Settlement Drives. In addition to paving the streets, there will be some minor side-ditch re-grading for adequate drainage, a drainage pipe minor repair, and some base repair. Some minor pothole repairs will also be performed on Whitetail and Pelham Lanes, which are on the next two fiscal year resurfacing lists.

Bid packages for this resurfacing project were sent out on Thursday, September 14, 2017, to five paving companies. Bids were received on Thursday, October 5, 2017, at 4 PM. The Town received two bids. The Engineer's cost opinion for this project was \$87,600.00. The low bid on this project was from Trull Contracting, LLC for \$79,550.00.

The bid package includes a contingency line item (\$2,500) in case something unforeseen is encountered. This amount was assigned by the Town and will only be spent if the Town Engineer authorizes the contractor for additional work. A bid tabulation is attached.

Since the Town has not engaged Trull Contracting in the past, staff requested references. We received multiple references from the contractor and we checked on three - NCDOT, Town of Stallings, and Smith-Rowe (major bridge contractor). All three references stated work performed by Trull Contracting was of very good quality, the contractor was good to work with, and they were responsive. Other individual comments included they were good with residents, work was on schedule, and wished they could do more work with Trull.

**NCGS Bidding Thresholds:**

Under State law (NCGS 143-129 & 143-131) informal bidding is required for construction and repair contracts from \$30,000 to \$500,000. With this project being within the informal range, there is no minimum number of bids required to award.

Five construction companies were contacted by the Town for this resurfacing project - Blythe Construction, JT Russell & Sons, Turner Asphalt, Ferebee Corporation, and Trull Contracting. Based on discussions, there is currently a lot of work on the market at this time and some companies were too busy to submit bids.

**Budget:**

\$83,455.00

**Recommendation:**

Staff recommends the Board to authorize the Town Manager to execute the contract with Trull Contracting, LLC for 2017 Street Resurfacing Old Camden Estates for an amount not to exceed \$79,550.00.

Discussion:

Councilmember Tallent: How much was the Turner Construction bid?

Mr. McMillan: Their bid came in at \$211,450. This bid was nearly 3 times more than my estimate.

Councilmember Tallent: Why was the Turner Construction bid so high?

Mr. McMillan: A lot of times contractors will offer a bid when they really don't want the job. However if they get it they make good money.

I'm happy with the numbers from Trull Contracting and they've gotten great reviews from those I spoke with who have used them.

Before the paving starts we will go over everything with the contractor- what we expect and how we want it done, etc. The bottom line is that we don't pay them until it's done to our satisfaction.

Councilmember Wise: What is the time frame on the completion of the project?



Mr. McMillan: In talking with the owner of the company he expects it to be completed within 2 days. They usually need 45 days to start so this should be completed before the end of December.

**Motion** was made by Councilmember Wise and seconded by Councilmember Tallent to authorize the Town Manager to execute the contract with Trull Contracting, LLC for the 2017 Street Resurfacing of Old Camden Estates for an amount not to exceed \$79,550.00. **Motion carried 4-0.**

Mr. McMillan: Also there is a line item in the bid of a \$25,000 contingency for unforeseen circumstances. This will only be spent if Council authorizes it. It's part of the \$79, 550 bid.

11. Staff Reports:

- a. Finance Report-September, 2017- *Finance Officer Love*

Ms. Love gave the following report on the cash accounts:

				Sep 30, 17
<b>Checking/Savings</b>				
		1000 · CASH ON HAND		200.90
		1004 · GENERAL FUND		1,101,751.89
		1040 · UTILITY CAPITAL RESERVE FUNDS		2,202,040.09
		1050 · POWELL BILL FUNDS		228,476.25
<b>Total Checking/Savings</b>				3,532,469.13

- i. Budget Amendment Ordinance #2018-218 New Audio System for Council Chambers

Ms. Love said this budget amendment is for the audio system that Council approved last month.

**Motion** was made by Mayor Pro Tem Hartsell and seconded by Councilmember Tallent to adopt Budget Amendment Ordinance #2018-218 for a new audio system for the Town Council Chambers. **Motion carried 4-0.**

Town of Midland Ordinance #2018-218 FY 2017-2018				
BE IT ORDAINED by the Governing Board of the Town of Midland, North Carolina, that the following amendment be made to the annual budget ordinance for the fiscal year ending June 30, 2018:				
Section 1. To amend the Midland Budget 2017-2018 to add the purchase of the audio system				
	Current			Amended
Description	Budget	Increase	Decrease	Budget
Technology Expense	20,812.00	\$ 14,855.00		\$ 35,667.00
GF Fund Balance Appropriation	\$ 25,099.00	\$ 12,500.00		\$ 37,599.00
Section 2. Copies of this budget amendment shall be furnished to the Clerk to the Governing Board and to the Finance Officer for their direction.				

b. Manager Comments- *D. Paris*

i. Waste Connections Update

Mr. Paris said this is the follow up from last month regarding Waste Connections.

Last month Councilmember Wise brought up the fact that some businesses were getting more than the customary number of carts. Waste Connections attorneys have reviewed the existing contract and said the language is already in the contract so an amendment wouldn't be needed.

Mr. Paris said if he finds any properties that have more carts than what's allowed he will talk with the business owner and give them through January to set up an account with Waste Connections for the additional carts or sign up for dumpster service at the owners' expense.

Also, Councilmember Tallent brought up the subject of a 2<sup>nd</sup> residential recycling bin. Waste Connections agreed to extend the same price as the town pays to residents. They will deliver the 2<sup>nd</sup> bin at the citizens' request for \$2.61 per month plus a one time delivery fee of \$60.00. They will not contract with the Town for private service.

Mayor Pro Tem Hartsell asked how the citizens will know about the additional service.

Mr. Paris said that the word will get out by normal channels such as social media and Sunshine. People will also know it if they call Town Hall.

12. Executive Session:

- a. [N.C.G.S. 143-318.11(a)(4)] To discuss matters relating to the location or expansion of business in the area served by this body.
- b. [N.C.G.S. 143-318.11(a)(3)] Consult with the Attorney to protect the attorney-client privilege.

**Motion** was made by Councilmember Wise and seconded by Mayor Pro Tem Hartsell to enter [N.C.G.S. 143-318.11(a)(4)] and [N.C.G.S. 143-318.11(a)(3)] inviting Attorney Fox, Manager Paris, Town Clerk Boyden. **Motion carried 4-0.**

**Council entered at 6:55 pm.**

**Motion** was made by Councilmember Wise and seconded by Mayor Pro Tem Hartsell to re-enter Regular Session. **Motion carried 4-0.**

**Council re-entered at 7:37pm.**

**Motion** was made by Mayor Pro Tem Hartsell and seconded by Councilmember Wise to amend the Agenda and place before Adjournment the "First Amendment to the Development Agreement between Gladstone Development, LLC, Aberdeen Carolina & Western Railway and the Town of Midland". **Motion carried 4-0.**

Councilmember Tallent said he thought it would be more prudent to put the "First Amendment to the Development Agreement between Gladstone Development, LLC, Aberdeen Carolina & Western Railway and the Town of Midland" off to next month so it can be known to the public. Adding it onto the end of the meeting does not give the flavor of open communication with the community especially the community in Old Midland that will be directly impacted by any change Council makes tonight.

**Motion** was made by Councilmember Burnette and seconded by Councilmember Wise for Council to accept the "First Amendment to the Development Agreement between Gladstone Development, LLC, Aberdeen Carolina & Western Railway and the Town of Midland" and authorize the Mayor to execute the Agreement. **Motion carried 3-1.**

Councilmember Tallent dissented.

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13. Adjournment:

**Motion** was made by Councilmember Wise and seconded by Mayor Pro Tem Hartsell to adjourn the meeting.  
**Motion carried 4-0.**

**Council adjourned at 7:42 pm.**

Attest/Seal

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Mayor John Crump

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Nancy E. Boyden, CMC, NCCMC Town Clerk