

Attendance: Mayor John Crump; Councilmembers: Allen Burnette, Mike Tallent and Rich Wise; Town Manager, Doug Paris; Attorney, Nick Tosco; Town Clerk, Nancy E. Boyden, *CMC, NCCMC*; Finance Officer, Beverly Love; Planning, Zoning & Subdivision Administrator, Kassie Watts, *AICP, CZO*; Town Engineer, Richard McMillan, *P.E.*; Cabarrus County Captain Marc Nesbit; Deputy Daniel Lambert; Deputy Eugene Roberts; Midland Firefighter, Steve Malone.
Also Present: Cabarrus County Commissioner Lynn Shue.
Absent: Mayor Pro Tem Darren Hartsell
Late: None.
Guests: None.

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

**SR denotes staff memo/report included*

1. **Invocation:** Mayor Crump pronounced the *Invocation*.
2. **Open Meeting:** Mayor Crump opened the meeting at 6:01 pm and called the room to order.
 - a. The Room stood for the *Pledge of Allegiance*.
3. **Announcements:**
 - a. Garbage and Recycling will run on the regular scheduled for Labor Day, September 3rd
 - b. The Midland Town Hall is collecting school supplies through the month of August for Midland children's schools- Bethel Elementary, CC Griffin, and Central Cabarrus High. A list of needed items is located on the back table in Council Chambers. Please be generous. We appreciate your help.

Motion was made by Councilmember Burnette and seconded by Councilmember Tallent to excuse Mayor Pro Tem Hartsell due to his family vacation. **Motion carried 3-0.**

4. **Approval of Agenda:**

Motion was made by Councilmember Wise and seconded by Councilmember Tallent to approve the Agenda as presented. **Motion carried 3-0.**

5. **Consent Agenda:** Minutes: Regular Session 7-10-2018; Attorney Bills

Motion was made by Councilmember Burnette and seconded by Councilmember Wise to approve the Consent Agenda as presented. **Motion carried 3-0.**

6. **Public Comment:**

- a. Richard Bovard: Subject Library Services

Mr. Bovard said he currently serves on the Cabarrus Public Library System Board of Trustees as the Midland area Representative. He's served on the board for nearly 4 years.

He said he came to visit to say, "Thank you" for starting to bring library services to Midland. He acknowledged the President of the, "Friends of the Midland Library", Ms. Margaret Houston and the rest of the members.

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Mr. Bovard thanked the Eagle Scout for constructing the 3, "Take a Book, Leave a Book" kiosks in Midland.

He ended by saying how wonderful the Midland community has been in taking on these initiatives.

b. Citizen Pat Caddell: Subject Town Newsletter.

"Good evening Mr. Mayor and Councilmembers. My name is Pat Caddell, and I live in Bethel Glenn in Midland.

I am here tonight representing a group of concerned citizens who are again asking this council to consider and to establish a town newsletter. We have heard you repeatedly state that people don't participate in town events, some of that is because they do not know about them.

This council is accountable to its citizens, to answer that accountability it has to notify, share information and give the opportunity for the citizens to be a part of the decisions being proposed and/or decided by this council. We believe the best method to accomplish this is by a periodic newsletter. Not a website or the Independent Tribune which few of our citizens receive.

We understand you have established a web page but this is not the answer. As we have repeatedly informed council not all of our citizens have a computer. Also, I personally have been told numerous times the website is not easy to navigate but you have to know that there is a website to use it especially for new residents moving into our town.

Some examples of information that could be in a newsletter, which by the way could be used as an easy reference sheet of information, are:

1. The town CTY. This is something that overall few people know about, especially new residents.
2. Information about our sheriff deputies, hours of coverage, how to contact.
3. Information about our fire department, station locations, how it's manned, that we have water rescue units. Something few citizens know about.
4. Town hall updates and announcements of future events.
5. List of all scheduled meetings, the sunshine information site. If you have a computer you need to know how to sign up for the town sunshine information site.
6. Library information. This is going to be very important once we open our town branch of a library. Also information about our, "free little libraries".
7. Contact information for the town hall, councilmembers and P&Z (how to get ordinance information).

Another very important reason to have a town newsletter is for real estate agents to have access to this kind of information about the town and its services that can be shared with perspective and new home buyers.

Again we are asking that you vote to establish a town newsletter. You have the funds, let's use them to be accountable and to inform our town citizens, who paid for you to have the use of those funds".

7. Public Safety:

a. Police Report - Cabarrus County Sheriff for Midland

Captain Nesbit introduced the 2 newest officers for Midland:

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Deputy Eugene Roberts who is a Midland resident and has been part of the Sheriff's Dept. for 13 years and Deputy Daniel Lambert who has served the Sheriff's Dept. for 10 years.

Captain Nesbit gave the following report for the month of July, 2018:

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

- 1 Larceny;
- 498 Security checks;
- 1 Suspicious subject;
- 9 Suspicious vehicles;
- 97 Traffic stops.

136 Dispatched calls for service- some of which were:

- 2 B/E of residences;
- 7 Larcenies;
- 1 Suspicious subject;
- 11 Suspicious vehicles;
- 9 Vehicle accidents- property damage only;
- 6 Vehicle accidents with personal injury;
- 2 Traffic stops.

b. Midland Volunteer Fire Department Report

Firefighter Steven Malone reported the following for the month of July:

- 5 Structure fires;
- 6 Residential fire alarms;
- 6 Commercial fire alarms;
- 2 Brush fires;
- 1 Vehicle fire;
- 3 Local alarms;
- 8 Motor vehicle accidents;
- 27 Medical calls.

Total calls for service= 58

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

- a. **Public Hearing 1** Voluntary Annexation William and Sheila Smith 12336 Old Camden Rd. Contiguous

i. Staff Report

Ms. Watts:

Re: Voluntary Annexation of contiguous property of William and Sheila Smith

BACKGROUND

On July 3, 2018 the owner of property located at 12336 Old Camden Road; Midland, NC 28107 (Cabarrus County PIN# 5524-98-3165) submitted a petition for voluntary contiguous annexation into the town limits of the Town of Midland. The property consists of approximately 23.51 +/- acres.

On July 10, 2018 the Town Council adopted resolutions (#2019-202(A)), directing the clerk to investigate the sufficiency of the petition, and (#2019-203(A)), calling for a public hearing on the subject of annexation.

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 developed. The property will 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 July 10, 2018 meeting included (in order of due process):

- a. Petition for voluntary contiguous annexation (Attachment “A”)
- b. Direct (#2019-202(A)) for the Town Clerk to investigate the sufficiency of the petition.
- c. Receipt of petition certified by Town Clerk, (#2019-203(A)) call for public hearing at next regular meeting.

The actions that may be taken at the August 14, 2018 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 (#2019-231(A)) extending the corporate limits to include the subject property.

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. 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

Councilmember Tallent asked if this annexation will connect the non-contiguous parts of the town so they become part of the corporate limits.

Manager Paris replied, “Yes”.

- ii. Open Public Hearing

Mayor Crump opened the Public Hearing at 6:17pm. There were no comments so he closed at the same time.

- iii. Consider Annexation **Ordinance 2019-231A**

Motion was made by Councilmember Wise and seconded by Councilmember Tallent to adopt Ordinance #2019-231A. **Motion carried 3-0.**

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 #2019-231(A)

WHEREAS, a Petition signed by William and Sheila Smith, being the owners of the certain land areas hereinafter described in Exhibit A attached hereto, was received by the Town of Midland on July 3, 2018; 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 July 10, 2018; and

WHEREAS, on July 10, 2018 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 July 10, 2018, 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 14th day of August, 2018; 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 3rd day of August, 2018, 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 14th day of August, 2018 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 July 10, 2018, 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

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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 14th day of August, 2018, 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.

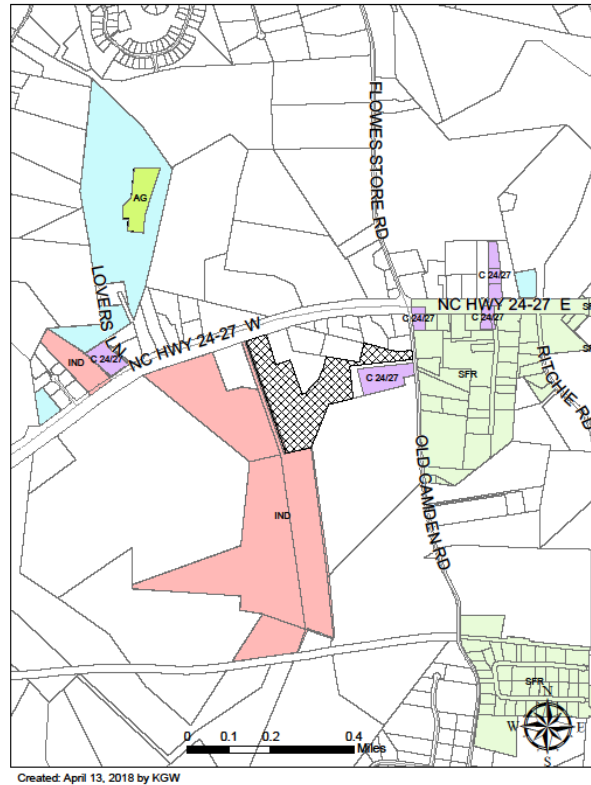
SECTION 2: From and after the effective date of this Ordinance, the territory so annexed and the property therein located shall be subject to all debts, laws, ordinances and regulations in force in the Town of Midland, North Carolina, and shall be entitled to the privileges and benefits available to 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 August 14, 2018.

Adopted this 14th day of August, 2018.

**William & Sheila Smith - +/- 23.51 Acres
Exhibit B (Property Shown as Hashed Area)**



b. **Public Hearing 2** Zoning Text Amendment ZTA 2018-05 Buffers

Ms. Watts said that the Developer Ken Lingerfelt and colleagues, Engineers Carl Burton and Glen Morris are present for the public hearing and will answer questions as needed.

Ms. Watts explained the 3 options as outlined in her staff report in great detail along with the visual plot and site plans.

Re: ZTA-2018-05 - Zoning Text Amendment – SFR Buffer Yard Addition, Article 11, Landscape Requirements and Tree Protection

BACKGROUND

The Town recently adopted a text amendment to incorporate a 50 foot landscape bufferyard between major residential subdivisions and single family residential properties. Town Council voted unanimously on April 10th to pass this amendment. The following schematic of the bufferyard is now incorporated into the MDO and is required when major subdivisions in the SFR zoning district, develop adjacent to other SFR zoned properties, regardless of whether or not they are developed or undeveloped.

Type E Buffer Yard: A high-density screen intended to substantially block visual contact between adjacent uses and create a spatial separation.

50'

Type E Buffer Yard

Within the last month, the Town has received a sketch plan submittal from a developer looking to create a single family residential major subdivision in the Town. In reviewing the new buffer standard recently adopted, the developer is now petitioning the Town to consider the following text amendment for the reasons specified in the attached request submitted by Burton Engineering. (See attached memo)

As we discussed previously, an ordinance is a “living” document that sometimes needs to be modified to make it more user friendly, especially when we see the specific impacts of how amendments transfer to the development of real property in the field. The applicant in this case, Southern Development Associates, is petitioning for the following changes to the ordinance, to allow more flexibility in the administration of the bufferyard requirement.

PROPOSED AMENDMENT

Below are three options submitted by the applicant for the council to consider:

1. Modify/expand the Buffer Table to allow for minimal/no buffer on lots within 20% incremental differential in size.

Developer Response: The example indicated in the minutes of the 4/10/18 Town Council meeting whereby the ordinance was changed, refers to Fox Creek Subdivision and Saddlebrook. The intent, it appears was to protect developments of varying lot sizes from grading immediately adjacent to the property line of neighboring lots.

However, in cases where the adjoining lots are the same size and the home values are similar, the buffer imparts a separation of the communities. We believe that similar neighborhoods would benefit from openness (or a less dense buffer) to foster a sense of community.

Staff response: The applicant is asking for an alternative option to the Type E bufferyard (50 foot) requirement between SFR uses developing adjacent to SFR uses. They are requesting to be allowed to develop a 15 foot berm (minimum of three (3) feet in height and planted with a minimum of ½ the plantings of the Type E buffer) if the proposed lots are adjacent to developed lots that are within 20% incremental difference of the size of the proposed lots. For example: If the proposed SFR lots are 10,000 sq. ft. in size, and the existing adjacent SFR lots are 12,000 sq. ft. in size, then the developer could opt to construct a 15 foot berm, a minimum of three (3) feet in height and planted with a minimum of ½ the plantings of the Type E buffer instead of retaining the Type E buffer that is 50 feet in width.

The Planning and Zoning Commission is recommending approval of this request and Staff recommends approval of this request.

This language would be added under Article 11, Subsection 11.6-1 (A)(4.) Buffer Yard Alternative Standards and Conditions.

2. Modify the Buffer Yard size according to the difference in lot sizes.

Developer Response: The buffer yard for separation of SFR is the most intense buffer within the ordinance. Typically, one might see the separation of Single Family from business and industrial uses to be the more restrictive. The buffer width requirements for SFR could be modified to reflect varying sizes of buffers as the difference in lot sizes change.

Staff response: The ordinance currently allows the minimum buffer width for all bufferyards, except D, to be reduced by 50% with the use of an opaque wall or fence constructed of masonry, stone, or pressure treated lumber. The applicant is requesting that in addition to the option to construct a wall or fence, that there be a third option allowing the construction of a

15 foot berm, minimum of three (3) feet in height and planted with a minimum of ½ the plantings of the required bufferyard, to be allowed. This berm would not reduce the bufferyard width any further than the allowed 50% reduction; the berm would exist within the reduced bufferyard area. For example: If a Type E bufferyard (50 foot) is reduced under this alternative option from 50 feet to 25 feet, the 15 foot berm would exist within the 25 foot bufferyard.

Staff is of the opinion that a berm would be an acceptable method by which to also receive the reduction because it doesn't require the maintenance that fences or walls do and it allows a more natural transition between the projects that does not feel/appear so segregated while achieving the same goal of buffering.

The Planning and Zoning Commission is recommending approval of this request and Staff recommends approval of this request.

This language would be added under Article 11, Subsection 11.6-1 (A)(1.) Buffer Yard Alternative Standards and Conditions.

3. Clarify placement of SFR Buffers to be allowed within the developing lots.

Developer Response: Planning staff has indicated that the intent of the ordinance is to provide the buffer "outside" of the proposed lots. This provides for a "no man's land" whereby maintenance presents a problem. It would require multiple access drives to remove downed trees, provide maintenance, etc. The intent is to provide a buffer and its location should not matter. This presents a burden on new development by taking away developable land. ZTA-2018-02 does not specify the location of the buffer and we seek clarification to allow the buffer to be within the lot(s).

Staff response: The developer is requesting the bufferyard to be allowed to exist within the lot itself, not outside of the lot in Common Open Space. The Ordinance is silent on this interpretation. Upon much discussion with the Planning and Zoning Commission, Staff recommended they did not have to make a motion on this request as Staff was considering the silence of the ordinance to allow staff to interpret it in the favor of the developer. However, after additional consideration, staff is of the opinion the bufferyard should be located outside of the lot due to the project being residential and not commercial. There will be multiple property owners to deal with and the Town does not have the manpower and resources to regulated and enforce compliance of this buffer. From an administrative perspective, enforcement would more difficult, as you will have homeowners who wish you utilize the space in their lot for accessory structures, pools, play equipment, gardens, etc., and by placing the required bufferyard inside the lot, that area will be required to remain undisturbed, with the exception of simple maintenance to remove dead trees or underbrush, therefore they will not be allowed to utilize that particular area of their lot for those uses. The protection of the bufferyard would rely on individual deed restrictions for each property, as opposed to the bufferyard being in a Common Open Space that is maintained by the Home Owner's Association (HOA).

Staff is recommending the Town Council add language to Article 11, subsection 11.6-1 (B) Location of Buffer Yard, to specify that the Type E bufferyard be independent of the developing lot.

END

Discussion:

Councilmember Tallent: What does the 20% incremental differential inside mean?

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***Note: The engineers and developer were speaking from the audience without a microphone at times so some responses were inaudible.**

Councilmember Tallent: Does the 20% go down as the lots get smaller?

Mr. Paris: Imagine 2 subdivisions backing up to each other. If the lots were similar in size they would have this option. If the subdivision lot sizes were 5 acres, then it would not be allowed.

Ms. Watts: Essentially, if those adjacent lots are in that 20% difference of size, then they would be able to utilize this option to reduce the 50' buffer down to a 15' berm. This is what the applicant is asking for.

Mayor Crump: Do any of the lots in Bethel Glen have buffers on them?

Engineer: No sir they do not. There are no others that we can tell.

Councilmember Wise: Saddlebrook subdivision has a buffer between it and Bethel Glen. It used to be a 50' buffer but it went down to 30'. That was forced by the county when Saddlebrook was developed.

Engineer: Our intent is to save any trees in that buffer. It's sparse but there are a few. We're talking about a 15' buffer and also a 15' wide berm that would meander in/out of the buffer where there are no trees.

Councilmember Wise: What kind of plants can go in that buffer?

Ms. Watts: There are 4 shade trees, 9 understory trees, and bushes and shrubs.

Engineer: We are taking the required plantings for 50'- taking half of that and putting in a 15' buffer.

Mr. Paris: Ms. Watts, can you orient the board to where the highway is and where the neighboring neighborhoods are and what sections are 50' verses the concession amount?

Ms. Watts explained via the map where Hwy. 24/27 is and the Bethel Glen subdivision. She pointed to where the Turner Plantation subdivision is and where Muddy Creek Rd. stubs out. She reminded Council that this text amendment is for the entire ordinance so this will affect all subdivisions moving forward.

Ms. Watts: There are 3 parts to their request. The first one is what we are talking about right now (there are only a few lots that would be affected). There are 2 more parts of this amendment yet to talk about.

Councilmember Tallent: Why do the lots in the middle have no buffer at all?

Ms. Watts: Because they have a different type of zoning on the other side of the property. The opposite side is commercial so they don't have to have a buffer.

Ms. Watts: The 2nd part of the request is to modify the bufferyard according to the difference in the lot sizes. The specifics of this is that the ordinance currently allows the minimum buffer width between all bufferyards except for the "D" Bufferyard to be reduced by 50% with the use of an opaque wall constructed of masonry, stone or a pressure treated lumber fence. So while we have the 50' buffer requirement, if you decide to put in an opaque wall the ordinance allows a 50% reduction of the buffer width. This is an option available right now with no amendments

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to the ordinance. So what the applicant is asking for in addition to the allowance of the opaque wall is to allow a 3rd option of a 15' berm constructed at the same height and planted with the same plantings that they are requesting for the 15' along the bottom. With Turner Plantation's larger lots they would be allowed to reduce the 50' buffer to 25' and within that 25' they would be able to have a 15' berm.

Councilmember Burnette: Are you saying that they can already reduce it and put a 25' wall or fence up?

Ms. Watts: "Yes". However there is a lot of maintenance with doing a pressure treated lumber fence. The developer can still opt to do a fence or wall. This would just add a 3rd option in addition to the fence or wall which would be the berm. It would be constructed and planted the same way that they are proposing to do in the 1st portion of the text amendment.

Councilmember Tallent: No it wouldn't be because you're going from 50' to 15' with 50% of the vegetation that's going to be pretty densely packed.

Ms. Watts: The berm would be planted with the same plantings.

Councilmember Tallent: Same plantings but not as many. Correct?

Ms. Watts: It would be the same number of plantings.

Councilmember Tallent: You're going from 50' to 25'.

Engineer: Of the 25' will remain natural.

Councilmember Tallent: So trees are already present. It's very dense in there.

Ms. Watts: We encourage the developer to utilize existing vegetation and trees.

Councilmember Tallent: If there are trees there now, and they put in a berm, how do you put the berm in without tearing down the trees? Will the berm be inside the trees?

Engineer: We are allowed to put that berm in the 25' *[inaudible pointing at projected site plan to explain]*.

Engineer: We are only doing this at locations where the creek squeezes to the property line so much that you can't develop it. This would occur over 5-6 lots on the lower side. We will put the berm close to the trees. We don't put dirt over trees.

Councilmember Tallent: How much room are we talking about between the houses and property line?

Engineer: We've talked to the builder and they're looking at... You can't fit every house on every lot in a subdivision. So we have some of those lots (down here) that will be less than optimal so we would have to put a smaller footprint of a house rather than a larger one.

Councilmember Tallent: Are you talking about 40' being taken up in the back yard?

Engineer: Yes pretty much.

Mayor Crump: Do those lots have established trees?

Engineer: They do.

Engineer: I don't know the full answer other than we had discussed last week at the P&Z meeting about utilizing the berm and additional planting on the lower side. We moved to the discussion here and it was determined by P&Z... and also along the lines of removing the fence and we would just use the buffer in this case as well. This is where we ended up trying to make the best solution out of it. I'm happy to omit that. I would just assume to have 25' of trees but at the same time we are not trying to not abide by the intent of the ordinance. So if we need to put a berm in we will. We believe in your ordinance and what you are doing. We want to meet that spirit but in this case there is simply... because of the stream. The restrictions take out that whole corner of the subdivision. So we are just trying to find a way to make it work. These lots would just have a smaller yard.

Councilmember Wise: My biggest problem about the whole thing is this is only 1 incident. If this is passed now, everybody who comes into our town... I don't know if I'm okay with that.

Ms. Watts: Let me get to the 3rd portion of the request.

3. Clarify placement of SFR Buffers to be allowed within the developing lots.

Developer Response: Planning staff has indicated that the intent of the ordinance is to provide the buffer "outside" of the proposed lots. This provides for a "no man's land" whereby maintenance presents a problem. It would require multiple access drives to remove downed trees, provide maintenance, etc. The intent is to provide a buffer and its location should not matter. This presents a burden on new development by taking away developable land. ZTA-2018-02 does not specify the location of the buffer and we seek clarification to allow the buffer to be within the lot(s).

Staff response: The developer is requesting the bufferyard to be allowed to exist within the lot itself, not outside of the lot in Common Open Space. The Ordinance is silent on this interpretation. Upon much discussion with the Planning and Zoning Commission, Staff recommended they did not have to make a motion on this request as Staff was considering the silence of the ordinance to allow staff to interpret it in the favor of the developer. However, after additional consideration, staff is of the opinion the bufferyard should be located outside of the lot due to the project being residential and not commercial. There will be multiple property owners to deal with and the Town does not have the manpower and resources to regulate and enforce compliance of this buffer. From an administrative perspective, enforcement would more difficult, as you will have homeowners who wish you utilize the space in their lot for accessory structures, pools, play equipment, gardens, etc., and by placing the required bufferyard inside the lot, that area will be required to remain undisturbed, with the exception of simple maintenance to remove dead trees or underbrush, therefore they will not be allowed to utilize that particular area of their lot for those uses. The protection of the bufferyard would rely on individual deed restrictions for each property, as opposed to the bufferyard being in a Common Open Space that is maintained by the Home Owner's Association (HOA).

Staff is recommending the Town Council add language to Article 11, subsection 11.6-1 (B) Location of Buffer Yard, to specify that the Type E bufferyard be independent of the developing lot.

Ms. Watts: When P&Z talked about this I was leaning on the idea that it would not have to be set outside but now I don't feel that way. This is why I've taken the position to be outside the lot and I think the developer and engineers have their argument why it should be in the lot.

Engineer: By virtue of the layout and the physical features of the lot especially with the stream being so close to the property line, it is all we can do to fit these minimum depth lots to this

location. If we were to take 50' in all the way around the buffers we would end up losing 25-30% of the lots in the development by squeezing everything in. You would have single loaded streets with no lots on 1 side and just lots on the creek side. Simply it makes for very inefficient and almost an unfeasible subdivision in that condition. There is an option to reduce the lots down and if we took that out what we feel is it becomes no man's land in that case. The homeowners own it really enforces who can be on that land and who can't. So we feel like it could perhaps be an awkward situation to have no man's land between 2 single family developments that an HOA owns. Who are they going to call to fix that? Many HOA's become defunct. The practicality of that enforcement is not as easy as it sounds. The other part is if the HOA owns it that becomes undevelopable land. So if I'm the developer or the HOA I'm going down to the tax office and tell them that I have land that I can't build on. It has no value whatsoever. So I'm going to ask for a reduction in the value of the land which reduces the tax basis on the property. If it were included in the lots, we're paying tax on it just like on your house lot. The coin flips both ways on that. I think it could be a real benefit for the town. The other thing is regardless there are subdivisions all around that have the buffers in a deed restriction. A deed restriction is a legal document just like if it were an HOA. The HOA can be deemed to be the responsible managing party for an easement overlaid on lots. So there really is no difference whether the HOA owns it or the property owner owns it. If the property owner owns it you get income from it. If the POA owns it- if I was a POA I would try to get my tax basis reduced to zero. They're going to take care of it either way. They're bound to take care of it by the covenants and the restrictions so it seems to be a non-issue really from a legal point of view. I think the real difficulty becomes on Ms. Watts for having to enforce it being the zoning administrator and the assistant fire chief. I see that as the greatest negative but other than that you're getting it taken care of by the HOA. Again it's a matter of a deed restriction as if the HOA owns it themselves.

Councilmember Wise: You're talking about a 50' buffer. You already asked to reduce that in half to a 25' buffer. Also you just brought out that if that doesn't work you're going to ask for a tax reduction. All those houses that are in the gas pipeline and other utilities that is on it. Why can't those people ask for a tax reduction? They can't use that property.

Engineer: Because that's part of their lot. If it's an easement within their lot, it's 1 single lot...

Councilmember Wise: So what is good for the goose is not good for the gander.

Engineer: I think it's exactly the same.

Other Engineer: The power line is in the lot. No tax reduction, no tax reduction. We only ask for a tax reduction if the buffer is outside of the lot. We want to leave the tax like it is and let the home owner pay for that. You're asking for it to be outside of the lot.

Councilmember Wise: I guess I'm misunderstanding because you're telling me that if you have that buffer outside the property you can ask for a tax reduction. So why can't the people who own those houses along the gas pipeline or the electric ask for a tax reduction because they can't use that property?

Engineer: The gas easements, they are exactly that. They are easements and the power company and the gas company do not own those fee simple. What I'm talking about is if the HOA owns that buffer/perimeter; owning it fee simple through an HOA then there is no use for that land. If it's an easement over that lot then you're not losing the value of that lot.

Councilmember Wise: Other question. So the homeowners have to take care of that buffer according to the easement- the HOA. Now the homeowner decides to put a pool in there and takes that buffer down. I understand that they can't but I understand people. They will turn

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around and do that. So then the town turns around and has to go off on them because they moved onto that easement. Is that not right? You can tell me all you want that they won't do that because they have a piece of paper saying they can't but people will do that.

Engineer: If we put an easement and it's on their plat and it's deeded it's as much of a legal right to prevent them from doing that as it is for them to just go build it on that easement whether they own it or not.

Councilmember Wise: If they do, Ms. Watts has to go after them. The town has to file paperwork. It's another burden on the town to take care of that.

Mayor Crump: If they are going to get a pool put in would they not need a permit to do it?

Engineer: Exactly, you would have to have a plot plan.

Mayor Crump: If they were going to do a structure or outbuilding another permit.

Councilmember Wise: They could put in an outbuilding but a lot of people do that without a permit.

Ms. Watts: Those are the 3 things before Council this evening. I've indicated in the staff report what the staff's position is and I'll go ahead and read it again.

Ms. Watts read the 3 requests again.

Attorney Tosco: To add to what Ms. Watts said you would need to adopt the consistency statement in part 2 first prior to adopting the amended ordinance.

Mayor Crump opened the Public Hearing at 6:58pm.

Citizen Bob Caddell: Subject Subdivision Buffer.

I was at the meeting with the planning board. It was a good presentation but there were quite a few things that I noticed after thinking about it that just don't sit well with me. First of all I'd rather see no buffer at all and have a similar neighborhood to what is in Bethel Glen. If we had similar lots then everything ought to work well. We'd have a smooth flow from Bethel Glen all the way down to Hwy. 24/27. When you look at some of these lot sizes they're so small you're not going to be able to have much of a house on it and certainly you will have a problem with parking because the setback is a minimum 30' and it's shown here on the plat plan. But if you have a 30' minimum setback or front yard you're going to have a very shallow back yard especially if you have a berm back there. You're not going to be able to put in a pool; a lot of people are going to have a problem putting in an outbuilding. If you have a garage you could very well have a problem. If you have a minimum front yard the way we have it right now we have a problem with people being able to park 4 vehicles in their driveway. I also think we have a problem with some of the vehicles hanging back over the sidewalk already. If we are going to have a bigger problem than we do now, we don't want that. A few months ago Mr. Tallent brought up an issue with street lights. We don't want street lights. We want the rural setting in Midland. Among other things we would like to have a controlled development in Midland. If we have too much development it's going to be chaos. If we have these lots as they are laid out now; they look nice. They look like they would work well but some of them are so small we're going to have a small house. I believe the statement was made during the planning board presentation that we're going to be in the neighborhood of 2,000 sq. ft. That's good. But I don't think that a compressed neighborhood is going to be ideal for Midland. Since we have the right-of-ways for the power lines and natural gas and we have the flood plain we're going to have a

problem with the development in more ways than just what I've already stated. And by the way if I'm not mistaken, in certain instances we're supposed to have tot lots (a playground area) in new neighborhoods. There is nothing like that here. That's something I would like to see myself.

Thank you.

Citizen Paul Carpenter: Subdivision Buffer

I without a doubt am in favor of keeping the 50' buffer that we have learned is so necessary for this town. We know it was taken away and you knew it was necessary and put it back in place. I think we should keep the buffer. The reason why I think we should keep the buffer, again if you look at our Town Seal we were marketing this area as a country setting. We have a prime location between Monroe, Concord, Albemarle and Charlotte for a bedroom community to develop. We are in the perfect place to do it. I think that by backing off of our buffer requirement of 50' between single family subdivisions that would be detrimental to the progress of this town. Keeping the buffer will improve not impact the quality of life here in Midland. In the long term we'll be making our town a more desirable place to live. Thank you very much.

Citizen Jim Hoy: Subject Subdivision Buffer

I am on the P&Z Board and we did have a meeting and discussed what was being proposed to you tonight. I just wanted to emphasize my support for the stand that Councilman Wise is taking regarding the HOA and the fact of the position of having owners of lots responsible for the care of a buffer or an area that doesn't have any control by an HOA. I really think that you are opening, "Pandora's Box" if you don't have that because you will have people putting sheds or anything they desire in that particular area. So if it's not controlled by an HOA, I think we are going to have a problem in the community. That's my position.

Citizen Pat Caddell: Subject Subdivision Buffer

I need to say that I feel we need to follow the suggestion of our very knowledgeable and capable planning administrator. I think Ms. Watts knows more about this than any member of this council; her recommendation for the protection of the town long term, not rooftops right now. The town can and should not take on the responsibility of a berm or the cost for upkeep. This is the developer's responsibility. I for one would rather see the 50' buffer. I agree with Mr. Wise on that. If he, the developer is unwilling to comply or doesn't see that he can fit this into some kind of compliance to better assist this town then my final statement is, don't buy the land if you can't do without a few houses or put it in a reasonable way.

There were no more comments so Mayor Crump closed at 7:08pm.

Engineer: I very much appreciate the passionate and caring comments of the neighbors. I do want to make just a few clarifications. One regarding the play area/tot lots. We do have a rather large common open space to be dedicated throughout the project some in-between the power lines and some under the power lines. We have opportunities and we intend to do that. We have room between the power lines if you look between the orange and green power line there is a large common open space there. There's another access where people can park and have fields underneath the power lines. No structures but fields. We understand that and intend to utilize that land in that way. It will be on the further developed plans. Right now there is no buffer between those. It's open field in the back. I can say there will be more than what there is right now. I did want to point out also that someone made a comment [*inaudible*], that's intended for commercial development. We don't know exactly what but at this point it would be low key. We would love to have a restaurant and small retail to support some growth

there. It could be another supported residential community. We just don't know. I also want to clarify that the town would not be taking care of the any of these berms. The town would not have any responsibility to care for anything except the public road which will be dedicated ultimately upon completion. All the berms will be taken care of by the HOA or the property owners.

Other Engineer: We are looking at a 55 and older so when you speak of playgrounds that's probably not in the plan but we do have pavilions, a cookout area between the gas line and the power line not under the power line. The homes would be all ranch so that does go back to the small lots. It wouldn't be restricted to the 55 and older but that is our intent. Home designs are still on the drawing table. The receptacles will be a little higher and the doorways will be wider throughout. Hardy plank will be used instead of vinyl. This is not a vinyl village. I want the buffer but when you look at 50' then the next neighbor buys that's 100' through there it starts eating up real estate. We are trying to accommodate what you need and what we need as well. If you look at my developments I've left every tree that I could. Most times put the roads in and let the homeowners take out the trees.

Mayor Crump: Do you have a number of acres that you intend to be retail?

Engineer: The original plan was 10 acres of commercial. We also looked at industrial because Midland needs jobs. While we are waiting on companies to make that decision, we saw the need for residential. *(Continued to go on about restaurants and retail).*

***Note: The engineer continued to answer questions from the audience. Most of which was inaudible due to cross talking.**

Councilmember Wise: First we have to understand and you keep talking about the 50' buffer. Actually you have the option of doing a 25' buffer and a berm or wall. So it's not just the 50' buffer that we are talking about. We have to make a decision on what is good for the town not just this 1 project. This is what I have to base my decision on. I have to base my decision on the whole picture not just this 1 item.

Councilmember Tallent asked the developer and engineer to show him 1 of the side lots in the plot plan. He said he wanted to see the backyard.

The engineer showed him. He also said not everyone wants that big yard.

Continued to use the site plan to point to lot sizes.

Councilmember Burnette said on the development that we're looking at I know we are looking at putting sewer at the top of the hill at Gelding Rd. The sewer runs at Muddy Creek Rd. and down under Hwy. 24/27.

Town Engineer McMillan said this development actually ties into the sewer at Bethel Glen.

Councilmember Burnette also said that as he's been talking to people and they've told him that whatever Council decides they need to look at getting a grocery store in Midland and same with restaurants. People are tired of spending their money in Stanly Co. He said without rooftops, Midland isn't going to get those amenities. There is a problem because of the lack of sewer. This is one of the few properties that can be developed because of sewer availability.

Councilmember Tallent referred to the section where the developer and engineers talked about dealing with taxes if the buffer was owned by the HOA. They would suspect that the HOA would immediately go to the county and tell them there is property that they can't do anything

with and would want a reduction in taxes. There was also a question asked about the future homeowner owning (a 10,000 sq. ft. lot) and if 25' is taken out that's a big part of their backyard that they can't do anything with. They pay taxes on it but they can't do anything with it.

He asked if this was correct and got a nod for a, "Yes".

Councilmember Tallent then asked why the homeowner would be paying property taxes on it and why would the town have to monitor activity on that portion of the land. He said that the area would have to be owned by the developer and later on into an HOA simply because of the ownership of it. When someone buys one of the small lots they are going to know what they're getting. He said that his opinion was that the berm areas would have to be owned by the HOA.

Councilmember Burnette said he had a question on motion #3. If the buffer was inside the property why couldn't the homeowner ask for a tax decrease?

The engineer said that he felt that they were delving into a legal matter. If there is a lot of record, the owner can't claim that part of their lot is unusable. If the whole lot in itself is not usable it's a dead zone and has no use to anybody.

Councilmember Burnette said that he doesn't think it's an issue anyhow. The issue he does see is a small buffer zone and trying to put a 15' berm in it and if it has trees in it why try to put a berm in it. Why can't they request to have a natural area?

Ms. Watts answered that in the 25' option the developer has the option to meander the berm. This lends for a little more flexibility.

The engineer spoke from the audience at this point and it was mostly inaudible.

Motion was made by Councilmember Burnette and seconded by Councilmember Wise that the Town Council finds that text amendments to the Town of Midland Development Ordinance contained herein are consistent with Town Plan 2030 Land Use and Comprehensive Master Plan, Revision 2, adopted October 8, 2013, and subsequently amended March 8, 2016, October 11, 2016, April 11, 2017, and July 10, 2018 as required by NCGS § 160A-383. This amendment is reasonable because the standards established by this amendment are consistent with goals and strategies listed within Section Six of the Town Plan 2030." **Motion carried 3-0.**

Councilmember Tallent said that in the originally adopted amendment there's a minimal or no buffer. He hasn't seen the "no buffer" anywhere else in the discussion.

Ms. Watts answered that it would not be an option.

Motion was made by Councilmember Wise and seconded by Councilmember Tallent to Modify Article 11, Subsection 11.6-1(A) to add #4. "Type E bufferyards (SFR against SFR) within 20% incremental difference in size can utilize as an alternative, a 15 foot wide berm, minimum of 3 feet in height and planted with ½ of the plantings of the Type E buffer." **Motion carried 3-0.**

Motion was made by Councilmember Wise and seconded by Councilmember Tallent to Modify Article 11, Subsection 11.6-1(A) to add additional language to #1. "Type E bufferyards (SFR against SFR) can utilize as an alternative to the opaque wall or fence, a 15 foot wide berm, minimum of 3 feet in height and planted with ½ of the plantings of the Type E buffer. This berm will exist within the reduced bufferyard area." **Motion carried 3-0.**

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Motion was made by Councilmember Wise and seconded by Councilmember Tallent to Modify Article 11, Subsection 11.6-1(B) to add language stating: "Type E bufferyards shall be independent and separate of the developing lot." **Motion carried 2-1.**

Councilmember Burnette dissented.

Motion was made by Councilmember Tallent and seconded by Councilmember Wise to adopt Ordinance ZTA 2018-05 AMENDING THE TOWN OF MIDLAND DEVELOPMENT ORDINANCE TO AMEND ARTICLE 11 ZONING DISTRICTS, SUBSECTION 11.6-1. **Motion carried 3-0.**

AN ORDINANCE AMENDING THE TOWN OF MIDLAND DEVELOPMENT ORDINANCE TO AMEND ARTICLE 11 ZONING DISTRICTS, SUBSECTION 11.6-1

Ordinance Number ZTA-2018-05

WHEREAS, the Midland Town Council has considered the recommendation of both staff and the Midland Planning and Zoning Commission to accept the proposed text amendment to the Midland Development Ordinance to modify provisions of Article 11, Landscape Requirements and Tree Protection, Subsection 11.6-1, related to the Type E bufferyard; and

WHEREAS, when adopting or rejecting any zoning text amendment, the Town Council must adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explain why the Town Council considers the action taken to be reasonable and in the public interest;

THEREFORE, BE IT ORDAINED by the Town Council of the Town of Midland as follows;
PART 1. The provisions of Midland Development Ordinance Article 11, Landscape Requirements and Tree Protection, Subsection 11.6-1, is hereby amended to add the following provisions as indicated by the bold, italicized text below:

Article 11, Subsection 11.6-1(A) to add #4. "Type E bufferyards (SFR against SFR) within 20% incremental difference in size can utilize as an alternative, a 15 foot wide berm, minimum of 3 feet in height and planted with ½ of the plantings of the Type E buffer."

Article 11, Subsection 11.6-1(A) to add additional language to #1. "Type E bufferyards (SFR against SFR) can utilize as an alternative to the opaque wall or fence, a 15 foot wide berm, minimum of 3 feet in height and planted with ½ of the plantings of the Type E buffer. This berm will exist within the reduced bufferyard area."

Article 11, Subsection 11.6-1(B) to add language stating: "Type E bufferyards shall be independent and separate of the developing lot."

PART 2. The Town Council finds that text amendments to the Town of Midland Development Ordinance contained herein are consistent with Town Plan 2030 Land Use and Comprehensive Master Plan, Revision 2, adopted October 8, 2013, and subsequently amended March 8, 2016, October 11, 2016, April 11, 2017, and July 10, 2018 as required by NCGS § 160A-383. This amendment is reasonable because the standards established by this amendment are consistent with goals and strategies listed within Section Six of the Town Plan 2030."

PART 3. **The text amendment to the Town of Midland Development Ordinance shall be effective immediately upon adoption on this the 14th day of August, 2018.**

Mayor Crump called a recess at 7:45pm.

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He called the meeting back to order at 7:52pm.

c. Minimum Housing Standards- Unfit for Human Habitation **Ordinance #2019-232**

Mr. Paris projected pictures of the trailer as Ms. Watts gave her staff report.

Ms. Watts:

Re: Minimum Housing Standards Ordinance – Ordinance to Demolish/Remove Structure

BACKGROUND

A Minimum Housing Standards Ordinance complaint was received on March 12, 2018 regarding the single wide manufactured home located at 13365 US Hwy 601 S, Midland, NC 28107.

The Housing Inspector investigated the complaint per the standards of Ordinance #2010-92 Minimum Housing Standards on March 23, 2018 and found it to be in violation of the Ordinance. The Housing Inspector gave the occupant 3 weeks to make reasonable progress in bringing the property into compliance. The Occupant contacted staff on April 17, 2018 asking for additional time, as no progress had been made. The Housing Inspector issued the official Complaint (Complaint attached) on April 19, 2018, outlining the violations of non-compliance and actions to be taken to bring the property into compliance. A Hearing date of May 8, 2018 was set and the owner and occupant were required to attend.

The May 8, 2018 Hearing was attended by both the owner, Robert McCoy, and the occupant, Max Plowman. It was determined that no progress had been made in regards to bringing the property into compliance. (Hearing Minutes attached)

On May 11, 2018 the Housing Inspector issued an Order (Order attached), stating the dwelling under consideration was unfit for human habitation in accordance with the Minimum Housing Standards Ordinance and pursuant to Section 9(b), they were thereby ordered to remove or demolish the dwelling within 45 days.

The Cabarrus County Tax Assessor has determined the value of the dwelling to be \$1,000 due to its severely unfit and dilapidated state and the fact that it will not pass inspection to have electrical hooked up to it. The MHSO requires the cost to repair, alter or improve the dwelling be made at a cost of less than fifty (50) percent of the value of the dwelling. Due to the above requirement, the dwelling must be demolished and cannot be repaired, altered or improved; as the cost of repairing, altering or improving the dwelling would exceed 50% of the value of the dwelling. (Pictures attached)

The Town has received multiple complaints from both neighboring properties as well as law enforcement regarding activities at the property. The property is currently inhabited by a squatter with pending drug charges and with no legal standing in relation to the property or the dwelling.

To date the dwelling is still located on the property and to staff's knowledge has not been vacated.

FISCAL IMPLICATIONS

The budget includes funds under Code Enforcement to cover the costs of demolition. The Town of Midland will hire a contractor to demolish and remove the dwelling and a lien in the amount

of the contractor's fee for demolition, removal, disposal, and stabilization of the site will be placed against the property owner in the nature of a debt, recorded in the Cabarrus County Register of Deeds and filed with the Cabarrus County Tax Assessor's Office and the Cabarrus County Clerk of Court.

STAFF RECOMMENDATION

Staff recommends adopting Ordinance #2019-232, ordering the demolition and removal of the single wide manufactured home located at 13365 US Hwy 601 S.

Cabarrus County Deputy Sheriff Cody Rominger escorted Ms. Watts to the property several times and made a statement as follows:

Deputy Sheriff Cody Rominger said that he contacted the county communication center and had them pull up the law enforcement history, not including fire and EMS. Since 2009 there were a total of 145 events. Of the 145, 10-15% of the calls resulted in an arrest being made at the address. This breaks down to 16.2 calls per year so that's over 1 law enforcement calls per month. Calls also came in about the occupant stealing power. They've been dropping drop cords to surrounding houses for power. The appropriate people have been charged for stealing power after being given several warnings. This breakdown of calls is to inform Council of what has been going on since only since 2009.

Ms. Watts added that they have also been stealing power from the post office.

Adjacent business owner Todd Street also spoke to the criminal activities ongoing at said residence. He said that he moved his shop to Midland in 2004 and incidences have been going on since he's been there.

Councilmember Burnette asked when the trailer is demolished will all the old junk and cars also be removed.

Ms. Watts said she will have to open a case under the town's junk vehicle abandonment ordinance. This ordinance tonight will take care of the trailer and staff will treat the yard and car problem separately.

Councilmember Wise asked if Council adopts this ordinance will the Sheriffs go to the trailer to remove the person staying there.

Ms. Watts answered that the ordinance outlines the procedure for removal if someone is still occupying the dwelling.

Councilmember Wise asked how long it will take to issue the civil summons to remove the occupant.

Ms. Watts said it would take 30 days via procedure of the Clerk of Court.

Attorney Tosco added that for the record that under the ordinance in section 10B 90 days needs to pass upon issue of the order and it's been 95 days.

Motion was made by Councilmember Tallent and seconded by Councilmember Wise to adopt Ordinance #2019-232, ordering the demolition and removal of the single wide manufactured home located at 13365 US Hwy. 601S. **Motion carried 3-0.**

d. Planning Projects- **Verbal Update**

- All subdivisions are moving along smoothly;

- Issued the final Certificate of Compliance on the CF Steel project;
- Allen Mini Storage working on the construction of the road;
- Still working with Bethel Park. They have not issued an new plans to date;
- Clutter Busters has received their TRC comments and are submitting building permits for the 3 remaining buildings;
- Received a preliminary sketch plan for a trucking co. on US Hwy. 601 before the train bridge;
- Sea Land is developing on the Purser tract of land on NC Hwy. 27 adjacent to Clutter Busters.

Councilmember Wise asked if there were any updates on the Old Bethel School.

Ms. Watts said she issued them a Notice of Non Compliance because the cameras are not up yet.

Attorney Tosco added that the attorney of the owner communicated that the security cameras are installed now. That information came in today.

Councilmember Wise asked Attorney Tosco why they are still in violation on what was agreed on. The punch list was supposed to be completed 15 days after signing the agreement and it's been nearly 2 months.

Attorney Tosco said that when a Notice of Non Compliance is issued there is a period to cure and they are given that period to fix the problems stated in the notice.

9. Staff Reports:

- a. Finance Report July, 2018 – **B. Love**

Ms. Love gave the report for the month of July:

	Jul 31, 18
Checking/Savings	
1000 · CASH ON HAND	235.08
1004 · GENERAL FUND	1,346,603.64
1040 · UTILITY CAPITAL RESERVE FUNDS	2,280,481.36
1050 · POWELL BILL FUNDS	239,393.76
Total Checking/Savings	3,866,713.84

- i. Amend Capital Project **Ordinance #2018-220FI**

Motion was made by Councilmember Wise and seconded by Councilmember Burnette to amend the Capital Project Ordinance #2018-220FI due to increase in property acquisition cost and the addition of a title search. **Motion carried 3-0.**

Town of Midland
 Ordinance #2018-220 FI

Section 1. To amend the Capital Project Ordinance 2018-220 FI due to increase in property acquisition cost and

the addition of a title search

Description	Current Budget	Increase	Decrease	Amended Budget
Engineering - Pump Station	\$ 24,410.00	\$ 1,943.00		\$ 26,353.00
Utility Capital Reserve Fund	\$ 106,360.00	\$ 1,943.00		\$ 108,303.00

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. Midland Scholarship Matching Fund Grant Request

Mr. Paris said during the budget workshop the council voted to allocate \$2,500 in the current fiscal year budget for the non-profit Midland Scholarship Charities as matching funds. The non-profit has raised over \$2,500 and is now requesting the match.

Motion was made by Councilmember Wise and seconded by Councilmember Burnette to disburse the scholarship match in the amount of \$2,500. **Motion carried 3-0.**

ii. FY18-19 Sheriff's Contract Adjustment/Savings

Mr. Paris briefly reviewed the following detailed staff report:

Background:

At the last town council meeting I made you aware of negotiations between myself and the County Manager regarding the sheriff's contract that saved the town \$8,456.94 for the fiscal year ending last June. The short version of the story regarding the negotiations is that the town's previous contract states that the county will provide us four officers, that the town will pay for half the costs of the officers, and that the officers will stay in the town limits 80% of the time. The previous contract was written when the Sheriff's office was fully staffed. Since then, the labor market has changed drastically for law enforcement, and agencies across the state have been impacted. We were impacted last year with officer turnover, and at times the county was not compliant with the contract requirement that all four officers spend 80% of their time in the town limits. During these times the town was still covered, but from the Zone 261 car, which does not spend 80% of their time in the town limits as required by the contract – and thus the basis for the negotiated savings.

Rather than the town being billed under the old contract for four officers like last year and then me seeking reimbursement, I met with the County Manager and Sheriff to revise the contract for the current year to take into account the current reality regarding staffing levels. The Sheriff stated this fiscal year he can reliably and consistently provide 3 officers that stay within the town limits 80% of the time, with a fourth officer covering the town from Zone 261. As such, this contract has us splitting the cost of 3 officers rather than 4 officers (and seeking a later reimbursement). The contract also allows that if for some reason it drops from 3 to 2, we are entitled to reimbursement savings after a 30 day period. The 30 day period allows the Sheriff a reasonable period to move in a new officer. This period is much less than what Harrisburg negotiated, which was a 90 day period, which I felt was too long a period. In all, the new

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contract will result in \$38,430.25 in savings for the current fiscal year and is much cleaner from an accounting standpoint than dealing with reimbursements.

Other items related to the contract:

As you are aware we have two patrol vehicles. It is not feasible to split a car in half, so we will be providing 2 vehicles and the Sheriff will be providing 1 vehicle for the 3 officers staying in the town limits 80% of the time. I like having our units mobile and visible, with the Town of Midland on their side, and within our town limits. The fourth Zone 261 car will be provided by the Sheriff.

All town officers must have at least 1 year of patrol experience. Our town will not be the training ground of Cabarrus County.

I will serve as the liaison on the contract and any Sheriff related issues.

The contract is for the current year. If the labor market improves and the Sheriff can reliably and consistently provide 4 officers that stay within the town limits 80% of the time next fiscal year, then we can discuss adjusting back up during budget time next year.

Budget Impact:

\$38,430.25 is a substantial amount of savings. I need a portion of this savings to cover increased lease costs related to the future Midland Library. Code related issues (dedicated four seat bathroom & the addition of 700 sq. feet) have resulted in a higher lease cost than anticipated. I will show the revised library plans and costs after this item for discussion and approval. In addition, I need a portion of the savings to cover the retention adjustment given to our Town Planner to keep her from going to Harrisburg, where she was the finalist for their Planning Director position. There is also a special project the Mayor is interested in related to infrastructure funding that would need a portion of the savings. He plans on discussing this with you during his comments. The savings amount of \$38,430.25 will cover all three of these items, meaning we would get a larger library space, retain a key staff member, and would be able to do the Mayor's project with money that was already budgeted and would have otherwise gone to Cabarrus County this fiscal year had I not intervened. In essence, we are just using funds already budgeted more effectively. Better bang for our buck.

Recommendation:

I recommend you authorize the Mayor to sign the Law Enforcement Contract Agreement for Fiscal Year 18-19.

END

Mr. Paris complimented the Sheriff for assigning such great officers to replace the officer that the town lost. He also complimented the County Manager for working with Midland and again told Council that the town got a credit of \$8,456.94 for last year's contract.

Motion was made by Councilmember Burnette and seconded by Councilmember Tallent to authorize the Mayor to sign the Law Enforcement Contract Agreement for Fiscal Year 2018-19.

Motion carried 3-0.

iii. Midland Library Branch Plan Review and Approval

Mr. Paris reviewed his staff report with Council along with a visual schematic of the new library space:

Background:

During the budget workshop you approved funds for the new Midland Library branch. I have been working with Jack Presnell and Cabarrus County to move this item forward.

I met with County Manager Mike Downs, Deputy County Manager Johnathan Marshall, Operations Manager Kyle Bilafer, Library Director Emery Ortiz, and Chief Building Inspector Matt Love. Two things emerged from this meeting that required a larger space than anticipated:

1. Because a library is classified as an assembly space in the building code, the Midland Library will be required to have dedicated bathrooms with four seats/fixtures. This was Matt Love' ruling as Chief Building Inspector.
2. The Library Director preferred the corner spot in Jack's plans (which is the best spot)

As a result of both of the above, the size of the library went from 2,000 sq. feet to 2,700 sq. feet. This includes a 1358 sq. feet stack area, and a 500 sq. feet reading room, with the difference being made up by the bathrooms, janitorial closet, IT closet, and walk in cart closet. I will review the plans in detail during the meeting for your discussion and approval.

The additional costs related to the bathrooms and square footage increased Jack's development costs. As a result, the annual lease costs increased by \$12,000 (\$2,500/mo. to 3,500/mo.). The good news is that we will be getting a larger space with better amenities for this price. The other good news is that this increase will be covered by the savings from my negotiations with Cabarrus County on the Sheriff's contract.

Budget Impact:

Neutral. Will be covered by savings from Sheriff Contract via budget amendment.

Recommendation:

Town council approves the new Midland library plans and authorize the Town Manager complete the project.

END

Motion was made by Councilmember Tallent and seconded by Councilmember Wise to approve the new Midland library plans and authorize the Town Manager to complete the project.

Motion carried 3-0.

iv. Other Comments

Mr. Paris said this budget amendment appropriates the Sheriff's contract savings to rent expense, planning staff retention and appropriates the balance to Misc. Operating Expense. The balance would only be used by staff with Council's permission. Mayor Crump has a project that he will be talking about later in the meeting, however if Council does not approve that project the money can be used to perhaps generate a Town Newsletter if desired.

Motion was made by Councilmember Wise and seconded by Councilmember Tallent to adopt Budget Amendment **Ordinance #2019-233** to amend the Midland Budget 2018-2019 to re-allocate savings from negotiations on the Sheriff Contract to other line items. **Motion carried 3-0.**

Town of Midland
Ordinance #2019-233

FY 2018-2019

Section 1. To amend the Midland Budget 2018-2019 to re-allocate savings from negotiations on the Sheriff Contract to other line items

Description	Current Budget	Increase	Decrease	Amended Budget
Police Protection	\$ 153,721.00		\$ 38,000.00	\$ 115,721.00
Rent Expense	\$ 75,960.00	\$ 12,000.00		\$ 87,960.00
Planning	\$ 88,579.00	\$ 17,385.00		\$ 105,964.00
Misc. Operating Expenses	\$ 2,500.00	\$ 8,615.00		\$ 11,115.00

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.

- c. Mayor's Comments:
 - i. Newsletter

Mayor Crump said the town could get input from the citizens to start the newsletter back up.

Mr. Paris said if Council wants to start a USPS newsletter he would need to know the frequency and staff would come up with a process for that. Staff could then bring the cost back to the board. Staff would need to know how many houses are on each route and the cost for bulk mailing postage.

Mayor Crump said that quarterly mailings would be good. He also asked Mr. Paris for colored newsletters.

Councilmember Burnette asked if the newsletter would be for citizens inside the town limits or the 28017 exchange. This is the way the towns did it before. Also consider those who have PO boxes.

Mr. Paris said he would like to get a team together and come up with the best options and bring those back to Council.

Mayor Crump reiterated that the post office divided the newsletters by route last time the newsletter was distributed. The number of households on each route would need to be determined.

Mr. Paris said he would bring information, process and cost back to Council in September.

Mayor Crump asked for volunteers to help gather information for the newsletter.

- ii. Infrastructure Funding Assistance

Mayor Crump said that he and Mr. Paris met with a consultant who lobbies for money for sewer systems. This consultant was able to get approximately \$1,000,000 for Mt. Airy. This consultant told Mayor Crump and Mr. Paris that he has never failed to secure money for his clients. His fee is \$1,000 per month and this would be for 12 months. This is a choice Midland can take. He may be successful or not.

Minutes Tuesday, August 14, 2018
Regular Meeting of Town Council
6:00pm, 4293-B Hwy. 24/27 E. Midland, NC 28107

Mr. Paris said the consultant is a former legislator named Brian Holloway. He lobbies at the state level for direct appropriations in the budget process so he works with the sub chair for appropriations to get the line item right with Midland's information then he works to protect it in order to go to the next level. Mr. Paris stated that he wanted this to come before Council because Midland has not been successful working through the normal grant process. If there is an interest in this Mr. Paris said he would bring the contract back before Council in order to discuss it further. If the board wants to meet Mr. Holloway before the next meeting Mr. Paris will have him come down and board members can talk to him face to face.

Councilmember Tallent said that he would like more information. This person saying that he's always secured money for his clients is one thing but he would like more proof.

Councilmember Burnette agreed with Councilmember Tallent.

Mr. Paris said that he will bring back more information.

10. Executive Session: [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 Councilmember Tallent to enter Executive Session, inviting Attorney Tosco, Manager Paris, Planner Watts and Engineer McMillan. **Motion carried 3-0.**

Council entered at 8:30pm.

Motion was made by Councilmember Tallent and seconded by Councilmember Wise to re-enter Regular Session. **Motion carried 3-0.**

Council returned at 8:54pm.

11. Adjournment:

Motion was made by Councilmember Tallent and seconded by Councilmember Wise to adjourn the meeting. **Motion carried 3-0.**

Council adjourned at 8:55 pm.

Attest/Seal

Mayor John Crump

Town Clerk Nancy E. Boyden, CMC, NCCMC