MINUTES OF THE MIDWAY CITY COUNCIL

(Regular Meeting)

Tuesday, 15 February 2022, 6:00 p.m. Midway Community Center, Council Chambers 160 West Main Street, Midway, Utah

Note: Notices/agendas were posted at 7-Eleven, Ridley's Express, the United States Post Office, the Midway City Office Building, and the Midway Community Center. Notices/agendas were provided to the City Council, City Engineer, City Attorney, Planning Director, and The Wasatch Wave. The public notice/agenda was published on the Utah State Public Notice Website and the City's website. A copy of the public notice/agenda is contained in the supplemental file.

1. Call to Order; Pledge of Allegiance; Prayer and/or Inspirational Message

Mayor Johnson called the meeting to order at 6:07 p.m.

Members Present:

Celeste Johnson, Mayor Steve Dougherty, Council Member Jeff Drury, Council Member Lisa Orme, Council Member Kevin Payne, Council Member JC Simonsen, Council Member

Staff Present:

Corbin Gordon, Attorney Michael Henke, Planning Director Wes Johnson, Engineer Brad Wilson, Recorder/Financial Officer

Note: A copy of the meeting roll is contained in the supplemental file.

Mayor Johnson led the Council and meeting attendees in the pledge of allegiance. Council Member Orme gave the prayer and/or inspirational message.

2. Consent Calendar

- a. Agenda for the 15 February 2022 City Council Regular Meeting
- **b.** Warrants
- c. Minutes of the 21 December 2021 City Council Work Meeting
- d. Minutes of the 21 December 2021 City Council Regular Meeting
- e. Minutes of the 21 December 2021 City Council Closed Meeting
- f. Minutes of the 1 February 2022 City Council Work Meeting
- g. Minutes of the 1 February 2022 City Council Regular Meeting
- h. Minutes of the 3 February 2022 City Council Strategic Planning Meeting
- i. Resolution 2022-05 approving compensation for service on the HL&P Board of Directors

Note: Copies of items 2a, 2b, 2c, 2d, 2f, 2g, 2h, and 2i are contained in the supplemental file.

Council Member Simonsen asked about the refund of the application fee on the warrant list. Michael Henke responded that application fees had been submitted for all five phases of The Village. He indicated that only the first three phases could be considered at that time, so the difference was being refunded.

Council Member Orme asked about the warrant for voting dues. Brad Wilson responded that he would research the warrant and email a response to the Council.

Council Member Drury asked about the warrant to KW Robinson and the budget for the River Road project. Wes Johnson responded that the project was somewhat under budget and would resume when the contractor was ready. He added that traffic would be diverted along Center Street and 600 North.

Mayor Johnson indicated that Resolution 2022-05 should include all compensation received by the Council as board members.

Motion: Council Member Drury moved to approve consent calendar items 2e - 2h and continue 2i to the next council meeting.

Second: Council Member Simonsen seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

3. Public Comment – Comments were taken for items not on the agenda.

Mayor Johnson asked if there were any comments from the public for items not on the agenda.

Fireworks / Equipment

Clint Coleman, representing the Midway Boosters, explained that 1/3 of the Memorial Hill fireworks were still set off manually. He said that it would cost \$3,000 to purchase the equipment to set them all off electronically. He asked that the City, Wasatch County, and the Boosters each contribute \$1,000. He noted that this would increase safety.

Defending the Wasatch Back / Fee Waiver

Mike Bronson, with Defending the Wasatch Back, made the following comments:

- The organization wanted to use the Midway Town Hall to meet with the Wasatch County Sheriff. The Sheriff would speak for 15 minutes and then the attendees could ask any questions they wanted.
- Submitted a request to waive the rental fees. Originally, the waiver was denied but then reduced to \$175 after meeting with Mayor Johnson.
- The event was for the entire community with everyone invited.
- No money would be made.
- What was the criteria for waiving fees?
- Midway's state senator and state representative had not been charged to meet with their constituents in one of the City's buildings.
- Would take care of the building while using it and would clean it when they were finished.
- Grew up in Midway and had played basketball in the Town Hall.
- The Mayor said that the organization supported the Second Amendment and opposed requiring masks because of the pandemic. The Sheriff wrote the legislation that designated Wasatch County as a second amendment sanctuary. They supported the legislation and the Sheriff's Department.
- Might submit a request for records that showed who had paid and not paid to use the City's buildings.
- The buildings were built for the community to use.
- The fees were significant.
- Did the Midway Boosters pay to use the buildings?

Council Member Orme indicated that Midway City, not a private organization, sponsored the event held by the state legislators. She added that there were costs to operating the buildings. She said that the whole community should not have to pay those costs for every event.

Council Member Orme indicated that the Boosters did projects that benefited the community.

Mayor Johnson made the following comments:

- Initially denied the waiver because the group was a special interest.
- Rental fees could be waived for artistic, cultural, and city sponsored events.
- Waived a portion of the fee when she learned the event was with the Sheriff.
- This was the first year for a formal fee waiver process.
- There were no records for prior waivers.

Mr. Bronson asked if the fees would be waived if the Sheriff requested it. Council Member Drury thought they should. Mr. Bronson responded that he would talk to the Sheriff.

Council Member Payne indicated that policies for the use of the buildings had not been consistent in the past. He added that some groups had not cleaned the buildings after they used them.

Council Member Dougherty did not want to again discuss the amounts of the rental fees.

Council Member Simonsen was not aware of Mr. Bronson's group. He thought the group could

be beneficial. He said Mr. Bronson's points were valid. He indicated that the City tried to be fair.

No further comments were offered.

4. Department Reports

Affordable Housing Authority / Update

Council Member Payne reported that there was not enough activity to hire a director for the Wasatch County Housing Authority. He indicated that the organization might contract with a nonprofit organization for assistance. He added that local governments needed to agree on how to move forward.

Ice Rink / Update

Council Member Drury reported that the City's ice rink would remain open while the weather permitted.

Highlands at Soldier Hollow / Cooperative Agreement

Wes Johnson made the following comments:

- The new well for the Highlands at Soldier Hollow to not meet culinary standards. It would be used for fire flow.
- Water lines would only be installed for fire hydrants.
- Each house in the project would have a well.
- A municipality was still needed to oversee the water system. Would Midway City still do this if it received \$120,000 for trails?

Council Member Drury questioned if the individual wells would meet culinary standards. Mr. Johnson responded that more shallow wells could meet standards but would not produce as much water. Council Member Drury asked to consider the item in a work meeting.

Mr. Johnson indicated that the City's culinary water production was stable.

Water Board / M&I Water

Council Member Dougherty reported that the Midway Water Advisory Board discussed the use of municipal and industrial (M&I) water in the Midway area.

PI System / Water Meters

Council Member Dougherty reported that the Midway Irrigation Company received a loan to install water meters for the pressurized irrigation (PI) system.

River Ditch / Sleaving

Council Member Dougherty reported that the Irrigation Company completed sleaving the River Ditch pipe.

HL&P / Rate Study / Development Infrastructure

Council Member Dougherty reported that Heber Light & Power Company (HL&P) was continuing its rate study. He added that a rate change might occur in October and include a component for the time of use.

Council Member Dougherty also reported that HL&P made money by installing the electrical infrastructure in new developments.

Valais / Water Leak

Council Member Dougherty reported that the Irrigation Company was still trying to find the source of the water leak at the Valais PUD.

Great Salt Lake / State Legislature

Council Member Dougherty reported that the State Legislature was considering using upstream water rights to raise the water level in the Great Salt Lake.

5. Mayor Pro Tempore – Discuss and Possibly Elect a Member of the Midway City Council to be Mayor Pro Tempore.

Motion: Council Member Simonsen moved that Council Member Drury be the mayor protempore.

Second: Council Member Drury seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

6. SR 113 Trail Extension / Approval (City Planner – Approximately 15 minutes) – Discuss and possibly approve requesting a Utah Outdoor Recreation grant and committing \$30,000 for the extension of the public trail along State Road 113 from Haven Farms to Tate Lane.

Nancy O'Toole, grant writer for Wasatch County, gave a presentation and made the following comments:

- The two estimates, to extend the trail along State Highway 113, were either too low or too high.
- Horrocks Engineers would do a survey and design to determine the actual cost.
- The project would be done the following year.
- The cost could be \$35,000 to \$40,000 for each participant.
- Wanted the trail as far off the road as possible.
- The trail would then be extended further to the trail head at Deer Creek Reservoir.

Note: A copy of Ms. O'Toole's presentation is contained in the supplemental file.

Wes Johnson added that the culvert under Highway 113 needed to be upsized.

Motion: Council Member Drury moved to table the item.

Second: Council Member Orme seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

7. Ordinance 2022-06 / Internal Accessory Dwelling Units (City Planner – Approximately 15 minutes) – Discuss and possibly adopt Ordinance 2022-06 amending Title 16 (Land Use) of the Midway City Municipal Code regarding internal accessory dwelling units. Recommended by the Midway City Planning Commission.

Michael Henke gave a presentation regarding the proposed ordinance and reviewed the following items:

- Summary of adjustments
- Possible findings

Mr. Henke also made the following comments:

Liens needed to be part of the process.

Note: A copy of Mr. Henke's presentation is contained in the supplemental file.

The Council, staff and meeting attendees discussed the following items:

- A homeowner might live in the IADU and rent out the rest of the house. This would show that there was a need for affordable housing.
- IADUs could allow someone who otherwise could not to purchase a house.
- IADU's could help parcels from not being further developed.
- Would large houses have IADUs?
- A better mechanism was needed for enforcement.

Council Member Simonsen read language that he proposed for the ordinance. He said that the regulations should be more rather than less permissive. He added that the parking space standard should be 24 feet and allow tandem parking.

Motion: Council Member Payne moved to approve Ordinance 2022-06 amending Title 16 (Land Use) of the Midway City Municipal Code regarding internal accessory dwelling units with the following findings and conditions:

- Regardless of whether the City adopted a code regarding IADUs, state code currently allowed property owners to install IADUs assuming the minimum requirements outlined in state code were met.
- The creation of IADUs could help improve the availability of housing in the community.
- By adopting the code, Midway City would be able to actively permit and track the creation of IADUs. By tracking the permitted units, Midway would be able to enforce the removal of non-conforming units that were in violation of the proposed title.
- The option of recording a notice against the property would ensure that there was a
 recorded record for future property owners letting them know what the implications were
 for having an internal accessory dwelling unit (e.g. owner occupied, long-term rental
 only).
- Approval of the proposed code would list IADUs as permitted uses in all residential, commercial and resort zones.
- The changes recommended by Council Member Simonsen.
- The parking requirement changed from 22 feet to 24 feet.

Second: Council Member Drury seconded the motion.

Discussion: Council Member Simonsen asked that staff contact him to ensure his language was included correctly.

Vote: The motion was approved with the Council voting as follows:

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

8. Resolution 2022-07 / Watts Remund Farms Master Plan Agreement Second Amendment (Berg Engineering – Approximately 30 minutes) – Discuss and possibly approve Resolution 2022-07 adopting a second amendment of the master plan agreement for the Watts Remund Farms PUD located at 200 East 600 North.

Michael Henke gave a presentation regarding the request and reviewed the following items:

- History
- Land use summary
- Location of the development
- Master plan approval
- Proposed amendments
- Existing 2019 master plan
- Proposed 2021 master plan
- Open Space
- Setbacks
- Planning commission recommendation
- Previous council motion
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- The amendment would only apply to the fourth phase.
- Phase Five would not be changed at that time.
- The Council was not required to approve the request.
- The master plan was being amended.
- Recommended that the trail along 300 North be paved as part of the request. Part of the trail would also be a fire access. Recommended that an additional trail section also be added along 600 North.
- The overall amount of open space would decrease.
- The request did not have to meet the new standard for sensitive lands and open space because the application was submitted prior to the change.

Note: A copy of Mr. Henke's presentation is contained in the supplemental file.

Paul Berg, Berg Engineering Resource Group and representing the applicants, made the following comments:

- The trail went through Watts Remund Farms to avoid Harold Remund's house and some wetlands.
- Asked that the amendment to Phase Four be approved and an amendment to Phase Five be continued.

The Council, staff and meeting attendees discussed the following items:

- Should the roadside trail extend the entire length of 600 North?
- The trail should cross 600 North then go west to the entrance to the Mountain Spa.
- Phase Five was not included because it had unresolved water issues.
- Several residents complained that the City was bargaining with developers. The City negotiated what was best for the City. Negotiating for a better trail was good for Midway and improved something that was important to residents.
- It was counterintuitive to go south on the 600 North trail to continue going east. People continued walking along the road instead of going through the PUD. There was sufficient right-of-way for an attached but not a detached trail.
- Property would have to be traded to move the proposed section of trail closer to the entrance to the PUD. It might have to be moved around a utility pole.

Motion: Council Member Drury moved to grant approval to Resolution 2022-07, adopting a second amendment of the master plan agreement for the Watts Remund Farms PUD, with the following findings and conditions:

- The proposed master plan amendment, with respect to Phase Four, appeared to meet the requirements of the Municipal Code at the time of the application.
- The City Council exercised its discretion in accepting the terms of the amendment.
- The building pads for five of the seven units would change in size creating an overall increase in building square footage and a reduction in open space.
- The setbacks from the proposed building pads to the peripheral boundaries would remain the same.
- One public trail would be paved and the funds for the construction of a second trail
 would be contributed to the general trails fund as part of the subdivision. Both trails
 would benefit members of the community.
- Trails were highly valued in Midway.
- The trail along 600 North represented a key connection in the Trails Master Plan.
- Amending the master plan was discretionary and the City was under no obligation to approve the proposal even if it complied with the land use code.
- Some of the proposed building pads would encroach closer to the delineated wetlands.
- The applicant would be required to improve the existing trail along Swiss Paradise Lane to be a six-foot asphalt trail. They would also be required to improve the existing trail on Swiss Paradise lot three to be a ten-foot asphalt trail with five-foot road base shoulders. This trail section should connect Swiss Paradise Lane to the Rockwell Circle cul-de-sac sidewalk in Phase Four. These trails should be noted as public and built according to Midway City trail standards (excluding the modified widths).
- The applicant would be required to contribute the funds associated with installing the eight-foot asphalt trail from Farm Hill Lane to 200 East to the general trails fund. The funds would be used in the area of the project as the City deemed fit.
- The applicant would be required to survey the boundary of the wetland and then install and maintain temporary construction fencing while site improvements were being installed and while homes were under construction.
- The amendment to Phase Four was approved and the amendment to Phase Five was continued.

Second: Council Member Orme seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

Motion: Without objection, Mayor Johnson recessed the meeting at 8:32 p.m. She reconvened the meeting at 8:40 p.m.

9. Ordinance 2022-09 / Records Requests (City Attorney – Approximately 30 minutes) – Discuss and possibly adopt Ordinance 2022-09 amending Chapter 2.13 (Records Access and Management) of the Midway City Municipal Code regarding records requests.

Corbin Gordon reviewed the proposed ordinance and made the following comments:

- Fees would be paid upfront for large records requests.
- A portion of State Code would be adopted into the Municipal Code.
- An appeal would go to the mayor, or it was suggested that it go to the City's administrative law judge.

Brad Wilson suggested that the City's records officer set the amount and any appeal would go to the mayor. He said that this would match state law. He further suggested that any estimated cost over \$100 be paid upfront.

Michael Henke noted that the City already required prepayment for a number of fees.

Motion: Council Member Dougherty moved to approve Ordinance 2022-09 with the modification changing it from mayor to the records officer.

Second: Council Member Payne seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

10. Ordinance 2022-10 / Development Moratorium (City Planner – Approximately 15 minutes)

- Discuss and possibly adopt Ordinance 2022-10 enacting a temporary land use ordinance

(development moratorium) in Midway City.

Motion: Council Member Payne moved to deny Ordinance 2022-10 enacting a six-month development moratorium.

Second: Council Member Dougherty seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

11. Ordinance 2022-03 / PUDs (City Planner – Approximately 15 minutes) – Discuss and possibly adopt Ordinance 2022-03 amending Chapter 16.16 (Planned Unit Developments and Subdivisions) of the Midway City Municipal Code regarding planned unit developments and large-scale subdivisions. Recommended by the Midway City Planning Commission.

Mayor Johnson explained that a notice of pending ordinance, for PUDs, had been put on the agenda in case the Council did not want to approve Ordinance 2022-03.

Motion: Council Member Dougherty moved to continue Ordinance 2022-03 to the next council meeting.

Second: Council Member Orme seconded the motion.

Discussion: Council Member Drury thought that some items in the proposed ordinance were ready for adoption. Council Member Payne indicated that he wanted to consider the ordinance if the notice of pending ordinance did not pass.

Motion: Council Member Dougherty moved to consider Item 12 before Item 11.

Second: Council Member Orme seconded the motion.

Discussion: Council Member Payne recommended that the Council adopt both the ordinance and the notice of pending ordinance. Council Member Orme thought that the Council discussed only approving one or the other.

Withdrawal: Council Member Dougherty withdrew his two motions.

Michael Henke gave a presentation regarding the proposed ordinance and reviewed the following items:

Revision since the last council meeting

Mr. Henke also made the following comments:

- The ordinance applied to both PUDs and large-scale subdivisions.
- PUD density was capped per zone.
- There would not be a minimum requirement for acreage.
- It prevented owners from avoiding open space by subdividing their property.
- Did not want a limit on re-subdividing because it would encourage development at the maximum density.

Note: A copy of Mr. Henke's presentation is contained in the supplemental file.

The Council, staff and meeting attendees discussed the following items:

- There should not be a minimum acreage limit.
- The ordinance should define the per setback dimensions.
- The minimum number of units should be reduced from 40 to 30. The number 40 was arbitrary.
- 40 units would not be practical if the City wanted to encourage PUDs in the center of Midway.
- PUDs should be limited unless certain goals were achieved.
- 30 units would not fit on six acres.
- PUDs should be associated with affordable housing.
- The City would consider a separate affordable housing code.
- Density reduction needed to be clarified in Section 16.16.12.
- The density could be determined by a formula or clustering the allowed number of units.
- There were a lot of changes that needed to be considered.
- The title of the ordinance should be changed to reflect that it applied to both PUDs and subdivisions.

Motion: Council Member Drury moved to consider Item 12.

Second: Council Member Payne seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:

Council Member Dougherty
Council Member Drury
Council Member Orme
Council Member Payne
Council Member Simonsen
Aye

12. Resolution 2022-08 / Notice of Pending Ordinance - PUDs (City Planner – Approximately 10 minutes) – Discuss and possibly approve Resolution 2022-08 adopting a notice of pending ordinance regarding planned unit developments (PUDs).

The Council, staff and meeting attendees discussed the following items regarding the proposed resolution:

- Someone would not know all the applicable regulations If they submitted an application for a PUD or large-scale subdivision.
- How would staff process an application without knowing all the applicable regulations?
- Item two on the second page of the resolution needed to be changed. This change should be made to all the notices of pending ordinance.
- Could an application be submitted but not processed until the pending ordinance was adopted? Staff should not spend time on an application that might not abide by the eventually adopted ordinance.
- The notice of pending ordinance allowed the City to clean up the Municipal Code and approve sections as it went.
- There was merit for someone to apply, even before the pending ordinance was adopted, because that would vest the application under other sections of the Code.
- The City needed to be transparent with applicants.
- Additional out-of-pocket fees would need to be paid if a proposal had to be revised and reconsidered.
- An application could not be approved until the pending ordinance was abandoned or approved.

Motion: Council Member Dougherty moved to approve Resolution 2022-08 adopting a notice of pending ordinance amending Chapter 16.16 of the Midway City Land Use Code, with respect to planned unit developments and standard subdivisions, with the modification to the second item on page two.

Second: Council Member Payne seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

13. Resolution 2022-09 / Notice of Pending Ordinance - Moderate Income Housing (City Planner – Approximately 10 minutes) – Discuss and possibly approve Resolution 2022-09 adopting a notice of pending ordinance regarding moderate income housing.

Corbin Gordon read the language in the proposed resolution. He indicated that it addressed the Council's concerns.

Motion: Council Member Drury moved to approve Resolution 2022-09 with the following changes:

- Amending the second "whereas" on page two of the packet as outlined by Mr. Gordon to increase the moderate, attainable, and other needs as he stated.
- Item 2 on page 3 of the packet be amended as read.
- Add an additional "whereas".

Second: Council Member Payne seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

14. Resolution 2022-10 / Notice of Pending Ordinance - Outdoor Lighting (City Planner – Approximately 10 minutes) – Discuss and possibly approve Resolution 2022-10 adopting a notice of pending ordinance regarding outdoor lighting.

Mayor Johnson reported that she and Wes Johnson met with a lighting expert regarding the lights along Main Street. She made the following comments:

- The proposal for new lights would be part of a charet, public awareness campaign, and vote by the Council.
- Thought that the decorative lights around the ice rink would also be replaced.
- The new lights would reduce light pollution but better illuminate the street and sidewalk.

Michael Henke reviewed examples of good and bad lighting. He made the following comments:

- The resolution would apply to all new building permits.
- Holiday lights were already regulated by the Municipal Code.
- Any motion should require fully shielded lights.

The Council, staff and meeting attendees discussed the following items:

- Item 2 on page two of the resolution needed to be revised.
- The pending ordinance could apply to all land use applications.
- Dark sky preservation was important.
- Light regulations should vary for holidays.

Motion: Council Member Payne moved to approve Resolution 2022-10, adopting a notice of pending ordinance regarding outdoor lighting, with the following changes:

- Item 2 on page two of the resolution be revised and include building permits.
- The notice be broadened to include all land use applications and building permits.

Second: Council Member Drury seconded the motion.

Discussion: None

Vote: The motion was approved with the Council voting as follows:

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

15. Closed Meeting to Discuss Pending or Reasonably Imminent Litigation and the Purchase, Exchange, or Lease of Real Property

A closed meeting was not held.

16. Adjournment

Motion: Council Member Drury moved to adjourn the meeting. Council Member Payne seconded the motion. The motion passed unanimously.

The meeting was adjourned at 10:01 p.m.

Celeste Johnson, Mayer

Brad Wilson Recorder