

**MINUTES OF THE
MIDWAY CITY COUNCIL
(Regular Meeting)**

**Wednesday, 11 April 2018, 6:00 p.m.
Midway Community Center, City Council Chambers
160 West Main Street, Midway, Utah**

Note: Notices/agendas were posted at 7-Eleven, Ridley's Express, the Midway City Office Building, and the Midway Community Center. Notices/agendas were provided to the City Council, City Engineer, City Attorney, Planning Director, Public Works Assistant Crew Chief, 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 6:00 p.m.

Members Present:

Celeste Johnson, Mayor
Lisa Christen, Council Member
Jeff Drury, Council Member
Bob Probst, Council Member
JC Simonsen, Council Member
Ken Van Wagoner, Council Member

Staff Present:

Corbin Gordon, Attorney
Michael Henke, Planning Director
Wes Johnson, Engineer
Shane Owens, Public Works Assistant Crew Chief
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. Clint Coleman gave the prayer and/or inspirational message.

2. Consent Calendar

- a. Agenda for the 11 April 2018 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 28 March 2018 City Council Work Meeting
- d. Minutes of the 28 March 2018 City Council Regular Meeting

Note: Copies of items 2a through 2d are contained in the supplemental file.

Motion: Council Member Van Wagoner moved to approve the consent calendar.

Second: Council Member Drury seconded the motion.

Discussion: None

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

Council Member Christen	Aye
Council Member Drury	Aye
Council Member Probst	Aye
Council Member Simonsen	Aye
Council Member Van Wagoner	Aye

3. Announcements

Mayor Johnson made the following announcements:

Parks and Trails Meeting

A public meeting regarding parks and trails was held the night before.

Open Space Bonding Meetings

Public meetings would be held to receive comment on bonding for open space.

Spring Clean-Up

The annual spring clean-up would be held on May 5th.

4. 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.

Hamlet Park Flags / Lighting

Janice Kennedy noted that the American flag was supposed to be lit at night. She noted that that flags at the Hamlet Park were not lit. She suggested lighting them with new lights along Main Street. Mayor Johnson responded that the issue would be addressed.

No further comments were offered.

5. Department Reports

Buildings / Maintenance Costs

Council Member Probst reported that the City wanted to determine the actual cost to maintain its buildings in relation to its rental fees.

Town Hall / Oil Roof

Council Member Probst reported that the City was still trying to find someone who would oil the roof on the Town Hall.

Cemetery / Mapping

Council Member Probst reported that the Sexton was still mapping the City's cemetery.

Cemetery / Clean Headstones

Council Member Probst reported that a boy scout wanted to clean the headstones at the City's cemetery. Concerns were expressed with cleaning the older headstones that were made of porous materials and fragile.

Vehicle Building / Request for Bids

Council Member Van Wagoner reported that the City had requested bids to build a vehicle building at its maintenance yard.

Water / Presentation

Council Member Van Wagoner reported that he and the City Attorney would give a presentation on changes in water law and the acceptance of foreign water.

Weeds / Mowing

Council Member Van Wagoner asked that weeds along the City's roads be mowed down.

Water Board Recommendations / Development Agreements

Corbin Gordon reported that an item from the Midway Water Advisory Board had been left out of a development agreement. He stressed that Water Board items needed to be included in the associated development agreements.

Animal Control / Cost

Council Member Simonsen reported that the City paid 16% of the cost for the county-wide animal control.

Roads / Probst Way

Council Member Simonsen reported that a contract would be awarded that night to repave Probst Way.

Parking / Commercial Zones

Council Member Simonsen reported that there were parking problems in the City's commercial zones. He suggested around Centennial Park, the post office and behind the funeral home as additional parking. He said that parking needed to be better utilized.

Mayor Johnson noted that the Planning Director was looking into the issue and a consultant might be hired.

Sidewalks / Center Street

Wes Johnson reported that the Utah Department of Transportation would reimburse the City for some of the new sidewalk on Center Street.

Sidewalks / Trip Hazards

Wes Johnson reported that the City was in the second year of a five-year contract to remove trip hazards in its sidewalks.

Parks and Trails Meeting

Council Member Simonsen indicated that the meeting regarding parks and trails, held the night before, went well.

Trails and Parks Committee / Issues

Council Member Simonsen reported that the Trails and Parks Committee met and discussed the main issues facing parks and trails.

6. Memorial Hill / American Legion (Danny Hofheins - Approximately 10 Minutes) – Receive a Presentation on the Memorial Hill from the American Legion.

Danny Hofheins made the following comments:

- The Wasatch County Council was reorganizing the committee that oversaw the Memorial Hill.
- They wanted the committee to prepare lists of maintenance costs and future projects.
- The American Legion would oversee the Memorial Hill.
- The main flag pole would be modified to allow the flag to fly at half-mast.
- A second monument would be built on the east side of the parking lot on top of the Hill. It

would accommodate more names.

- Picnic tables would be added to that side of the lot.
- A helicopter would be mounted on the south side of the lot.
- Requested a donation, that would go to Wasatch County, for the projects.
- Wasatch County spend a lot of money maintaining the Hill.
- The road around the Hill would not be paved.

Council Member Van Wagoner thanked Mr. Hofheins for what had been done on Memorial Hill. He added that the Council would consider a donation as part of its next budget.

Mayor Johnson thanked Mr. Hofheins for his service.

7. Ordinance 2018-12 / Treatment Facilities (City Planner - Approximately 30 Minutes) – Discuss and possibly adopt Ordinance 2018-12 amending Title 16 of the Midway City Municipal Code regarding residential treatment facilities, residential facilities for elderly persons, rest homes, nursing, and convalescent facilities. Recommended without conditions by the Midway City Planning Commission. **Public Hearing.**

Council Member Christen recused herself from consideration of the proposed ordinance because of a conflict of interest.

Note: Council Member Christen left at 6:35 p.m.

Corbin Gordon made the following comments:

- The proposed ordinance had been discussed at the work meeting that day.
- The City had to comply with the federal and state fair housing acts.
- These acts were partially in response to communities not wanting treatment facilities.
- Treatment facilities were welcome in Midway.
- The ordinance allowed for reasonable accommodations.
- When a facility became a commercial use then it went beyond the federal and state acts.
- The ordinance insured that treatment facilities had the same rights as residences. It did not give them more rights than residences.
- A facility should be similar in impact to the residences in the area.
- Recommended a limit of eight clients and two staff for each facility. This number was based on several items including a survey by Dan Jones and Associates.
- Recommended allowing up to two standard deviations because some families were larger than others.
- The City would approve facilities that met the Municipal Code and Building Code.
- A request for increased clients and staff would be considered by a hearing officer. This process would be automatic if such a request was made.
- The Planning Commission recommended a limit of six clients and two staff.
- Added language to the ordinance stating that a facility, that met the requirements of the Code, did not change the character of a neighborhood.
- Findings from the survey and Building Code were attached to the ordinance.

Mr. Gordon reviewed the results of the survey.

Note: A summary of the survey results is contained in the supplemental file.

Mayor Johnson noted that the State also regulated treatment facilities and would prohibit too many clients in too small of a space.

Michael Henke indicated that the proposal would amend the definition of a single housekeeping unit and allow treatment facilities as permitted uses in some zones.

Public Hearing

Mayor Johnson opened the hearing and asked if there were any comments from the public.

Janice Kennedy

Ms. Kennedy asked if she would need a permit if she allowed elderly people to live in her home. Mr. Henke responded that a new license type would be created, and that any treatment facility had to meet the requirements of the Building Code.

Ms. Kennedy asked the same question about teenage boys. Mr. Henke responded the same requirements would apply if the boys had a disability by federal definition.

Ms. Kennedy asked about individuals trying to learn how to live on their own. Mr. Gordon responded that it depended upon the definitions in the fair housing acts.

Mayor Johnson closed the hearing when no further public comment was offered.

Motion: Council Member Van Wagoner moved to adopt Ordinance 2018-12 regarding residential treatment facilities, as presented by the City Attorney, including the following items:

- The findings and research
- The change read by the City Attorney.

Second: Council Member Probst seconded the motion.

Discussion: None

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

Council Member Christen	Excused
Council Member Drury	Aye
Council Member Probst	Aye
Council Member Simonsen	Aye
Council Member Van Wagoner	Aye

Note: Council Member Christen returned.

Department Reports (Continued)

Legislative

Mike Kohler, lobbyist for the City at the Utah State Legislature, distributed and reviewed a list of certain legislation from the recent legislative session.

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

Representative Tim Quinn, Utah State House of Representatives, reviewed federal tax reform and the separation of powers in state government.

Senator Kevin Van Tassell, Utah State Senate, distributed a list of issues from the recent session and an overview of the state budget.

Note: A copy of the list and overview are contained in the supplemental file.

Senator Van Tassell reviewed legislation regarding water and urban farming. He also reviewed SETLA, the state rainy day fund and the Heber bypass road.

8. Ordinance 2018-13 / Permitted and Conditional Uses (City Planner - Approximately 15 Minutes) – Discuss and possibly adopt Ordinance 2018-13 amending Title 16 of the Midway City Municipal Code regarding permitted and conditional uses. Recommended without conditions by the Midway City Planning Commission. **Public Hearing**.

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

- Current code
- Proposed code
- Reasons for the amendment

Mr. Henke also made the following comments:

- The State Code required clarification of ambiguous language in codes.
- The Municipal Code already listed uses that were allowed.
- The Council would have to specifically add any other uses, or an applicant would have to request a code amendment.

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

Public Hearing

Mayor Johnson opened the hearing and asked if there were any comments from the public. She closed the hearing when no public comment was offered.

Motion: Council Member Probst moved to adopt Ordinance 2018-13 regarding permitted and conditional uses, as presented by staff, with the following findings:

- The proposed language was clearer than the existing language and would better protect the City.
- State code required plain language, or the land use decision would be in favor of the land use applicant.

Second: Council Member Simonsen seconded the motion.

Discussion: None

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

Council Member Christen	Aye
Council Member Drury	Aye
Council Member Probst	Aye
Council Member Simonsen	Aye
Council Member Van Wagoner	Aye

9. Ordinance 2018-14 / Master Plan Water Rights (City Planner - Approximately 20 Minutes)
– Discuss and possibly adopt Ordinance 2018-14 amending Section 16.16.4 of the Midway City Municipal Code regarding water rights to be tendered during master plan approval. Recommended without conditions by the Midway City Planning Commission. **Public Hearing.**

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

- Current code
- Proposed code

Mr. Henke also made the following comments:

- Sometimes water rights were sold off a property when it went into foreclosure.
- The proposed ordinance would insure that all water rights were in place and not sold off after entitlement was granted.
- Water rights could be returned if changes were made or the master plan was abandoned.
- If a plat map was recorded, then the associated water rights could not be returned.
- Additional language was needed regarding lenders and their claim to water rights.

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

Mayor Johnson indicated that the relationship with lenders needed to be carefully considered. Council Member Christen did not think that a lender could foreclose on water rights. Corbin Gordon said that almost anything could be put up as collateral.

Mayor Johnson stated that it was not the City's responsibility to insure a lender had collateral.

Mr. Gordon recommended that the ordinance be tabled.

Public Hearing

Mayor Johnson opened the hearing and asked if there were any comments from the public. She closed the hearing when no public comment was offered.

Motion: Council Member Christen moved to table the ordinance until the next regular meeting.

Second: Council Member Drury seconded the motion.

Discussion: Council Member Christen wanted to ensure that the proposal was not a headache for staff.

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

Council Member Christen	Aye
Council Member Drury	Aye
Council Member Probst	Aye
Council Member Simonsen	Aye
Council Member Van Wagoner	Aye

10. Vehicle Building / Award Contract (Public Works Assistant Crew Chief – Approximately 10 Minutes) – Discuss and Possibly Award a Contract for the Construction of a Vehicle Building at the Midway City Maintenance Yard.

Shane Owens recommended that a contract be awarded to Woods Construction, which was the allow bidder, for \$326,430 with an additional \$6,100 for a performance bond.

Mayor Johnson asked about the geotechnical study. Mr. Owens reported that it would be done that week by Earthtec. She asked if it would significantly change the engineering for the building. Wes Johnson responded that it could change the width but not the depth of the footings.

Council Member Van Wagoner recommended against the alternative for the poly coat on the wash bay. He indicated that the Public Works Department could apply that themselves.

Motion: Council Member Van Wagoner moved to award a contract for the construction of a vehicle building to Woods Construction for \$332,530, including the performance bond but not including Alternative #1, and authorized the Mayor to sign the documents.

Second: Council Member Christen seconded the motion.

Discussion: None

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

Council Member Christen	Aye
Council Member Drury	Aye
Council Member Probst	Aye
Council Member Simonsen	Aye
Council Member Van Wagoner	Aye

11. 2018 Road and Utilities Project / Award Contract (City Engineer – Approximately 10 Minutes) – Discuss and Possibly Award a Contract for the 2018 Road and Utilities Project.

Wes Johnson made the following comments regarding the project:

- Usually the City did three to five projects each year.
- The previous year it did a significant number of projects.
- That year decided to reduce them to just Probst Way.
- There had been several water leaks along that road.
- The water line would be replaced.
- Received only two bidders.
- Geneva Rock was the low bidder at \$141,911.
- Recommended that a contract be award to the low bidder and that the mayor be authorized to sign the documents.
- Other road and water work would be done in conjunction with Saint-Prex Estates (Swiss Alpine Road) and Remund Farms (600 North). The work would be done by the developers' contractors.
- The City would only pay for the water line on 600 North to be upgraded.

Motion: Council Member Van Wagoner moved to approve the bid for Probst Way for \$141,911 and authorized the mayor to sign the documents.

Second: Council Member Probst seconded the motion.

Discussion: None

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

Council Member Christen	Aye
Council Member Drury	Aye
Council Member Probst	Aye
Council Member Simonsen	Aye
Council Member Van Wagoner	Aye

12. Adjournment

Motion: Council Member Van Wagoner moved to adjourn the meeting. Council Member Christen seconded the motion. The motion passed unanimously.

The meeting was adjourned at 7:55 p.m.



Celeste Johnson, Mayor



Brad Wilson, Recorder