

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

**Tuesday, 17 January 2023, 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 6:10 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

**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 Payne gave the prayer and/or inspirational message.

**2. Consent Calendar**

- a. Agenda for the 17 January 2023 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 6 December 2022 City Council Work Meeting
- d. Minutes of the 6 December 2022 City Council Regular Meeting
- e. Minutes of the 6 December 2022 City Council Closed Meeting
- f. Resolution 2023-01 approving compensation for council members serving on various boards
- g. Ordinance 2023-01 prescribing the time and place of the regular meetings of the Midway City Council

- h. Release the construction bond, minus 10% and any amount for landscaping, and begin the one-year warranty period for Phase 1 of the Saddle Creek Subdivision located at 970 South 250 West
- i. Release the construction bond, minus 10% and any amount for landscaping, and begin the one-year warranty period for Phase 2 and Phase 3 of the Saddle Creek Subdivision located at 970 South 250 West
- j. Release the construction bond, minus 10% and any amount for landscaping, and begin the one-year warranty period for Phase 4 of the Saddle Creek Subdivision located at 970 South 250 West
- k. Second One Year Extension of the Final Approval for the Edelweiss Meadows Subdivision Located at 640 East 200 South (Zoning is R-1-11)
- l. 2022 Water Conservation Plan for Midway City

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

Wes Johnson explained the requirement by the State for an updated water conservation plan. He noted that the proposed modifications were minor. Council Member Drury felt that the City should do more to conserve water. He wanted time to discuss the plan. Council Member Dougherty recommended that the Midway Irrigation Company be included in the conservation effort.

Council Member Dougherty noted that the \$500 a year stipend for members of the Midway Irrigation Company Board should be included in Resolution 2023-01.

Council Member Dougherty asked that Ordinance 2023-01 include the dates of the cancelled meetings.

Council Member Drury asked about the warrant for Heber Light & Power Company (HL&P). Mr. Johnson explained that a pole on 200 North needed to be eliminated and the power run underground as part of the Homestead Trail. He pointed out that some parts would take a year or more to get.

Council Member Drury thought that the cost was a lot. Mr. Johnson responded that was the price given to him by HL&P. Council Member Dougherty added that HL&P treated the City like any other developer. Council Member Drury asked if the amount violated the City's purchasing policy. Mayor Johnson suggested that the warrant be held until the City could talk to HL&P.

**Motion:** Council Member Dougherty moved to approve the consent calendar with the following modifications:

- Resolution 2023-01 included in the attachment the \$500 annual stipend to board members of the Midway Irrigation Company.
- Ordinance 2023-01 be modified to state in the body the dates when there would not be meetings and that the mayor had the right to cancel a scheduled meeting.
- Exclude for further discussion the extension for Edelweiss Meadows and the 2022 Water Conservation Plan.
- The warrant for HL&P be excluded so that the City could discuss it with them.

**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

## **2l. 2022 Water Conservation Plan for Midway City**

Mayor Johnson indicated that the water conservation plan would be on the consent calendar for the first council meeting in February.

## **2k. Second One Year Extension of the Final Approval for the Edelweiss Meadows Subdivision Located at 640 East 200 South (Zoning is R-1-11)**

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

- Economic circumstances should not justify an extension of approval.
- Extending for up to three years was too much time.
- An extension should subject the development to any new codes.
- The infrastructure for the project was completed.
- The Council could deny the request.
- An extension had been granted for the project on 1 November 2022. This extension was to the anniversary date of final approval. The Municipal Code did not limit when an extension could be requested. The duration of the extension should be clearly stated.
- The City should not grant extensions that benefited a developer for tax purposes.
- Extenuating circumstances should be extra ordinary like encountering potrock.
- Extensions also delayed the increased taxes from a development.
- Assumptions should not be made.
- Extenuating circumstances had not been discussed with other extensions.
- The duration and reasons for the extension should be in the staff report.
- Should the Municipal Code be changed to address these issues?

Dallin Higley, applicant, made the following comments:

- Needed time to resolve some issues with his partner which could include litigation.
- Did not have years of financial backing to offset what the future year could bring.

**Motion:** Council Member Drury moved to grant a second one-year extension of final approval, to 19 January 2024, for the Edelweiss Meadows Subdivision.

**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

**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.

Snow Removal

Leslie Miller made the following comments:

- Was grateful for the return calls regarding her concerns but had not received a response or solution to those concerns.
- The primary role of the City Council was to protect health and safety.
- There was a lack of snow removal.
- The City plowed the snow from the roads into the residents' driveways. This blocked access to services and could be avoided.
- 50% of the residents along her block were senior citizens.
- The issue was not trivial.
- Was worn out from shoveling all the snow.
- Knew that she had to remove the snow on her property.
- Was losing confidence in the City.
- The mounts of snow were knocking down fences and breaking branches.
- There was no more room to put the snow and it had to be relocated.
- The City should contract another company for help.
- The City needed to step up its game.
- Visibility was blocked at intersections, and someone could get killed.
- A disabled veteran was helping the elderly.
- Her neighborhood was on a secondary road and not receiving any help.
- A public service announcement was needed. Seniors did not use social media.
- The City needed a plan.
- Did not like receiving a violation notice, from a snowplow driver, for putting snow in the street.

Mayor Johnson made the following comments:

- The City had contracted with three companies to remove snow.
- Excess snow was being hauled to Burgi Hill Park.
- Was aware that a lot of seniors lived in the center of Midway.
- Commuter lanes needed to be kept open.

- A small army was working on the problem.
- Did not think that it was trivial.
- The issue was being addressed on social media and the City's website. An article could also be published in The Wasatch Wave.
- Children had dug into a snowbank along a road. This could be disastrous if a snowplow or other equipment worked on the bank.

Wes Johnson made the following comments:

- Seven large loaders and 15 dump trucks were removing the snow.
- Residents would see a significant difference after that week.

Diana Lance indicated that one of her neighbors got stuck on the snow wind row between their driveway and the road. She suggested that one loader and a truck be assigned to clear driveways. She questioned how emergency services would access a house.

Susan Tabke indicated that fire hydrants needed to be dug out. She said that she saw only three that were accessible. Mayor Johnson responded that snow was being removed from around fire hydrants.

No further comments were offered.

#### **4. Department Reports**

##### Streets / Snowplowing

Council Member Simonsen made the following comments regarding snowplowing:

- Several weeks had been spent clearing snow.
- There was a lot of snow.
- The Mayor had done a good job solving the problem.
- There were approximately 3,500 driveways in Midway. It would take a long time to clear the snow from all of them even if only 60 seconds was spent on each one.
- The City had hired companies to help it remove the snow.
- Thanked those who had helped.
- Asked for residents' patience and understanding.
- Neighbors should help neighbors.

##### Tree Selection / Grant

Council Member Simonsen wanted to get a grant to select trees which were diverse and drought tolerant. He asked for the Council's input regarding the issue before the end of January.

##### HVRR / Additional Funding

Mayor Johnson reported that the Heber Valley Railroad (HVRR) met with the leadership of the Utah State Senate to request more funding. HVRR was profitable and running well but needed

to retire some old debt.

**5. Appeal of Administrative Decision / 55 South Center Project** (Alpine Development, LLC – Approximately 60 minutes) – Possibly act on an appeal by Glen Lent of a decision by the Midway City Planner regarding the allowed density for a project at 55 South Center Street.

Corbin Gordon explained that counsel for Alpine Development requested more time to respond to a letter sent by the City. He asked that the appeal be continued to the February 7<sup>th</sup> council meeting.

**Motion:** Council Member Dougherty moved to continue the appeal of an administrative decision until 7 February 2023.

**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

**6. Ameyalli Resort, Phase 1 / Final Approval** (Midway Mtn Spa, LLC – Approximately 30 minutes) – Discuss and possibly deny, continue, or grant final approval for Phase 1 of the Ameyalli Resort located at approximately 800 North 200 East (Zoning is Resort). Recommended for approval with conditions by the Midway City Planning Commission.

**7. Resolution 2023-03 / Ameyalli Resort, Phase 1 Development Agreement** (City Attorney – Approximately 15 minutes) – Discuss and possibly deny, continue, or approve Resolution 2023-03 adopting a development agreement for Phase 1 of the Ameyalli Resort located at approximately 800 North 200 East (Zoning is Resort).

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

- Land use summary
- Location of the development
- Sensitive lands
- Conservation easement
- Master plan
- Open space
- Landscaping
- Proposed plat map
- Design
- Vision Architecture Committee approval

- Trails plan
- Fire access
- Project overview
- Water board recommendation
- Possible findings
- Proposed condition

Mr. Henke also made the following comments:

- The Lacy Lane HOA unanimously voted to allow the storm drain for the project on its property.
- The Municipal Code did not prohibit fractional ownership.
- The City Fire Marshal could cite a vehicle that was sticking out into the road.
- The easements in Lacy Lane needed to be recorded before the plat map.
- The fire access would have pavers but should not have a gate. These types of gates had been problematic in other parts of the City.

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

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

- Which driveways were too short to allow parking on them? They should be identified including in the development agreement. Notification should be given of the driveways that were too short. The notification should also be on the plat map. A sign was better than a note on the plat map.
- Parking should not be allowed on a driveway if the vehicle stuck out into the road. The project did not have any sidewalks.
- Who would enforce the parking restrictions on the driveways?
- The conservation easement, setbacks, and design of the buildings kept some driveways from being long enough for parking. Setbacks could be adjusted at preliminary but not final approval.
- What document established fractional ownership?
- Full-time residents had more things than renters.
- Where would the snow be stored? The ground in the area was warm and did not collect much snow.
- There was an abandoned irrigation ditch on the property with water in it.
- The State Code did not differentiate between timeshares and fractionally owned units.
- The neighbors were worried about who would live in the units in the phase.
- Traffic should not use the fire access. ATV drivers liked to use the access. The access should be gated. The access should be removed because it was not required by the Municipal Code. People who were not guests would not ride ATVs on the property once the project was completed.
- Access was needed for the retention pond next to the fire access.
- Utilities ran under the access. The pavers were not needed for the utilities.
- More than pad designations were needed for fractional ownership.

Chuck Heath, applicant, made the following comments:

- The driveways would only be used to access the garages. Longer driveways were not necessary in resorts.
- Snow would be dealt with the same way the City dealt with it.
- The project included a lot of open space but only so much room for accommodations.
- Units would have 1/8 fractional shares that could be rented or traded.
- Would do whatever the City wanted regarding the fire access. Did not want it to be a road. Did not want ATVs on the Resort's roads.
- The development agreement should only prohibit noxious weeds.
- The agreement should state that the City could not unreasonably withhold further approvals.

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

- The fire access was also used for some of the utilities.
- Needed language from the City if it wanted the water rights designated on the plat map.
- The development agreement should not include the City Engineer's letter.
- The commentary regarding the landscaping plan and the offsite storm drain should be removed from the agreement.

**Motion:** Council Member Dougherty moved to grant final approval for the Ameyalli Resort, Phase 1 with the following findings and conditions:

- The proposal would benefit the City financially by creating a greater tax base.
- The proposal would help the City better comply with State requirements regarding the ability to collect the resort tax.
- The public trail system in the development would benefit the entire community by creating public trails across the property.
- Amenities would be created that would be accessible year-round which would invite more tourists to visit the resort in all seasons.
- The off-site storm drain easement and public trail easement would be recorded before the plat map for Phase 1 was recorded.
- The plat map could not be recorded until a legal opinion was given on whether this plat map required identification of the fractional interest under law.
- Approval was conditioned on the adoption of the development agreement.
- The pavers be removed from the proposed emergency access and the access was fenced.

**Second:** Council Member Simonsen seconded the motion.

**Discussion:** Council Member Payne asked if the fractional ownership needed to be checked and approved by the City Attorney. Council Member Dougherty responded that a memo to the Council would be sufficient. He added that if the plat map needed to be modified then it should come back to the Council.

**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:** Council Member Drury moved to approve Resolution 2023-03, adopting a development agreement for Phase 1 of the Ameyalli Resort, including the following changes from the City Attorney:

- Paragraph "P" would call out that there was no on street parking, and someone could not encroach on the public right-of-way.
- Paragraph "G" would remove the letter for Horrocks Engineering.
- Paragraph "Q" would note that Lacy Lane had approved the plan including the detention basin.
- Subparagraph "r" would indicate that Lacy Lane had approved the plan for the trails.
- Subparagraph "u" would indicate only noxious weeds as defined by Wasatch County.
- Section 6a would match the language with the Master Plan Agreement and that the City would not unreasonably deny a request for a change.
- Add the requirement to investigate fractional ownership to determine if that needed to be designated on the plat map.

**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

**Motion:** Without objection, Mayor Johnson recessed the meeting at 8:23 p.m. She reconvened the meeting at 8:31 p.m.

**8. Springer Farms / Preliminary Approval and Conditional Use Permit (Atlas Holdings – Approximately 45 minutes) – Discuss and possibly deny, continue, or grant final approval for Springer Farms, a mixed-use project, located at 65 North 200 West (Zoning is C-3). **Public Hearing****

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

- Land use summary
- Location of the development
- Utilities
- Site plans for the entire property
- Parking
- Drawings

- Agricultural component
- Fencing
- Pictures
- Renderings
- Elevations
- Setbacks
- Items of consideration
- Water board recommendation
- Possible findings

Mr. Henke also made the following comments:

- The applicant withdrew his zone change request.
- The residentially zoned part of the property would be a one lot subdivision.
- There would be a lot line adjustment to match the zoning.
- The proposed hammerhead turnaround met the Fire Code but could not be used by a semi-truck. There would be room on the street for delivery trucks.
- Preliminary approval had been received from UDOT for access.
- The neighbors liked the full sight obscuring fence.
- The project would be a PUD plat map with separate ownership.
- No setbacks were required between the buildings.
- There was not a setback for dumpsters.
- Several architectural elements would exceed 35 feet in height.
- Did not have any recommended conditions.
- The specific design and architecture of the far west building had not been finalized.
- Any modification to a building would have to be approved by the City.

**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 full sight obscuring fence made the project look like a fortress.
- The garbage dumpsters had parking spaces next to them. They could not be dumped with vehicles in the spaces. They would have to be pulled out then dumped. Should the spaces have signs regarding the issue? One of the dumpsters could be eliminated but that would require more garbage pick-ups.
- A condominium plat would be more appropriate because of differences in vertical ownership.
- The west building could be pushed north to allow for more parking.
- The parking calculation should be reviewed.

Travis Nokes, representing the applicant, read a statement:

Dear City Council members,

Over the past year or so, as we have been working on this Springer project, we have received so much positive feedback from locals on what we are doing, that we were surprised by the neighbors that voiced their concerns at the initial

Planning Commission meeting. However, as we listened to the immediate neighbors and their concerns, we found ourselves nodding, understanding, and agreeing with many, even most of the points that were made by them.

After that initial Planning Commission meeting, the Springers and my wife and I met and took all of the input, feedback, community, benefits, downsides, visual impact, financial obligations, and parking into consideration.

First, we understand that there is an impact to the community. The Springer family has lived here since the 1880's. My wife and I have owned property here for over 12 years, and have lived here full time for the last several years. We love this town. It is important to us to keep the charm of Midway, small town feel, and good relationships with our neighbors and friends. When presenting our project to the Visual Architectural committee, they felt that we have done that very well.

It is my understanding that when surveyed, the vast majority of the citizens of this town said that they wanted the exact things that this village will offer, while maintaining the small town feel. With the changes that we have made to our original proposal, we don't feel like we are seeking anything that contradicts the wishes of the town's majority. We hope to add to the charm, convenience and flow of downtown Midway. We also feel this project adds opportunity to small local businesses to offer their unique and special products to our community and visitors. Currently we have 4 small businesses that plan on renting space in this village. A German pretzel maker, a vintage book store, a small home town décor company, and we are still working with and seeking after a bakery/ eatery to come as well.

In summary, and for the information to the local neighbors, since our original proposal to the Planning Commission we have made the following changes to this project:

1- We have reduced the overall footprint of this project by about 30%. We have made it both simpler vertically, as well as smaller horizontally.

2- As I mentioned, It was important to us to help reduce the impact on the surrounding neighbors. We are so confident that this will be a positive addition, that the .56 acre piece we had originally proposed to rezone to commercial and use to build 3 buildings on, is now going to be a single family home for the Springer Family to live in full time. We feel this takes this property back full circle to serve as the homestead for the Springer family, respects the wishes of the local neighbors, and gives them one more wonderful family to live by. It also says a lot about how we feel this project will add to the charm and livability of downtown Midway.

3- We decreased the size and number of the back buildings significantly. This opened up some additional green space where we plan to put additional trees, landscaping, and possible community garden.

4- We tucked most of the parking back behind the buildings, so that the view off 200 west is less parking lot and flows better with the current "row of homes" look of downtown Midway. We surrounded this parking area with fencing for the

privacy of the neighboring homes.

5- This land has had livestock on it for many years. Several of the people that spoke last time talked about the animals that have lived on this land recently. Then, hearing and seeing the things these 4H kids are learning from animals really seemed important. So, we would like to try and team up with, and use a portion of this land as an area for small livestock. It's not a big piece of ground, but we feel this may be a good addition to this village.

Overall, we feel we have made some concessions in most if not all areas of the feedback we received. Many of these concessions make no financial sense, but we agree are important for the overall best interest of the city, the immediate neighbors, and our community in general.

We appreciate your time on this and that hope we can move forward with this project without delay.

David and Kayla Springer, Travis and Lisa Nokes

He also made the following comments:

- Most structures would be under 35 feet high. Some may have a chimney that exceeded the limit by one or two feet.
- The amount of water needed would be reduced because there would be paired down laundries and only one restaurant.
- Overnight parking could be prohibited in the parking spaces next to the dumpsters. They could be for employee parking.
- The project had a lot of cross parking.
- Was open to the style of the fence.
- Wanted to keep the light from the project out of the neighbors' properties.
- Wanted to put in enough trees but did not know the exact number.

Mayor Johnson asked if there was any public comment on the issue.

Robert Spencer

Mr. Spencer made the following comments:

- Lived adjacent to the project.
- Was concerned about the overnight accommodations.
- Preferred around the property a stone fence higher than six feet.
- Would a garbage truck be able to access the dumpsters?
- Garbage trucks usually came in the morning and were noisy.
- There would be a problem with removing snow.
- Appreciated some of the concessions made by the developer.

Roger Peay

Mr. Peay made the following comments:

- Appreciated the concessions made by the developer.
- Liked the animals in the project but did not know if they would be practical.
- Wanted a sight obscuring fence which was six feet or higher.

Alison Russell

Ms. Russell made the following comments:

- Was the co-owner of the bookstore that would be in the project.
- Was community minded and wanted local businesses.
- Wanted the bookstore to be a gathering place.
- Supported the small alpine village look of the project.
- People should be able to live, eat, and work in Midway.

Susan Phillips

Ms. Phillips made the following comments:

- Michael Henke told her that a subdivision could not be put on the property. Mr. Henke responded that commercial but not residential was feasible on the property.
- Bought the house where she wanted it without a freeway next to it.
- Did not know how the water rights were shared for the properties.
- Who paid for the water?
- Could she still water her sheep? Mr. Nokes responded that the secondary water tap would be on in the summer.
- Who decided on what type of fence would be around the property?
- Was concerned that the cottonwood trees on the property would become unstable if the roots were cut. Mayor Johnson responded that the City had a grant which would pay for an arborist to look at the trees.
- She would no longer have nice views from her property. Mayor Johnson responded that the impact may not be that significant.

Lindsey Leavitt-Brown

Ms. Leavitt-Brown made the following comments:

- Would co-own the bookstore in the project.
- Was also an author.
- Thought about opening a bookstore for a long time.
- Mr. Nokes was trying to add to rather than take away from the community.
- Signed an intent to lease.
- Liked the European design.
- Was a local resident.
- Liked that there would be small boutiques in the project.

Susan Peay

Ms. Peay made the following comments:

- Thanked the developer for the concessions.
- Hoped that the project would be quaint.
- It was important that the buildings be no higher than 35 feet.
- Liked the proposed fence.
- Did not want lights on the back of the far west building which was next to her property. Mr. Nokes responded that there would be no lights on the back of the building.

David Springer

Mr. Springer, applicant, made the following comments:

- Was excited to live in the neighborhood.
- Reviewed the history of his family owning the property.
- Wanted to build up Midway.
- Was sorry for the effect that the project had on Ms. Phillips.

Myron Lance

Mr. Lance made the following comments:

- Felt bad for those who would have dumpsters next to them.
- A group of the neighbors had to fight to keep the entire project from being commercial.
- Only found out about the project from his neighbors. Michael Henke noted that all property owners within 600 feet of the project had been sent a notice. He said that he could verify if Mr. Lance was on the mailing list.
- It felt like some things in the development were being pushed.
- Nightly rentals were awful.

Diana Lance

Ms. Lance made the following comments:

- Like that part of the project would be residential and a buffer with other properties.
- Appreciated the changes that had been made.
- Could hear from her house the dumpsters being emptied at the apartments a block and a half away.

Mayor Johnson closed the hearing when no further comments were made.

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

- The City tried to do what the community wanted.
- What would happen at the project during Swiss Days? Would the parking spaces need to be protected? Sometimes with a lot of traffic it was better to block off the spaces. However, the parking could be required to remain open. Mr. Nokes wanted some of the parking to be open during the event.
- Vendor booths could be allowed on the green space during Swiss Days.
- The required parking could not be sold during Swiss Days.
- It was dangerous to have parking and vendor booths at the same place.
- If a business closed during Swiss Days could vendor booths be on its parking?
- Did the project have a site where it could move snow? The Municipal Code did not require such a site.

**Motion:** Council Member Drury moved to table the requests so the Council could have further clarification on the parking, locations of the dumpsters, and activities during festival markets.

**Discussion:** Council Member Dougherty indicated that issues could be resolved before final approval. He was not comfortable approving the conditional use permit that night. Mr. Henke responded that the two items could be separated.

**Second:** Council Member Simonsen seconded the motion.

**Discussion:** Council Member Orme wondered if the questions could be answered before final approval. Mr. Nokes preferred that it not be tabled if the questions could be answered before final approval.

Council Member Drury saw no harm in tabling an item for preliminary review.

Council Member Payne made the following comments:

- Thought that the parking was based on assumptions and would change depending on the eventual uses in the project.
- Uses that required more than existing parking would not be allowed.

**Vote:** The motion failed with the Council voting as follows:

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

**Motion:** Council Member Dougherty moved to grant preliminary approval with the following findings:

- The proposal would benefit the City financially by creating a greater tax base and by providing more commercial options to the community.
- The proposal might help the City better comply with State requirements regarding the ability to collect resort tax.
- Commercial condominium developments were a conditional use in the C-3 zone.

- Mixed-use developments were a conditional use in the C-3 zone.

He further moved that the request for a conditional use permit be continued until more information was received to answer the questions raised.

**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	Nay
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Nay

**Motion:** Council Member Orme moved to continue the meeting to consider the next item on the agenda.

**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

**9. Resolution 2023-02 / Villages of Zermatt, Plats C & D Development Agreement (City Attorney – Approximately 15 minutes) – Discuss and possibly deny, continue, or approve Resolution 2023-02 adopting a development agreement for Plats C & D of the Villages of Zermatt located at 875 West Bigler Lane (Zoning is Resort).**

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

- Summary
- Location of the development
- Original master plan.

Mr. Henke also made the following comments:

- The project was an old development approval.
- The original approvals did not have a sunset.
- The original owner sold the property and project to a development company.
- The project received final approval.



- The City wanted a development agreement, which were not done at the time of the original approval. Had discussed a development agreement with the applicants but they could push back that one was not required.
- The water issues had been considered by the Midway Irrigation Company.
- The water had been transferred to one of the City's sources but had not been deeded to the City.

Council Member Dougherty noted that the applicant was not present.

Mayor Johnson asked if the City could require a development agreement.

Council Member Dougherty noted that development agreements contained a lot of protections for the developer.

**Motion:** Council Member Dougherty moved to continue the item without date and engage in a discussion with the applicant to see if they would voluntarily or involuntarily enter into a development agreement.

**Second:** Council Member Payne seconded the motion.

**Discussion:** Council Member Simonsen asked how the City would get the water for the project that had not yet been deeded. Mr. Henke responded that the City did not sign and record plat maps until the required water rights were turned in.

Council Member Simonsen asked if the City could also refuse to sign the plat map if an applicant did not agree to a development agreement. Mr. Henke responded that the applicants had not refused to do an agreement.

Council Member Orme indicated that one of the applicants also wanted to make some changes in other parts of the Zermatt Resort. She thought he would want to stay on good terms with the City.

**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:** Council Member Drury moved to continue the meeting to consider the next item on the agenda.

**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

**10. Alpenhof Park / Project Management Contract** (City Engineer – Approximately 10 minutes) – Discuss and possibly award a contract for project management of improvements to the Alpenhof Park located at 1295 West Alpenhof Lane.

Wes Johnson made the following comments:

- Put out to bid the redesign of the Alpenhof Park.
- Received two bids.
- Gave credit for local designs.
- Berg Landscape Architects was the low bidder.
- Recommended that the contract be awarded to Berg Landscape Architects.

Council Member Dougherty asked if the money for the design was in the budget. He also asked Council Member Simonsen’s opinion because he oversaw parks. Council Member Simonsen responded that the money was in the budget and Berg Landscape Architects was the low bidder and made sense for many reasons.

**Motion:** Council Member Orme moved to award Berg Landscape Architects the contract for the Alpenhof Park and authorized the Mayor to sign it.

**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. Wasatch County Sheriff’s Department / Law Enforcement Contract** (City Attorney – Approximately 30 minutes) – Discuss and possibly act to extend, amend, or terminate the law enforcement contract with the Wasatch County Sheriff’s Department.

**Motion:** Council Member Drury moved not to consider the law enforcement contract because the City was meeting with Wasatch County later that week to discuss the issue.

**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

**Motion:** Council Member Drury moved to continue the meeting to consider the next item on the agenda.

**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

**12. Resolution 2023-04 / TAP Interlocal Agreement** (Mayor Johnson – Approximately 10 minutes) – Discuss and possibly deny, continue, or approve Resolution 2023-04 adopting an interlocal agreement for the administration of the Trails, Arts, and Parks Tax.

Mayor Johnson indicated that Wasatch County and Heber City had signed the agreement. She added that the City Attorney reviewed and approved of the document.

Council Member Simonsen noted that the agreement was based on the current census numbers. He asked if the agreement provided for changes in population. Michael Henke responded that the TAP tax had to be reapproved by the voters every 10 years. He added that Midway's growth rate was lower than Heber City's.

**Motion:** Council Member Orme moved to approve Resolution 2023-04 and authorized the Mayor to sign the agreement.

**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

### 13. Adjournment

**Motion:** Council Member Simonsen moved to adjourn the meeting. Council Member Dougherty seconded the motion. The motion passed unanimously.

The meeting was adjourned at 10:25 p.m.



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Celeste Johnson, Mayor



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Brad Wilson, Recorder