

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

**Tuesday, 18 April 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 Pro Tempore Drury called the meeting to order at 6:07 p.m. He excused Mayor Johnson.

Members Present:

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

Members Excused:

Celeste Johnson, Mayor

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

Mayor Pro Tempore Drury led the Council and meeting attendees in the pledge of allegiance. Council Member Dougherty gave the prayer and/or inspirational message.

2. Consent Calendar

- a. Agenda for the 18 April 2023 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 21 March 2023 City Council Work Meeting
- d. Minutes of the 21 March 2023 City Council Regular Meeting
- e. Minutes of the 23 March 2023 City Council Meeting
- f. Minutes of the 30 March 2023 City Council Meeting

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

Motion: Council Member Dougherty moved to approve the consent calendar with Item #13 (General Plan) struck from the agenda.

Second: Council Member Payne seconded the motion.

Discussion: None

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

Mayor Pro Tempore Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

Council Member Orme explained that she was not at the 23 March 2023 meeting and could not vote on those minutes.

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

Mayor Pro Tempore Drury asked if there were any comments from the public for items not on the agenda. No comments were offered.

4. Department Reports

Midway Boosters / Filling Positions / Events

Mayor Pro Tempore Drury reported that the Midway Boosters were filling open positions in the organization and were planning for Founders' Day and Independence Day.

Ice Rink / Closed / Equipment Issues

Mayor Pro Tempore Drury reported that the City's ice rink had closed and had some equipment issues that needed to be fixed.

Water Lines / Inspections

Council Member Dougherty reported that culinary water systems were now required to inspect their delivery lines for lead, etc. He hoped that the City could use a grant to have a third party do the inspections.

Midway Irrigation Company / Ditch Cleaning

Council Member Dougherty reported that the Midway Irrigation Company was cleaning ditches.

Heber Light & Power Company / Rate Increase / Rolling Average

Council Member Dougherty reported that the Heber Light & Power Company (HL&P) would hold a public hearing on accelerating a planned rate increase. He noted that the cost of buying wholesale power was skyrocketing.

Council Member Dougherty also reported that HL&P was considering a power cost adjustment that would be billed to customers based on a 6 month rolling average of power costs incurred above normal budget until costs stabilized.

Cowboy Poetry / Ending

Council Member Orme reported that the Heber Valley Western Music & Cowboy Poetry Gathering would no longer be held. She added that cowboy poetry might be included in some type of heritage festival. She explained that the Bar J Wranglers were no longer performing and other headliners were too expensive.

Roger Brooks

Council Member Orme reported that Roger Brooks would visit a week in May and a week in July.

Town Hall / Community Center / Bathrooms / Kitchen

Council Member Orme reported that the remodeling of the bathrooms in the Town Hall and the Kitchen in the Community Center were almost completed.

5. **Resolution 2023-11 / TAP Agreement Amendment** (City Recorder – Approximately 5 minutes) – Discuss and possibly deny, continue, or approve Resolution 2023-11 adopting an amendment to the agreement for the Trails, Arts, and Parks (TAP) Tax.

Brad Wilson gave a presentation on an amendment to the Trails, Arts, and Parks Tax Agreement. The amendment added a requirement to meet annually to discuss certain items.

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

Motion: Council Member Dougherty moved to approve Resolution 2023-11, amending the TAP Agreement as presented to the Council, and authorized the Mayor to sign it.

Second: Council Member Orme seconded the motion.

Discussion: None

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

Mayor Pro Tempore Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

6. Kay's Landing Subdivision / Revised Final Approval (Berg Engineering – Approximately 15 minutes) – Discuss and possibly deny, continue, or revise the final approval for the Kay's Landing Subdivision located at approximately 1375 South Stringtown Road (Zoning is RA-1-43).

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

- Land use summary
- Location of the development
- Approved plan
- Recorded right-of-way easement language
- Possible findings
- Proposed condition

Mr. Henke also made the following comments:

- The approved plan showed the open space on the lot with the easement access. The easement could be used as a road, so it was proposed that the open space be moved to the lot to the south.
- The recorded easement language indicated that it was intended for a road. This would create a double-fronted lot which was not allowed in Midway, but the lot was in the County.
- Did not identify any land use issues with the amendment.
- The open space had to all be on one lot.
- The City did not agree to the easement being a formal road. Roads in subdivision were required to be public.

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

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

- The plat map and development agreement could be amended because they had not yet been recorded.
- The request could not be denied because it complied with the Municipal Code.

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

- A recorded document, which he was not aware of, had been found which indicated the easement could be a road.
- Hoped that moving the open space would solve the road issue.

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

- The easement document was incorrect because the grantor was also the grantee.
- The proposed road was not on the City’s road plan and had not been approved by the Council.
- Private easements should not be shown on plat maps. This easement should be removed because the City had not taken a position on the road. Mr. Berg responded that it could be removed but he told Josh Probst, who owned the property that it would access, that it would be on the plat map.
- Mr. Probst should have retained the property for access.

Council Member Payne asked if he needed to recuse himself from the issue because he owned nearby property.

Motion: Council Member Orme moved to approve the amended final approval with the following findings and conditions:

- The proposal met the intent of the General Plan for the RA-1-43 zoning district.
- The proposal complied with the land use requirements of the RA-1-43 zoning district.
- 1.67 acres of open space would be created as part of the development, which would be noted on the plat map and restricted from future building or development.
- The property was restricted to five lots by a private deed restriction, and by the annexation agreement.
- The duration of final approval would be one year from the date of final approval of the development by the City Council. Should a final plat map not be recorded by the County Recorder within the one-year period of time, the development’s approval would be voided, and both preliminary and final approvals would have to be re-obtained, unless, on a showing of extenuating circumstances, the City Council extended the time limit for plat recording, with or without conditions.
- The applicant would contribute to the planned bike lane in an amount approved by the City Engineer before the plat map was recorded.
- The road easement would be removed from the plat map.
- The open space would be moved to Lot #5.

Second: Council Member Dougherty seconded the motion.

Discussion: None

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

Mayor Pro Tempore Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Recused
Council Member Simonsen	Aye

7. Resolution 2023-08 / Revised Kay's Landing Subdivision Development Agreement
(City Attorney – Approximately 5 minutes) – Discuss and possibly deny, continue, or revised the approval for Resolution 2023-08 adopting a development agreement for the Kay's Landing Subdivision located at approximately 1375 South Stringtown Road (Zoning is RA-1-43).

Corbin Gordon indicated that the agreement would be amended to say that the open space was moved to Lot #5. It would also not reference the easement.

Motion: Council Member Orme moved to approve Resolution 2023-08, revising the Kay's Landing Subdivision Development Agreement, indicating that the open space was moved.

Second: Council Member Dougherty seconded the motion.

Discussion: None

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

Mayor Pro Tempore Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Recused
Council Member Simonsen	Aye

8. Springer Farms / Final Approval (Travis Nokes – Approximately 30 minutes) – Discuss and possibly deny, continue, or grant final approval for the Springer Farms mixed-use project located at 65 North 200 West (Zoning is C-3). Recommended for approval without conditions by the Midway City Planning Commission.

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

- Land use summary
- Location of the development
- Site plan
- Fencing
- Surrounding properties
- Zones
- Setbacks
- Plat map
- Views of the project
- Renderings
- Profiles
- Snow storage
- Solid waste
- Vendor booth placement for Swiss Days
- Conditional uses
- Items of consideration
- Water board recommendation

- Possible findings

Mr. Henke also made the following comments:

- The residential unit had been separated from the project, which now only contained commercial and overnight rentals.
- The building mass was reduced, which created additional parking spaces.
- The parking spaces that were difficult to access would be marked as employee parking.
- Each building would have its own tax ID number.
- All lighting would have full cutoffs. The developer was considering bollard lighting to meet the neighbors' concerns.
- There were no proposed conditions.
- That year only the businesses in the development could have booths for Swiss Days.
- The project was considered a planned unit development.
- The sewer and water extended off the property. The plat map would not be recorded until the utility easements were finalized.
- The hatched area on the site plan was not an access but a hammer head turnaround.
- The project had a fencing plan, but conditions could be added regarding fencing.
- A site obscure fence could only be required if a nuisance was being mitigated.

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

Travis Nokes, applicant, said that some architectural features would break up the backs of the buildings.

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

- A crosswalk was needed from the project to the Town Square.
- Dark sky regulations did not apply to interior lighting. Should the light from the second story windows be addressed. Mr. Nokes responded that the second story windows would have blinds.
- There could be a small gate to allow walking access between the residential lot and the project.

Motion: Council Member Dougherty moved to grant final approval for the Springer Farms commercial PUD, located at 65 North 200 West (Zoning was C-3) with the following findings and conditions:

- Fencing be installed per the proposed fencing plan and compliance with city requirements.
- The windows facing off the property, on the second floor of any of the buildings, had to have window coverings installed on them.
- 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 the resort tax.
- Commercial condominium developments were a conditional use in the C-3 zone.

- The proposed parking plan did comply with code requirements.

Discussion: Mr. Nokes asked that the four office spaces, which would only be used during the day, not be required to have window coverings. Council Member Orme noted that window coverings could be opened in the offices. Council Member Dougherty responded that he did not want to limit the window coverings just to the residential spaces.

Second: Council Member Payne seconded the motion.

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

Mayor Pro Tempore Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

- 9. Resolution 2023-10 / Springer Farms Development Agreement** (City Attorney – 5 minutes) – Discuss and possibly deny, continue, or approve Resolution 2023-10 adopting a development agreement for the Springer Farms mixed-use project located at 65 North 200 West (Zoning is C-3).

Corbin Gordon indicated that the agreement followed what had been presented. He indicated that the requirement for window coverings could be added.

Motion: Council Member Simonsen moved to approve Resolution 2023-10, adopting the Springer Farms Development Agreement, with the following changes:

- The fencing plan was mentioned and indicated that it was to mitigate a nuisance.
- Window coverings were also required to mitigate a nuisance.

Second: Council Member Dougherty seconded the motion.

Discussion: None

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

Mayor Pro Tempore Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

- 10. 665 East Main Street House / Moving** (Rendt Martin – Approximately 60 minutes) – Discuss and possibly deny, continue, or approve moving a house from 665 East Main to 611 East 260 South.

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

- Project summary
- Current location and proposed location of the house
- Pictures of the house
- Proposed moving routes
- Pictures of the two proposed routes
- Municipal Code, Section 16.13.310
- Items to consider
- Possible findings
- Recommended conditions

Mr. Henke also made the following comments:

- The move would be done by a well-known company.
- The applicant and the utility companies preferred Route #1 which went along 580 East.
- The garage might also be moved.
- UDOT would be involved.
- Some utility lines could be lifted, and others would have to be disconnected.
- The Hamlet PUD would temporarily lose electricity if Route #2 was used.
- The Building Department was only required to inspect the new foundation and putting the house back together if it had to be cut into two pieces.
- The Municipal Code did not require that the mover be bonded but that could be a condition of approval.
- The Building Department could quickly issue a foundation permit.

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

Rendt Martin, applicant, made the following comments:

- The house but no wheels would go over some curbs.
- Some trees would have to be trimmed.
- Some property owners wanted their trees removed because they were buckling the sidewalk.
- Route #1 would go under one power line and have a limited impact on traffic.
- The house would have to be cut horizontally but not vertically.
- Had contacted two additional moving companies because the process was taking so long.
- Wanted to have the new foundation in before the house was moved.
- The owner of the property, where the house was now located, would allow it to be stored somewhere else on site in the second phase of Southhill. An out-of-pocket amount had been requested to store the house on site.
- Spoke to a lender who had no problem with financing the project.

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

- Left hand turns were a concern.
- The weight of the house was distributed over many wheels so that it impacted the road no more than a 10 wheeled dump truck.

- There should be temporary fencing around the new site.
- Moving the house to another place on the original site was a concern because the road to be used was narrow.
- UDOT approval, instead of completion of a new foundation, could be required before moving.
- The house could be stored on the proposed lot for 60 days and that could be extended to 90 days at the staff's discretion.
- It was good to preserve the house.
- The house being moved and then not being put on a new foundation for a considerable amount of time was a concern. How long could a house sit without a foundation?
- The moving company being bonded was more of a concern than the applicant having a bond or out-of-pocket amount.

Motion: Council Member Orme moved to approve moving the house, from 665 East Main Street to 611 East 260 South, with the following findings and conditions:

- Moving the dwelling would allow the dwelling to not be demolished.
- Dwellings were a permitted use in the R-1-11 zone.
- The property had been used for noncommercial storage but if a dwelling was allowed to be moved onto the property, then the use of the property would be more conforming to the surrounding properties.
- Power and communication service would most likely be disrupted to some property owners in the area if the dwelling was moved.
- The dwelling could not be left off a foundation for more than 60 days, with an administrative extension to 90 days, at either its current or proposed locations.
- UDOT approval would be submitted to the City before the house was moved.
- Property owners along the chosen route would be informed, by the applicant, with flyers of the date and time when the dwelling would be moved to assure that no vehicles were left parked on the public road.
- Any trees that needed to be trimmed would be completed by the applicant with the consent of the owner of the tree.
- Any damage to personal or public property because of the moving of the dwelling was the responsibility of the applicant.
- The applicant would receive approval from Heber Light & Power and any other utility companies before the dwelling was moved and supply the City with proof of the approvals.
- The mover would be bonded, and Midway City would be named as an additional insured.
- The house would be secured by a fence while elevated and not on a foundation. This would be done within two days of it being moved.
- Route #1 would be used.

Second: Council Member Dougherty seconded the motion.

Discussion: None

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

Mayor Pro Tempore Drury Aye

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

Motion: Without objection, Mayor Pro Tempore Drury recessed the meeting at 8:39 p.m. She reconvened the meeting at 8:50 p.m.

11. Ordinance 2023-04 / 600 North (City Attorney – Approximately 15 minutes) – Discuss and possibly deny, continue, or adopt Ordinance 2023-04 removing a portion of 600 North from the Midway City Road Map.

Corbin Gordon explained that the Farm Meadows plat map had been recorded, so the portion of 600 North planned to go through the project could be removed from the City’s roads plan. Michael Henke added that an adopted inset would also be repealed.

Motion: Council Member Dougherty moved to adopt Ordinance 2023-04, amending the Midway City Roads Map, to remove the part of the planned connection of 600 North between Pine Canyon Road and Farm Springs Road and rescind Ordinance 2012-22 in full.

Second: Council Member Orme seconded the motion.

Discussion: None

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

Mayor Pro Tempore Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

12. 2023 Surface Treatments / Award Contract (City Engineer – Approximately 5 minutes) – Discuss and possibly deny, continue, or award a contract for the 2023 Road-Trail Surface Treatments Project.

Wes Johnson made the following comments regarding the surface treatments:

- Bids had been opened to slurry seal and chip seal selected roads and trails in Midway.
- The low bid was from Advanced Paving for \$306,680. Had worked with them in the past and they did good work.
- The project would include a road owned by the Heber Valley Special Service District. The District would reimburse the City \$21,000 for the work.
- Any seams would blend into the road and not be visible.

Motion: Council Member Payne moved to award the contract to Advanced Paving for \$306,680

Motion: Council Member Payne moved to award the contract to Advanced Paving for \$306,680 and authorized the mayor to sign it.

Second: Council Member Orme seconded the motion.

Discussion: None

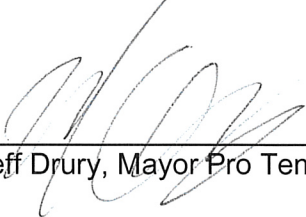
Vote: The motion was approved with the Council voting as follows:

Mayor Pro Tempore Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

13. Adjournment

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

The meeting was adjourned at 9:01 p.m.



Jeff Drury, Mayor Pro Tempore



Brad Wilson, Recorder