

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

**Tuesday, 16 April 2024, 6:00 p.m.
Midway Community Center, Council Chambers
160 West Main Street, Midway, Utah**

Note: Notices/agendas were posted at 7-Eleven, The Market 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
Jeff Drury, Council Member
Lisa Orme, Council Member
Kevin Payne, Council Member
Craig Simons, Council Member
JC Simonsen, Council Member

Staff Present:

Corbin Gordon, Attorney
Michael Henke, Planning Director
Wes Johnson, Engineer
Katie Villani, Planner
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 Drury gave the prayer and/or inspirational message.

2. Consent Agenda

- a. Agenda for the 16 April 2024 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 2 April 2024 City Council Work Meeting
- d. Minutes of the 2 April 2024 City Council Regular Meeting
- e. Minutes of the 4 April 2024 City Council Meeting
- f. Conclude the warranty period and release the remainder of the bond for the North Section of the Haven Farms Rural Preservation Subdivision, located at 1700 South Center Street, subject to the payment of all fees due to Midway City.
- g. Conclude the warranty period and release the remainder of the bond for the South Section of the Haven Farms Rural Preservation Subdivision, located at 1700 South Center Street, subject to the payment of all fees due to Midway City.

- h. Release the construction bond, minus 10% and any amount for landscaping, and begin the one-year warranty period for The Farm at Wilson Lane located at 1500 North Canyon View Road.
- i. Conclude the warranty period and release the remainder of the bond for the Nelson Family Farm Subdivision, located at 344 West 500 South, subject to the payment of all fees due to Midway City.
- j. Conclude the warranty period and release the remainder of the bond for the Huntleigh Woods Subdivision, located at 885 North Pine Canyon Road, subject to the payment of all fees due to Midway City.

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

Council Member Drury asked why only one of the bond releases had a reduction for landscaping. Michael Henke responded that only one had common area that needed to be landscaped.

Motion: Council Member Drury moved to approve the consent agenda including items 2a through 2j.

Second: Council Member Payne seconded the motion.

Discussion: Council Member Simonsen noted that he was excused from the April 4th meeting.

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	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.

Land Use and Development Process / State Mandated Changes

Mark Austin made the following comments:

- Questioned how the Utah State Legislature could mandate such significant changes to the land use and development process.
- There were constitutional grounds to challenge the mandates.
- The Legislature was taking decisions away from the local governments that were responsible for the results.
- The Legislature was not consulting enough with those effected by their legislation.
- Local government should not be forced out of the way of governing.

No further comments were offered.

4. Department Reports

HL&P / Rate Increase

Council Member Payne reported that Heber Light & Power Company projected a shortfall that year because of the increased cost of wholesale electricity. He indicated that rates would be increased in May.

HVRR / Railroad Cars

Mayor Johnson reported that the Heber Valley Railroad was painting some of its railroad cars and disposing of others.

North Fields / Water Quality

Council Member Simonsen reported that the water quality in the North Fields was out of compliance.

HVTED / Grants

Council Member Simonsen reported that grants were available through Heber Valley Tourism and Economic Development (HVTED).

MAG / Budget Increase

Council Member Simonsen reported that the Mountainland Association of Governments (MAG) needed to increase its budget.

County Assessor / Website / Business License Information

Council Member Simonsen reported that the Wasatch County Assessor had a new website. He also indicated that the Assessor needed business license information from the municipalities.

Regional Recreation Board

Council Member Simonsen reported on a proposed regional board for recreation.

Animal Services / Expenses

Council Member Simonsen reported that animal services would be discussed at the next council meeting. He added that purchasing a new truck and converting a position from part-time to full-time would not occur that year.

- 5. Open Space Committee / Open Space Bond** (Courtland Nelson – Approximately 15 minutes) – Discuss and deny, continue, or approve funds for a survey and request a recommendation from the Midway City Open Space Advisory Committee regarding placing a second open space bond on the ballot.

Courtland Nelson, chair of the Midway City Open Space Advisory Committee, gave a presentation regarding a second open space bond and reviewed the following items:

- History of open space and bonding
- 2023 General Plan
- Request from the Open Space Committee
- 2024 dates and tasks
- Access to information
- Vote by the public

Mr. Nelson also made the following comments:

- All the money from the first bond was encumbered.
- The Open Space Committee wanted to evaluate another bond.
- The public would want information.
- Wisdom and knowledge were important.
- Professionals could aggregate information in preparation for the bond.
- MAG could provide some assistance.
- A contract could possibly be entered into with Utah Valley University.
- A professional survey would need at least 300 respondents and would cost \$10,000 to \$20,000.
- Was looking for feedback from the Council.
- The Committee was not focused on a particular amount for the bond. It had not identified any specific properties to be preserved with the bond funds.
- There was interest from owners to preserve additional property but all the funds from the first bond were committed.

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

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

- Why was a survey needed if the issue was going to be on the ballot anyway?
- Would residents support another open space bond and for what amount?
- Another bond would require a significant amount of time and expense.
- What did it cost to put the first bond on the ballot?
- What was the timeline for the Lundin property to be preserved? Would that money be available for other open space if the family's issues were not resolved?

- Residents needed to understand that any bond money would be leveraged with other funds.
- There was a list of property owners waiting to see if a second bond passed.
- Specific properties should not be identified at that time. A survey of available land should be done first. This would prevent seeking a \$20 million bond if only \$5 million in property was available.
- Had the cost per \$100,000 of value, for the first bond, gone down based on the increase in the number of taxpayers? This should be determined.

Mr. Nelson indicated that the Committee would work with staff and put together a fact sheet, which would answer some of the Council's questions.

Motion: Council Member Drury moved to continue the item until the next appropriate meeting.

Second: Council Member Simons seconded the motion.

Discussion: None

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

6. Sage Hill Estates / Preliminary and Final Approval (Cole Knight and Jesse Diyanni – Approximately 15 minutes) – Discuss and possibly deny, continue, or grant preliminary and final approval for Sage Hill Estates located at 85 North River Road (Zoning is R-1-7).

Katie Villani gave a presentation regarding the request and reviewed the following items:

- Location of the development
- Possible findings
- Proposed conditions

Ms. Villani also made the following comments:

- The development had been considered at the Council's previous meeting.
- The applicants spoke to their neighbors about the garage that was partially on their property. The neighbors wanted the garage moved.
- The City had never allowed a plat map to be recorded which included a structure that went beyond the property.
- Recommended that the garage be removed.

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

Cole Knight, applicant, indicated that the garage would be taken down. He added that the material would be salvaged and not burned.

Mr. Knight noted that a shipping container was on the property and asked if that was legal. Michael Henke responded that it was legal.

Motion: Council Member Drury moved to approve preliminary and final approval for Sage Hill Estates accepting the following findings and conditions from staff:

- The proposed lots met the minimum requirements for the R-1-7 zoning district.
- The proposal met the intent of the General Plan for the R-1-7 zoning district.
- The subdivision would contribute to the master trails plan by adding funds to the general trails fund that would be used to help accomplish the master trails plan.
- The duration of Preliminary/Final Approval would be for one year from the date of approval of the development by the City Council. If the Final Plat was not recorded with the County Recorder within the one-year period of time, the development's approval would be voided, and both Preliminary and Final Approvals would need to be re-obtained to reinstate the project, unless, upon request by the applicant and on a showing of extenuating circumstances, the City Council extended the time limit for plat recording, with or without conditions. No more than three one-year extensions would be allowed. The granting or denying of any extension, with or without conditions, was within the sole discretion of the City Council, and an applicant had no right to receive such an extension.
- During the River Road reconstruction, the contractor installed water, sewer, and pressurized irrigation laterals to the proposed Lot 2 (City paid to avoid future road cuts). Prior to recording the plat map, the owners would reimburse the City for the cost of the laterals.
- The owners would dedicate the required areas for River Road and 100 North before recording the plat map. River Road was a local collector with a 66' right-of-way so the owners would dedicate 33'. 100 North was a local road with a 56' right-of-way, so the owners would dedicate 28'.
- The existing, nonconforming garage on the premises would be removed prior to the recording of any plat map.
- A note would be included on the plat map advising that only single-family dwellings were allowed on the two lots.
- Access to Lot 1 would be restricted to 100 North rather than River Rd.
- Access to Lot 2, which fronted River Road, would have a turn around so that vehicles would not back onto River Road.

Second: Council Member Orme seconded the motion.

Discussion: None

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

7. Resolution 2024-12 / Sage Hill Estates Development Agreement (City Attorney – Approximately 5 minutes) – Discuss and possibly deny, continue, or approve Resolution 2024-12 adopting a development agreement for Sage Hill Estates located at 85 North River Road (Zoning is R-1-7).

Corbin Gordon indicated that no changes had been made to the agreement since the last meeting. He added that it required the garage to be removed.

Motion: Council Member Orme moved to approve Resolution 2024-12 adopting a development agreement for Sage Hill Estates as drafted.

Second: Council Member Drury seconded the motion.

Discussion: None

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

8. Saddle Creek Subdivision, Phase 2 / Plat Amendment (Matt Sherry – Approximately 15 minutes) – Discuss and possibly deny, continue, or approve a plat map amendment for the Saddle Creek Subdivision, Phase 2 located at 193 West and 205 West Saddle View Lane. (**Public Hearing** – Public comment must be related to this item on the agenda).

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

- Land use summary
- Location of the development
- Recorded plat map
- Proposed plat map
- Discussion items
- Analysis
- Possible findings

Mr. Henke also made the following comments:

- The amendment would combine two lots.
- State law required that a public hearing be held but also that the request be approved if it did not violate the Municipal Code.
- The combined lot could be re-subdivided if it met any requirements at the time and was approved by the Council.
- Combining the lots made it easier for a proposed barn to meet the setbacks.

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.

Council Member Payne indicated that some owners combined lots to lower their property taxes. They then re-subdivided to sell two lots. He further indicated that the approval could be conditioned on not re-subdividing the property.

Motion: Council Member Simons moved to approve a plat map amendment for the Saddle Creek Subdivision, Phase 2 with the following findings:

- Potential trips per day generated from the two lots would be reduced to an expected 10 trips per day.
- Density in the subdivision would be reduced.
- The area would feel more open because of the reduction of one lot.
- No public street, right-of-way, or easement would be vacated or altered.
- The duration of Preliminary/Final Approval would be for one year from the date of approval of the development by the City Council. If the Final Plat Map was not recorded with 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 to reinstate the project, unless, upon request by the applicant and on a showing of extenuating circumstances, the City Council extended the time limit for plat recording, with or without conditions. No more than three one-year extensions would be allowed. The granting or denying of any extension, with or without conditions, was within the sole discretion of the City Council, and an applicant had no right to receive such an extension.

Second: Council Member Simonsen seconded the motion.

Discussion: None

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

- 9. Ordinance 2024-08 / Outdoor Lighting and Glare** (City Planner – Approximately 30 minutes) – Discuss and possibly deny, continue, or adopt Ordinance 2024-08 amending Section 5.02.080 (Outdoor Lighting and Glare), in the Midway City Municipal Code, to prohibit artificial lighting on sports and recreation courts.

Katie Villani gave a presentation regarding the proposed ordinance and reviewed the following items:

- Current lighting code
- Sports courts/fields
- Discussion
- Lighting prohibitions under current law
- Proposed amendment
- Possible findings
- Proposed ordinance

Ms. Villani also made the following comments:

- Sports courts were becoming a concern.
- The ordinance was recommended by the Planning Commission.
- It was difficult to have full cutoffs on court lighting which was usually very high.
- A building permit was required for lights but not courts.
- Some residents built courts and found out that the lights were a problem.
- Recommended against artificial lighting for courts. This would also eliminate noise from the courts after dark. It was the best and easiest way to amend the Municipal Code and address complaints.
- It was the beginning of construction season.
- There were more complaints about lighting than about noise from courts.
- Two complaints were received in the last year.
- The Municipal Code did not restrict lighting based on the time of day.
- Another way to address complaints with courts was to have large setbacks.
- The City recently prohibited unshielded lighting on structures. Not enough time had passed to determine the effectiveness of the change.

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

Tom Bradly made the following comments:

- Lived near a sports court which was so problematic that he was ready to sell his house and move.
- Had been working with the City for a year and a half to resolve the issue.
- Did not mind the court during the day.
- During the night it was like someone was pointing their car lights into his windows.
- Talked to the court owner and he said to buy better blinds.
- Many residents could build courts on their property.

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

- The problem was that residents were not getting building permits. How did the proposed ordinance address that issue?
- The issue was an enforcement problem. A full-time enforcement officer should be hired because the Planning Department was too busy to address it.

- The ordinance was overreach.
- Enforcement would be difficult if court lighting was allowed.
- There should be time limits for court lighting.
- There was a better approach for just two complaints.
- Children needed to be outside playing sports.
- Residents should talk to their neighbors if they have an issue.
- Court lights would only be used in the summer.
- Court lights were too high to be shrouded.
- Neighbors should be courteous and stop playing when it becomes dark.
- Residential areas had families who might have little children.
- Already existing courts were an enforcement problem.
- Setbacks helped with nuisances.
- A lot of communities found that unlighted courts solved a lot of problems.
- The City should not wait for the problem to become worse.
- Court lights also hindered having a dark sky.
- New buildings had to have shielded lights.
- The shielded lighting regulations were fully enforced.
- Enforcement could be costly and took a lot of time.
- Requiring building permits should be tried first.

Motion: Council Member Drury moved to deny Ordinance 2024-08, regarding outdoor lighting and glare, with the following conditions:

- Directed staff to propose a code change for lighting and outdoor recreation to match the timeframes of the sound code to be turned off by 10 p.m.
- Recommend that the City change its lighting code to address shielding and light definitions for recreational lighting.
- Recommended that the City change the Building Code to require a building permit not only for the lights but for a sports court installation.
- The City would address the issues of fence height, light height, and light placement and make that a part of the approval process.
- Recommended that the Council allocate funds in the 2025 fiscal year budget to hire or contract for full-time or seasonal code enforcement staff for enforcement of this issue and other code enforcement tasks.
- The Council would discuss setbacks for sports courts.

Second: Council Member Simons seconded the motion.

Discussion: Council Member Orme emphasized that noise also needed to be enforced. She added that enforcement should apply to everyone equally. Michael Henke noted that courts and lights installed before the restrictions would be excluded. He also noted that buildings constructed before the shield regulations were also excluded.

Council Member Orme explained that she had events shut down by law enforcement because of noise.

Mayor Johnson preferred regulations that were easy to enforce and protected the dark sky.

Council Member Payne asked if the motion included considering setbacks. Council Member

Drury reviewed his motion and indicated that he approved of other recommendations to consider.

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

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

Council Member Drury explained that he denied the ordinance because light was not a problem and there were better ways to address it.

10. HVSSD / Industrial Protection Area (City Planner – Approximately 10 minutes) – Receive a presentation and discuss an industrial protection area proposed by the Heber Valley Special Service District (HVSSD) for its sewer treatment facility located at 1000 East Main Street, Midway.

Katie Villani gave a presentation regarding industrial protection areas (IPAs) and reviewed the following items:

- Information
- Industrial protection areas
- IPA Advisory Board
- Nuisances
- Proposed location of the IPA
- HVSSD
- HVSSD IPA plat map
- Overhead view of the HVSSD IPA

Ms. Villani also made the following comments:

- Midway City was not part of the creation of an IPA for HVSSD's sewer treatment plant.
- The Wasatch County Council appointed the members of the Advisory Board.
- An IPA was like an agricultural protection area.
- IPAs covered nuisances but not health or safety concerns. One would not protect HVSSD from lawsuits related to health or safety. They did not apply to already existing nuisances.
- Future plat maps would have to include the IPA.
- An IPA included a 1000-foot buffer zone.
- The buffer zone for the HVSSD IPA went into Midway.
- The City did not need to change its Municipal Code because of the IPA.
- An IPA was not needed for the treatment plant to operate.
- The treatment plant was zoned as a public facility by Wasatch County.

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

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

- Wasatch County already adopted an ordinance allowing IPAs.
- Could residents protest the proposed IPA?
- Midway City owned property in the buffer zone. Could the City protest as a landowner? What was the timeframe for a protest?
- This was the first IPA in Wasatch County.
- Where were other IPAs in Utah?
- The Jordanelle Special Service District (JSSD) would adopt IPAs for their treatment facilities.
- Future developers would not be able to simply protest the smell from the plant. Health and safety issues could be raised.
- Should the Council meet with the entities involved?
- The treatment plant had not been revamped since it was built.
- Midway City was the closest municipality to the plant and most affected by it.
- How could the City have more representation on the HVSSD Board? The Board's bylaws would have to be amended.
- Charleston Town did not have a sewer system, but it had a representative on the Board.
- All sewer treatment plants had issues but HVSSD's plant was having more issues, and they were more intense.
- Creating the IPA was a defensive move.
- The problems with the plant needed to be fixed.
- Time was of the essence.
- The residents of Midway were the most affected by the plant.
- An IPA only being created at the plant and no where else in the County created trust issues.
- HVSSD needed to restore trust with the public. It also needed to know if it could meet the needs of future growth.

Mayor Johnson thanked Ms. Villani for her presentation and made the following comments:

- An IPA should have been created when the treatment plan was built. It was poor timing to create it now.
- Applying for an IPA did not negate the other efforts of HVSSD.
- A lot of maintenance was done on the treatment plant since it was built.
- The treatment ponds should have been dredged five years ago. The dredging would be difficult and HVSSD was considering how it would happen. It would cost \$10 million for each of the two ponds.
- A new methodology was being used but it had not been done soon enough or often enough.
- Three residents of Midway served on the HVSSD Board.
- All the board members supported fixing the problems.
- HVSSD received a low interest loan to help with the problems. It would have to bond for further improvements.
- Using hydrogen peroxide helped with the smell but it was not a long-term solution.
- The ponds would turn over around this time of the year. Hopefully, the hydrogen peroxide would help with the smell during turnovers.
- The maximum area that the treatment plant would service needed to be determined.

Was this based on geographic area or volume? Historically it was based on geographic area.

- Heber City had the most growth.
- The plant manager took another job last fall which put behind the efforts to solve the problems.
- A new manager who was a sewer engineer had been hired.
- The odor issue was now a higher priority.
- The processed water could not be put into the Provo River. HVSSD would need more land where additional water could be used for agriculture.
- Monitoring wells showed that the groundwater was going from the Provo River to the southwest. This indicated that the plant was not contaminating the Provo River.
- HVSSD reached out to the Wasatch County Health Department regarding the issues. The Health Department then involved the Utah Department of Health and Human Services (DHHS).
- DHHS attended a HVSSD public meeting. It was doing a survey and wanted to know of any concerns. It would give the concerns to the other applicable state agencies. It was also placing monitors around the plant, which would measure to the billionth particle. The monitoring would take at least six weeks.
- The base line for particulates was what a child with asthma could tolerate.
- Dredging was a couple of years away. It should be done every 20 to 30 years.
- Options still needed to be determined.
- Incineration was expensive.
- HVSSD had not budgeted for long range planning and maintenance.
- Converting the plant to strictly mechanical would cost \$150 million.
- The plant was rated for two million gallons per day.
- The lagoon system would eventually be phased out. It was the best way to treat sewage and dispose of processed water. It was not an antiquated system. It was also a good alternative for when the mechanical system needed to be shut down.
- Mechanical systems took up less space. They were very expensive and still discharged water that needed to be used for agriculture.

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

- Mayor Johnson, who was on the HVSSD Board, should vote against an IPA.
- The City should protest the creation of the IPA.

Wes Johnson explained the dredging process.

Mayor Johnson responded that she would vote against the IPA.

Kristy Council thanked the Council for their support and made the following comments:

- Bio aerosols should also be monitored.
- Airborne viruses, bacteria, mold, fungus, etc. came from the bottom of the treatment ponds.
- Residents near the plant felt unheard.
- Residents were told to wear masks.

11. Adjournment

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

The meeting was adjourned at 9:31 p.m.



Celeste Johnson, Mayor



Brad Wilson, Recorder