



Memo

Date: 12 July 2024
To:
Cc:
From: Brad Wilson, City Recorder
RE: Minutes of the 18 June 2024 City Council Regular Meeting

Please note that the following minutes await formal approval and are in draft or unapproved form.

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

**Tuesday, 18 June 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.

Mike Glenn, eagle scout coach for an area troop of the Boy Scouts of America, led the Council and meeting attendees in the pledge of allegiance. He spoke about the troop and two members who recently became eagle scouts.

Council Member Orme gave the prayer and/or inspirational message.

2. Consent Agenda

- a. Agenda for the 18 June 2024 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 13 May 2024 City Council Meeting
- d. Minutes of the 4 June 2024 City Council Work Meeting
- e. Minutes of the 4 June 2024 City Council Regular Meeting
- f. Resolution 2024-16 adopting a certified property tax rate for Midway City

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

Brad Wilson indicated that the certified property tax rate had not yet been provided by the Utah State Tax Commission.

Motion: Council Member Drury moved to approve items 2a through 2e and continue item 2f until such time as the necessary information was available.

Second: Council Member Payne 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

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. No comments were offered.

4. Department Reports

Founders' Day

Council Member Drury reported on Founders' Day and thanked the Midway Boosters for their help with the lunch and hanging the flower baskets along Main Street.

Independence Day

Council Member Drury reported on events to be held on Independence Day.

Open Space Bond / Survey

Mayor Johnson reported that the survey, regarding a second open space bond, had started and the results would be available in July.

Olympic Oval Staff / Ice Rink

Mayor Johnson reported that the Utah Olympic Legacy Foundation offered to have its staff, from

the Utah Olympic Oval, inspect and make suggestions regarding the City's ice rink. The Council supported the inspection.

North Pole Express / Tickets

Mayor Johnson reported that tickets were for sale for the Heber Valley Railroad's North Pole Express. She wanted to work with the Railroad and the Midway Business Alliance to create package deals for the event.

HVSSD / Treatment Capacity

Mayor Johnson made the following comments:

- The Heber Valley Special Service District Board met and decided to limit the growth of the District's sewer treatment plant.
- The plant did not have to grow indefinitely to meet the demands of development.
- A small percentage of the plant's sewage treatment was because of Midway.
- Developers would have to figure out another treatment option once the capacity limit was met.
- The decision would be publicized so that it would not be a surprise.
- The Board did not want to expand the plant's mechanical capacity.
- Mechanical systems also created an odor.
- The treated water, including from mechanical systems, needed to go somewhere. It was not allowed to go into the Provo River.
- The water from the rapid infiltration basins was not going into the ground water.
- The State would not allow more rapid infiltration basins.

School District / Mental Health

Mayor Johnson reported that she attended a meeting regarding mental health and the Wasatch County School District.

Music on the Square

Mayor Johnson reported that good feedback had been received regarding the Music on the Square. She indicated that some adjustments would be made. She thanked Council Member Simonsen and Tonia Turner for organizing and operating the event.

HVTED / Grants

Council Member Orme reported that grants were available through Heber Valley Tourism and Economic Development (HVTED). The Council discussed using grants to improve the town square, parking, and ice rink repairs.

5. Resolution 2024-16 / Property Tax Rate

Brad Wilson indicated that he now had the certified tax rate from the Tax Commission. He indicated that it was 0.000468 with anticipated revenue of \$1,093,822.

Motion: Council Member Drury moved to approve Resolution 2024-16 with the amount stated by the City Recorder.

Second: Council Member Orme seconded the motion.

Discussion: Mayor Johnson indicated that the tax rate could be increased in the future for additional law enforcement. Council Member Simons was happy without any increases but not happy with the property tax system. He noted that the City already had sufficient funds for additional law enforcement. He also noted that it was becoming difficult for some people to live in Midway because of increasing costs such as property taxes.

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

Council Member Payne asked that the Tax Commission's calculation be checked for accuracy. Brad Wilson responded that he would check it and then email the results to the Council.

6. Resolution 2024-17 / FY 2024 Budget Amendment (Budget Officer – Approximately 30 minutes) – Discuss and possibly deny, continue, or approve Resolution 2024-17 amending the fiscal year 2024 budget for Midway City. **Public Hearing**

Nancy Simons, budget officer, asked if the Council had any questions regarding the amendment. She, the Council, and staff made the following comments:

- Remaining revenue and expenditures for the fiscal year were estimated.
- \$50,000 needed to be added for road striping.
- \$100,000 needed to be added for the Homestead Trail Project.
- Several projects, such as speed bumps for traffic calming, had not been completed.
- The City should do better at completing budgeted projects.
- Taxes should not be raised if projects could not be completed, and the excess revenue had to be transferred out of the General Fund.
- The Budget Officer should be informed of new projects and expenditures.
- Proper procedures should be in place to oversee projects and expenditures.

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 Payne moved to approve Resolution 2024-17, amending the fiscal year 2024 budget, with all the changes discussed.

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

7. Lundin and Heart of Midway Properties / RCPP Commitment Letter (Wendy Fisher – Approximately 20 minutes) – Discuss and possibly deny, continue, or approve a Regional Conservation Partnership Program (RCPP) commitment letter for the Lundin property located at 900 West Bigler Lane and the Heart of Midway properties located at 351 North Center Street.

Wendy Fisher, Utah Open Lands Executive Director, made the following comments:

- Was working on acquiring funding from the federal government and leveraging funds for projects.
- \$1.5 billion was available from the federal government for conservation programs.
- Wanted to expand the boundaries of the regional conservation partnership program to include Midway.
- The effort would help preserve the area’s values.
- Requested a commitment letter from Midway City.
- The expansion would increase opportunities with the Lundin property.
- An agreement had been signed by all the Lundin siblings.
- The letter indicated that the City understood the boundary, the values that were being identified, and the City’s funding could match funds for a conservation easement.
- The City would be listed as a coholder on the Lundin easement.

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

- The letter would not supersede other commitments by the City including those for the Lundin property.
- The program criteria would have to be reviewed to determine if the boundary could include all the area eligible for the City’s open space funds.
- There were several potential projects within the proposed area in the City.
- Interested landowners were still calling Utah Open Lands regarding conserving property in the City.

Motion: Council Member Drury moved to approve the Lundin and Heart of Midway properties

and the RCPP Commitment Letter as provided in the meeting packet.

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

Motion: Without objection, Mayor Johnson recessed the meeting at 8:10 p.m. She reconvened the meeting at 8:26 p.m.

Resolution 2024-17 / FY 2024 Budget Amendment (Continued)

Mayor Johnson indicated that the budget amendment needed to be revisited.

Wes Johnson made the following comments:

- The last invoice from Silver Spur for the Homestead Trail was \$246,000. Thought it should be \$60,000 because the City had already paid for the patching work.
- If the City did owe the entire amount, then the water fund budget for the project should be increased to \$300,000.
- 5% retainage was being held.

Nancy Simons responded that the existing water fund budget was sufficient. She added that the retainage needed to be included in the FY 2025 budget.

Council Member Simonsen asked Mr. Johnson to give a final report on the project at the next council meeting. He also asked that final reports be given on other projects as they concluded.

8. Additional Law Enforcement (Council Member Simonsen – Approximately 60 minutes) – Discuss adopting an agreement for additional law enforcement in Midway City.

Council Member Simonsen gave a presentation regarding additional law enforcement and reviewed the following items:

- Who provided law enforcement for Utah cities with a population over 3,000.
- Who provided law enforcement for Utah cities with a population less than Midway and down to 3,000.
- Local and state spending on police per capita.
- Police spending per capita in major US cities.
- How much Utah spent on policing.
- What Midway would spend per capita.

- What Midway would spend as a percentage of revenue.
- Per capita cost for the current offers including dispatch.
- Capital replacement costs.
- Cost with noncomparable items eliminated.
- What questions the Council should ask.

Council Member Simonsen also made the following comments:

- The amount that Midway would spend for any of the current offers was low for its revenue.
- Asked the Planning Department to provide options for code enforcement.

Note: A copy of Council Member Simonsen's presentation is contained in the supplemental file.

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

- Enforcement and the appeals process
- Examples of code violations and enforcement

Mr. Henke also made the following comments:

- The Planning Department did a significant amount of code enforcement.
- It regularly went through the City looking for illegal signs.
- It was proactive in limiting the height of fences.
- It reacted when an unregistered vehicle was on a property.
- It spent a lot of time resolving issues in an effective and cost-efficient way.
- An appeal to the Administrative Law Judge was expensive for the City.
- Everyone had a right to appeal a zoning violation.
- Zoning enforcement could continue unchanged.
- Would not oppose another department doing code enforcement.
- Enforced a complaint if it was a clear violation.
- Would have to spend a lot of time training and assisting a code enforcement officer.

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

Corbin Gordon made the following comments:

- Statements had been made in the past that the City did not do enforcement.
- The Council decided and it was stated in the Municipal Code that the City would generally not seek out violations but wait for complaints. There were exceptions such as noxious weeds.
- A full-time enforcement officer could be hired. That person would look for violations which could create an unfriendly atmosphere in the City. Hundreds of violations could be identified.
- A full-time enforcement officer would also increase the number of appeals and hearings.

- An enforcement program could not be paid for just with fines. State Law might prohibit such fines.
- The Council should specify which violations should be proactively enforced.

Council Member Drury made the following comments:

- The Planning Department did not have the time to do a lot of code enforcement.
- The Council should review the Code and decide which items to proactively enforce.
- Knew the laws and was frustrated when they were not enforced.
- Someone was put in a difficult position when the neighbors found out that they complained to the City.
- A code enforcement officer identifying violations would be an impartial third party.
- Proactive enforcement caught things before they became a problem.
- Law enforcement would not want to do code enforcement.
- Parking should be included with code enforcement.
- Midway was no longer rural because of growth. However, it had not changed its law enforcement accordingly.
- Law enforcement should not be responsible for code enforcement.

Council Member Simonsen made the following comments:

- The Wasatch County Sheriff's Department only had two or three officers patrolling and responding to calls at any one time. Other officers were doing other jobs.
- County funding was not sufficient for the Sheriff's Department to do more enforcement.
- The Sheriff's Department could not provide full service to the City. A city the size of Midway would need its own police force or pay for additional service.
- Other City's in Utah paid more for dispatch and additional law enforcement.
- Orem City required its code enforcement officers to be POST certified.
- Enforcement was being done well and the City should not hunt for every problem.
- Complaints could be escalated as needed.
- There were pros and cons to anonymous complaints.
- Did not like the extra expense for code enforcement but it was justified.
- Preferred to reduce other services like buildings before law enforcement.
- The City received two good and competitive offers for additional law enforcement.
- The City should contract with Heber City which was another municipality that understood municipal challenges. They were focused on community policing.
- The amount for law enforcement in the FY 2025 Budget should be increased to \$500,000. This would give the City leeway to negotiate and complete an agreement.
- There had been crime sprees in the Hamlet and Swiss Oaks. There had also been issues with theft from mailboxes.
- There needed to be a greater law enforcement presence in Midway.
- A bench had been stolen from The Market at Midway.
- The Council needed to choose between the two proposals.

Mayor Johnson made the following comments:

- A neighborhood had been vandalized.
- Deputies indicated that they only addressed emergencies.
- A store owner was told by a deputy that they should have private security.
- A deputy told a resident that they did not have the staff to investigate a break-in at their

house.

- Three members of the County Council said there would be no repercussions if the City chose the Heber City Police Department.
- Choosing the Heber City Police Department was not disparaging the Sheriff's Department.
- Other municipalities indicated that counties had different methods and concerns for policing than cities.

Council Member Payne made the following comments:

- Property tax revenue was not sufficient to pay for additional law enforcement.
- Was impressed with Heber City's police chief and his demeanor. Favored the Heber City Police Department's proposal.
- There was a perception that Midway did not have any law enforcement.
- The Council could set enforcement priorities.
- The City did not have the resources for its own police department.
- The current path was unsustainable.
- The City requested increased speed enforcement but the Sheriff's Office did not cooperate. It was difficult to get the needed hours of enforcement. The contract was eventually terminated.

Council Member Orme made the following comments:

- Some instances of long-term parking in the City's parks had to be resolved by law enforcement.
- It was difficult for municipalities to contract with a county sheriff if they were a long distance away.
- There was a need for additional law enforcement.
- The City might get less service from the Sheriff's Department, for base service, if it contracted with the Heber City Police Department.
- The City's relationship with the Sheriff's Department needed to be fixed.
- The City should contract with the Sheriff's Department, which could facilitate improving the Department's service.

Council Member Simons made the following comments:

- The City had bargaining power.
- It could say that it had \$400,000 and what could the law enforcement agencies provide for that amount.
- The City could negotiate the cost for additional enforcement. It should initially offer \$400,000.
- The Sheriff's Department responded within five minutes when 911 was called. They should not be discounted.
- There might be problems with leadership, but the officers in the field did good work.
- The Heber City Police Chief was honest and transparent.
- Midway was vulnerable if it did not have enough law enforcement.
- The Heber City Police Department's proposal would be a good start.
- The City should be in the driver's seat. It should determine what it needed.
- It was troublesome that the Sheriff's Department would not provide the requested data to the City.

- Residents should expect safety.

Council Member Simonsen indicated that the Council should decide between the two proposals at its next meeting. Mayor Johnson asked that any questions be emailed before then. She thanked Council Member Simonsen for his work on the issue.

9. Resolution 2024-18 / FY 2025 Budget (Budget Officer – Approximately 15 minutes) – Discuss and possibly deny, continue, or approve Resolution 2024-18 adopting the fiscal year 2025 budget for Midway City.

Council Member Drury asked if the reserve amounts in the Capital Improvement Projects (CIP) Fund were current. Brad Wilson responded that the proposed budget did not reflect the final amendment and transfers for fiscal year 2024. He added that staff were holding a monthly meeting to coordinate the transfer of money including into reserves.

Council Member Drury asked why the General Fund revenue, in the final amendment for the FY 2024 Budget, was significantly higher than the General Fund revenue in the proposed FY 2025 Budget. Brad Wilson responded that in FY 2024 a significant amount of fund balance was being booked as revenue and being transferred to the CIP Fund. This would keep the fund balance within the limits set by the State.

Council Member Drury questioned the amount of the transfer to the CIP Fund in comparison with the reserves in the General Fund.

Council Member Simonsen indicated that the budget did not indicate the fund balance or its percentage related to state limits. Mr. Wilson responded that the budget as presented was a simplification of the City's financial statements and did not include some details such as fund balance. He indicated that a financial statement could be provided to the Council on a regular basis.

Council Member Simonsen was concerned that significant amounts of money, greater than \$1 million, were being transferred each year from the General Fund to the CIP Fund. Mr. Wilson asked if it would be helpful for the City's accounting firm to give a presentation on fund balance and further explain the reasons for such transfers. He also explained that the City budgeted conservatively with low revenue and high expenditures, which usually left excess money at the end of the year. He also indicated that budgeted items were not always done or completed which left excess money.

The Council stressed that they needed to understand the budget and still needed a summary of revenue and expenditures.

Wes Johnson requested that the budget include \$150,000 to complete the Homestead Trail and \$60,000 for striping. Council Member Simonsen requested \$500,000 for law enforcement.

Motion: Council Member Drury moved to approve the budget with the changes as noted in the meeting which would balance the budget to the penny.

Second: Council Member Payne 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

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

10. Closed Meeting to Discuss the Purchase, Exchange, or Lease of Real Property and the Character, Professional Competence, or Physical or Mental Health of an Individual.

Motion: Council Member Drury moved to go into a closed meeting.

Second: Council Member Payne 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

Note: Closed meeting minutes are sealed and strictly confidential. Access to such minutes must be obtained through a court of law.

Motion: Council Member Drury moved to go out of the closed meeting.

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

11. Adjournment

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

The meeting was adjourned at 10:56 p.m.

Celeste Johnson, Mayor

Brad Wilson, Recorder