



Memo

Date: 13 September 2024

To:

Cc:

From: Brad Wilson, City Recorder

RE: Minutes of the 3 September 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, 3 September 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 6:00 p.m.

Members Present:

Celeste Johnson, Mayor
Jeff Drury, Council Member
Lisa Orme, Council Member (Participated electronically)
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 Payne gave the prayer and/or inspirational message.

2. Consent Agenda

- a. Agenda for the 3 September 2024 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 20 August 2024 City Council Work Meeting
- d. Minutes of the 20 August 2024 City Council Regular Meeting
- e. Minutes of the 20 August 2024 City Council Closed Meeting

Note: Copies of items 2a, 2b, 2c, and 2d are contained in the supplemental file.

Council Member Simons asked about the warrant to Superior Locksmith for The Highlands @ Soldier Hollow. Brad Wilson responded that the City oversaw the development's fire flow system and needed to lock up some of the infrastructure.

Motion: Council Member Simons moved to approve the consent agenda, items "a" through "e".

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.

Lundin Family Conservation Easement

Maggie Fugitt made the following comments:

- It had been challenging for the Lundin family to conserve open space on their property.
- Hoped that everything was being done to facilitate the effort.
- The open space would be a gift to the area.

Jeff Silvey made the following comments:

- The Lundin's land was under threat.
- A survey showed that residents would support an increase in taxes to preserve open space.
- Everything possible should be done to preserve the open space.
- Support for another open space bond would go away if the Lundin's open space could not be preserved.

Athina Koumarela made the following comments:

- Good progress had been made preserving open space in the area.
- Thanked the City for the work done since the first open space bond was approved.
- The Lundin family was sacrificing to preserve their property.
- The City should support the effort in any way possible.

Marie Dagleish made the following comments:

- Midway had defined itself.
- The markers of history which included trees, streams, etc. should be remembered and preserved as the City progressed.
- The Lundin family should be remembered. Their property should be retained as open space.
- The Homestead Resort should endure.
- All of Midway should not be redefined.

Moira Wright supported preserving the Lundin family's land as open space.

Mayor Johnson noted that the City Council supported preserving the Lundin property and authorized \$1 million to help purchase the conservation easement.

Scotch Fields / Amenities

Julie Button made the following comments:

- The Scotch Fields HOA was no longer controlled by the developer.
- The amenities and landscaping in the project had not been done well.
- The warranty bond for Phases 2 and 3 could be released at the next council meeting.
- The developer said that he would not complete all the amenities.
- Buyers had been promised a sports court, tennis court and pavilion. Only the sports court had been built.
- Was concerned that the bond money would be released without the amenities being completed.
- The City Council was the owners' last hope to get the amenities.

Jennifer Barns made the following comments:

- Fought and was successful in getting bark around her house.
- Wanted what she was promised when she purchased her house.
- There was an area in the development where no topsoil had been put down before it was hydroseeded.
- Bushes instead of trees had been planted.
- Concrete had been spilled on sidewalks.

Kate Silvey made the following comments:

- Supported all amenities being constructed.
- The developer should be held accountable for what he promised when he sold houses in the project.
- What was built was not what was on the plans she was given.
- How would the developer be held accountable if the bond money was released?
- The developer should not walk out on the project.
- The City accepted the plans that showed all the amenities.
- Not building all the amenities would lessen her home value.

Natalie Force made the following comments:

- The developer still had the plans on his website that showed all the amenities.
- The developer said that he would not finish the amenities.
- Loved Midway.

Kassandra Lemons indicated that the amenities would be incredible for the community.

Zack Vonderach made the following comments:

- The developer should be held accountable.
- Wanted to keep Midway beautiful.
- His neighborhood was an eyesore.

Mayor Johnson reported that the City received a letter from the Scotch Fields HOA indicating that the bond money could be released. The concerned residents should speak to their HOA board.

Scotch Fields / Animal Services

Zack Vonderach made the following comments:

- Animal control officers were harassing residents in his neighborhood in Scotch Fields.
- They would drive behind them every day as they walked their dogs.

Council Member Simonsen responded that Animal Services patrolled every day. Mayor Johnson added that Animal Services also patrolled Burgi Hill Park every day.

No further comments were offered.

4. Department Reports

Swiss Days

Council Member Simons reported on the recently held Swiss Days. He emphasized that good things were done with the money raised during the event. Council Member Simonsen valued people coming together for the event.

Family Dinner at the Park

Mayor Johnson reported that the Family Dinner in the Park would be held the following Monday.

HVRR / Polar Express

Mayor Johnson reported that the Heber Valley Railroad's (HVRR) polar express was almost sold out.

HVSSD / Treatment Plant Odor

Mayor Johnson reported that the Heber Valley Special Service District (HVSSD) was controlling the odor from its sewer treatment plan.

- 5. Resolution 2024-22 / Homestead Resort Historic Structure** (City Attorney – Approximately 10 minutes) – Discuss and possibly deny, continue, or approve Resolution 2024-22 adopting a memorandum of understanding regarding the reconstruction of a historic building at the Homestead Resort located at 700 North Homestead Drive (Zoning is RZ).

Corbin Gordon gave a presentation regarding the proposed resolution and reviewed the following items:

- Reconstruction
- Timeline

Mr. Gordon also made the following comments:

- A historic structure at the Homestead Resort had been razed.
- Met with the developers and reached an agreement regarding the structure.
- Asked that the memorandum of understanding (MOU) regarding the issue be approved by the Council.
- Did not have any concerns with the MOU.
- The structure would be reconstructed at the resort near Homestead Drive.
- A deadline had been set for the reconstruction.
- The timeline in Item #9 should be determined by the City.
- Moving the building to Huber Grove had not been discussed.

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

- The structure had to be completed before the south parking lot was finished. The lot would be considered complete when it was striped.
- Original material would be used when possible.
- The structure was considered historic by the Midway City Municipal Code. It had to be on the National Historic Register to qualify for certain tax benefits, etc.

Motion: Council Member Drury moved to approve Resolution 2024-22, adopting a memorandum of understanding regarding the reconstruction of a historic building at the Homestead Resort, subject to Item #9 stating that the City determined completion of the specified items.

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. Probst Meadow Subdivision / Preliminary and Final Approval (Ben Probst – Approximately 20 minutes) – Discuss and possibly deny, continue, or grant preliminary and final approval for the Probst Meadow Small Scale Subdivision located at 305 West Main Street (Zoning is R-1-9). Recommended for approval with conditions by the Midway City Planning Commission. **Public Hearing**

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

- History
- Land use summary
- Location
- Pictures
- Proposed plat map
- Fencing
- Utility map
- Original plat map for Midway
- Discussion items
- Water
- Recommended water requirement
- Possible findings
- Recommended conditions

Mr. Henke also made the following comments:

- The proposed lots were larger than the minimum allowed.
- The fence along Main Street was in the City's right-of-way. The applicants requested that the fence not be moved until the building permits were issued.
- The existing structures on the property were nonconforming. They would have to meet the Code if they were rebuilt.
- The proposal would recreate three lots that were on the original Midway plat map.
- Staff would require the fence to be moved during the building permit process.
- A separate document would need to be recorded for the fence issue to show in a title search.
- The right-of-way was determined from the middle of the street.
- Five acre lots were required for rural preservation subdivisions.
- The applicant could wait up to four years with extensions to record the plat map.

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.

Ben Probst, Applicant

Mr. Probst made the following comments:

- Was subdividing the property to honor his father's wishes and to divide it among the children.
- Asked for an exception to defer installation of the water laterals and meters until building permits were issued.
- Wanted to continue to farm the land.
- Wanted to defer removing the fence along Main Street until building permits were issued.
- Deferments had been given to rural preservation subdivisions.
- A note regarding the deferments could be put on the plat map, included in a separate recorded deed restriction, and included in the development agreement.
- He farmed the property.
- Would keep the property on green belt.

Mr. Henke responded with the following comments:

- Deferring had only been allowed for rural preservation and one lot subdivisions.
- These previous deferments were different circumstances from what the applicant was requesting.
- Was concerned that any deferments would set bad precedence.
- Deferments and exceptions had to be explained to everyone interested in buying the property or one of the lots.
- Buyers assumed that platted lots had the required utilities.
- Rural preservation subdivisions usually had septic systems.

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

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

- The issue with the fence should be included in the development agreement.
- It was not a problem to wait to remove the fence.
- The proposal was consistent with rural preservation subdivisions.
- Waiting to install the utilities should not be a problem.
- The fence should be removed or relocated.
- It should be clearly noted, including on the plat map, that additional water rights would be needed if a duplex was built on any of the proposed lots.
- A bond should be posted by the applicant if installing the utilities was deferred.
- Deferring the utilities would take the burden from the applicant and place it on the homeowner.
- Was the City willing to allow any development in the original part of the City to defer installing utilities?
- Could the deferment be justified because the proposed development was a small-scale subdivision with 25% of the maximum allowed density?

- The Municipal Code required that certain infrastructure, including utilities, be installed or a bond posted. It did not allow a deferment. It anticipated that approved lots would have all the required infrastructure.
- Appreciated that the applicants wanted to wait to build on the proposed lots.
- Lots of record which predated the City's zoning regulations usually would not have the required infrastructure.
- It would not make sense to bond for infrastructure that would not be installed for many years. The installation cost would increase over time.
- It did not make sense to install utilities that would not be used.
- Recording the plat map would not prohibit the property from being farmed.
- It would be best to wait to record the plat map until the applicants wanted to build.
- It would depend on the language in the trust if there was any other way to honor their father's wishes.
- The applicants should not be forced to sell property to pay to install the utilities.
- A deferral could not be granted if it was prohibited by the Municipal Code.
- The Code was specific on the number of extensions that could be granted.

Motion: Council Member Drury moved to grant preliminary and final approval to the Probst Meadows Subdivision located at 305 West Main Street (Zoning R-1-9) with the following findings and conditions:

- The proposed lots met the minimum requirements for the R-1-9 zoning district.
- The proposal did meet the intent of the General Plan for the R-1-9 zoning district.
- The subdivision as proposed contributed to the goals set forth in the Midway City General Plan by reducing density and keeping the area more open and with a rural feel.
- The duration of preliminary/final approval would be 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 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.
- The proposal contributed to the general plan values of reduction in density and rural preservation.
- The existing fence could be relocated or moved with the application of the first building permit on any of the three lots. This would be noted on the plat map and in the development agreement. A separate document could be recorded if necessary.
- A note would be included on the plat map advising that only single-family dwellings were allowed on the lots unless all requirements were met that allowed a duplex or detached dwelling and the Municipal Code still allowed the option at the time the approval was sought.
- Subject to the approval of the development agreement and the language therein.

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

7. Resolution 2024-24 / Probst Meadow Subdivision Development Agreement (City Attorney – Approximately 5 minutes) – Discuss and possibly deny, continue, or approve Resolution 2024-24 adopting a development agreement for the Probst Meadow Small Scale Subdivision located at 305 West Main Street (Zoning is R-1-9).

Corbin Gordon indicated that he would add all the provisions and conditions from the motion.

Motion: Council Member Payne moved to approve the resolution with the provisions and conditions of the motion.

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. Ordinance 2024-14 / Signs (City Planner – Approximately 60 minutes) – Discuss and possibly deny, continue, or adopt Ordinance 2024-14 amending Chapter 16.21 (Signs) of the Midway Municipal Code regarding signs. Recommended for adoption with conditions by the Midway City Planning Commission. **Public Hearing**

Mayor Johnson reported that the City asked the Midway Business Alliance for input on the proposed ordinance. She indicated that one response was received.

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

- Current sign ordinance
- Examples
- Sign code amendment
- Reasons for the amendment
- Impact of signs
- Visual garbage
- Blade signs

- Hanging signs
- Monument signs
- Residential development signs
- Decorative signs
- Quality
- Sign depth
- Prohibited sign materials
- Prohibited signs
- Current versus proposed code
- A-frame signs
- Tear drop flags
- Temporary signs on construction fences
- Current sign table
- Scale of signs with multiple businesses
- Enforcement
- Possible findings

Mr. Henke also made the following comments:

- Found several issues with the current sign regulations and wanted to correct them.
- The situation in Midway regarding signs had changed.
- The current code did not properly address signs for multiple businesses on the same property.
- Talked with experts and those involved in the sign business.
- The Vision Architecture Committee helped prepare the ordinance and recommended approval.
- The Planning Commission reviewed it, held a public hearing, and recommended approval. Recommended that enforcement on existing signs not begin until the first of the year.
- There could be an amortization process to bring existing signs into compliance. Suggested a two-year period with a specific end date and audit process.
- Signs revealed a lot about a community.
- The quality of a sign showed the quality of the good or service being sold.
- The character, surrounding structure, and depth contributed to a sign.
- The City's signs should be examples.
- Existing signs would not be required to be changed.
- Existing signs could be maintained.
- A sign was not vested until the business applied for it.
- Multiple businesses at the same location had to share a sign.
- If a business was on a corner, then there could be a sign on each corner.
- The size of a sign would now include any blank area.
- Only 30% of a business' window space could be used for signage.
- Signs that were inside of a building that someone could happen to see from the outside were not regulated.
- QR codes, webpages, etc. would be prohibited on signs. People could easily search the internet for information on the business.

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.

Jeremy Ostmann

Mr. Ostmann made the following comments:

- Moved his business into a building in Midway.
- Would eventually purchase the building.
- Did the City want to attract or push away businesses?
- Some businesses could not afford a wood sign.
- Had an A-frame sign removed by the City because they said it was in the street right-of-way.
- Other businesses had A-frame signs in the right-of-way.
- Was told that the sign on the building was grandfathered. Was then given time to replace it.
- It was difficult for a small business to buy a \$5,000 sign.
- Leniency should be granted for A-frame signs.

Mayor Johnson made the following comments:

- The City needed to eliminate ambiguity.
- Wanted to attract businesses and work with them.
- A-frame signs would be obscured by parked cars.
- Codes needed to be fair and consistent.
- People did use QR codes on signs.

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

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

- The issues should be corrected knowing that other changes could be made in the future.
- Staff had spent a lot of time on the proposed ordinance.
- The hours of operation would be allowed on a sign.
- The City should not dictate what was or was not on a sign.
- The business should be able to decide the size of a sign.
- \$5,000 for a wood sign was a big expense for a business.
- Businesses benefited from everyone having nice signs.
- There could be progressive steps for businesses to improve their signs.
- A-frame signs could look cheap. They could end up in the right-of-way. They worked well next to entrances when advertising specials, etc. They added character as a customer walked into the business.
- Signs using chalk looked nice.
- A-frame signs needed to be brought in at night and should only be allowed by the entrance.

- Provisions could be made for “coming soon” signs.
- A-frame signs were becoming larger.
- Only a few businesses currently brought in their A-frame signs at night.
- A-frame signs in the right-of-way had to be moved for mowing by the City’s landscaping contractor.
- The number of days allowed for open house signs was increased to four.
- Businesses used A-frame signs because they worked.
- Some people would not know where a business was if there was not an A-frame sign.
- The City needed to work with business owners instead of against them.
- Businesses needed exposure.
- The City did not know a business owner’s situation or have their experience.
- Sign should also be allowed that advertised specials, etc.
- Less was more.
- Strict sign codes could be good for businesses.
- The proposal should be stricter.
- A-frame signs could be difficult to enforce and easy to abuse.
- Up to five years should be given for an amortization period.
- The proposal was too prescriptive.
- Some of the oldest and most charming existing signs would not be allowed.
- The proposed code was not provided to the council.

Motion: Council Member Drury moved to continue consideration of the ordinance and reconsider it at a dedicated work meeting.

Second: Council Member Orme seconded the motion.

Discussion: Council Member Simons made the following comments:

- A-frame signs were temporary. They were used because something more fundamental was wrong.
- A business should not have to use three signs.
- A code did not mean much if it could not be enforced.
- Input was needed from the local businesses.
- The City needed to work with businesses to determine what they needed to succeed.
- There needed to be order with signs.
- Owned and operated a business.

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 9:09 p.m. She reconvened the meeting at 9:22 p.m.

9. Ordinance 2024-13 / Limitations on Bikes, E-Bikes, and Other Vehicles (City Planner – Approximately 30 minutes) – Discuss and possibly deny, continue, or adopt Ordinance 2024-13 imposing limitations on bikes, e-bikes, and other motorized vehicles on roads and trails.

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

- E-bike categories
- Types of e-bikes
- Pegs vs pedals
- Other types of electric vehicles
- State regulations for headgear and helmets
- Electric scooters
- Electric personal assistive mobility devices
- OHV electric vehicles
- National Park Service regulations
- Local regulation
- Park City regulations

Ms. Villani also made the following comments:

- The City needed laws regarding these types of vehicles that the police could enforce.
- Did the Council want to impose restrictions greater than those of the State of Utah?
- Did not have an ordinance that the City could adopt that night.
- Residents were not aware of the State's restrictions. The restrictions were also not being enforced.
- The State did not have a universal helmet law.
- You were required to sit in a designed seat with some vehicles. This was not the case for e-bikes.
- The State's regulations varied.
- Doubted that the regulations had caught up to the use of e-bikes.
- The issue was scheduled to be considered by the Council before the recent e-bike accident on Main Street.
- The City had narrow sidewalks in certain places.

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

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

- Someone under 18 years of age riding a vehicle with a motor should wear a helmet.
- Someone riding a vehicle with a motor on a road should have a driver's license or learner's permit.
- Someone had to be 14 years of age or older and wear a helmet to operate a vehicle with a motor on a sidewalk or path.
- What were the fines for violating the State's restrictions?
- Someone should not ride a motorized vehicle on a sidewalk if it had pegs instead of

pedals.

- Should there be a speed limit for motorized vehicles?
- E-bikes allowed more people to get out and about.
- User maturity was an important consideration.
- People had to do certain things before they could legally operate a motorcycle.
- Should the City have areas where people had to walk their bicycles, e-bikes, etc.?
- Users of these vehicles should not be allowed to go faster than 15 mph.
- Bikes should not be allowed on sidewalks.
- Children, some under 10 years old, used e-bikes and similar vehicles and went too fast. Pedestrians had to jump out of their way.
- Both the age of users and the responsibilities of parents needed to be addressed.
- The issue should be discussed with law enforcement.
- Parents were not ticketed if their children drove before they had a license.
- Many of the area's trails were outside of Midway.

Doug Dalton made the following comments regarding Class 1 e-bikes:

- Some people's livelihoods depended on e-bikes.
- Limiting user groups would undo a lot of work.
- The speed limit should be 25 mph everywhere in the City at all times and for all vehicles. There would be no need for additional signs.
- Regulations should support local businesses.
- Park City adopted regulations that created conflicts. They were now trying to overcome these conflicts.
- The International Mountain Biking Association was working on regulations.

Mike Lundin made the following comments:

- Many problems with e-bikes and similar vehicles were already regulated.
- Did not like redundancy.
- The City needed to figure out a way to enforce regulations.

Motion: Council Member Simonsen moved to continue consideration of the ordinance.

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	Excused
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

10. Closed Meeting to Discuss Pending or Reasonably Imminent Litigation and the Purchase, Exchange, or Lease of Real Property.

Motion: Council Member Drury moved to go into a 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	Excused
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 Payne 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	Excused
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

11. Adjournment

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

The meeting was adjourned at 11:05 p.m.

Celeste Johnson, Mayor

Brad Wilson, Recorder