



Memo

Date: 15 November 2024
To:
Cc:
From: Brad Wilson, City Recorder
RE: Minutes of the 5 November 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, 5 November 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 6:13 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 5 November 2024 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 1 October 2024 City Council Work Meeting
- d. Minutes of the 1 October 2024 City Council Regular Meeting
- e. Minutes of the 1 October 2024 City Council Closed Meeting
- f. Conclude the warranty periods and release the remainder of the bonds for the Scotch Fields PUD, Phases 2 and 3 located at 1400 North Canyon View Drive subject to the payment of all fees due to Midway City.
- g. Release the construction bonds, minus 10% and any amounts for landscaping, and begin the one-year warranty periods for the Scotch Fields PUD, Phases 4 and 5 located at 1400 North Canyon View Drive.

- h. Conclude the warranty period and release the remainder of the bond for the Springer Farms Subdivision located at 65 North 200 West subject to the payment of all fees due to Midway City.

Note: Copies of items 2a, 2b, 2c, 2d, 2f, 2g, and 2h are contained in the supplemental file. Council Member Payne noted that he was excused from the 1 October 2024 meetings and would abstain from voting on those items.

Motion: Council Member Orme moved to approve the consent agenda with Council Member Payne abstaining from voting on items 2c, 2d, and 2e.

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

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

Mayor Johnson asked if there were any comments from the public about items not on the agenda.

HVSSD / IPA / Consultant

Mark Austin made the following comments:

- Thanked the Heber Valley Special Service District (HVSSD) Board for withdrawing its application for an industrial protection area (IPA).
- The Board hiring the right consultant and bringing options back to the community would help solve some of the problems with HVSSD's sewer treatment facility.
- The Council should be more actively engaged with HVSSD.

Taxes

Mr. Austin made the following comments:

- A good safety net was needed for residents.
- The City was spending a lot of time trying to adjust water rates, which would only have a small impact on residents' expenses.
- The Council should work with Wasatch County and the State of Utah to improve the

safety net for taxes.

Homestead Drive / Striping / Turn Lanes / Trail

Randy Lundin made the following comments:

- The new striping and turn lanes, on Homestead Drive at the entrances to the Homestead Resort and Bigler Lane, were a problem.
- The road now did not have a shoulder.
- Snow would be plowed into garages, driveways, etc.
- The turn lanes did not need to be that long.
- The trail along the road was nice.

No further comments were offered.

4. Department Reports

Animal Services Agreement

Council Member Simonsen reported that Heber City approved a new animal services agreement. He said that it would be considered by the Midway City Council at its next meeting.

Parks Committee

Council Member Simonsen reported that the Parks, Trails, and Trees Advisory Committee discussed the Homestead Trail, work near Burgi Hill Park, trails along River Road and Burgi Hill Park, e-bikes, and trail signs.

Trails / Snowplowing

Council Member Simonsen wanted to review which trails would be plowed that winter.

Historic Preservation Committee / Oral Histories / Historical Plaques

Council Member Simons reported that the Historic Preservation Committee was working on oral histories and had completed 28 plaques for historic buildings.

Irrigation Company / PI System

Council Member Simons reported that the Midway Irrigation Company had a good year. He added that the pressurized irrigation (PI) system had been shut down for the winter.

Water Advisory Board

Council Member Simons reported that the Midway Water Advisory Board was doing well.

Planning Commission / State Required Changes

Council Member Simons was grateful to represent the Council at the Planning Commission. He noted that the Commission's responsibilities would change significantly because of modifications required by the State.

HVTED / Budget

Council Member Orme reported that Heber Valley Tourism and Economic Development (HVTED) received significantly less transient room tax revenue than expected. She added that it was cutting its budget in response.

5. Ordinance 2024-16 / Vacate First Homestead Country Homes Plat Maps (The Homestead Group LLC – Approximately 15 minutes) – Discuss and possibly deny, continue, or adopt Ordinance 2024-16 vacating recorded plat maps for the First Homestead Country Homes PUD located at approximately 650 North 650 West.

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

- Land use summary
- Location of the development
- Approved Homestead master plan
- Recorded plat maps
- State code regarding plat map vacations
- Possible findings

Mr. Henke also made the following comments:

- All four units in the development were owned by one entity.
- They would become hotel units.
- Did not have any proposed conditions.
- All easements would be included in the plat maps for the Homestead Resort.
- Agreements with the City would have to be changed for the units to be individually owned.

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

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

- The request was a new application.
- It should have been done when the Homestead expansion was approved.

Motion: Council Member Payne moved to approve Ordinance 2024-16, vacating the recorded plat maps for the First Homestead Country Homes PUD located at approximately 650 North 650 West, with the following findings and no conditions:

- The proposal would vacate the First Homestead Country Homes plat.
- If approved, the units would no longer be able to be sold separately.
- No public streets or municipal easements would be vacated or altered as part of the vacation.

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

6. Lundin Property / Clarification of Motion (City Planner – Approximately 10 minutes) – Discuss and possibly clarify the motion authorizing the use of Midway open space bond funds for the Lundin property located at approximately 900 West Bigler Lane.

Mayor Johnson reported that the item was discussed in the work meeting that evening and a fieldtrip would be taken to the property. She recommended that the item be continued until the next meeting.

Motion: Council Member Payne moved to continue the item until the next council meeting.

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. Whispering Creek Subdivision / Preliminary Approval (Berg Engineering – Approximately 30 minutes) – Discuss and possibly deny, continue, or grant preliminary approval for the Whispering Creek Subdivision located at 515 West Cari Lane (Zoning is R-

1-15).

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

- Land use summary
- Location of the development
- Flood plain
- Sensitive lands map
- Restoration of the flood plain
- Site plan
- Setbacks
- Infrastructure
- Landscaping plan
- Submitted documents
- Water board recommendation
- Location of Cospers Subdivision
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- The item was continued from 2020.
- Several issues had been raised at that time.
- It went back to the Planning Commission in 2024.
- There would be a bridge to one of the lots. The developer, not the lot owner, should build the bridge.
- A bond would be in place before any of the lots could be sold.
- The common area would be owned by the HOA.
- The road would be public.
- An existing sewer lateral would be relocated into the proposed road.
- Finding number four was no longer needed.
- The City would have to be vigilant to make sure that the flood plain was not disturbed again.
- The development qualified for the rural cross-section.

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

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

- The City's responsibility for the culinary water system ended at the meter.
- Was considering using the rural cross-section. Asked that it be approved as an option.
- The existing driveway would not be used for lot three.
- The applicant had spent a lot of time restoring the flood plain. This work was almost completed.

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

- The planned road had a wider park strip which could be used for snow storage. There was also room for storage near the entrance and at the end of the cul-de-sac.
- Some utilities would be run underneath the creek. They might not be in the same location.
- The City did not control some utilities. All utility providers were invited to monthly development review committee meetings.
- The setback for the southeast lot was close to an existing house. This was caused by a short setback and the existing house being at the back of a lot. What was shown was only a building envelope. A house could be built further to the west. The detention pond could be flipped to help solve the issue. All property owners were allowed to maximize the space within their setbacks.
- The existing buildings on the property could remain but could not be expanded. Any of them would have to be moved if they were in the right-of-way.

Motion: Council Member Simons moved to grant preliminary approval for the Whispering Creek Subdivision with the following findings and conditions:

- The proposal met the intent of the General Plan for the R-1-15 zone.
- The proposal complied with the land use requirements of the R-1-15 zone.
- Sensitive lands on the property and setbacks would be included on the plat map along with notes informing future lot owners of any risks.
- A stream alteration permit was required for the driveway crossing on lot 3.
- A note would be placed on the plat map that advised future owners of lots 2, 4, and 5 of the potential flood hazards from a 500-year flood.
- The developer would build the driveway crossing in lot 3 as part of the subdivision infrastructure.
- The plans would be updated to show the common area that bordered Cari Lane in the plan submittal for final approval.
- An advisory notice would be recorded on Lots 2, 3, and 4 regarding the AE floodplain on the lots. The document would explain the limitations of what was allowed in the floodplain. The document would have language similar to the following: Landscaping is allowed in the FEMA AE flood area which includes planting grass, plants, and trees, but nothing is allowed that will modify the FEMA flood zone, this includes not grading or placing rocks or fill of any type in this area that impacts the topography of the floodplain.
- The outbuildings would be addressed if any of them were in the right-of-way.
- The driveway for lot two would be identified on the plat map.
- The rural local cross-section was allowed as an option.

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
Council Member Simonsen

Aye
Aye

- 8. Ordinance 2024-15 / Commercial Lights** (Tom and Sarah Clark – Approximately 45 minutes) – Discuss and possibly deny, continue, or adopt Ordinance 2024-15 amending Title 5 (Health and Safety) of the Midway City Municipal Code regarding commercial lights.

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

- Current code
- Proposed code
- Possible findings

Mr. Henke also made the following comments:

- Cory Calderwood was the contractor for the applicants and was representing them that evening.
- The proposal was for commercial structures in the commercial zones.
- There was an exception in the current code for string lights in the commercial zones.
- String lights were used in the commercial zones more than expected.

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

Mr. Calderwood, representing the applicants, made the following comments:

- Installed soffit lights at the Dainty Pear building.
- Did not know that soffit lights were prohibited.
- The lights were on dimmers, tastefully done, created a nice ambiance, and increased security and safety.
- Kept intact the old hay barn and milking shed on the property to preserve the stories of those buildings.
- Asked that soffit lights be allowed.
- Other commercial buildings had string lights which were not dark sky compliant.
- The remodel of the building was reviewed by the Vision Architecture Committee.
- Made an error by installing the lights without knowing if they were allowed.
- Would comply with any regulations.
- Would remove the soffit lights and install string lights if necessary.

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

- The string lights were on buildings for existing businesses. The Dainty Pear was a new business.
- The situation started a pattern of people doing what they wanted and then asking for an exception.
- What should the City do to prevent similar situations?
- String lights were the opposite of dark sky compliant lighting.

- Soffit lights started with residential properties. They created a “spaceship” look.
- It was usually the builder and not the architect that planned and installed soffit lights.
- Soffit lights looked good on a building.
- Soffit lighting should not be allowed just because of how another type of lighting looked.
- Lighting was needed if the City wanted businesses to stay open later each day.
- There were ways to do soffit lighting tastefully and still provide security.
- The brightness of lights should be regulated.
- Any changes should provide what the City wanted.
- Soffit lights were part of a building’s structure while string lights used a power cord and could be temporary.
- The brightness of lights was not easy to police. It required knowing the wattage, etc. for each bulb.
- Proper terms were needed for a clear and concise code.
- Light was subjective and dark sky compliance was not the only consideration.
- The character of a building could be determined by the lighting.
- Soffit lighting could have large bulbs and be bright.
- The proposal should require uniformity and a certain theme.
- Lighting provided vibrancy and safety.
- Soffit lighting did not have character.
- Should lights be turned off when a business was closed? This reduced security and could create liability for the City.
- Soffit lighting was usually not on the building plans and was added during construction.
- Should lighting be turned off at a certain time like 10 or 11 p.m.?
- Lights over the entrance, windows, and deck at the Dainty Pear were compliant.
- Just addressing soffit lights would not create the outcome that the Council wanted.
- There should be some way to codify the brightness of a light.
- Lighting on a building could change over time.
- A dedicated code enforcement officer was needed.
- The tone and brightness of LED lights could be adjusted.
- The proposal could be approved knowing that it could be expanded if needed.
- Soffit lighting was not part of Swiss architecture.

Motion: Council Member Drury moved to continue the item with the following directions to staff:

- Reword the code to be specific regarding decorative exterior illumination.
- Address string and soffit lights in the C-2, C-3, and RZ zones.
- Address the time that lights were allowed to be on.
- Address uniformity of color, brightness, etc.
- These items would be done to the extent they could be clear in the code language and confidently enforced.

Second: Council Member Simons seconded the motion.

Discussion: Several council members wanted to allow lighting during business hours. Mayor Johnson wanted dark sky compliance.

Mr. Calderwood indicated that the pictures presented to the Council showed the Dainty Pear soffit lights at their lowest brightness.

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

9. Resolution 2024-28 / Revised Interlocal Agreement for Additional Law Enforcement
(City Attorney – Approximately 30 minutes) – Discuss and possibly deny, continue, or approve Resolution 2024-28 approving a revised interlocal agreement between Midway City and Heber City for additional law enforcement services.

Corbin Gordon made the following comments:

- Had been working on the issue for ten months.
- The remaining questions were indemnification and how much control Midway would have over the officers. Found language that addressed these issues.
- The agreement made it clear that the officers would be Heber City employees.
- Wasatch County would be responsible for prosecutions and would retain the associated revenue. This would be stated in the agreement. Wasatch County should be the one to request an agreement regarding prosecutions.
- Heber City approved the agreement.
- Heber City should lease the vehicles and then Midway reimburse them for the cost.

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

- The City would pay actual costs not estimates. The agreement would be revised accordingly.
- Heber City did not want to make or lose money.
- The Heber City Police Department would report to the Council once a month. Good communication was needed between the two parties.
- Midway had always contracted with Wasatch County for dispatch services. This would not change.
- Law enforcement did not have any information about two gangs specifically operating in Midway. There were gangs in the area.
- An office had been set up in the Community Center for the Police Department.
- Certain officers would be specifically assigned to Midway.

Motion: Council Member Payne moved to approve Resolution 2024-28, approving a revised interlocal agreement between Midway City and Heber City for additional law enforcement services, with the proposed corrections as discussed and authorized the Mayor to sign it.

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

Motion: Without objection, Mayor Johnson recessed the meeting at 8:25 p.m. She reconvened the meeting at 8:35 p.m.

10. Resolution 2024-27 / Culinary Water Rates (Council Member Drury and Council Member Simons – Approximately 10 minutes) – Discuss and possibly deny, continue, or adopt proposed Resolution 2024-27 amending the Midway City Fee Schedule regarding culinary water rates for primary residents over the age of 65.

Motion: Council Member Simons moved to continue the item.

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

11. Ordinance 2024-14 / Signs (City Planner – Approximately 30 minutes) – Discuss and possibly deny, continue, or adopt proposed 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.

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

- Proposed revisions
- Costs for three dimensional signs.
- Metal signs
- A-frame signs
- Examples of signs

Mr. Henke also made the following comments:

- Existing signs could remain. Amortizing the replacement of these signs was not included in the proposal.
- 50% of the existing signs would not be compliant with the new code. Many of them were

flat signs.

- Painted signs would be allowed if they looked exceptional. They would not be approved by the Vision Architecture Committee (VAC) if they did not meet this standard.
- Currently any disagreements on signs went to the City Council.
- Chalkboard a-frame signs next to entrances added character. Preprinted signs became permanent and did not look as good.
- Plastic and plexiglass signs were prohibited.

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 period to renew temporary business signs was too long.
- New businesses should have options.
- The VAC should prepare examples of acceptable signs and have documented guidelines.
- Any appeals should still go to the City Council.
- A-frame signs needed to be brought in at night.
- Metal signs needed to be better defined.

Motion: Council Member Simonsen moved to approve Ordinance 2024-14 regarding signs with the following changes:

- A-frame signs could be within ten feet of an entrance and located on private property.
- They would have to be brought in each night.
- They should not be a repeat of the businesses’ main sign but include other information.
- The requirement for them to be chalkboards was removed.
- The VAC should quickly establish boundaries and guidelines.
- Temporary signs would be allowed during one renewal of the business license.

Discussion: Council Member Payne asked about amortizing the replacement of existing signs. Katie Villani responded that it was not included in the ordinance. Council Member Simonsen was willing to allow up to five years for replacement. Council Member Orme responded that business owners should have to comply with the new code if they changed or upgraded a sign.

Second: Council Member Simons seconded the motion.

Discussion: None

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

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

12. 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 request and reviewed the following items:

- Proposed changes
- Penalties and enforcement

Ms. Villani also made the following comments:

- The ordinance had been simplified.
- Law enforcement needed to review it.
- It did not repeat state law.
- State law governed licensing for roads and allowed e-bikes on roads. The City could not be less restrictive.

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

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

- The ordinance should limit the riders to the number designed for the vehicle.
- Should vehicles be impounded?
- The ordinance should be clear on when certain types of vehicles could and could not be operated. State law covered that issue.
- State law treated each vehicle differently.
- It would be difficult for the Police Department to enforce different laws in Heber and Midway. The officers dedicated to Midway would become familiar with its laws.
- Children were the biggest offenders with bikes, e-bikes, etc.
- The ordinance could be approved pending a review by law enforcement.

Motion: Council Member Simonsen moved to adopt Ordinance 2024-13 allowing staff to make the modifications discussed and if there were no objections from law enforcement it could be put into practice.

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

Council Member Simonsen asked about fines. Katie Villani responded that she would come back to the Council with recommendations for fines.

Council Member Simons indicated that some municipalities made parents pick up their children when they violated the law, instead of a fine or impounding a vehicle. Branden Russell, Heber City Deputy Police Chief, responded that it was standard practice for law enforcement to call the parents when a child broke the law.

13. 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 9:20 p.m.

Celeste Johnson, Mayor

Brad Wilson, Recorder