



Memo

Date: 12 November 2024
To:
Cc:
From: Brad Wilson, City Recorder
RE: Minutes of the 5 November 2024 City Council Work Meeting

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

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

**Tuesday, 5 November 2024, 5:00 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

Mayor Johnson called the meeting to order at 5:02 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.

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

Corbin Gordon made the following comments regarding the resolution:

- Sent a memo to the Council regarding the proposal.
- Initially thought that the City could approve it because other cities waived rates for certain customers and senior citizens received discounts because of their age.
- Katie Villani found an opinion from the Utah Property Rights Ombudsman.
- The proposal was constitutional, but the State of Utah considered that municipal utility rates were based on ownership and not other factors like age.
- Customers were required to pay the same amount.
- The proposal was problematic.
- The Council could approve it and hope that it was not challenged.

- A developer concerned about impact fees would challenge it rather than a resident.
- The City would probably lose a challenge.
- Midway was becoming more of a geriatric community.
- If adopted, the proposal would be in place for a long time.
- Did the City and its staff want to review customers' income statements to determine eligibility?

Council Member Drury made the following comments:

- The proposal was intended for long time residents.
- Expenses had gone up for residents.
- Residents needed to be over 65 years old and opt into the program. They should have paid for water service for at least ten years.
- Ten years was long enough for them to have paid for their portion of the culinary water system.

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

- The proposal could be reversed in the future if needed.
- Impact and user fees were different.
- The City ran the risk of the State determining that it charged too much for water service.
- The City would be responsible for all legal fees and costs if it lost a challenge to the Ombudsman's opinion.
- The real issue was helping customers that were below a certain income level. Should a senior citizen with a \$5 million home qualify?
- State law allowed for abating property taxes.
- The City could have the Ombudsman review the proposal or it could reduce rates across the board.

Council Member Simons provided data to the Council and made the following comments:

- The City had 2,700 water customers. 2,600 of those customers used less than 10,000 gallons of water a month.
- 1,000 customers used less than 5,000 gallons.
- 1,000 customers used less than 1,000 gallons.
- Suggested lowering the rate to \$14 a month for those using between 5,000 and 2,500 gallons.
- The monthly rate for those using less than 2,500 gallons could be \$5.
- The rate change would only affect part of a customer's bill. There were other applicable fees.
- His suggestion would lower water revenue from \$1.5 million to \$1 million.
- It would help those who needed it most and encourage water conservation.
- The Council should review the data and then discuss it at its next meeting.
- This would still provide enough revenue for the system.
- The City received \$200,000 in interest from its water fund reserves.
- Was grateful for staff and their planning.
- His suggestion would not change the overage fees.

Note: A copy of the data provided to the Council is contained in the supplemental file.

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

- Most second homes did not require a lot of water.
- The City should help customers living in primary residences.
- Doing something was better than doing nothing.
- The Ombudsman would tell the City if its proposal was allowable.
- A proposal based on usage was better than one based on age.
- The exact impact of reducing the rates should be determined before making a motion.
- Property tax abatements could determine which customers were eligible for a reduction. The State could change the abatement criteria.
- Staff should come back with a plan based on Council Member Simons' suggestion.

3. Lundin Property / Clarification of Motion (City Planner – Approximately 50 minutes) – Discuss the motion authorizing the use of Midway open space bond funds for the Lundin property located at approximately 900 West Bigler Lane.

Mayor Johnson suggested that any decision be postponed until after a visit to the Lundin's property.

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

- 20 June 2023 motion
- 16 January 2024 motion and amended motion
- Extensions
- Purchase and sale agreement
- Water shares and rights
- Emergency access
- Sensitive lands code.

Ms. Villani also made the following comments:

- The Lundins requested another extension until the end of the year.
- 50 Midway Irrigation Company water shares would be provided as collateral until the conservation easement was recorded.
- The request for an emergency access through the Lundins property was not new.
- A route for the access had not been agreed upon.

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

Nora Lundin made the following comments:

- Would like the citation for the code being applied to the requested access.
- Could another code apply to an emergency access?
- Did the City want a wildfire road or formal street?

- Cared about the safety of residents and wanted a second access for both Swiss Mountain and Lime Canyon.
- The access should not interfere with the agriculture on the property.
- The route proposed by the City would split two of their fields in half. That was unacceptable.
- Received an extension on the settlement agreement with one of her brothers.
- Park City used emergency roads.

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

- The Fire Code might apply to emergency accesses.
- Any road would also need access through adjoining properties.
- The Lundin family was making a significant sacrifice to preserve their land as open space.
- The second access was not a problem created by the Lundins. The City had delayed the access for many years. It was difficult to put this responsibility on the Lundins.
- The access was the last difficult item to resolve.
- The access needed to be sufficient for a compact car to use.
- The access would be a sacrifice.
- The City needed to follow the Fire Code.

Mike Lundin made the following comments:

- Since 1970 the family had never used more than 37 of its water shares.
- The Irrigation Company asked that they not use some of their water shares.
- They owned 60 shares of water.

4. Adjournment

The meeting was adjourned at 6:05 p.m.

Celeste Johnson, Mayor

Brad Wilson, Recorder