

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

**Tuesday, 1 September 2020, 6:00 p.m.
Midway Community Center, City Council Chambers
160 West Main Street, Midway, Utah**

Note: Notices/agendas were posted at 7-Eleven, Ridley's 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, Public Works Assistant Crew Chief, 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 6:02 p.m. She excused Council Member Payne.

Members Present:

Celeste Johnson, Mayor
Steve Dougherty, Council Member
Jeff Drury, Council Member
Lisa Orme, Council Member
JC Simonsen, Council Member

Staff Present:

Corbin Gordon, Attorney (Arrived at 6:13 p.m.)
Amanda Cruz, Administrative Assistant
Michael Henke, Planning Director
Wes Johnson, Engineer
Brad Wilson, Recorder/Financial Officer

Members Excused:

Kevin Payne, Council Member

Mayor Johnson led the Council and meeting attendees in the pledge of allegiance. Council Member Orme gave the prayer and/or inspirational message.

2. Consent Calendar

- a. Agenda for the 1 September 2020 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 4 August 2020 City Council Regular Meeting
- d. Minutes of the 7 August 2020 City Council Meeting
- e. Minutes of the 7 August 2020 City Council Closed Meeting
- f. Minutes of the 18 August 2020 City Council Work Meeting
- g. Minutes of the 18 August 2020 City Council Closed Meeting
- h. Minutes of the 18 August 2020 City Council Regular Meeting

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

Brad Wilson indicated that only the minutes for the 4 August 2020 meeting were ready for approval. He also requested that a bill for \$81,432.10 to Wasatch Asphalt Paving be added to the warrants.

Motion: Council Member Orme moved to approve the consent calendar with the unprepared minutes taken off and the warrant for Wasatch Asphalt Paving added.

Second: Council Member Simonsen seconded the motion.

Discussion: None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Excused from the Meeting
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

Ice Rink / Maintenance

Council Member Drury reported that the bidding process began for maintenance on the ice rink chiller system.

Swiss Days / Cancelled

Council Member Drury reported that Swiss Days was cancelled because of the pandemic.

COVID-19 Pandemic / Update

Mayor Johnson gave an update on the pandemic including infections and testing. She reported that the City applied for CARES Act funding. She also reported that although transient room tax revenue was down other sales tax revenue was up.

Note: Corbin Gordon arrived at 6:13 p.m.

HVSSD / Management Plan

Mayor Johnson reported that the Heber Valley Special Service District (HVSSD) was developing a management plan.

HL&P / Resignation

Mayor Johnson read a statement stating that she was resigning from the Heber Light & Power Company (HL&P) Board of Directors and appointing Council Member Dougherty to fill the vacancy.

970 South Transmission Line / Legal Briefs

Corbin Gordon reported that he filed a brief with the Utah Supreme Court regarding the appeal by Rocky Mountain Power. He added that a brief had to be filed with the Utah Court of Appeals before September 16th.

Amanda Cruz / Administrative Assistant

Mayor Johnson introduced Amanda Cruz who was a new administrative assistant working for the City.

- 5. Time Limit for Council Meetings** (Mayor Johnson – Approximately 10 minutes) – Discuss limiting city council meetings to 10:00 p.m. unless extended by a majority of the City Council.

Mayor Johnson suggested that the City Council conclude its meetings before 10:00 p.m. unless extended by a majority vote of its members. She said that legally required items would be first on the agenda. Council Member Orme suggested extending the meeting in hour increments.

- 6. Volksmarch / Presentation** (Athina Koumarela – Approximately 20 minutes) – Receive a presentation on the 2020 Volksmarch.

Athina Koumarela, Kirsten Ward, and Sharka Fabian gave a presentation regarding the Volksmarch for 2020 and made the following comments:

- The money raised would be used to preserve the Albert Kohler Dairy.
- Because of the pandemic, participants would use a cell phone application to guide them on the walk.
- Preservation Utah and the Midway Historic Preservation Committee were supporting the event.
- Robert Duncan was again selling prints to support the event.
- Asked if the City could donate to the event.

Mayor Johnson responded that CARES Act funds or economic development funds might be

used for the event.

7. CARES Funds / Request (Clair Provost – Approximately 10 minutes) – Receive a request for CARES funds to be used for emergency services.

Clair Provost and Ernie Giles, with the Wasatch County Fire District, gave a presentation and asked for CARES Act funds to purchase a transport van. They made the following comments:

- The area was growing rapidly.
- Demand on emergency services had also grown because of the pandemic.
- Would like a transport van to reduce the use of its ambulances. The cost would be \$95,000. It would then need to be stocked with supplies.
- Wasatch County was helping the Wasatch County School District with its needs during the pandemic. It was also helping purchase equipment for the Fire District.
- There was a lot of pressure on emergency workers.

The Council supported the request and indicated that the City did not have a lot of pandemic related expenses.

The Council discussed other uses for the CARES Act money including helping local businesses and resorts. It was suggested that the City provide the assistance through the program already set up by Heber Valley Tourism and Economic Development.

8. Midway Vistas Subdivision, Phase 1 / Preliminary Approval (Berg Engineering – Approximately 30 minutes) – Discuss and possibly grant preliminary approval for Phase 1 of the Midway Vistas Subdivision located at 285 Luzern Road (Zoning is RA-1-43). **(Public Hearing)**

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

- Access points
- Trails
- Discussion items
- Pictures of the property
- Interlaken garbage dumpsters
- Water Board recommendation
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- The Interlaken Mayor said an agreement had been reached to access the Subdivision through his town. The roads in the Town were public.
- A property owner no longer would allow trail access through his property because of privacy and liability. The backcountry trail would have to be rerouted along Edelweiss Lane and Interlaken Drive.
- Interlaken Drive up to Interlaken Town was private.
- The City already built a section of trail that would have been the responsibility of the

developer. The developer should instead build a portion of the trail along Homestead Drive.

- The Midway Irrigation Company agreed that preliminary approval could be granted but the issue of irrigation water pressure needed to be resolved before final approval.
- The north access would connect to Interlaken.

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

Council Member Dougherty explained that pumping from a pipe that did not have enough water would not help the pressure issue. The Irrigation Company's engineer was studying the issue. There might need to be irrigation water storage above the subdivision.

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

- The HOA would have to maintain the roads and sidewalks. They should do a capital reserve study that was reviewed by the City.
- Should the road width be reduced to 26 feet?
- Should the subdivision have the rural cross-section?
- The Interlaken Mayor wanted to resolve the issues with the dumpsters. They would be temporarily placed by the Town's pumphouse until the proposed subdivision was built.

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.

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

- The easement agreement for Interlaken's dumpsters had been sent to the Interlaken Town's attorney for his review.
- The proposal complied with the conditions of the master plan including accommodating the dumpsters.
- Trails beyond the City's master plan would be built.
- The developer would provide the needed easement and help reroute the backcountry trail.
- A trail near the north entrance could connect to the backcountry trail.
- Several Interlaken roads, which were in Midway City, were not needed for the subdivision. They were not part of the City's road system and the developer should not have to improve them.
- Guardrail was installed where needed when Interlaken Road was last improved.

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

- Street parking was lost with narrower roads.

Motion: Council Member Dougherty moved to grant preliminary approval for the Midway Vistas Subdivision, Phase 1 with the following findings and conditions:

- The proposal complied with the requirements of the Municipal Code for standard subdivisions.
- The proposal met the vision of the area as described in the General Plan for the RA-1-43 zone.
- The public trails would be built by the developer and would be an amenity for the entire community.
- The proposal met all the requirements of the annexation agreement.
- The developer would pay the cost of building a 300-foot section of trail along Homestead Drive. This would take the place of the trail that the City built along Burgi Lane that was originally required of the developer. Payment was required before the plat map for Phase 1 could be recorded.
- All approved non-irrigated areas would be noted on the plats.
- Prior to final approval of the plat a plan would be completed to provide irrigation water to the 15 most elevated lots either with individual pumps or an irrigation water storage system. At final approval it would be determined if a note would be added to the plat.
- Private roads and sidewalks in the development would have public access easements which would be noted on the plats and in the development agreement.
- The HOA would be obligated to provide to city staff a capital reserve study, so that city staff could see that the cost of maintaining the private roads was addressed.
- Private trails with public trail easements would be maintained by the City with an annual maintenance fee paid by the HOA to the City.
- If it existed, a copy of the access agreement for Interlaken Drive would be submitted to the City before consideration of final approval for Phase 1.
- The backcountry trail would connect on the trail or sidewalk structure on the north and Edelweiss Lane on the east.
- The rural cross-section was approved for the project.

Second: Council Member Simonsen seconded the motion.

Discussion: Wes Johnson indicated that a narrower road would reduce cutting and filling which would improve the visual impact.

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Excused from the Meeting
Council Member Simonsen	Aye

Note: Council Member Orme left at 8:10 p.m.

9. Mountain Spa Property / Letter of Commitment (City Planner – Approximately 30 minutes) – Discuss and possibly approve a letter committing \$1.5 million for the reduction of density on the Mountain Spa Property on the west side of River Road and the south side of Burgi Lane.

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

- Land use summary
- Location of the property
- Irrigated area
- Previous development proposals
- Proposed development plan
- General Plan
- Possible conditions

Mr. Henke also made the following comments:

- The property had a high-water table.
- There would be a sensitive lands easement where the City could do a public facility. The water on that property was available for non-consumptive use.
- Lot #2 was surrounded by the resort zone. A resident wanted to purchase this lot and have a mixed-use project with a home and physical therapy business. There would be parking for the home, business, and public facility. This lot could be left in the resort zone and the memorandum of understanding would have to be amended. The use was not allowed in a residential zone.
- The recommended water rights had not yet been determined by the Water Advisory Board.

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 item before the Council that night was a letter of commitment and not rezoning or land use.
- Did the City's commitment depend upon issues of rezoning, land use, or the proposed mixed-use project?
- Sufficient water rights were needed because the open space was being preserved as agricultural land.
- The Summit Land Conservancy agreed to the possible conditions.
- Was the sensitive lands area, which could be used for a public facility, limited to passive uses? This limitation was a concern. The size of the area should be increased to be more usable.
- One stone structure would be preserved, and the rest of the buildings would be razed.
- There were deadlines for the project.
- The City would be conditionally committing funds.
- The passive use restriction could be removed.
- The smaller lots did not have to be limited to residential. Lot two could be designated as mixed use in the resort zone.
- The City should be deeded the sensitive lands area.

Motion: Council Member Simonsen moved to approve a letter of commitment as presented to

the Council with the following changes based on the discussion that evening:

- Any reference to Lot 2 being residential be modified to potentially mixed-use.
- References to passive use be modified so potential uses by the City could be more active, as allowed by the sensitive lands code, like a soaking pool and other structures to support those uses.
- All references to conservation easements also include deed restrictions.
- Staff was authorized to make the changes.
- The Mayor was authorized to sign the letter.

Second: Council Member Dougherty seconded the motion.

Discussion: None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Recused
Council Member Payne	Excused from the Meeting
Council Member Simonsen	Aye

Motion: Without objection, Mayor Johnson recessed the meeting at 9:14 p.m. She reconvened the meeting at 9:20 p.m.

Note: Council Member Orme returned at 9:20 p.m.

10. Law Enforcement Contract (Mayor Johnson – Approximately 60 minutes) – Review and discuss Midway City’s contract with the Wasatch County Sheriff’s Department for law enforcement.

Mayor Johnson reviewed discussions with the Sheriff’s Department and indicated that the City wanted increased traffic control.

Corbin Gordon reviewed the existing agreement with the Department and made the following comments:

- Municipalities and counties were not required to provide law enforcement.
- The agreement was entered into in 1987 and the fee had increased over the years.
- It was the basis for the current service and should be updated.

Jared Rigby, Wasatch County Sheriff, gave a presentation and reviewed the following items:

- Minimal level of service
- Traffic enforcement in Midway
- Law enforcement options for Midway including paying for a higher level of service from the Department, its own police department, and consolidated enforcement.

Note: A copy of Sheriff Rigby's presentation is contained in the supplemental file.

Sheriff Rigby made the following comments:

- Counties were required to provide a minimal level of service. Could provide more service but needed more resources.
- The current agreement needed to change because it did not cover all the costs for serving Midway. It required 40 hours of service a week but often up to 60 hours a week was provided. That did not include the items in the minimal level of service.
- Was providing notice that the agreement needed to change before that January.
- If the Department provided just the minimal level of service, then other items would be referred to the City. The City would do code enforcement.
- Employees without peace officer standards and training (POST) certification, such as building inspectors, could do inspections and had some citing powers.
- Wasatch County had increased the budget for law enforcement from \$300,000 to \$700,000. The County's budget was \$10 million. This helped retain staff.
- A lot of the additional time the Department spent in Midway was for traffic enforcement.
- The City would need a minimum of four officers if it had its own police department. This did not include back-up, vacation, training, supervision, dispatch, prosecution, courts, etc.
- Dispatch was a significant cost. Most of the cost was paid by the County.
- There was a significant difference between the number of calls for Midway and Wallsburg.
- Was just trying to cover the Department's costs.
- The Department's billing to other entities depended upon cases and calls.
- Midway was high maintenance. Had received only three calls from the Charleston Mayor.
- Other communities did not have much money for law enforcement.
- Wanted to meet with the City Attorney to discuss the issue.

Council Member Dougherty suggested that the City Attorney and a member of the Council meet with Sheriff Rigby. He wanted to explore consolidated enforcement.

11. Resolution 2020-25 / Homestead Resort Master Plan Amendment (City Attorney – Approximately 30 minutes) – Discuss and possibly approve Resolution 2020-25 adopting an amendment to the master plan for the Homestead Resort located at 700 North Homestead Drive.

Michael Henke reported that The Links at Homestead HOA send the City a letter continuing to question the details of an access agreement between them and the Homestead Resort. Bryce Dalton, Kirton McConkie and representing the applicants, responded that the HOA wanted to amend the agreement which allowed for access to five lots.

Corbin Gordon made the following comments:

- An east to west trail through the Resort was not a good option because it created liability for the City.
- A north to south trail of equal length had been discussed.
- The applicants would pay a per foot cost for trail construction.

- The trail would be owned by the City.
- The applicants wanted to deed a section of land, for a trail along Homestead Drive and north of the Resort, to the City instead of granting an easement.

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

- The HOA President wanted to make clear that the easement was only for single family homes.
- Any amendment of the easement was between the HOA and the applicants.
- The Council was only concerned with access.
- Any disagreements over the easement could be resolved in court.
- There was a problem with access because there was a question with the easement.
- It was not the City's job to make the HOA and applicant agree.
- The HOA did not want the houses, accessed through its development, to have lockouts.
- The applicants were hiding behind the ambiguity of the access agreement to have up to 48 rental units on the five lots.
- The City did not specify how many residents could live in a house.
- The Council should not approve the amendment with ambiguity that could become a future problem.
- The water rights for the project needed to be finalized.

Mr. Dalton indicated that the applicants would specify that single-family homes would be on the five lots. Mr. Gordon added this would be included in the amended master plan.

Paul Berg, Berg Engineering Resource Group and representing the applicants, indicated that the applicants would remove the trees and clear the area for the section of trail along Homestead Drive and north of the Resort.

Motion: Council Member Simonsen moved to approve Resolution 2020-25 adopting an amendment to the master plan for the Homestead Resort with the following changes:

- Subsection g(13) would state that the five lots would have single family homes.
- The section of the north trail would be deeded to the City with the applicants having an easement to cross the trail.

Second: Council Member Dougherty seconded the motion.

Discussion: None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Excused from the Meeting
Council Member Simonsen	Aye

12. Resolution 2020-15 / Fee Schedule Amendment (City Planner – Approximately 30 minutes) – Discuss and possibly approve Resolution 2020-15 amending the fee schedule for

Midway City regarding planning, building, parking, and other fees.

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

- Reasons for the fees
- Chart of proposed fees
- Public parking lease

Mr. Henke also made the following comments:

- Spent a lot of time and did a lot of things at no charge to requesters.
- The proposed amounts were similar to those of other Cities.
- The fee to appeal was intentionally low.
- Was unable to find another city that charged for leasing parking.
- The lease lowered the upfront cost for a business to install parking.
- The lease fee did not obligate the City to provide parking.
- Might not charge a fee for a first meeting.
- Wanted to prevent people from using him as their architect, engineer, etc.

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 public parking lease amount seemed high. It should be lowered. It could be increased in the future if necessary.
- Generally, cities charged customers rather than businesses for public parking.
- Would the lease fee be prohibitive when trying to encourage businesses?
- The lease fee should not be so low that a lot of businesses leased parking rather than build it.
- Off-site parking lots were working in the City.
- The City should not grant business licenses based on parking that it was temporarily leasing from a landowner.
- Average residents should be able to ask questions at no charge.
- Choosing who should and should not be charged a fee was problematic. Should the first meeting automatically be free?
- People meeting with Mr. Henke now had to sign a disclaimer regarding the information that he gave them.

Motion: Council Member Simonsen moved to approve Resolution 2020-15 with the following changes:

- The annual lease amount per parking stall would be \$250.
- The fee for pre-application meetings would be \$75 an hour after the first hour at the staff's discretion.

Second: Council Member Drury seconded the motion.

Discussion: None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Excused from the Meeting
Council Member Simonsen	Aye

13. Salon / Parking Lease (Graciela Montenegro – Approximately 15 minutes) – Discuss and possibly approve a lease of parking for a salon located at 103 East Main Street.

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

- Leasing public parking stalls

Mr. Henke also made the following comments:

- The applicant wanted to lease four stalls.
- The lease amount would be prorated for the first year.
- Told the applicant that the parking was in a lot, leased from the property owner, and could go away. Told her that she would have to find other parking if the lot went away.
- The applicant did not have access to the garage, at the proposed location for the business, so it could not be used for parking.
- The applicant could work with a neighboring business to get parking.
- The applicant wanted to open her business in November.

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

Council Member Dougherty asked if there would be a written parking lease agreement to deal with insurance and indemnification? Corbin Gordon responded that would have to be addressed.

Mayor Johnson indicated that the City had three years to find a permanent replacement for the public parking lot at 70 East Main Street.

Motion: Council Member Drury moved to approve the salon parking lease for Graciela Montenegro for four stalls at \$250 annually per stall, with the City Attorney drafting a lease agreement that the Mayor and staff could approve and did not need to be brought back to the Council.

Second: Council Member Simonsen seconded the motion.

Discussion: None

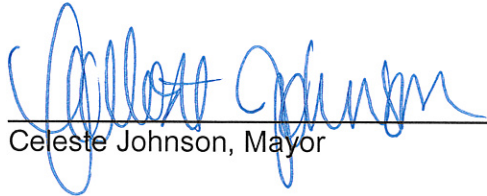
Vote: The motion was approved with the Council voting as follows:

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Excused from the Meeting
Council Member Simonsen	Aye

14. Adjournment

Motion: Council Member Orme moved to adjourn the meeting. Council Member Dougherty seconded the motion. The motion passed unanimously.

The meeting was adjourned at 11:41 p.m.



Celeste Johnson, Mayor



Brad Wilson, Recorder