

# MINUTES OF THE MIDWAY CITY COUNCIL

## (Regular Meeting)

**Tuesday, 3 November 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 6:00 p.m. She excused Council Member Dougherty.

#### **Members Present:**

Celeste Johnson, Mayor  
Steve Dougherty, Council Member (Arrived  
at 8:34 p.m.)  
Jeff Drury, Council Member  
Lisa Orme, Council Member (Participated  
Electronically)  
Kevin Payne, Council Member  
JC Simonsen, Council Member

#### **Staff Present:**

Corbin Gordon, Attorney  
Michael Henke, Planning Director  
Wes Johnson, Engineer  
Brad Wilson, Recorder/Financial Officer

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

### **2. Consent Calendar**

- a. Agenda for the 3 November 2020 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 6 October 2020 City Council Work Meeting
- d. Minutes of the 6 October 2020 City Council Closed Meeting
- e. Minutes of the 6 October 2020 City Council Regular Meeting
- f. Minutes of the 20 October 2020 City Council Work Meeting
- g. Minutes of the 20 October 2020 City Council Closed Meeting
- h. Minutes of the 20 October 2020 City Council Regular Meeting

- i. Conclude the warranty period and release the remainder of the bond for the Appenzell PUD, Phase 1 located at 700 South Center Street subject to the payment of all fees due to Midway City

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

Wes Johnson made the following comments regarding concluding the warranty period for Appenzell, Phase 1:

- Mayor Johnson and he had visited the project and reviewed the landscaping.
- All sprinkler zones were working.
- Additional sprinkler heads had been installed.
- The sprinkler system was now working on the berm.
- There were no structural issues with the berm.
- There would still be marmots in and around the berm. The HOA would have to exterminate them each year.

**Motion:** Council Member Drury moved to approve the consent calendar including the minutes and releasing the warranty bond for Appenzell, Phase 1.

**Second:** Council Member Orme seconded the motion.

**Discussion:** None

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

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

#### Community Center / Remodel

Council Member Orme indicated that work had paused on the Community Center because the crew doing the remodeling had COVID-19.

#### CARES Act Funding / Local Businesses

Mayor Johnson reported that a Zoom meeting would be held to invite all local businesses to apply for CARES Act funding and answer any questions.

#### Ice Rink / Setting Up

Council Member Drury reported that the Ice Rink was being set up and was on track to open.

#### Bell Ringers / Space

Council Member Drury reported that the City was looking for a new space in one of its buildings for the Swiss Handbell Ringers.

#### HVRR / North Pole Express

Mayor Johnson reported that the Heber Valley Railroad's North Pole Express was almost sold out.

#### HVSSD / MSD / JSSD / Sewer Line

Mayor Johnson reported that the Jordanelle Special Service District (JSSD) was now using its new sewer treatment plant. It now needed to update its agreement with the Heber Valley Special Service District (HVSSD) and the Midway Sanitation District (MSD) for the transport and treatment of sewage.

#### COVID-19 Pandemic / Update

Mayor Johnson gave an update on the pandemic and reported that Wasatch County had record infections.

5. **CAPS Presentation** (Approximately 15 minutes) – Receive a presentation from the Wasatch Center for Advanced Professional Studies (CAPS) regarding a Town Square master plan, Community Center exterior renovation, and a souvenir shop.

#### Souvenir Shop

Cole Benson, Bradly Davis, Sadie Perry, and Layton McMaster gave a presentation on the proposed souvenir shop and reviewed the following items:

- Buildout
- Product list
- Logo and graphic designs

They also made the following comments:

- The profit would go back to the City.
- It would be the only souvenir shop in Wasatch County.
- Tourists, people walking, and diners at area restaurants would go to the shop.

The Council suggested Christmas items, cross-selling with other businesses, and promoting local businesses.

**Note:** A copy of the presentation is contained in the supplemental file.

### Town Square

Sara Livingston, Cody Brave, Sidney Bennion, and Ethan Blanco gave a presentation on improving the town square and reviewed the following items:

- Covering the Ice Rink
- Benefits of a cover
- Summer activities
- Solar panels
- Swiss architecture for the cover
- Environmentally friendly improvements

They also made the following comments:

- The Ice Rink could be used for roller skating in the summer.
- The ice rink cover and chiller building should have the same look.
- Their proposals received a good response on social media.
- Swiss Days would not have to pay to cover the Rink.
- The Rink could be used for other events throughout the year.
- The sides of the cover would be open.

The Council made the following comments:

- The cover could be made of metal with a wood finish.
- The cover could take away from the outdoor feel of the rink.
- The students should work with the firms also master planning the Square.

**Note:** A copy of the presentation is contained in the supplemental file.

- 6. Utah Climate & Clean Air Compact / Support** (Mayor Johnson – Approximately 5 minutes)  
– Discuss and possibly support the Utah Climate & Clean Air Compact and authorize the Mayor to be a signatory.

Mayor Johnson gave a presentation on the Compact and reviewed its various principles.



**Note:** A copy of Mayor Johnson's presentation is contained in the supplemental file.

Council Member Simonsen supported the Compact but felt that the focus should be on commonalities and improving technologies.

Council Member Payne did not question the intentions of the Compact but opposed the climate change provision. He felt that some of its principles had been politicized. He added that some solutions to the problems hurt more than they helped.

Council Member Orme agreed with Council Member Payne but felt that the issues raised were important. She could support the Compact.

Council Member Drury supported the Compact.

Mayor Johnson indicated that she would sign the Compact.

7. **CARES Act Funds / Request** (Wasatch County Fire District – Approximately 10 minutes) – Discuss and possibly approve a request for CARES funds to be used for emergency services.
8. **CARES Act Funds / Review** (Mayor Johnson – Approximately 20 minutes) – Review the use of CARES Act funds.

Clair Provost, Battalion Chief, thanked the Council for providing the money to purchase a transport van and made the following comments:

- The van now needed to be outfitted which was not in the District's budget.
- Asked the Council to provide the money for outfitting.
- The pandemic was not over.
- The contribution would help the emergency services workers in the field.
- Wasatch County provided \$400,000 in funding for a load system, equipment, and additional uniforms.
- Heber had not contributed any CARES Act funds to the District.
- Charleston had contributed almost all its CARES ACT funds to the District.
- Daniel had also contributed.
- Any contribution needed to be received by the end of the month.

Ernie Giles, Chief, also thanked the Council. He noted that the van could be used as an ambulance in an emergency. He also noted that equipment wore out and needed to be replaced.

Brad Wilson reviewed the request and CARES Act funding received by the City.

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

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

- At some time, each member of the community would benefit from the contributions.
- The request that night made the first request whole.
- Emergency services was a good cause, but a final decision should not be made until the meeting with local businesses that week.
- \$75,000 could be committed immediately and the rest provided if the City received the third tranche of funding.

**Motion:** Council Member Drury moved to approve \$75,000 for the equipment for the Fire District, pending notification of the third tranche, at which time the Mayor could decide to approve the entire amount requested.

**Second:** Council Member Simonsen seconded the motion.

**Discussion:** None

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

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

**9. Ordinance 2020-22 / Zone Map Amendment** (Chuck Heath – Approximately 30 minutes) – Discuss and possibly adopt Ordinance 2020-22 amending the Midway City Land Use Map as it relates to the Mountain Spa Resort property located at 800 North and 200 East (Zoning is Resort). Recommended with conditions by the Midway City Planning Commission. **Public Hearing**

**10. Mountain Spa Rural Preservation Subdivision / Preliminary and Final Approval** (Chuck Heath – Approximately 30 minutes) – Discuss and possibly grant preliminary and final approval for the Mountain Spa Rural Preservation Subdivision located at 800 North and 200 East. Recommended with conditions by the Midway City Planning Commission. **Public Hearing**

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

- Overview
- Location of the area proposed for the rezone
- Zoning Map
- Area zones
- Proposed change
- Open space bond funds
- General Plan
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- The areas removed from the resort zone would be in the proposed rural preservation subdivision.
- Three of the five homes in the proposed subdivision would be in the Transient Rental Overlay District (TROD).
- Maintaining the Resort Zone helped the City financially.
- The area proposed for the rezone was marginally developable.

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

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

- Land use summary
- Master Trail Plan
- Trail running south to north
- Trail running east to west through Lacy Lane
- Proposed plan
- Proposed plat map
- Each proposed lot
- Access
- Areas in each lot that were buildable and would be irrigated
- Sensitive lands
- Sensitive lands map
- Water lines map
- Pictures of the property
- Water Board recommendation
- Planning Commission motion
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- Recommended obtaining from the applicant a trail easement along River Road. The easement could be used when the existing trail was replaced.
- Recommended that the applicant contribute to the City's trails fund.
- Suggested that the Lacy Lane trail become public and be moved to the boundary with the Subdivision.
- The area shown in yellow would not be included in the Subdivision.
- The Council would have to approve the two proposed driveways.
- The main access to the resort zone would be on Burgi Lane.
- Recommended that the existing resort sign be preserved because it was historic.
- The non-irrigated areas would be noted on the plat map.
- The area of the wetlands had reduced since the last wetlands study was approved. Did not request another study. Increasing the required water rights, to compensate for less wetlands, could be considered.

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

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

- Additional water rights should be required for Lot #4 so that it would not be a weed patch or irrigated illegally. The lot could be used for grazing without irrigation. Additional water rights could be purchased in the future. The water usage would also be metered.
- The driveways should be allowed because they would create just two accesses to the roads. They would not create an issue of vehicles backing into the roads.
- It would not be difficult to move the existing irrigation risers to relocate the Lacy Lane trail.

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

- City employees and area farmers would ensure that non-irrigated areas would not be irrigated.
- A previous development plan showed 63 units in the area of the Subdivision.
- The Subdivision had five lots and they would not be in the Resort Zone.
- The proposal provided for a nice mix of resort and rural open space. It protected view corridors.
- The United States Army Corp of Engineers approved the last sensitive lands study.
- The applicant did not have the water rights for the areas that used to be wetlands.
- The proposal was preserving the sensitive lands.

### **Public Hearing**

Mayor Johnson opened the hearing and asked if there were any comments from the public.

#### Rob Foster

Mr. Foster asked where the open space bond money would be used. Mayor Johnson explained where the money would come from to preserve the open space. She noted that the proposed lots could not be re-subdivided.

#### Bill Peckny

Mr. Peckny thanked the Council for preserving open space.

#### Paul Haney

Mr. Haney asked if anything would be built on the hill in the middle of the property. Mr. Henke responded that the hill was considered sensitive lands, and nothing could be built on it.

Mr. Haney asked about access to the natural pools. Mr. Berg responded that the applicant was committed to a membership program or pay per use program with some possible restrictions.

Krista Clark

Ms. Clark supported the proposal and thought that it was well thought through. She supported public access to the natural pools.

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

Mr. Berg made the following additional comments:

- The driveways were an essential part of the purchase of the property. They were part of the proposal from the beginning.
- The lots could use the roads to the resorts but should have separate accesses.
- Lot #5 was more accessible with the driveway.
- Lots #3 and #4 would use septic tanks but could use the sewer system and other utilities for the resort when they were installed.
- The developer might pay for restoring the existing resort sign.
- The investors did not want to lose any of the planned 14 acres of resort zone.

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

- 200 East would be a public street up to the gate for the current property.
- The sensitive lands in the resort zone would count towards the required open space.
- The deed restrictions and development agreement would protect the City.
- The number of driveways was minimal and because of their length maintained a rural character.

**Motion:** Council Member Drury moved to approve Ordinance 2020-22 amending the Midway City Land Use Map as it related to the Mountain Spa Resort property located at 800 North and 200 East (Zoning was Resort) with the following findings and conditions:

- The proposed amendment would reduce density on the property and reduced potential traffic that would be generated from a denser development.
- The property would remain in the Transient Rental Overlay District (TROD) that allowed short-term rentals unless the TROD was also amended with the application.
- The proposed zone map amendment would allow a rural preservation subdivision on the 14.48 acres that was currently zoned RZ.
- Some of the proposed area to be rezoned was sensitive lands that already limited development, therefore, the economic impact of reducing the amount of RZ would be minimal.
- The zone map amendment was conditioned that the map would not be amended until the plat for the rural preservation subdivision was recorded. If a rural preservation plat was not recorded, then the property remained zoned RZ.
- The City and the applicant would enter into a development agreement prior to the zone change taking effect.
- The landowner and developer would work with the City on any decision regarding the historic sign. The City preferred that the sign be renovated by any means possible.

**Discussion:** Council Member Simonsen asked if the motion should mandate that the sign stay in its current location. Council Member Drury was comfortable that it be somewhere on the property but not necessarily at its current location.

Council Member Payne preferred that the applicant be able to move the sign but that the location also be approved by the City.

Mr. Henke noted that the memorandum of understanding required the sign to be preserved.

**Amended Motion:** Council Member Drury amended his motion to approve Ordinance 2020-22 amending the Midway City Land Use Map as it related to the Mountain Spa Resort property located at 800 North and 200 East (Zoning was Resort) with the following findings and conditions:

- The proposed amendment would reduce density on the property and reduced potential traffic that would be generated from a denser development.
- The property would remain in the TROD that allowed short-term rentals unless the TROD was also amended with the application.
- The proposed zone map amendment would allow a rural preservation subdivision on the 14.48 acres that was currently zoned RZ.
- Some of the proposed area to be rezoned was sensitive lands that already limited development, therefore, the economic impact of reducing the amount of RZ would be minimal.
- The zone map amendment was conditioned that the map would not be amended until the plat for the rural preservation subdivision was recorded. If a rural preservation plat was not recorded, then the property remained zoned RZ.
- The City and the applicant would enter into a development agreement prior to the zone change taking effect.
- The landowner and developer would work with the City on any decision regarding the historic sign. The City preferred that the sign be renovated by any means possible. The sign would be in the current boundary of the rural preservation subdivision and the resort as discussed. This condition deferred to the memorandum of understanding.

**Second:** Council Member Simonsen seconded the motion.

**Discussion:** Council Member Payne asked if the motion should be conditioned on public access to the pools. Mr. Berg responded that would be addressed when the resort was approved.

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

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

Council Member Payne asked if the Lacy Lane trail was addressed in the development agreement. Mayor Johnson added that the agreement should include the driveway accesses.

**Motion:** Council Member Simonsen moved to approve the Mountain Spa Rural Preservation Subdivision, item #10 on the agenda, for preliminary and final approval with the following findings and conditions:

- The proposed lots met the minimum requirements for the R-1-22 zoning district.
- The proposal met the intent of the General Plan for the R-1-22 zoning district.
- The proposal complied with the requirements for the Rural Preservation Subdivision code.
- The subdivision helped comply with the vision stated in the General Plan to preserve open space and a rural atmosphere.
- All five lots would be deed restricted so they could never be further subdivided.
- The subdivision would help complete the master trail plan dedicating a public trail easement and contributing funds to build future trails.
- Deed restrictions that would be recorded towards all five lots must be submitted to the City for review.
- A note on the plat map would be included with language that eliminated the ability to subdivide any of the five lots.
- 70.3-acre feet of water would be tendered to the City before the plat would be recorded.
- A 20-foot public trail easement would be provided along River Road and the funds to build the trail would be contributed to the City's general trails fund. The trail would be built by the City in the public trail easement at a future date.
- The developer would build the east-west trail either in Lacy Lane on a public trail easement that they would grant or on a 10-foot public trail easement on the north side of lot five that the developer would grant. The developer would also contribute to the City's general trails fund for the construction of this trail.
- The Council approved the driveways as proposed, because their limited number were not a concern, with a prohibition on backing out on to the road
- The applicant would enter into a development agreement.

**Second:** Council Member Payne seconded the motion.

**Discussion:** None

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

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

**Note:** Council Member Dougherty arrived at 8:34 p.m.

**11. Resolution 2020-29 / Mountain Spa Rural Preservation Subdivision Development Agreement** (City Attorney – Approximately 5 minutes) – Discuss and possibly approve Resolution 2020-29 approving a development agreement for the Mountain Spa Rural Preservation Subdivision located at 800 North and 200 East.



Corbin Gordon made the following comments regarding the proposed agreement:

- Would include language regarding the driveways and funds to be contributed for trails.
- Would require the 10-foot easement for the east-west trail if there was not an easement from Lacy Lane.
- The driveways would be private and not maintained by the City.

Council Member Simonsen asked about moving the pressurized irrigation system for the east-west trail. Michael Henke responded that issue would have to be addressed by the Midway Irrigation Company.

Paul Berg requested the following changes to the agreement:

- The entity for the developer needed to be changed.
- The project was a rural preservation subdivision not a large-scale subdivision.
- Both preliminary and final approval were being granted that night.
- The two-year deadline to receive final approval should be removed.
- Access should be allowed from 200 East and the driveway.
- The maintenance of the accesses needed to be clarified.
- Septic may be used but was not required.

**Motion:** Council Member Payne moved to approve Resolution 2020-29 adopting a development agreement for the Mountain Spa Rural Preservation Subdivision with the changes indicated by the City Attorney and Mr. Berg.

**Second:** Council Member Drury seconded the motion.

**Discussion:** None

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

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

**Motion:** Without objection, Mayor Johnson recessed the meeting at 8:45 p.m. She reconvened the meeting at 8:59 p.m.

### **Resolution 2020-29 / Mountain Spa Rural Preservation Subdivision Development Agreement (Continued)**

Paul Berg noted that the agreement required that it be recorded withing 90 days. He doubted that everything would be finalized withing 90 days and asked that the agreement only be required to be recorded with the plat map.



**Motion:** Council Member Payne moved to clarify that the agreement did not have to be signed within 90 days but on or before the subdivision plat was recorded.

**Second:** Council Member Simonsen seconded the motion.

**Discussion:** None

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

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

**Note:** Council Member Dougherty began participating in the meeting.

**12. Howland Subdivision / Preliminary and Final Approval** (Howland Partners – Approximately 20 minutes) – Discuss and possibly grant preliminary and final approval for the Howland Subdivision located at 600 West and 200 North (Zoning is R-1-15). Recommended with conditions by the Midway City Planning Commission. **Public Hearing**

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

- Land use summary
- Location of the proposed subdivision
- Pressurized irrigation system and easement
- Geography
- Sensitive lands
- Proposed plat map
- Flood plain
- Sensitive lands map
- Trail map
- Trail through the property
- Pictures of the property
- Water Board recommendation
- Planning Commission motion
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- Access had to be approved by UDOT.
- It would be easier and cheaper to put a trail along 200 North but still wanted to maintain the trail easement through the subdivision. The alternate route would be expensive because it would need a boardwalk. It would be built when the property to the north was developed.
- Recommended a blanket easement on the east side of the property to cover all options.

- The developer proposed that he could pay \$10,000 to help build the trail.
- The area that would be irrigated would be noted on the plat map.
- The Midway Irrigation Company had a prescriptive easement to access its canal but should obtain a formal easement.

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

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

- The Irrigation Company had a recorded easement for its canal. It offered to buy all the area east of the canal.
- The applicant had not opposed the Irrigation Company's prescriptive easement.
- UDOT was aware of the proposal.

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

- Should it be the City's responsibility to arrange the easement for the Irrigation Company?
- Did UDOT need to sign the plat map?

### **Public Hearing**

Mayor Johnson opened the hearing and asked if there were any comments from the public.

#### **Jared Neal**

Mr. Neal made the following comments:

- His lot backed up to the proposed subdivision.
- The neighbor to the south of him bought his lot because it had unobstructed views.
- Understood that people had property rights.

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

**Motion:** Council Member Payne moved to grant preliminary and final approval for the Howland Subdivision located at 600 West and 200 North (Zoning was R-1-15) with the following findings and conditions:

- The proposed lot met the minimum requirements for the R-1-15 zoning district.
- The proposal met the intent of the General Plan for the R-1-15 zoning district.
- The subdivision would contribute to the Master Trails Plan by dedicating the public trail easement across the property and paying \$10,000 that would be used to build the public trail.
- The developer would dedicate a public trail easement across the property and pay \$10,000 for future trail construction before the plat map was recorded.

- A new wetlands study was required before the plat map was recorded to reassure there was an adequate buildable area on the lot.
- UDOT access approval was submitted to the City before the plat map was recorded.

**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	Aye
Council Member Simonsen	Aye

**13. Resolution 2020-30 / Howland Subdivision Development Agreement** (City Attorney – Approximately 5 minutes) – Discuss and possibly approve Resolution 2020-30 adopting a development agreement for the Howland Subdivision located at 600 West and 200 North.

Corbin Gordon reviewed the proposed development agreement and indicated that it captured the conditions of approval.

Council Member Drury suggested that the agreement had to be signed on or before the plat map was recorded.

Paul Berg, Berg Engineering Resource Group and representing the applicant, requested the following changes to the agreement:

- State that UDOT required a 150-foot separation between accesses.
- State that the City wanted an updated approval from the Corp of Engineers regarding wetlands.
- A trail exhibit from that evening should be added instead of trying to describe the trails.

**Motion:** Council Member Simonsen moved to approve Resolution 2020-30 adopting a development agreement for the Howland Subdivision including the changes by Council Member Drury and Paul Berg.

**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	Aye
Council Member Simonsen	Aye

**14. Finlayson Subdivision / Preliminary and Final Approval** (Berg Engineering – Approximately 20 minutes) – Discuss and possibly grant preliminary and final approval for the Finlayson Subdivision located at 227 North River Road (Zoning is R-1-9). Recommended with conditions by the Midway City Planning Commission. **Public Hearing**

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

- Land use summary
- Location
- Proposed plat map
- 10-foot trail easement
- Pictures of the property
- Discussion items
- Water Board recommendation
- Planning Commission motion
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- The only access was from River Road.
- The zone allowed for duplexes. That could require a second driveway which would have to be granted by the Council in a separate approval.
- The water requirements were calculated for one single-family house.
- A 50-foot setback was required from the road.
- The trail along the lot would be built the following year. The applicant should pay the City for the cost of construction.

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

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

- Should the driveway be on the north end of the lot to avoid the blind corner? The driveway would have to be in the middle or south because of the slope on the north. Access slopes could not be greater than 10% and had to have a car storage area. The trail would also dictate the location of the driveway.
- Stormwater would not be a problem because of the slope of the lot and the landscaping.

**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 noted that the trail would follow the road and not the boundary of the lot. He asked if

the entire trail easement was needed.

**Motion:** Council Member Simonsen moved to grant preliminary and final approval to the Finlayson Subdivision as presented and discussed with the following findings and conditions:

- The proposed lot met the minimum requirements for the R-1-9 zoning district.
- The proposal met the intent of the General Plan for the R-1-9 zoning district.
- The subdivision would contribute to the master trails plan by dedicating a 10-foot public trail easement and contributing funds to the general trails fund that would be used to construct the trail.
- Funds to build the bike lane along River Road were added to the general trails fund. Those funds would be used as part of a larger improvement project that would complete the trail as shown on the City's master trail plan.
- A 50-foot setback would be shown on the plat parallel to River Road.
- A 10-foot public trail easement would be shown on the plat along the front lot line.

**Second:** Council Member Payne seconded the motion.

**Discussion:** Council Member Dougherty asked if the amount for the trail needed to be determined that night. Mr. Henke responded that Mr. Berg would recommend an amount to the City Engineer for review and approval.

**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	Aye
Council Member Simonsen	Aye

**15. Resolution 2020-31 / Finlayson Subdivision Development Agreement** (City Attorney – Approximately 5 minutes) – Discuss and possibly approve Resolution 2020-31 adopting a development agreement for the Finlayson Subdivision located at 227 North River Road.

Paul Berg requested the following changes to the agreement:

- He should not be a signatory to the agreement.
- Final approval was granted that evening.
- It should be signed on or before the plat map was recorded.

**Motion:** Council Member Drury moved to approve Resolution 2020-31 adopting a development agreement for the Finlayson Subdivision with the changes discussed.

**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	Aye
Council Member Simonsen	Aye

**16. Ordinance 2020-23 / Bed and Breakfast Establishments** (City Planner – Approximately 30 minutes) – Discuss and possibly adopt Ordinance 2020-23 amending Section 16.13.35 (Bed and Breakfast Establishments) of the Midway City Municipal Code. Recommended by the Midway City Planning Commission. **Public Hearing**

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

- Summary
- Proposed amendment
- Proposed text

Mr. Henke also made the following comments:

- A limit of four rooms was originally proposed but the Planning Commission recommended six.

**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. She closed the hearing when no public comment was offered.

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

- The size of a bed and breakfast would be limited by the parking.
- There could be room for a lot of parking, but would that be out of scale for the surrounding neighborhood?
- Size should not be limited if it could be accommodated by the size of the lot.
- The City was trying to encourage transient rentals.
- The TROD limited transient rentals to 14 rooms.
- Residential zones should not have mini hotels.
- The last B&B application had room for 72 parking stalls.
- The TROD should be expanded.
- B&Bs were commercial businesses with a residential character. They became problematic when they lost that character.
- Limiting the number rooms was the simplest way to control B&Bs.
- Traffic could be a problem with B&Bs.
- B&Bs should not be labeled residential or commercial.

- The size of a B&B should be addressed on a case by case basis.
- Enforcement by the City was the real problem.
- Limiting the uses was more acceptable than limiting the number of rooms.

**Motion:** Council Member Simonsen moved to adopt Ordinance 2020-24 as presented with the number of rooms limited to six for the zones up to R-1-15 and up to 12, depending upon other requirements, for the R-1-22 and R-1-43 zones. He stated that larger lots could accommodate B&B's with more rooms.

**Second:** Council Member Drury seconded the motion.

**Discussion:** None

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

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

**Motion:** Council Member Dougherty moved to extend the meeting beyond 10:00 p.m. to hold a public hearing on Ordinance 2020-24.

**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	Aye
Council Member Simonsen	Aye

**17. Ordinance 2020-24 / Density Reduction Subdivision** (City Planner – Approximately 60 minutes) – Discuss and possibly adopt Ordinance 2020-24 adding Section 16.29 (Density Reduction Subdivision) to the Midway City Municipal Code. Recommended by the Midway City Planning Commission. **Public Hearing**

### **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 Drury moved to table discussion and a possible decision until the next council meeting and to allow public comment at that meeting.

**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	Aye
Council Member Simonsen	Aye

### **18. Closed Meeting to Discuss Pending or Reasonably Imminent Litigation**

**Motion:** Council Member Simonsen moved to go into a closed meeting to discuss litigation.

**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	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 Dougherty moved to go out of the closed meeting.

**Second:** Council Member Payne seconded the motion.

**Discussion:** None

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

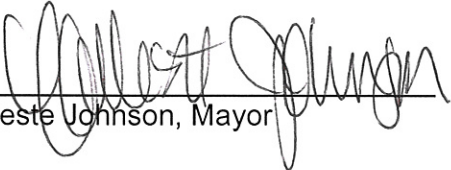
Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye



## 19. Adjournment

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

The meeting was adjourned at 11:00 p.m.

  
\_\_\_\_\_  
Celeste Johnson, Mayor

  
\_\_\_\_\_  
Brad Wilson, Recorder