

MINUTES OF THE MIDWAY CITY COUNCIL

(Regular Meeting)

Tuesday, 17 November 2020, 6:00 p.m.
Electronic Meeting

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 6:01 p.m.

Members Present:

Celeste Johnson, Mayor (Left at 12:02 p.m.)
Steve Dougherty, Council Member
Jeff Drury, Council Member
Lisa Orme, Council Member
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.

2. Consent Calendar

- a. Agenda for the 17 November 2020 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 3 November 2020 City Council Regular Meeting
- d. Minutes of the 3 November 2020 City Council Closed Meeting
- e. One-year extension of final approval for Phase 1 of the Saddle Creek Subdivision located at 970 South 250 West

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

Motion: Council Member Orme moved to approve the consent calendar.

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

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.

Leash Law / Enforcement

Melissa Hendrick explained that she, her baby, and her dog had several hostile encounters with dogs not on a leash. She asked that the City enforce its leash law and residents be kind to each other. Mayor Johnson responded that the City could increase public awareness of the law.

No further comments were offered.

4. Department Reports

Affordable Housing

Council Member Payne reported that a fresh perspective regarding affordable housing, including assessing needs and developing a plan, was proceeding.

Ice Rink / Update

Council Member Drury gave an update on the ice rink including maintenance, repairs, opening date, and its pandemic response.

Tree Lighting

Mayor Johnson reported on the tree lighting event on December 7th. She indicated that there would be candy but Santa Clause would not be able to attend because of the pandemic.

Water Board / Update

Council Member Dougherty reported on the Midway Water Advisory Board and its review of the redevelopment of the Homestead Resort.

Sprinkler Systems / Winter Preparation

Council Member Dougherty reminded all residents to prepare their sprinkler systems for winter.

Open Space Committee / Vacancies

Council Member Dougherty reported that there were vacancies on the Midway City Open Space Advisory Committee.

CARES Act / Business Grants

Council Member Dougherty reported on grants that would be given to local businesses from CARES Act funds.

HL&P / Nuclear Power Project

Council Member Dougherty reported that Heber Light & Power Company (HL&P) would no longer participate in the proposed modular nuclear reactor project.

Pandemic / Update

Mayor Johnson reported on the pandemic and indicated that intensive care units were reaching capacity and medical staff were stretched thin.

- 5. CAPS Presentation** (Approximately 15 minutes) – Receive a presentation from the Wasatch Center for Advanced Professional Studies (CAPS) regarding the exterior renovation of the Midway Community Center located at 160 West Main Street.

Skylar Rybarczyk, Alison Besendorfer, and Mary Cernyar gave a presentation on the proposed exterior renovation of the Community Center and reviewed the following items:

- Design
- Goals
- Swiss architecture
- Materials
- Form
- Roof
- Ornamentation
- Steeples
- Midway Swiss design and examples
- Sketch up ideas
- Conclusion

They also made the following comments:

- Wanted the back of the building to also look good.

Council Member Payne gave some suggestions regarding the banding around the building. Mayor Johnson thanked the students and their advisor Rob Bouwhuis for their work.

- 6. Resolution 2020-32 / Law Enforcement Agreement** (City Attorney – Approximately 15 minutes) – Discuss and possibly approve Resolution 2020-32 adopting a law enforcement agreement between Midway City and the Wasatch County Sheriff's Department.

Mayor Johnson indicated that the item would be tabled until the next meeting so that the City Attorney could review changes made by the Wasatch County Attorney.

- 7. Resolution 2020-23 / Settlement Agreement** (City Attorney – Approximately 60 minutes) – Discuss and possibly approve Resolution 2020-23 adopting a settlement agreement between Midway City, Rocky Mountain Power, and Heber Light & Power. Public comment will be allowed.

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

- History
- Appeal
- Heber Light & Power Company (HL&P) Board action
- Motivators for settlement
- Primary terms
- Map of the proposed transmission line
- Changes
- Options
- Possible findings

Mr. Gordon also made the following comments:

- The process had been long.
- The agreement resolved all issues with the conditional use permit (CUP) and litigation.
- The City would still have to pay for burying the line, even if it won in court. It did not have the money for burial.
- A bond issuance was not on the ballot in 2020.
- The agreement proposed a new application to upgrade the existing transmission line.
- Was pleased with the terms of the agreement.
- It minimized the impact on the area property owners.
- Timing was important.
- The appeal provided the time to reach the agreement.
- The terms of the agreement would become the terms of the CUP.
- In the future, notice of 18 months would be given if a transmission line would be built. This would provide time to raise money or bond to bury the line. This was a significant concession.
- The language regarding Rocky Mountain Power (RMP) dismissing their appeal was strengthened.
- RMP and HL&P had consented to the agreement as provided to the Council.

- Would add a prohibition against any above ground communication lines.
- Did not want to dictate what would happen to the portions of the line that were outside of the City.
- A higher pole might be needed to clear the building at the Fish Hatchery.
- The poles would be taller with longer spans.
- The line would only have a single circuit.
- Wanted to give HL&P leeway so that it would not be in violation or must come back for revisions.
- The proposed line would follow the route of the existing line.
- The design would include as few poles as possible.
- The agreement allowed the City to win today and preserve its chance to win in the future.
- Adding a second 138 kV line would require all metal poles or burying the line.

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

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

- No dip poles should be allowed next to Hwy 113.
- A cost estimate, that the utility would honor, should be required with the 18 months' notice. Preconstruction drawings should also be required.
- The diameter of poles should be limited to three to four feet.
- Language should be added that HL&P would cooperate with any third-party to bury the communication lines.
- HL&P should consider replacing the metal corner poles with guyed wood poles.

Jason Norlen and Harold Wilson, HL&P, made the following comments:

- HL&P would obtain all necessary easements prior to construction of the line.
- Ten percent of each pole plus two feet would be underground. The poles would be 65 to 75 feet high above ground.
- Would not overbuild the line.
- Projects were planned five years in advance. The City's representative on the HL&P Board participated in this planning.
- The distribution and communication lines on the west side of Stringtown Road would also be buried. However, there would be poles taking the lines to each house.
- Would consider guyed wood corner poles. However, they required a lot of area and the effected property owner should be involved in that decision.
- The line would provide redundancy for the area.

Public Comment

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

Peter Malinka

Mr. Malinka asked where the double circuit line would end. Mr. Gordon responded that it would end between the City's maintenance yard and the Midway Fish Hatchery. He added that the transition pole would be metal and 80 to 100 feet tall.

Scott Cannon

Mr. Cannon thanked the City for reaching a smart solution that worked well.

Woody Woodruff

Mr. Woodruff proposed language for requiring a cost estimate with the 18 months' notice.

David Glenn

Mr. Glenn asked if developers could pay for burying the lines. Michael Henke responded that the Municipal Code required developers to bury distribution lines, but it required the City to pay the difference to bury transmission lines. He doubted that the Utah State Code allowed cities to charge an impact fee for transmission lines.

Scott Lewis

Mr. Lewis asked why the rest of the line would be dual circuit if only a single circuit was needed. Mr. Norlen responded that HL&P would look at the design to reduce the cost as much as possible. He added that other areas may need the dual circuit and did not want to lose what had been permitted by other entities. He also indicated that a dual circuit was needed between the Heber City and UVU substations.

Ryan Ray

Mr. Ray made the following comments:

- RMP really wanted a dual circuit line through Midway.
- They gave false estimates for the cost of burying the line.
- They "strong armed" the Council and pitted residents against each other.
- They now said they were wrong and would have enough power with a single circuit line.
- They were trying to scare the community.
- They should have told the truth from the beginning.
- They would own the proposed line and the easements. They would then have complete control over the line.
- The agreement had a clause that a transmission line could be built at any time in case of an immediate need.
- The proposed line should look like the line along 500 South. Mr. Gordon responded that the 500 South line was built under a previous standard, while the proposed line was designed to the current standard.

Brent

Brent asked if the pole spacing was subject to change and if property owners would have any input on their locations. Mayor Johnson responded that the poles were spaced as far apart as possible and in the existing easement. Mr. Norlen added that there was some room for modification.

Brent asked if the prohibition period could be changed to 15 or 20 years. Mr. Gordon responded that the best he could get was raising it from eight to ten years.

Clark Bruderer

Mr. Bruderer indicated that he represented The Cascades at Soldier Hollow HOA and made the following comments:

- Could not believe that RMP would bring a dual circuit line up to the City's boundary and then change to a single circuit.
- Was there another route that RMP could use for a transmission line? Mr. Gordon responded that RMP did long range planning and would not quickly decide to do a new line.
- Why did the Council decide not to bond to bury the line? Mr. Gordon responded that some members of the Council felt that they had insufficient information to bond. Council Member Drury added that he was concerned the proposed bond amount would not be sufficient.
- How would residents know when a line had been proposed and the notice period had commenced? Mayor Johnson responded that it would be the responsibility of future councils to inform the public.

Bengt Jonsson

Mr. Jonsson made the following comments:

- The agreement was unfortunate.
- The City would end up solving a 2020 problem with 2030 dollars.
- Above ground transmission lines hurt the character of Midway.
- RMP would own the line.
- The agreement did not protect the City.
- It should include a requirement for a binding and verifiable cost estimate when a request to build a transmission line was submitted.
- The agreement did not address RMP directly.
- The City would be part of the planning for HL&P but not RMP.
- Would the 500 South line be energized up to 138 kV? Mr. Norlen responded that there were no plans to increase the voltage. This line would not complete the loop like the line along 970 South. It was also not to RMP's standards.
- The language for the 18 months' notice period should have teeth. Should it require notice for an entire bonding cycle?
- Why had RMP not given HL&P electricity from the north? Mr. Norlen responded it could not give the voltage needed.
- The City should strengthen the language of the agreement so that it controlled its own

destiny.

Ryan Ray

Mr. Ray made the following additional comments:

- Would the agreement prevent RMP from upgrading the 500 South line? Mr. Gordon responded that RMP did not own that line and they were only concerned about a line that would provide an interconnect with their network. Mr. Norlen added that the line was recently rebuilt.
- The agreement did not prevent 500 South from being used. Mr. Gordon responded that it prevented any transmission lines within 0.5 miles of the 970 South line. Mr. Ray recommended that the prohibition area be extended to include the 500 South line.

Clint Coleman

Mr. Coleman asked if the proposed design would accommodate widening 970 South. Mayor Johnson responded that it would use the existing easement.

Lori Stone

Ms. Stone asked about the four to five-million-dollar cost number. Mr. Gordon responded that the number came from the City's expert for the appeal process and bonding discussion.

Ms. Stone indicated that the public should have been informed about the settlement weeks instead of days before the meeting. Mayor Johnson responded that the agreement first needed to be negotiated. Mr. Gordon indicated that as much notice was given as possible.

Kent M.

Kent asked that the additional noticing requirements be set in the agreement. Mr. Gordon responded that RMP had agreed to conditions beyond what was required in the State Code. He added that RMP would not agree to a full bid process as part of the noticing.

Doug Engfer

Mr. Engfer asked if five years notice could be required. Mr. Gordon responded that was not possible.

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

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

- If the location of the line was moved on 970 South, then a metal tangent pole would be needed. Such a pole would also be needed if the alignment were changed from Wards

Lane to the substation.

- The diameter of the poles should be the minimum width to meet the required standards.
- RMP had not discussed the 500 South line.
- If the Council wanted to increase the area around the 970 South line, that was prohibited from another line, that would require renegotiating the agreement and then coming back to the Council.

Council Member Payne read a statement indicating what should be learned from the process and how the process could be improved going forward. He indicated that he was willing to discuss the proposed changes with the City Council, HL&P, and the Wasatch County Council.

Note: A copy of Council member Payne’s statement is contained in the supplemental file.

Council Member Dougherty asked if the Council should table consideration of the agreement until Mr. Gordon made the requested changes. He noted that it would be considered by the HL&P Board the following day. Council Member Payne thought it should be tabled. Mr. Norlen indicated that the Board would meet again in December to finalize HL&P’s budget.

Council Member Drury wanted to wait if time allowed.

Council Member Simonsen agreed with waiting so long as the agreement did not come back with vague or unresolved issues.

Council Member Dougherty, who was also the City’s representative on the HL&P Board, said that he sought input from the legal counsels for both entities regarding his participation in the issue. He would not recuse himself from voting but would do what was best for both entities.

Motion: Council Member Payne moved to continue the item until the December 1st council meeting with the following conditions:

- Instruct legal counsel to make all the indicated changes and modifications.
- Present the modified agreement to HL&P and RMP.

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

Motion: Without objection, Mayor Johnson recessed the meeting at 9:49 p.m. She reconvened the meeting at 9:57 p.m.

8. 970 South Transmission Line / Conditional Use Permit Amendment (City Attorney – Approximately 10 minutes) – Discuss and possibly approve an amendment to the existing conditional use permit for the transmission line along 970 South, Stringtown Road, and Wards Lane.

Motion: Council Member Payne moved to continue the item to the next council meeting on December 1st.

Second: Council Member Orme 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

9. Albert Kohler Legacy Farm / Update (Wendy Fisher – Approximately 60 minutes) – Receive an update from Utah Open Lands regarding funding and discuss issues concerning potential annexation of the Albert Kohler Legacy Farm located at River Road and Burgi Lane.

Note: Council Member Orme recused herself from consideration of the item and left at 9:59 p.m.

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

- Resolution 2018-30
- Resolution 2018-27
- Location of the property
- Unincorporated peninsulas
- Property owned by Grant Kohler
- Items for consideration
- Property values and land area
- Land use map amendment
- Land use and zoning control
- Lack of concept planning for the peninsulas
- Tax impacts
- Providing services

Mr. Henke also made the following comments:

- Should the property be annexed?
- The City Council could require annexation.
- The peninsulas and islands, which were made up of property that Grant Kohler did not own, would also have to be annexed.
- A portion of the lower peninsula was outside of the City's annexation boundary. Changing the boundary would take several months.
- Wasatch County did not want to lose the revenue from the Creamery.
- The County adopted a special ordinance for the Creamery.
- Grant Kohler wanted to expand the Creamery in the future, which he could do in the County. The City would have to be creative to meet Mr. Kohler's needs.
- Wasatch County helped the City to annex a portion of the Wasatch Mountain State Park. Did the City now want to hurt the County by annexing the Creamery?
- The annexation would affect the City's ability to annex further along River Road.
- Recommended at least an agreement stating that Grant Kohler would annex if nearby property was petitioned for annexation. This meant that the City would have the same control over Mr. Kohler's property as the other properties being annexed.
- The value and land area of the properties needed to be verified with the recorded deeds.
- The Wasatch County Code allowed lots to be smaller to compensate for the land lost to roads.

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

Mayor Johnson gave an update on the preservation of the Kohler Farm and made the following comments:

- Utah Open Lands gave an update at the last Open Space Committee meeting.
- State and federal grants had been extended.
- Utah Open Lands was short \$225,000 of their goal for preservation.
- The Kohlers were willing to honor the old appraisal amount of \$7 million instead of the new appraisal amount of \$9.9 million. The price would be higher if it were developed.
- The Kohlers were walking away from a lot of money by preserving the property as open space.

Council Member Drury made the following comments:

- The County Code did not have a setback like Midway that would protect view corridors.
- When the bonding was approved, Council Member Van Wagoner did not want the money used on open space outside of the City.
- Midway taxpayers were funding the bond.
- The Kohler Farm fit the vision of what should be preserved with the bond money.
- If the property was not annexed, then the City had no say in what happened right next to the open space it was trying to preserve. The County had changed its zoning in the past.
- If the property was annexed, then the City could say what happened to the peninsulas and islands.
- View corridors should be preserved so that people could see the open space.
- The annexation process should be as easy as possible for Grant Kohler.
- The Creamery should be preserved, and the City should help it be successful. It was a

benefit to Midway.

- The City could increase the amount it contributed for preservation.
- The Council could provide the money then work out the details of the annexation afterward as part of a good faith agreement.
- Annexation was a condition of the motion approving a letter of intent for the project.

Council Member Simonsen made the following comments:

- The property should be annexed but that should not be a deal breaker.
- No revenue was generated from open space.
- The Creamery was an asset.
- View corridors were important.
- Understood the County's concerns.
- The County had a larger tax base than Midway.
- The property was adjacent to Midway.
- The proposal was in line with the City's vision and the General Plan.
- The proposal should be a win for all parties.

Council Member Dougherty made the following comments:

- Did not oppose annexation but it should not create ill will with Grant Kohler or the County.
- Annexation should not sabotage the work of Utah Open Lands.
- Midway taxpayers were also funding the County's open space bond.
- It might be too late to consider annexation.
- The land sloped down from River Road. Would this protect the view corridor if the property remained in the County?
- Annexation of any protected open space was a preference but not a requirement.

Council Member Payne agreed with many of Council Member Drury's comments. He added that annexation was preferred and not annexing it would set precedence.

Kam Kohler made the following comments:

- Grant would talk to the City about annexation, but it was late in the process.
- Annexation needed to work for both sides and the Creamery should be accommodated.
- In five to six weeks there were deadlines, and the proposal would unravel.
- The City Code did not allow the Creamery.
- Appreciated the City's support.

Council Member Drury wanted to meet the deadlines and support the Creamery.

Grant Kohler appreciated what had happened so far. He would talk to the City about annexation if it met the requests of both sides.

Note: Council Member Orme returned.

Motion: Council Member Orme moved to consider the next item on the agenda.

Second: Council Member Payne 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	Aye
Council Member Simonsen	Aye

10. Zone Boundary Determination / 60 West 100 South (Nancee Heckel – Approximately 20 minutes) – Discuss and possibly determine a zone boundary, for a property located at 60 West 100 South, in accordance with Section 16.13.30 of the Midway City Municipal Code.

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

- Section 16.13.30 of the Municipal Code
- Location of the property
- Zoning Map
- Items for consideration
- Possible findings

Mr. Henke also made the following comments:

- The property was dissected by two zones.
- A strip of the property, about 10 to 15 feet, was in the C-2 zone.
- The Municipal Code allowed the zone to be extended to include the entire property.
- The applicant wanted to do a property management company. The Municipal Code required such companies to be in a commercial or resort zone.
- The request could be approved with conditions, but it was not a conditional use permit.
- Management companies should be local to address any issues with a rental property.
- The City made a previous applicant, for a zone boundary determination, go through the zone map amendment process. Suggested the applicant go through this process if she wanted all the uses and benefits of a commercial zone.
- The applicant wanted all the uses allowed in the commercial zone.

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

Council Member Drury made the following comments:

- The zone requirement for property management companies was a holdover from before the internet. This was now unnecessary.
- Other commercial uses could be allowed.
- The proposal should be granted for twelve months in the existing zone.

- A change to the property management code should be considered.

Council Member Payne made the following comments:

- There could be unintended consequences to amending the zone.
- Did not want commercial uses in residential neighborhoods.

Council Member Orme made the following comments:

- The applicant was her sister.
- Would recuse herself from action on the item.
- The Municipal Code allowed the Council to move the zone boundary for properties dissected by zones.
- The applicant originally thought that her property was zoned commercial.
- The requirements should not be changed in the middle of the request.
- Mr. Henke said that her sister could move the zone boundary.

Council Member Dougherty made the following comments:

- The Municipal Code required that the change be a harmonious mix of uses. Was this something that the Council could determine?
- Suggested limiting the uses granted.
- What was a property management company? Could it include trucks, mowers, or a front desk?

Nancee Heckel, applicant, made the following comments:

- The business would draw people to the area.
- Would provide information on places where people could stay.
- Requested the property be allowed to have all the uses of the C-2 zone.
- There would be no trucks and services would be outsourced.

Motion: Council Member Drury moved to approve, conditionally for a period of 24 months, a specific use for property management for this lot with the following conditions:

- The applicant could apply for any other permitted or conditional uses in the C-2 zone. The application could be allowed or denied by the City Council.
- Staff should review the property management regulations for possible changes within the following six months. A more specific property management code would be ready at the end of the 24 months being granted to the applicant that evening.
- The approval was specifically for property management with a small home office and no traffic or retail.

Second: Council Member Simonsen seconded the motion.

Discussion: Council Member Payne indicated that little information had been provided by the applicant. He asked if there would be a limit on the number of employees? He noted for example that a daycare center would have received more scrutiny. Council Member Simonsen explained the additional requirement that property management companies had to be in the

commercial zones. Council Member Drury indicated that the State Code was recently changed to allow a variety of home-based businesses.

Mr. Henke read the definition of transient lodging unit manager. He explained that a home office had to be less than 15% of the house, have no signage, and no clients coming to the house.

Mayor Johnson suggested that the motion include limiting the business to a home office as defined in the Municipal Code. Council Member Payne agreed.

Amended Motion: Council Member Drury amended his motion to approve, conditionally for a period of 24 months, a specific use for property management for this lot with the following conditions:

- The applicant would have to apply for any other permitted or conditional uses in the C-2 zone. The application could be allowed or denied by the City Council.
- Staff should review the property management regulations for possible changes within the following six months. A more specific property management code would be ready at the end of the 24 months being granted to the applicant that evening.
- The business was limited to a home office as defined in the Municipal Code.

Second: Council Member Simonsen seconded the amended motion.

Vote: The amended 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

Motion: Council Member Orme moved to consider the next item on the agenda.

Second: Council Member Payne 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	Aye
Council Member Simonsen	Aye

11. CARES Act Funds / Update (Mayor Johnson – Approximately 20 minutes) – Receive an update regarding Midway City’s remaining CARES Act funds.

Brad Wilson gave a presentation on the CARES Act funds used and remaining.

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

Council Member Drury indicated that applications from local businesses, for some of the funds, were due by November 19th and checks would be sent by Thanksgiving.

Council Member Payne asked if there were other worthy uses for the money. Mayor Johnson responded that there were worthwhile charities that needed help.

Mayor Johnson asked that any council members let her know if they wanted to participate in the program for local businesses.

Motion: Council Member Orme moved to consider the next item on the agenda.

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

12. Ordinance 2020-24 / Density Reduction Subdivision (City Planner – Approximately 30 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 comment will be allowed.

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

- Purpose and intent
- Proposed code
- Examples

Mr. Henke also made the following comments:

- The proposal should not compete with rural preservation subdivisions.
- It would fill a niche.
- It worked well with infill properties.
- It made properties financially viable with less density.
- Reduced potential density by two-thirds.
- Only applied to the residential zones.
- Sewer was required.
- Lots were not required to use the same access.

- Historic animal rights would continue. Other animal rights would be based on the point system per acre in the Municipal Code.
- Shared driveways would require an HOA or an agreement.
- Common area would be allowed.
- It did not include a limitation on house size.
- It did not allow access off a road with a single point of access.

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

Council Member Payne made the following comments:

- The rural preservation subdivision would only allow one lot for certain properties like the example on 500 North given by Mr. Henke. The rest of the property would then be further developed. The proposal would eliminate the additional developing as a possibility.
- It would significantly reduce the density on a property.
- Another lot had to be added to the development where he lived to pay for the required road.

Note: Mayor Johnson left at 12:02 p.m.

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

- The effort to reduce density was distracting the City from limiting the size of houses. Large houses were out of character for the area.
- A separate code amendment would be needed to limit house size.

Public Comment

Mayor Pro Tempore Orme allowed public comment.

Paul Berg

Mr. Berg made the following comments:

- In principle the ordinance was good.
- It was a great option for some landowners.
- However, it allowed the development of some undevelopable properties.
- It allowed flag lots which the City previously allowed then prohibited.
- Most cities did not like flag lots because they allowed houses behind houses.
- The ordinance undermined some of the work to prevent double frontage lots.
- Some of these concerns could be limited with a frontage requirement for driveways.

Ryan Davis

Mr. Davis indicated that the property where he lived could be subdivided into eight lots. The proposal would allow him to reduce that number. He added that more density was a net negative for the City.

Mayor Pro Tempore Orme closed the hearing when no further public comment was offered.

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

- The proposal required more space between homes than did flag lots.
- The alternative to a flag lot feel would be a cul-de-sac with five or six houses.
- Flag lots were not liked for a reason.
- More affordable housing might be needed.
- The proposal facilitated development rather than limiting it.
- One size did not fit all properties.
- The Municipal Code included a lot of options to maximize density. It only included one option, the rural preservation subdivision, to reduce density. This proposal would be another option for density reduction.
- The proposal reduced the number of cul-de-sacs that the City had to maintain.
- It was not perfect, but it provided options.
- Affordable housing was important, but market driven.
- The proposal should not promote large houses.
- The language regarding the Master Trail Plan needed to be adjusted.

Motion: Council Member Drury moved to approve Ordinance 2020-24 with the following findings:

- The Density Reduction Subdivision would help Midway meet the General Plan goals of preserving open space and a rural atmosphere by reducing potential density.
- The proposed code was another option for development but did not affect the ability of a landowner to develop their property using other development options.
- The Density Reduction Subdivision would reduce the maintenance burden for city taxpayers by reducing the number of cul-de-sacs that the City would maintain.
- Deed restrictions were required to be recorded towards each lot in a Density Reduction Subdivision so that lots could not be further developed.
- It would add an option to encourage lower density in small scale scenarios.
- The language regarding the Master Trail Plan could be adjusted.

Second: Council Member Payne 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	Aye

13. Adjournment

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

The meeting was adjourned at 12:42 p.m.



Celeste Johnson, Mayor



Brad Wilson, Recorder