

MINUTES OF THE MIDWAY CITY COUNCIL

(Regular Meeting)

Tuesday, 16 February 2021, 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 5:02 p.m.

Members Present:

Celeste Johnson, Mayor
Steve Dougherty, Council Member
Jeff Drury, Council Member
Lisa Orme, Council Member
Kevin Payne, Council Member

Staff Present:

Corbin Gordon, Attorney
Michael Henke, Planning Director
Joe Serre, Engineer's Office
Brad Wilson, Recorder/Financial Officer

Members Excused:

JC Simonsen, Council Member

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 16 February 2021 City Council Meeting
- b. Warrants
- c. Minutes of the 2 February 2021 City Council Regular Meeting
- d. Release the construction bond, minus 10% and any amount for landscaping, and begin the one-year warranty period for Phases 2 and 3 of the Watts Remund Farms PUD located at 200 East 600 North
- e. Appoint Jeff Nicholas to a second term on the Midway City Planning Commission
- f. Appoint William Ream to a second term on the Midway City Planning Commission

Note: Copies of items 2a through 2d are contained in the supplemental file.

Council Member Dougherty asked about the warrants to the Jeanette Higginson Trust. Brad Wilson explained that they were passing along payments required by the Center Street Water Line Extension Agreement.

Council Member Dougherty asked about the development refunds. Michael Henke explained that they refunded money for an application that was being replaced.

Council Member Drury wanted to discuss the law enforcement contract at the next meeting. He wanted to ensure that the City was receiving the correct number of hours. He questioned if too much traffic enforcement was being done. Mayor Johnson responded that she met with the County Sheriff that day and would email additional information to the Council.

Motion: Council Member Dougherty moved to approve the consent calendar items “a” through “f”.

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	Excused from the Meeting

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**

Town Square Redesign

Council Member Drury reported that a member of the Midway Boosters would serve on the steering committee for the Town Square redesign.

Main Street Beautification / Flowers

Council Member Drury reported that the Midway Boosters might order the flowers, for their Main Street beautification, through the City’s vendor.

Ice Rink / Attendance / Maintenance

Council Member Drury reported that the ice rink had record attendance that season and there had been no maintenance issues.

Swiss Days / Decision to Hold

Council Member Drury reported that the decision to hold Swiss Days as usual or in a limited fashion would be made in June.

HL&P / Audit Committee / Clean Power / Dividend

Council Member Dougherty reported that the Heber Light & Power Company (HL&P) Audit Committee had hired a consulting accountant to assist it.

Council Member Dougherty reported that HL&P was looking for additional clean power sources.

Council Member Dougherty reported that the HL&P Board had approved a dividend for the previous quarter.

Town Square Decorative Lights / Change to LED Bulbs

Mayor Johnson indicated that the decorative lights on the Town Square would be changed to LED bulbs at the same time as the lights on Main Street.

Midway Business Alliance / Information

Council Member Dougherty reported that the Business Alliance was distributing information to its members.

Water Board / Homestead / Mountain Spa

Council Member Dougherty reported that the Midway Water Advisory Board was determining the water requirements for the Homestead Resort and the Mountain Spa Resort.

Open Space Committee / Smaller Parcels / Defining Open Space

Council Member Dougherty reported that the Midway Open Space Advisory Committee was considering smaller parcels and defining open space.

COVID-19 Pandemic / Update

Mayor Johnson reported that the number of infections were down, and the number of vaccinations had increased. She hoped that the Council could meet in person beginning in April. She indicated that the City's buildings were still not being rented.

Affordable Housing

Council Member Payne read a statement regarding affordable housing.

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

The Council discussed holding a work meeting or having an ad hoc committee to develop affordable housing regulations for the City. It was suggested that the community be educated on the issue. It was also suggested that the committee members have appropriate experience.

5. Huntleigh Woods Subdivision / Final Approval (David Johnson – Approximately 30 minutes) – Discuss and possibly grant final approval to the Huntleigh Woods Subdivision located at 885 North Pine Canyon Road (Zoning is R-1-15). Recommended with conditions by the Midway City Planning Commission.

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

- History of the proposal
- Land use summary
- Location of the property
- Bike lane
- Pictures of the property
- Site plans
- Water lateral for the Homestead's maintenance building
- Road profile
- Discussion items
- Utility plan
- Flood plain
- Water board recommendation
- Planning commission recommendation
- Possible findings

Mr. Henke also made the following comments:

- The City wanted trails and bike lanes where possible.
- The water lateral would be abandoned when the maintenance building was replaced with a spa during the Homestead renovation.
- Some issues with the water rights needed to be resolved.
- The water for the open space, which was in the golf course, should also be turned into the City.
- The cul-de-sac would not access the road on the property to the north.

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

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

- A will serve letter should be required from the Midway Irrigation Company.
- Why was a private easement, for the maintenance building lateral, shown on the plat map?
- It was the developer's preference to show building envelopes on the plat map. This required the City to enforce the envelopes.
- Would the development agreement have to include the reduction of the asphalt width if that were approved by the Council?
- Where would the snow be stored in the bulb of the cul-de-sac?
- Reducing the asphalt width would provide less room for snow storage.
- The bulb would have to remain the same size if the asphalt width were reduced.

Motion: Council Member Payne moved to grant final approval for the Huntleigh Woods Subdivision located at 885 North Pine Canyon Road (Zoning was R-1-15) with the following findings and conditions:

- The proposal met the intent of the General Plan for the R-1-15 zone.
- The proposal complied with the land use requirements of the R-1-15 zone.
- A public trail would be built as part of the subdivision and benefit members of the community.
- 2.01 acres of open space would be created as part of the development.
- The 30-foot street cross-section could be reduced to the standard at the time the plat map was recorded.
- 23.49-acre feet of water rights be provided to the City prior to the plat map being recorded.
- A will serve letter be provided by the Midway Irrigation Company before the plat map was recorded.
- The easement for the maintenance building lateral was labeled as private on the plat map.
- The City Engineer and City Planner ensured, at their discretion, a place to store snow at the end of the cul-de-sac.

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	Excused from the Meeting

6. Resolution 2021-03 / Huntleigh Woods Subdivision Development Agreement (City Attorney – Approximately 5 minutes) – Discuss and possibly approve Resolution 2020-36 adopting a development agreement for the Huntleigh Woods Subdivision located at 885 North Pine Canyon Road (Zoning is R-1-15).

Corbin Gordon reviewed the changes to the development agreement. Council Member Dougherty asked that the agreement comply with the current discussions on vesting. Michael Henke indicated that the Municipal Code allowed up to three one-year extensions of a final approval.

Motion: Council Member Payne moved to approve Resolution 2021-03 adopting a development agreement for the Huntleigh Woods Subdivision with the amendments summarized by the City Attorney.

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	Excused from the Meeting

7. Ordinance 2021-04 / Public Facilities Completion Deposit (City Attorney – Approximately 15 minutes) – Discuss and possibly adopt Ordinance 2021-04 amending Chapter 12.10 (Public Facilities Completion and Repair Deposit) of the Midway City Municipal Code.

Corbin Gordon reviewed the proposed ordinance and made the following comments:

- The changes were requested by Shane Owens, Public Works Assistant Crew Chief.
- The ordinance clarified who the deposit would be returned to.
- It addressed the inspection of repairs, holding of the deposit, and the forfeiture of the deposit when items were not completed.

Council Member Payne expressed concern with an applicant hiring their own contractor to inspect the improvements. Mayor Johnson suggested that the City or a contractor acceptable to the City do the inspections.

Motion: Council Member Dougherty moved to adopt Ordinance 2021-04, as proposed in the packet, with the modification to Section 12.10 as discussed.

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	Excused from the Meeting

8. Gerber Water Line Project / Award Contract (City Engineer – Approximately 5 minutes) – Discuss and possibly award a contract for the Gerber Water Line Project: Gerber Spring to Gerber Tank.

Joe Serre explained the project and made the following comments:

- It would replace an older concrete pipe that had several leaks over the years.
- Seven bids were received.
- JB Gordon was the low bidder. The bid was low because they had a gap in their work schedule that they wanted to fill. Was comfortable with the work that they did and recommended that their bid be accepted.
- Two other remaining sections of concrete pipe would be replaced with the building of two upcoming developments.

Motion: Council Member Dougherty moved to award a contract in accordance with the recommendation from Horrocks Engineers.

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	Excused from the Meeting

9. Ranked Choice Voting (Mayor Johnson – Approximately 30 minutes) – Discuss and possibly decide if ranked choice voting will be used for the 2021 Midway City municipal election.

Mayor Johnson indicated that she was unable to find someone to present in opposition to ranked choice voting.

The Council requested more information on the following items:

- Cost
- Timing
- Other area municipalities considering this type of voting.
- How would it work for a race which elected multiple council members?

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

- Council Member Dougherty emailed a link to information about ranked choice voting.
- The City could try it for one year.
- A ballot could be confusing because ranked choice voting would not work for all election races or issues.
- It was a solution looking for a problem.
- The type of voting had to be determined long before the candidates were known.
- The State Legislature was considering legislation that extended the period to opt out of ranked choice voting and prohibiting a county from discouraging it.
- Consideration of the issue at the next council meeting should be noticed for public comment.

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

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	Excused from the Meeting

10. Open and Public Meetings Training (City Recorder – Approximately 20 minutes) – Receive training on the Utah Open and Public Meetings Act.

The Council and meeting attendees watched a presentation by David Church, legal counsel for the Utah League of Cities and Towns, regarding the Utah Open and Public Meetings Act.

Motion: Without objection, Mayor Johnson recessed the meeting at 7:41 p.m. She reconvened the meeting at 7:50 p.m.

11. Resolution 2021-02 / Homestead Master Plan Amendment (Berg Engineering – Approximately 30 minutes) – Discuss and possibly approve Resolution 2021-02 clarifying and amending the amendment to the Master Plan for the Homestead Resort located at 700 North Homestead Drive.

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

- Location
- Land use summary
- Approved site plan
- Proposed amendments
- Open space

- Building area
- Parking

Mr. Henke also made the following comments:

- Building permits would not be issued if certain items were not completed. He would decide when those items were completed.
- A fee was not required for small changes in a master plan.
- If buildings were built on designated parking, then a more significant amendment would be needed.
- Sensitive lands would be protected even in the buildable area.
- Geological features did not have setbacks.
- The amendment clarified the open space.
- The combined parking was based on nationally recognized standards. The associated reduction in parking was allowed. Additional parking could be required if there was a problem. Customers parking on Homestead Drive would indicate that additional parking was needed.
- Questioned the parking reduction for the homes and guest rooms.
- He and the City Engineer recommended requiring the full amount of parking.
- The Municipal Code required 800 parking spaces without shared parking.

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

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

- The 2008 master plan allowed for an additional 20% in the square footage of the building footprints. The amendment added detail to that allowance.
- Explained peak demand, seasonal variations, shared parking, and other factors for parking reductions.
- The parking calculations were just for the peak hours of 7 p.m. to 8 p.m. They were based on national studies, engineering data, and comments from people in the hotel business.
- Planned to build 428 parking spaces but only 387 were needed. The extra space could be used for any additional buildings.
- To add more parking the master plan would have to be amended.
- Certain areas could be noted for future parking if needed.

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

- A note should be added to the plat map indicating that the buildable area was still subject to sensitive lands regulations, etc.
- Setbacks shown on the area map should be the most restrictive applicable.
- A map of all open space, including the golf course, should be provided.
- 13 parking spaces were not enough for a “shot gun” golf tournament. Such a tournament could also be held during a conference. Other events like the ice castles were not included in the calculations.
- The parking for the estate homes was too little. More cars going through The Links to

these homes was a concern.

- There should be less asphalt.
- There should not be exclusive parking. This should be noted on the plat maps.
- Questioned the preemptive credit for parking.
- Additional buildings should not take any area that might be needed for future parking.
- Parking requirements could change in the future.
- Going from 800 to 400 parking spaces was a concern.
- Parking for the Zermatt Resort was not sufficient. The problem was that the parking was not in the right locations.

Scott Jones, applicant, indicated that the owners would address any parking problems because they would affect their business. He agreed that certain areas could be designated for potential future parking.

Motion: Council Member Drury indicated that issues needed to be discussed and moved to continue the item to a dedicated work session at the next council meeting.

Second: Council Member Dougherty seconded the motion.

Discussion: Council Member Drury asked that for the next meeting the proposed changes be precisely listed in a table of contents that referred to the appropriate locations in the staff report. He asked that this be provided as quickly as possible.

Council Member Dougherty asked that Mr. Henke and Mr. Berg resolve any variations in their information.

Mr. Jones asked if the change for the Milk House could be approved that evening so a building permit could be immediately submitted. Mr. Henke responded that the request was not a major concern.

Amended Motion: Council Member Drury indicated that issues needed to be discussed and moved to continue the item to a dedicated work session at the next council meeting. He further moved to allow the change for the Milk House to be an ice cream shop as long as it did not interfere with the water or other calculations.

Second: Council Member Dougherty 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	Excused from the Meeting

12. Lower River Annexation / Further Consideration (Berg Engineering – Approximately 30 minutes) – Discuss and possibly approve for further consideration the Lower River Annexation containing 88.29 acres located at 225 East 850 South.

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

- Sensitive lands map
- Annexation plat map
- Items to consider.
- Concept plan
- Lots of record
- Lots remaining in the County.
- Access
- Economic development
- Resort area
- Trails
- Trail head
- Development of the north parcel.
- Possible findings

Mr. Henke also made the following comments:

- The sensitive lands map did not show wetlands.
- Property owned by the State would be forced in with the annexation. State property did not fall under the local development regulations. The State property had to be annexed so the petitioners' south parcel would be contiguous to the City.
- The south access would use a state right-of-way that was 20 feet wide. Normally the City required a 56-foot right-of-way. The petitioners suggested that the right-of-way could be private and 30 feet wide. The petitioners had not talked to Kem Gardner who owned the properties on both sides of the right-of-way.
- The north access by the sewer treatment plant had been eliminated. That portion of the project would instead be a cul-de-sac.
- Preferred a trail along the Provo River but could accept a trail through the annexation.
- The north parcel would put houses next to future sewer ponds.
- The north parcel would have higher density than the Midway Crest Subdivision which was next to it to the north. The density did meet the requirements of the Municipal Code.
- The Council had broad discretion with an annexation and could annex both parcels even though they were separated.

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

Corbin Gordon was not aware of any prohibition to involuntarily annexing state property.

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

- The road next to the fish hatchery would be one of two accesses.
- The south access was 30 feet from fence to fence. Kem Gardner, the State, and the Barneys signed an agreement in 2009 providing for the 30-foot width. It met fire code. It could be a private road if needed. Was working with the State regarding the access. The State was not interested in taking away a prescriptive easement.

- The City had approved a PUD with road widths of 27 feet.
- The resort area would have a 100-room hotel, cottages, a commercial area, and open space for grazing.
- The lots, which would remain in the County, would have agricultural areas.
- The seven lots on the north parcel met the requirements of the General Plan.
- Received the wetlands study that morning and would provide more information about it in the future.
- The item that night was simply to start the discussion.
- The middle area did not need to be annexed for several reasons. The development plans met the requirements of the County. The land between it and the City would also have to be annexed. Annexing the property would be a significant cost.
- Would the City be willing to waive the fees for the middle area?
- The open space could be put in a conservation easement and protected from further development.

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

- The middle area should be annexed. The City could waive the fees because the development proposal was protecting open space and agriculture.
- The County had increased density in other areas and could increase the allowed density for the middle area. This would be prevented if it were annexed.
- This would be the best time to annex the middle area and the other property between it and the City.
- The City should try to make the proposal work because it had low density and a resort component.
- The proposal would help the City keep the resort tax.
- It fit well with Kem Gardner's property to the west.

Ryan Davis, petitioner, made the following comments:

- Indicated that annexing the middle area would cost an additional \$135,000 in fees.
- Property owners, who did not even golf, bought homes on golf courses because of the views and open space.
- The proposal would protect a large amount of natural open space and be next to the Provo River.
- Farming would continue in the area.
- The proposal stood on its own and did not need any money to preserve open space.

Motion: Council Member Drury moved to approve for further consideration the Lower River Annexation with the following conditions:

- The suggestions and concerns, noted by the Council, to be taken into account going forward.
- Fees would be considered at the next step of the annexation.

Second: Council Member Payne seconded the motion.

Discussion: Mayor Johnson was concerned about the proposed residential density on the north next to the sewer treatment plant. Council Member Drury questioned if more houses

would increase the smell. Mayor Johnson responded that there would be more people to complain.

Council Member Drury wanted to avoid city roads being serviced by county roads.

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	Excused from the Meeting

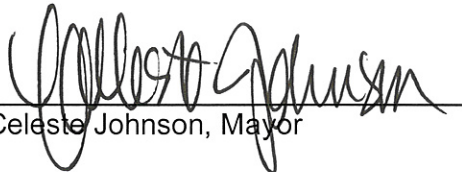
13. Closed Meeting to Discuss Pending or Reasonably Imminent Litigation

A closed meeting was not held.

14. Adjournment

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

The meeting was adjourned at 10:06 p.m.


Celeste Johnson, Mayor


Brad Wilson, Recorder