

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

**Tuesday, 2 March 2021, 5:00 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
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. Council Member Drury gave the prayer and/or inspirational message.

2. Consent Calendar

- a. Agenda for the 2 March 2021 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 16 February 2021 City Council Regular Meeting
- d. Issuance of approval to relocate transmission line poles to accommodate the widening of 970 South

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

Council Member Drury indicated that his intent with the motion, regarding the Lower River Annexation at the 16 February 2021 council meeting, was that the request move forward and the amount of the fees to be collected be negotiated for the next meeting. Council Member Dougherty responded that was also his understanding of the motion. Council Member Payne

supported that intent. Council Member Simonsen noted that he was excused from the meeting but was open to negotiating the fees. Council Member Orme also supported that intent.

Council Member Drury clarified that future fees, excluding the fees already paid, would be negotiated.

Council Member Dougherty emphasized that the Council was only considering waiving fees.

Mayor Johnson summarized that the fees could be considered at the next step of the annexation process.

Council Member Payne asked if the approval, to relocate the transmission line poles, was a request from a developer or part of the settlement agreement with Heber Light & Power Company (HL&P) and Rocky Mountain Power. Corbin Gordon responded that the relocation was foreseen in the agreement and read that section. He added that it confirmed the agreement. He also indicated that the timing would be determined by the developer of Saddle Creek Ranch and HL&P. Mayor Johnson noted that the poles were being moved to widen 970 South.

Motion: Council Member Dougherty moved to approve the consent calendar with the modification to the 16 February 2021 minutes as stated by Mayor Johnson.

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. No comments were offered.

4. Department Reports

Homestead Trail / Grant / UDOT

Council Member Simonsen reported that a grant request had been completed for the final two phases of the Homestead Trail. He expressed appreciation to Nancy O'Toole for writing grants for the City. He also reported that the City was also working with UDOT to help fund the trail.

Trails Map

Council Member Simonsen reported that work was progressing on a map for the area trails. It should indicate which trails were plowed in the winter.

Trails / Removing Snow

Council Member Simonsen recommended that the City plan and designate which trails it would remove snow from in the winter.

HVRR / Trail

Mayor Johnson reported that the approvals were in place for the trail along the tracks of the Heber Valley Railroad (HVRR).

HVSSD / Long-Term Planning

Mayor Johnson reported that the Heber Valley Special Service District (HVSSD) was doing long-term planning.

MSD / Manhole Inspections

Mayor Johnson reported that the Midway Sanitation District (MSD) had hired a private company to inspect manholes.

COVID-19 Pandemic

Mayor Johnson reported that infection rates were decreasing, and vaccinations were going well.

City Buildings / Use

Mayor Johnson hoped to open the City's buildings to public use by April 1st if infection numbers continued to decrease.

Souvenir Shop / Manager

Mayor Johnson reported that work on the souvenir shop was progressing. She added that the City was advertising for a manager.

Public Works / Additional Employees

Mayor Johnson reported that the City was advertising for two additional public works employees.

Building Department / Inspector

Mayor Johnson reported that the City might advertise for an inspector to replace Woody Collette who was retiring.

Surplus Property / Policy Change

Mayor Johnson reported that smaller items like chairs, etc., from the Community Center, would be listed as surplus property. She indicated that the surplus property policy dealt with items like trucks, etc. but needed to be amended to deal with less expensive items.

Additional Planner

Mayor Johnson reported that Luke Robinson had been hired as a second planner and began work that previous Thursday.

5. Resolution 2021-02 / Homestead Master Plan Amendment (Berg Engineering – Approximately 60 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.

Corbin Gordon explained that gaps in the amendment, regarding additional square footage and the related process, had been addressed.

Council Member Payne requested that Section 3(a) prohibit any damage and not just during the installation of pavers.

Motion: Council Member Payne moved to approve Resolution 2021-02, amending the amendment to the Master Plan, as presented that evening with the following changes and findings:

- Clarifying Section 3(a) prohibiting any damage.
- An exhibit was included that delineated the two locations where additional parking could be built.
- The proposed amendments clarified items that were discovered since the agreement was approved in September of last year.
- Parking and water rights were considered and adjusted for the addition of the Milk House building being converted to an ice cream shop.
- A provision was added that would allow the City to require construction of more parking if parking issues occurred.

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

6. Ordinance 2021-03 / Vested Rights (City Planner – Approximately 15 minutes) – Discuss and possibly adopt Ordinance 2021-03 amending Section 16.26.13 (Vested Rights) of the Midway City Municipal Code regarding vested rights in land use. Recommended by the Midway City Planning Commission.

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

- The terms “formally initiated” and “moving forward with reasonable diligence” had been clarified.
- An application should be complete to be considered officially submitted.
- The proposed ordinance protected the City when doing a notice of pending ordinance.
- No ordinance could anticipate all eventualities.
- Mr. Henke needed to be able to comfortably apply the ordinance.

Motion: Council Member Dougherty moved to adopt Ordinance 2021-03 amending Section 16.26.13 (Vested Rights) as presented in the staff report included the change to section B(2).

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

7. The Reserve at Midway, Phase 2 / Preliminary Approval (Berg Engineering – Approximately 30 minutes) – Discuss and possibly grant preliminary approval for Phase 2 of The Reserve at Midway located at 285 Luzern Road (Zoning is RA-1-43). 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 project
- Sensitive lands
- Approved master plan
- Phasing plan
- Water board recommendation

- Planning commission recommendation
- Possible findings
- Trails
- Proposed conditions

Mr. Henke also made the following comments:

- The request combined the second and third phases.

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.

Tasha Lingos

Ms. Lingos asked if the open space could be moved to abut Interlaken Estates. Mr. Henke responded that the location of the open space had already been approved with the master plan. He added that the lots were large with significant back yards next to Interlaken Estates.

Council Member Drury indicated that the project had gone through the approval procedures for annexation, an annexation amendment, and master plan. Mayor Johnson added that a request for additional density had been denied.

Paul Berg, Berg Engineering Resource Group and representing the applicants, indicated that the only change was combining the two phases.

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

Motion: Council Member Drury moved to grant preliminary approval for The Reserve at Midway, Phase 2 with the following findings and conditions:

- The proposal complied with the requirements of the code for standard subdivisions.
- The proposal met the vision of the area as described in the General Plan for the RA-1-43 zone.
- The public trails that would be built by the developer would be an amenity to the entire community.
- All approved non-irrigated areas would be noted on the plats.
- Private roads in the development would have a public access easement which would be noted on the plats and in the development agreement.
- The private trails would have public access easements and would be maintained by the HOA.

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

8. Farm Meadows Subdivision / Preliminary and Final Approval (Berg Engineering – Approximately 30 minutes) – Discuss and possibly grant preliminary and final approval for the Farm Meadows Subdivision located at 550 North Pine Canyon Road (Zoning is R-1-15 and R-1-22). Recommended with conditions by the Midway City Planning Commission.

Public Hearing

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

- Density reduction subdivision
- Land use summary
- Location of the project
- Proposed plat map
- Access
- Water board recommendation
- Possible findings
- 600 North

Mr. Henke also made the following comments:

- The development was the first density reduction subdivision.
- Area for a bike lane would be dedicated to the City.
- 600 North would not continue to Pine Canyon Road.
- The lots in the proposed project would be deed restricted from further development.
- The main access for lot three would be on Pine Canyon Road to meet emergency access and delivery standards. It did not have to be paved. The lot owner was not prohibited from accessing Farm Springs Lane, but the road already exceeded the allowed number of lots. The location of garbage collection was flexible. The Council could restrict access on Farm Springs Lane.

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

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

- Why should there be an asphalt driveway for lot three when it could more easily access Farm Springs Lane?
- It was a problem approving a project that was non-compliant because it accessed Farm Springs Lane. This would create more traffic on the road. The additional traffic would be from lot three and not through traffic. The project was compliant because the lot accessed Pine Canyon Road.

- Applying for a development should not eliminate existing accesses.
- Each developer had to weigh the costs to develop a piece of property.

Mayor Johnson asked if there was any public comment on the issue. There were no comments.

Paul Berg, Berg Engineering Resource Group and representing the applicant, reviewed the purpose for the density reduction subdivision and made the following comments:

- The proposal reduced the potential density on the property.
- The City was not providing much relief for reduced density. The applicant was having to provide additional width for Pine Canyon Road and funds for a bike lane. He was also having to replace an existing water line. These improvements made the project unworkable.

Ryan Davis, applicant, made the following comments:

- All the residents on Farm Springs Lane approved of the road not going through to Pine Canyon Road.
- There was little traffic on Farm Springs Lane.
- Did not foresee the cost of replacing the water line. This would be \$100,000.
- Had paid to connect the public trail in front of his house. Had also paid to run a water main and other utilities next to his house. This cost of these and other improvements had already been \$150,000.
- Could put ten lots on the property and make a lot more money.
- The council members ran for office on slowing growth in the City.
- Would probably keep lot three for the time being.

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:

- Farm Springs Lane would have to be a through road if there were ten lots on the property.
- The water line through the property was an old transite and asbestos pipe. The pipe was safe and necessary for circulation. It should be replaced.
- The City had postponed replacing the line while it waited for the property to be developed. This was standard practice.
- The developer for the Huntleigh Woods Subdivision would replace a similar section of pipe. The project had nine lots.
- Rural preservation subdivisions were allowed to preserve the rural feel of Midway and avoid additional density to pay for infrastructure.
- The financial impact on the applicant should be reduced to facilitate less density.
- The City should pay for some of the cost to replace the water line.
- The City paid for the upsizing cost for the line next to Mr. Davis' house. Mr. Davis' costs

increased because of the line being upsized.

- The water line should be replaced before the project was landscaped.
- Would a note have to be put on the plat map indicating there was an asbestos pipe in the ground? The line was left in the ground to the east and replaced with a new line in Farm Springs Lane.
- Reducing density was a goal of the General Plan.
- Reducing density was subsuming other considerations with developments.
- Less density excluded affordable housing.
- Development should not be subsidized.
- Was the proposal ready for approval?
- Everyone in the area would be impacted by Farm Springs Lane being a through road.
- Pine Canyon Road was not wide enough.
- Ten more lots would increase traffic.
- An asbestos line was not a problem until it became friable.
- This would be the last section of asbestos line in the City.
- Safety was the City's primary consideration.
- The trails requirement was part of the Municipal Code and would be difficult to waive.
- The trail could not be extended further south from the proposed development.
- The trails fee would be used for a trail on whichever side of the road was practical.
- The amount of the fee was based on a six-foot-wide lane attached to the road.
- A variance would be required to eliminate the access for lot three on Pine Canyon Road.

Mr. Davis indicated that he could do the project if the water line replacement and paving the access to Pine Canyon were not required. He agreed with paying the fee for the bike lane.

Motion: Council Member Payne moved to grant preliminary and final approval for the Farm Meadows Subdivision, located at 550 North Pine Canyon Road, as a density reduction subdivision with the following findings and conditions:

- The proposed lots met the minimum requirements for the R-1-15 and R-1-22 zoning districts.
- The proposal met the intent of the General Plan for the R-1-15 and R-1-22 zoning districts.
- The proposal complied with the requirements for the density reduction subdivision code.
- The subdivision helped comply with the vision stated in the General Plan to preserve open space and a rural atmosphere.
- The lots would be deed restricted so they would never be further subdivided.
- The deed restrictions that would be recorded towards the lots would be submitted to the City for review and recorded immediately after the plat was recorded.
- A note on the plat map was included with language that clearly stated that subdividing the lots was prohibited.
- The funds to build the bike lane were added to the general trails fund.
- The bike lane would be completed in the future as part of a larger improvement project that would complete the bike lanes along the entirety of Pine Canyon Road.
- An additional 6.39-acre feet of water rights be provided before the plat map could be recorded.
- The applicant did not bear the cost of upgrading the existing water line from Farm Springs to Pine Canyon Road.
- A will serve letter be provided by the Midway Irrigation Company.

- The driveway along lot one would not be required to be paved but could be gravel.

Second: Council Member Orme seconded the motion.

Discussion: Council Member Simonsen questioned graveling the driveway to lot three if the applicant kept the lot and did not develop it. Council Member Payne suggested that there was no need for the driveway until there was a building permit for the lot.

Council Member Simonsen suggested that the driveway be shared with lots one and three.

Council Member Simonsen preferred more time to resolve issues with the proposal.

Mr. Davis indicated that most people would want the access for lot three to be on Farm Springs Lane. However, he approved of the motion.

Council Member Simonsen also suggested that the lots not be split at that time. Mr. Henke noted that the development agreement would have to be adjusted if they were not split. Council Member Dougherty indicated that would affect the deed restrictions. Mr. Davis noted that would reduce the property taxes.

Mr. Davis approved of postponing the item.

Withdrawal: Council Member Payne withdrew his motion.

Motion: Council Member Payne moved to continue the item until 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	Aye

9. Resolution 2021-04 / Farm Meadows Subdivision Development Agreement (City Attorney – Approximately 10 minutes) – Discuss and possibly approve Resolution 2021-04 adopting a development agreement for the Farm Meadows Subdivision located at 550 North Pine Canyon Road (Zoning is R-1-15 and R-1-22).

Motion: Council Member Payne moved to continue item nine.

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

Motion: Without objection, Mayor Johnson recessed the meeting at 8:11 p.m. She reconvened the meeting at 8:20 p.m.

10. Salazar Spring Subdivision / Preliminary and Final Approval (Mike Johnston, Summit Engineering – Approximately 20 minutes) – Discuss and possibly grant preliminary and final approval for the Salazar Spring Subdivision located at 583 East Salazar Spring Road (Zoning is RA-1-43). 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 development
- Proposed plat map
- Wetlands
- Access
- Irrigation ditch
- Setbacks
- Contour map
- Water board recommendation
- Possible findings
- Recommended conditions

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

Council Member Dougherty indicated that the Irrigation Company wanted the applicant to obtain a will serve letter from them.

Public Hearing

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

Julie Salazar, Applicant

Ms. Salazar thanked the Council for their time and noted that the project began with the approval of the north access to Whitaker Farm.

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

Motion: Council Member Simonsen moved to grant preliminary and final approval for the Salazar Spring Subdivision, located at 583 East Salazar Spring Road (Zoning was RA-1-43), with the following findings and conditions:

- 8.95-acre feet of water rights would be tendered to the City.
- The proposed lots met the minimum frontage and width requirements for the RA-1-43 zoning district.
- The proposed lots met the minimum acreage requirements as stated in the Whitaker Annexation Agreement.
- The proposal met the intent of the General Plan for the RA-1-43 zoning district.
- The River Road access for lot three was removed from the proposed plans to comply with the language in the Whitaker Annexation Agreement.
- A will serve letter be obtained from the Midway Irrigation Company to establish its ability to service the development.

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

11. Resolution 2021-05 / Salazar Spring Subdivision Development Agreement (City Attorney – Approximately 5 minutes) – Discuss and possibly approve Resolution 2021-05 adopting a development agreement for the Salazar Spring Subdivision located at 583 East Salazar Spring Road (Zoning is RA-1-43).

Corbin Gordon explained that the agreement outlined what was in the staff report.

Motion: Council Member Drury moved to approve Resolution 2021-05 adopting a development agreement for the Salazar Spring Subdivision with no findings or conditions.

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

12. Maisons de Saint-Prex / Amendment (Mike Johnston, Summit Engineering – Approximately 30 minutes) – Discuss and possibly approve an amendment to the Maisons de Saint-Prex, lots 11-15, located at 800 West Swiss Alpine Road (Zoning is R-1-22). Recommended with conditions by the Midway City Planning Commission. **Public Hearing**

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

- Location of the development
- Current plat map
- Proposed plat map
- Open space
- Proposed findings

Mr. Henke also made the following comments:

- An access easement, for the south common area, would be a separate document and not shown on the plat map.
- Lots eleven and twelve would be combined to create a larger lot and backyard.
- The south common area was a landscaping boundary with the property to the south.
- The access easement between lots 14 and 15 would no longer be shown.
- The common area was not part of the open space.
- A plat map amendment would be required to again separate the lots.

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

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

- The City needed to ensure that the transfer and vacation of common area was properly completed. Staff should meet with the Wasatch County Recorder to discuss the issue.
- Should lot combinations be deed restricted so that they could not be subdivided again?
- A lot combination could not be subdivided again if the location of the house prohibited it.

Public Hearing

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

Mayor Johnson reported that she received an email, from Karl Dodge who was a neighbor, in support of the amendment.

Eldon Hackie, applicant, made the following comments:

- The one lot was so narrow that it was the last to sell. It would be landscaped. It might be subdivided again for the buyers' daughter.
- All owners of lots, that touched the lots being combined, supported the amendment.
- All the lots had been sold.

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

Motion: Council Member Payne moved to approve the Maisons de Saint-Prex amendment, located at 800 West Swiss Alpine Road (Zoning was R-1-22), with no conditions and the following findings:

- Density in the subdivision would be reduced.
- The area would feel more open because of the reduction of one lot.
- No public street, right-of-way, or easement would be vacated or altered.
- The lot owners of the five lots and the HOA would be required to sign the plat for it to be recorded.
- The amount of open space in the subdivision would not be reduced and the subdivision would still comply with the code requirement of 15% open space.

Second: Council Member Simonsen seconded the motion.

Discussion: Council Member Simonsen asked if the motion should require meeting with the County Recorder regarding vacating the common area. Council Member Dougherty responded that the issue had been addressed on the record.

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. Ranked Choice Voting (Mayor Johnson – Approximately 20 minutes) – Discuss and possibly decide if ranked choice voting will be used for the 2021 Midway City municipal election. **Public Comment**

Council Member Orme recommended that any action be postponed until the State Legislature decided on pending voting legislation.

Mayor Johnson gave a presentation on ranked choice voting. The presentation reviewed responses from Kory Holdaway with Utah Ranked Choice Voting.

Note: A copy of Mayor Johnson'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:

- Ranked choice voting only applied to non-partisan and municipal elections.
- It was a solution looking for a problem.
- There was not an immediate need or benefit.
- It would introduce confusion into the voting process.
- Would Midway use it if Heber City decided to use it?

Motion: Council Member Dougherty moved to continue the item to the April 6th council meeting to see if there were any clarifications from the State Legislature.

Second: Council Member Payne seconded the motion.

Discussion: None

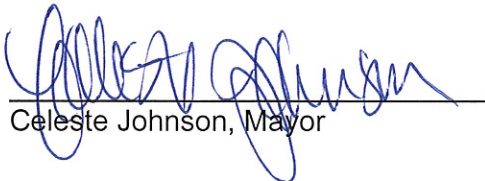
Vote: The motion was approved with the Council voting as follows:

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

14. Adjournment

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

The meeting was adjourned at 9:04 p.m.



Celeste Johnson, Mayor



Brad Wilson, Recorder