

MINUTES OF THE MIDWAY CITY COUNCIL

(Regular Meeting)

Tuesday, 4 May 2021, 5:00 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 5:00 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
Wes Johnson, Engineer
Nancy, Simons, Financial Officer
Brad Wilson, Recorder

Note: A copy of the meeting roll is contained in the supplemental file.

Mayor Johnson led the Council and meeting attendees in the pledge of allegiance. Rajan Zed, President of the Universal Society of Hinduism, gave the prayer. Council Member Payne gave an inspirational message.

2. Consent Calendar

- a. Agenda for the 4 May 2021 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 20 April 2021 City Council Work Meeting
- d. Minutes of the 20 April 2021 City Council Regular Meeting
- e. Ordinance 2021-07 amending Title 10 (Water) of the Midway City Municipal Code regarding cross connection control

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

Council Member Drury asked if the proposed ordinance was amending or replacing the cross-connection control laws. Corbin Gordon reviewed the ordinance. Brad Wilson explained that the entire section was being replaced because there were changes throughout.

Brad Wilson also indicated that Council Member Dougherty seconded a motion, in the 20 April 2021 regular meeting, instead of Council Member Payne as indicated in the minutes.

Motion: Council Member Drury moved to approve the consent calendar with the agenda, minutes as amended, and Ordinance 2021-07.

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

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**

River Road Project

Council Member Simonsen and Wes Johnson reported on the River Road Utility and Road Improvements Project. It was indicated that the contractor would hold a public open house in preparation for the road being closed.

Parks, Trails, and Trees Committee / Inventories

Council Member Simonsen reported that the Parks, Trail, and Trees Committee now wanted to inventory playground equipment, etc.

River Road Trail / Rocks

Council Member Orme reported that a homeowner had put rocks next to the trail and River Road. She said that they needed to be removed.

HVRR / Legislative Funding

Mayor Johnson reported that the Heber Valley Railroad would ask the State Legislature for additional funding.

COVID-19 Pandemic / Update

Mayor Johnson reported that Wasatch County had three to four new infections each week. She added that hospitalizations were down, but new variants of the virus had been detected in the County.

5. Tentative FY 2022 Budget / Adoption (Financial Officer - Approximately 30 Minutes) – Discuss and possibly adopt a tentative budget for FY 2022.

Nancy Simons reviewed changes to the budget since the last council meeting including a 2% cost of living adjustment for employees. She also indicated that the City had not been receiving taxes from the recently annexed area of the Wasatch Mountain State Park.

Motion: Council Member Orme moved to adopt the tentative FY 2022 budget.

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

6. Tentative FY 2022 Budget / Set Public Hearing (Financial Officer – Approximately 5 Minutes) – Discuss and possibly set a public hearing, on the tentative budget for FY 2022, for 18 May 2021, 6:00 p.m. at the Midway Community Center.

Motion: Council Member Drury moved to set a public hearing, on the tentative budget for FY 2022, for 18 May 2021, 6:00 p.m. at the Midway Community Center.

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

Mayor Johnson noted that the regular council meetings would now be held at 6:00 p.m. with a work meeting also being held at 5:00 p.m.

Note: Nancy Simons left.

7. River Road Utility and Road Improvements Project / Award Contract (City Engineer – Approximately 5 minutes) – Discuss and possibly award a contract for the River Road Utility and Road Improvements Project. The project will include River Road from 300 North to 60 South.

Wes Johnson explained the project and made the following comments:

- KW Robinson submitted the low bid.
- The company was reputable and comfortable with their bid.
- Recommended that they be awarded the contract.
- The Midway Sanitation District would pay for \$430,000 of the project.
- Estimated that 80% of the project was for water infrastructure, 15% for road infrastructure, and 5% for a trail.
- The project would go from May to September. There was not an incentive for early completion.
- The savings from the low bid could be used to do the project in phases. This would limit disruptions.
- The contractor would be responsible for traffic control.

Council Member Dougherty asked that notices be posted on the City’s website when streets would be used for detours.

Motion: Council Member Simonsen moved to award a contract and accept the bid from KW Robinson for the River Road Utility and Road Improvements Project, on River Road from 300 North to 60 South near the intersection of River Road and Main Street, for \$1,219,356.54 with the Mayor authorized to sign the contract.

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

8. Community Development and Renewal Agency

Motion: Council Member Drury moved to convene as the governing board of the Community Development and Renewal Agency of Midway City.

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: Minutes of the Agency are maintained separately.

Motion: Board Member Drury moved to adjourn the board meeting of the Community Development and Renewal Agency and to continue the city council meeting.

Second: Board Member Dougherty seconded the motion.

Discussion: None

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

Board Member Dougherty	Aye
Board Member Drury	Aye
Board Member Orme	Aye
Board Member Payne	Aye
Board Member Simonsen	Aye

9. The Village Development / Master Plan (Dan Luster – Approximately 60 minutes) – Discuss and possibly grant master plan approval for The Village, a mixed use and planned unit development, located at 541 East Main Street (Zoning is C-2, R-1-11, and R-1-22). Recommended with conditions by the Midway City Planning Commission. **Public Hearing**

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

- Land use summary
- Master plan requirements
- Location of the proposal
- Area view
- Sensitive lands map
- Proposed master plan
- Zones
- Access
- Traffic plan
- Types of residential development
- Setbacks
- Landscaping map
- Phasing map
- Recommendation of the Water Board
- Discussion items
- Roads
- PUD
- Alleyways
- Parking
- Snow storage and removal plan
- Test pits for the level of groundwater
- Main Street improvements
- Architectural themes
- Parking
- Density
- Commercial square footage
- Transient Rental Overlay District
- Transient rental laws
- Possible findings
- Vision Architecture Committee recommendation
- Proposed conditions

Mr. Henke also made the following comments:

- The traffic plan required three accesses for the proposal.
- There was 20% commercial development proposed in the commercial zone.
- There was 50% open space in the required zones.
- The recommendation from the Water Board was before the swim and racquet ball club was included in the plan.
- The private roads had public access easements.
- No water had appeared in the test pits.
- Water had appeared in test pits in 2017 but that might have been surface water.
- City staff and the Planning Commission recommended piezometers on the property.
- The living space would have to be reduced if the parking had to be above ground.
- The applicant could ask to reduce the excess open space.
- Architectural elements could be higher than 35 feet above ground.
- The Wasatch County Fire District wanted all alleys to be 26 feet wide.
- The applicant held a public participation meeting. All property owners within 600 feet of the project had been sent notice of the meeting.

- No trails were required.
- Recommended a designed trail up Memorial Hill to avoid unauthorized trails. Would need to work with Wasatch County which owned the hill.
- The size of fireworks would be restricted based on the proximity of houses. Would meet with those who oversaw setting off the fireworks from Memorial Hill.
- The proposal met or exceeded the parking requirements.
- An average was used to determine the needed commercial parking. The commercial uses could vary from space to space.
- There was not a limit on the amount of commercial in the commercial zone.
- A mixed-use project was allowed in the commercial zone, but it had to be at least 20% commercial.
- Phases four and five should not be built until a certain amount of commercial was completed.
- Had not received any complaints regarding transient rentals for several years.
- Transient rentals had not been counted as commercial.
- The entire development would have to be under one property owners' association.
- Wanted all the property to be attractive during construction.
- Undeveloped property should remain in agriculture.
- A road could be cut into a slope if it met engineering standards.
- The proposal met the general standards of the Municipal Code.
- The City's roads plan did not include any roads on the property.

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

Wes Johnson reviewed the following items:

- Traffic study
- Level of service for the area roads before and after the proposal

Mr. Johnson also made the following comments:

- The traffic study did not require a traffic signal at the intersection of River Road and Main Street.
- The level of service at the intersection could be a "C" or "D" without a signal. It would be an "A" or "B" with one. The City required a level "C". UDOT allowed a "D".
- Using a thumb counter was approximately as accurate as using tubes to measure traffic.
- The traffic study measured the peak hours.
- The study showed the effects with and without the north access on River Road.
- Wanted the adjustment for the pandemic clarified.
- A turn lane was not needed for the north access. Doubted that a pullout lane was needed either.
- A center turn lane would be required on Main Street.
- The City was working with UDOT to improve Main Street from 300 East to in front of the Granary.
- Three to four piezometers would be needed in problem areas.
- The period without water in the piezometers, to allow underground development, depended upon the weather and drought conditions. Readings could be adjusted for a drought.

- A ground water mitigation plan, catch basins, or sumps could be required.
- There was three to twelve inches of topsoil above the potrock.
- Anticipated both a cut and a retaining wall for the road on Memorial Hill.
- Understood the groundwater report but still had questions about it.

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

- The traffic study did not account for several new developments with 200 potential homes within one mile of the proposal.
- The intersection of 580 East and Main Street was a concern and might need a signal light.
- The City did not want to do anything contrary to the wishes of Wasatch County or the veterans' groups.
- Was upsizing the water line on River Road because of the proposal or existing houses?
- The master plan agreement would have more conditions and then each phase would have to go through an approval process.
- Did the study measure traffic at the right times of the day? Did it include peaks during the weekends?

Motion: Without objection, Mayor Johnson recessed the meeting at 7:18 p.m. She reconvened the meeting at 7:25 p.m.

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

- The required fire hose length could be provided, and the alleys could be increase to 26 feet. Could also request a fire sprinkler exception from the Fire District.
- Spent time with staff regarding the project.
- Spent time with surrounding residents at the public participation meeting.
- Would not improve the road boarding the project on the east.
- Was trying to meet city standards and cooperate with staff.
- Was willing to work with the Fire District. Would have liked to hear from them sooner.
- Normally a fire access was only 20 feet wide, but the Fire District asked for 26 feet because of the height of the buildings.
- Wanted to use fire sprinklers but that needed the Fire District's approval.
- Ground water had been encountered in just two bore holes in 2017.
- A new ground water study was done that year. No water was encountered even in the pits next to the 2017 bore holes that had water. A professional geotechnical firm did the study.
- Concluded that it was surface water in the two bore holes from 2017.
- Agreed to install piezometers.
- A service level "E" indicated that a road was at capacity. A lesser level indicated that the road was under capacity.
- The company that did the traffic study was one of the better firms in Utah.
- The City had approved the scope of work for the traffic study.
- The study was expensive.
- The estimates in the traffic study were not beyond standard practices. Would consider continuous counters and variations for the time of the year.

- Had not heard any concerns with the fireworks prior to that evening.
- Would meet the restrictions for cutting across a 25-degree slope. There could be road walls and vegetated slopes.
- Thought that the access on River Road would work for UDOT.

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

- February 2020 was the last time UDOT got traffic counts for the area of the proposal.
- The Municipal Code did not allow a theater in Midway.

Public Hearing

Mayor Johnson made the following comments:

- The applicant did an alternate plan which received positive feedback, but that was not being considered by the Council that evening.
- Another public hearing would be held if the alternate plan was formally submitted to the Council.
- Neither the current nor the alternate plan included a theater.

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

Inez Wilde

Ms. Wilde made the following comments:

- A merge lane on Main Street would go in front of her house and driveway.
- Some of the commercial buildings and parking looked into her backyard and house. The applicant agreed to do a six-foot masonry wall to address the issue. The wall should include a foundation to prevent water from draining onto her property.
- The proposal would lower the value of her property.
- Was concerned with dust, the locations of dumpsters, rodents, etc.
- Some businesses in the City did not have enough parking.

Mr. Henke responded that the mixed-use portion of the proposal was a conditional use and therefore some issues could be mitigated as part of the permitting process.

Cheryl Whiting

Ms. Whiting made the following comments:

- Was concerned about light, noise, traffic, and the hours of operation.
- Noise came from and bounced off the Granary which negatively affected her and an elderly neighbor.
- There was ground water in the Indian Summer Subdivision.
- Her father put a sump pump in a house on 700 East because of the groundwater.
- A service level of "D" was unacceptable to the residents on Main Street.

- The open space in the project was hidden and did not benefit the community.
- The Municipal Code should not include any loopholes or variances.
- The proposal had too many unanswered questions.

Sheila Siggard

Ms. Siggard made the follow comments:

- Was a dreamer and wanted to find someone who would purchase and preserve the property.
- The proposal was a nightmare.
- Wanted to continue to see Memorial Hill from Main Street.
- Ground water in Midway was unpredictable.
- The summer of 2020 was the driest on record.
- Usually, developers provided trails to the City.
- The veterans would be concerned about the erosion of Memorial Hill.
- The proposal was too dense.
- Developments robbed residents of their peace.
- Who would donate property to widen a road?
- The street she lived on was a thoroughfare for construction equipment.
- Midway was a city of love and brotherhood and the City needed to consider how development impacted its residents.
- No one wanted to wait in traffic.
- Midway should not be compared to Washington D.C. or Los Angeles.

Victoria Cox

Ms. Cox read a letter from Athina Koumarela which made the following points:

- The Planning Commission approved the proposal too quickly.
- There were many questions regarding the proposal.
- More time was needed to understand its impact.
- Did not receive a notification that the Remund property, next to her house, would be rezoned.
- PUDs needed careful consideration.
- A town hall meeting should be held to hear from residents.
- Sounded like the project was a “done deal”.

Kerry Siggard

Mr. Siggard read a letter from Renae Holm which made the following points:

- The City should not allow PUDs.
- For the Council to approve a PUD it must find that it was best for the community.
- Density should be offset by community open space.
- Several developments should not have been approved as PUDs.
- Loopholes should be closed, and the Municipal Code strictly interpreted.

- The proposal was too dense unless the applicant could prove that it would preserve the City's ability to charge the resort tax.
- The Council should set aside time to be proactive rather than reactionary.

Mayor Johnson responded that the Council had approved 20 code updates the previous year and hired an additional planner.

Mr. Henke indicated that PUDs were a smart growth tool. He also indicated that this PUD was unique because it did not front any major streets.

Bill Hludzinski

Mr. Hludzinski made the following comments:

- Growth had increased beyond the City's ability to deal with it.
- What would the proposal do for the City in exchange for the increased traffic?
- Utah was in the middle of a drought.
- Utah used water more than other states.
- Could all the wastewater be treated?
- The City should work with Heber City to review and preserve their water resources.

Mayor Johnson responded that the Midway Sanitation District and Heber Valley Special Service District were doing forward planning for wastewater treatment. She indicated that impact fees would pay for the additional infrastructure.

Mayor Johnson added that each developer had to provide the water rights for their projects.

Amaria Scovil

Ms. Scovil made the following comments:

- Would have to move her garden because of the proposal.
- Was impressed with the questions asked of the applicant.
- There was still a lot to be determined about the proposal.
- It should be continued until the outstanding issues were addressed.
- There was a groundwater problem in the Indian Summer Subdivision.
- Was concerned about the potrock under the property.
- The developer of the Old Swiss Square had gone bankrupt because of having to dig through potrock.
- The project met the requirements of the Municipal Code, but it also needed a conditional use permit.
- Some of the structures would be ten feet from her property.
- The proposal would force her and her family to move.
- The property had been zoned agricultural and was rezoned to commercial at the request of a developer. Later the density was further increased.
- Reducing the density would also reduce the traffic and underground parking.
- A signal light would not reduce the amount of traffic and noise.

Mr. Henke made the following comments:

- The City could not demand more than a ten-foot setback.
- The depth of the commercial zone had been increased from 300 to 600 feet.
- Indian Summer was approved with restrictions because of groundwater.

Candice Barrett Nowers

Ms. Nowers made the following comments:

- Grew up in Midway.
- The zoning code should protect everyone in the community.
- Open space should help keep the area rural.
- The proposal did not look rural.
- The rural feel brought people to Midway.
- Did not like a signal light at the intersection of Main Street and River Road because it would back vehicles up in front of her driveway.
- Already had to wait for up to 35 cars to pass before she could pull out onto Main Street.
- The project would not be able to have underground parking.
- The contractor had to blast the potrock in front of her house to install the sewer. Blasting damaged surrounding properties.
- There would be groundwater during a wet year.
- Where would the parking be if it could not be underground?
- Traffic was worse in the summer compared to February when the traffic study was done.
- There was a lot of traffic before and after school.

Nephi Jensen

Mr. Jensen indicated that the access on River Road would be opposite his driveway. He asked that a better traffic study be done and the many questions regarding the proposal be answered.

Mark DeHart

Mr. DeHart made the following comments:

- Only the houses in the PUD would benefit from the open space.
- Additional parks, etc. would have to be provided for the residents in the proposal.
- The water study was based on a time of drought. The property historically had groundwater.
- Did not leave his house in the late afternoon because of the traffic.
- The response, at the public participation meeting, to no underground parking was that the units would be higher.
- The proposal would take away the neighbors' privacy.

Dee DeHart

Ms. DeHart made the following comments:

- The applicant had not made any changes based on her concerns.
- Why was a public participation meeting held if no changes would be made?
- What would the houses look like in phase five?
- More open space should be provided by the applicant.
- The signal light should not be delayed until someone was killed.

Lewis Scovil

Mr. Scovil made the following comments:

- The River Road access was not safe.
- There should be a better access trail for Memorial Hill.
- The proposal was high density with too many houses in the fifth phase.
- The proposal needed to be done right.

Julie Lundskog

Ms. Lundskog indicated that the zoning was changed for the proposed Winterton grocery store. She asked the Council to consider the requests of the current residents.

Mr. Berg responded that the proposal only had half the density allowed by the City and was well within the requirements of the Municipal Code.

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

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

- The proposal, because of the limitations of the zones, did not have the open space where the community could enjoy it.
- A view corridor for the Memorial Hill should be preserved.
- The developer was listening to the residents and could make changes.
- The Council was willing to consider the alternative plan.
- Public participation mattered.
- The Council would work for the best possible proposal.
- The zoning was approved many years prior.
- The rural preservation and density reduction subdivisions were now part of the Municipal Code.
- The Municipal Code could always be amended.
- The City was working on changing those things that it was permitted to change.
- The City could not change the marketplace which had shifted significantly since he moved to Midway.
- Changing the zoning to 50 acre lots would reduce density, but it would also devalue property.

Motion: Council Member Drury moved to continue the item to allow the City Council and staff to

gather additional details on the following issues:

- Further study was needed to determine the feasibility of the traffic study for the application including not having factored in already approved developments, insufficient data collection to be statistically valid, and clarifying the adjustment for the pandemic.
- Sensitive lands including the impact of the northern most road and possible retention walls.
- See specifics regarding how the north access road would impact sensitive areas.
- The north access road including a lack of specifics regarding the impact on River Road traffic.
- A site visit to examine the north access road and its impact on Memorial Hill.
- Clarify the water requirements including a different plan having been presented to the Water Advisory Board, which had a different housing configuration and did not have the pool, and the packet provided to the City Council mentioning a canal.
- Clarify the alley widths and accesses for height with the developer and the Wasatch County Fire District.
- Clarification of the sprinkler exemption, access to units one through twelve, and if sprinklers were not possible then a plan mitigating the 150-foot fire access requirement.
- Staff would work with the City Council on options for mitigating the feedback received.

Discussion: Council Member Payne asked if the plan could be modified to increase the setbacks on the west. Dan Luster responded that the roads could be narrowed to give ten to twelve feet. He noted that an alternate plan had been discussed that improved the project.

Council Member Orme indicated that the Council should be reviewing and getting answers on the alternate plan rather than the proposed plan. She added that staff should not be spending their time on a plan that no one wanted. Council Member Drury responded that the alternate plan had not been submitted by the applicant for review by the Council.

Council Member Orme asked how the Council could get to the alternate plan. Council Member Simonsen said there was no guarantee that it could get to the alternate plan.

Council Member Drury said that the law allowed the Council to approve, deny, or table the plan presented. He added that the applicant would have to withdraw the current plan and replace it with the alternate one.

Corbin Gordon made the following comments:

- The Council had an application and plan pending before it.
- The plan met the zoning code.
- Some questions had been raised regarding it.
- The applicant had also applied for a zone change which could take a couple of months to complete.
- The current application had not been withdrawn and the Council had to consider it.
- The City could not tell the applicant to withdraw the application.

Council Member Dougherty made the following comments:

- The Council was determining if the application was compliant with the Municipal Code and feasible. Staff said that it was.
- The application could be approved that night with conditions.

- The agreement did not have to be approved at the same time as master plan approval was granted.
- Agreed that Staff should not spend time on a plan that was disliked.

Second: Council Member Simonsen seconded the motion.

Discussion: Council Member Payne asked if staff should only be working on the alternative plan. Council Member Dougherty responded that the alternative was on another track. He noted that the agreement could be adjusted and adopted based on which plan was approved. He encouraged the applicant to pursue the alternate plan.

Council Member Drury stated that the item should be continued because the current plan was not compliant with sensitive lands regulations. He added that the Council should not base a decision on reducing staff effort.

Council Member Dougherty asked if the current plan was compliant with the sensitive lands' regulations. Mr. Henke responded that depended upon how the roads effected Memorial Hill.

Council Member Simonsen indicated that there were questions with the current proposal that needed to be answered.

Vote: The motion was not approved with the Council voting as follows:

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

Motion: Council Member Dougherty moved to grant master plan approval for the plan with the following findings and conditions:

- The plan was feasible with conditions and compliant with the General Plan and Municipal Code. No one had given an opinion that it was not.
- It would have a substantial benefit to the City's resort tax base with the nightly rentals in the condominiums.
- It was significantly less density than would be allowed in the zones.
- The plan would go back to the Water Advisory Board for the recalculation of the water given the elements of the concept plan.
- Required a will-serve letter from the Midway Irrigation Company.
- The applicant and City would enter into a master plan agreement.
- The agreement would address the concerns of the Wasatch County Fire District and the questions raised by Council Member Drury regarding the traffic study.
- The phasing would be conditioned on a certain amount of commercial versus a certain amount of residential as pointed out by Mr. Henke.
- Piezometer monitoring in case Mr. Berg was incorrect.
- A water mitigation plan would be prepared in case there was too much groundwater.
- Blasting be reviewed for appropriateness.

Discussion: Council Member Drury made the following comments:

- There was no reason to approve a project with so many conditions.
- Nothing would be lost by tabling the issue for two weeks.
- An approval could not be rescinded.
- Every council member indicated that they did not like the current proposal.
- It was not a waste of time for staff to get more information on key questions.

Second: Council Member Orme seconded the motion.

Discussion: Council Member Dougherty was open to more conditions to his motion.

Council Member Payne suggested that the commercial pads should be landscaped until they were developed. He also suggested that the trail connection up Memorial Hill, suggested by Mr. Henke, be included in the motion subject to approval by Wasatch County which owned the hill. Council Member Dougherty thought that the trail connection would only benefit the residents in the project and might be opposed by veterans. Council Member Simonsen disagreed and said that the trail would protect Memorial Hill from unauthorized trails. Council Member Dougherty accepted the conditions.

Mayor Johnson suggested the following conditions:

- A site visit for the northern access road.
- Options for mitigating impacts including along the west property line.
- Review the sensitive lands as they applied to the roads.

Council Member Dougherty accepted the conditions.

Council Member Simonsen indicated that the road just north of the club be investigated as an access to the east. Mr. Henke noted that the City could not require the road be an access or a connection. Council Member Simonsen asked that staff discuss the possibility with the applicant.

Council Member Drury asked what the benefit was to the City to approve the proposal that evening. He thought that most of the issues raised that evening could be addressed within two weeks. Council Member Dougherty responded that the issue was a matter of process.

Council Member Payne asked the size of the next council meeting agenda. Mr. Henke responded that it was not as large as that evening's agenda.

Council Member Payne asked if an approval, once granted, could be amended through the agreement. Mr. Gordon responded that an approval would be subject to what was on the record that evening and additional items could not be added in the future. Council Member Dougherty indicated that the project would be subject to the agreement which could include a lot of items.

Council Member Dougherty stated that nothing prevented the project except maybe the road on the slope of Memorial Hill.

Council Member Simonsen indicated that several issues needed to be addressed before the agreement could be approved.

Council Member Drury questioned why the Council was not willing to wait two weeks to consider

one of the most significant projects proposed while he had been on the Council.

Amended Motion: Council Member Dougherty moved to grant master plan approval for the plan with the following findings and conditions:

- The plan was feasible with certain conditions and compliant with the General Plan and Municipal Code. No one had shown that it was not compliant with respect to the sensitive lands.
- There could be a benefit to keeping the resort tax base for the City with nightly rentals in the condominiums.
- It was significantly less density than the maximum allowed in the zones.
- The Water Advisory Board would recalculate the water requirements including the fitness center.
- A will-serve letter was provided by the Midway Irrigation Company.
- A master plan agreement negotiated to include addressing the Wasatch County Fire District's questions or suggestions and answering the questions raised by Council Member Drury regarding the traffic study with perhaps further studies needed.
- There would be a phasing plan regarding residential versus commercial including landscaping any agricultural land prior to final landscaping.
- A water mitigation plan for ground water due to the subterranean parking structures.
- There would be a site visit to the north access road.
- The option of mitigation on the west property line for setbacks, height, headlights, trash, etc.
- Staff would investigate an east connecting road.
- Open space was dedicated as part of phase three to comply with the PUD open space requirements.
- Piezometers were installed in multiple areas of the development to monitor water levels over the next few years, especially in the areas of phases 2-6. The piezometers would provide information regarding the water table over multiple years. This would give information regarding the ability to develop future phases. If the water table was a problem for some phases, then the master plan would need to be amended to continue to comply with code requirements.
- The timing of required off-site improvements was established and included in the master plan agreement.
- There would be a trail connection on Memorial Hill subject to approval by Wasatch County.
- No blasting was allowed.
- Cutting into the hill for a road would comply with the Municipal Code.

Council Member Orme said that it made sense to move forward so that the developer could proceed with the zone change. She thought that all the issues could be addressed in the agreement. However, she was concerned if the issues could not be addressed in the agreement. She was also concerned that something might be missed. She did not think that two weeks was too long to wait.

Second: The motion died for lack of a second.

Motion: Council Member Drury moved to continue the item to allow the City Council and staff to gather additional details on the following issues:

- Further study was needed to determine the feasibility of the traffic study for the application including not having factored in already approved developments, insufficient data collection to be statistically valid, and clarifying the adjustment for the pandemic.
- Sensitive lands including the impact of the northern most road and possible retention walls.
- Specifics provided regarding how the north access road would impact sensitive areas.
- The north access road including a lack of specifics regarding the impact on River Road traffic.
- A site visit to examine the north access road and its impact on Memorial Hill.
- Clarify the water requirements including a different plan having been presented to the Water Advisory Board, which had a different housing configuration and did not have the pool, and the packet provided to the City Council mentioning a canal.
- Clarify the alley widths and accesses for height with the developer and the Wasatch County Fire District.
- Clarification of the sprinkler exemption, access to units one through twelve, and if sprinklers were not possible then a plan mitigating the 150-foot fire access requirement.
- Staff would work with the City Council on options for mitigating the feedback received or if they had additional questions.

Discussion: Council Member Payne asked if the motion continued the item to the next council meeting. Council Member Drury responded that he would expect it to be considered at the next meeting if the issues raised could be addressed in that time.

Second: Council Member Simonsen seconded the motion.

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 10:04 p.m. She reconvened the meeting at 10:10 p.m.

Motion: Council Member Drury 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

10. Resolution 2021- 09 / The Village Master Plan Agreement (City Attorney – Approximately 10 minutes) – Discuss and possibly approve Resolution 2021-09 adopting a master plan agreement for The Village, a mixed use and planned unit development, located at 541 East Main Street (Zoning is C-2, R-1-11, and R-1-22).

Motion: Council Member Dougherty moved to table the item.

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

Motion: Council Member Dougherty moved to extend the time to consider the next item on the agenda.

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

11. Ordinance 2021-11 / Hot Springs Annexation (Berg Engineering – Approximately 60 minutes) – Discuss and possibly adopt Ordinance 2021-11 approving the Hot Springs Annexation located at 1477 North Pine Canyon Road. Recommended with conditions 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.

Council Member Simonsen noted that a public hearing after 10:00 p.m. was unusual. He

recommended that public comment be taken on the item at the next council meeting.

Motion: Council Member Dougherty moved to continue the item to the May 18th council 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

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

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. Resolution 2021-11 / Hot Springs Annexation Agreement (City Attorney – Approximately 10 minutes) – Discuss and possibly approve Resolution 2021-11 adopting an agreement for the Hot Springs Annexation located at 1477 North Pine Canyon Road.

Motion: Council Member Orme moved to continue the item.

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

Motion: Council Member Simonsen 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

13. Saddle Creek Ranch, Phases 2 & 3 / Preliminary Approval (Berg Engineering – Approximately 30 minutes) – Discuss and possibly grant preliminary approval for Phases 2 and 3 of the Saddle Creek Ranch Subdivision located at 970 South 250 West (Zoning is 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:

- Land use summary
- Phasing
- Landscaping plan
- 250 West cross-section
- Trails
- Conditions

Mr. Henke also made the following comments:

- There was a question if some of the interior trails/sidewalks should be concrete or asphalt. The Planning Commission recommended that any trail in the open space be paved asphalt.
- The Parks, Trails, and Trees Committee recommended private trails with a public access easement and the HOA paying for maintenance.
- Should the driveways be concrete through the asphalt trails?
- Recommended that there be a concrete sidewalk as indicated on the east side of 175 West from Saddle Creek Circle to 900 South.
- The applicant would pay all the Farrell water line extension agreement at one time.
- The applicant would pay the Center Street water line extension agreement by phase.

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 applicant wanted an eight-foot asphalt trail along the east side of 175 West which would replace the sidewalk.
- The trail behind the interior residences should be private. This allowed the HOA to regulate its use.
- Easements would be granted for the trails to maintain the required open space.
- The master plan approved both public and private trails in the project.

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

- Public and private trails in the same development were problematic.
- The public would use trails if they were public or private.
- Would the City be liable if someone left the trail and went into someone's backyard?
- The issue of the public trails in the Cobblestone Subdivision became contentious.
- The trails should be clearly marked as public or private. The route of the public trails should be marked.
- It was fine to have concrete driveways through asphalt trails.
- The six-foot trail should be public except the portion that went to the 100 West cul-de-sac. The landscaping around the trail would not be the City's responsibility.

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 Simonsen moved to grant preliminary approval for phases two and three of the Saddle Creek Ranch Subdivision with the following findings and conditions:

- The proposed plans for phases two and three complied with the requirements of the land use code.
- The proposal met the vision as described in the General Plan for the R-1-22 zone.
- Road improvements along 250 West would benefit the community in general.
- The public trail built along 250 West would help complete the master trail plan that would benefit members of the community.
- No plat map could be recorded until the existing plat map had been vacated by the county recorder.
- Any failure to submit a proposed final plan and final approval submittal package within one year of the approval of the Preliminary Plan by the City Council would terminate all proceedings and render the Preliminary Plan null and void.
- Required water extension line agreement fees were paid for all 36 lots before the recording of the plat for Phase 1, unless there was an agreement signed by all parties, allowing the developer to pay over time.
- Draft codes, covenants, and restrictions were submitted with the application for final approval that would form the HOA and have a maintenance plan for the common area and amenities.
- When submitting for final approval, the applicant would be required to submit a will-serve letter from the Midway Irrigation Company.
- The developer could do either an asphalt trail on the east side of 175 West or make the

six-foot trail public.

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. Closed Meeting to Discuss Pending or Reasonably Imminent Litigation

A closed meeting was not held.

15. Adjournment

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

The meeting was adjourned at 10:45 p.m.



Celeste Johnson, Mayor



Brad Wilson, Recorder