

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

**Tuesday, 7 September 2021, 6:00 p.m.
Midway Community Center, 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, and The Wasatch Wave. The public notice/agenda was published on the Utah State Public Notice Website and the City's website. A copy of the public notice/agenda is contained in the supplemental file.

1. Call to Order; Pledge of Allegiance; Prayer and/or Inspirational Message

Mayor Johnson called the meeting to order at 6:01 p.m.

Members Present:

Celeste Johnson, Mayor
Steve Dougherty, Council Member
Jeff Drury, Council Member (Participated electronically).
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

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. She gave the prayer and/or inspirational message.

2. Consent Calendar

- a. Agenda for the 7 September 2021 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 17 August 2021 City Council Work Meeting
- d. Minutes of the 17 August 2021 City Council Regular Meeting

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

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

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

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

Cemetery / Moratorium

Council Member Orme was working with the City Sexton on the issues related to the cemetery moratorium.

State Legislature / Nicotine in Electronic Cigarettes

Mayor Johnson reported that the Utah State Legislature wanted to allow higher levels of nicotine in electronic cigarettes. She indicated that mayors and local health departments had convinced legislators to abandon the proposal.

Parks Committee / Volksmarch

Council Member Simonsen reported that the Midway City Parks, Trails, and Trees Advisory Committee would have a booth at the Volksmarch.

Albert Kohler Legacy Farm / Preservation

Council Member Orme reported that the preservation of open space at the Albert Kohler Legacy Farm had been completed. Grant Kohler, owner, and Wendy Fisher, Utah Open Lands Executive Director, were thanked for their work on the project.

Volksmarch / Support

Council Member Orme asked everyone to support the upcoming Volksmarch.

Parks Committee / Event

Council Member Simonsen reported that the Midway City Parks, Trails, and Trees Advisory Committee would hold an event on September 25th.

Roads / Surface Treatments

Wes Johnson reported that surface treatments had been completed on certain city roads.

Council Member Drury asked why Center Street was chip sealed when River Road was closed. Mr. Johnson responded that the contractors ran out of oil the month before and the rescheduled days was the only opportunity to do the work. He added that Center Street would be opened the following day.

River Road / Reconstruction

Wes Johnson reported that the reconstruction of River Road would be completed up to 200 North before winter. He said that the rest of the project to 300 North would have to be done the following year.

Grant / Arborist

Mayor Johnson reported that the City received a grant for an arborist to inventory and recommend a maintenance program for the trees in its parks.

HVRR / Legislature / Observation Car

Mayor Johnson reported that the Heber Valley Railroad (HVRR) was working with the State Legislature. She added that it had been outbid for the purchase of an observation car.

HVSSD / Rates and Fees

Mayor Johnson reported that the Heber Valley Special Service District (HVSSD) was completing a rate study and would increase its rates and fees.

- 5. Heber Valley Corridor Environmental Impact Statement** (UDOT – Approximately 15 minutes) – Received a presentation from the Utah Department of Transportation (UDOT) regarding the Heber Valley Corridor Environmental Impact Statement.

Craig Hancock, Andrea Clayton, and Jeff Dupaix, with the Utah Department of Transportation, gave a presentation on the environmental impact statement for the Heber Valley Corridor. They specifically reviewed the following items:

- What was an environmental study?
- Purpose and need
- Alternative concepts development
- Public meetings
- Public comment period
- Project timeline and process

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

6. Rising Ranch Subdivision / Revised Final Approval (City Planner – Approximately 10 minutes) – Discuss and possibly revised the final approval for the Rising Ranch Subdivision, located at 425 North Homestead Drive (Zoning is R-1-22), to combine two lots.

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

- Land use summary
- Location of the development
- Approved plat map
- Proposed plat map
- Access standards
- Access on Homestead Drive
- Approval findings and conditions
- Proposed findings for the revision

Mr. Henke also made the following comments:

- The request was a revision of the final approval granted by the City Council.
- The approved plat map had not yet been recorded.
- The applicant did not make any request regarding access to the combined lot.

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 combined lot should access Homestead Drive, instead of Swiss Alpine Road, to minimize vehicles crossing the trail.
- Trails throughout the City were riddled with driveway crossings.
- Access should be limited on Homestead Drive because of the speed of vehicles, etc.
- The trail was a path for school children because school buses would not use Swiss Alpine Road.
- Swiss Alpine Road was on a slope.
- The City could limit access on collector but not local roads.
- UDOT had approved the planned accesses on Homestead Drive. It would not allow the access for the new lot four to be further to the south.
- An access on Swiss Alpine Road would not make the trail dramatically less safe. Eliminating the access would make the trail safer.

- The combined lot could be modified to exclude the access for lot four.
- Access on Homestead Drive should be limited by the City. It had restricted access on Stringtown Road.
- Choosing one access did not substantially change what was already approved.

Nathan Morris, representing the applicant, made the following comments:

- He represented the developer and not the buyers for the combined lot.
- Access to the combined lot was not on the agenda. Council Member Dougherty responded that he raised the issue at the last council meeting. Michael Henke added that his staff report included the issue.
- The applicant preferred not to have the access for the new lot four to go through the combined lot. The access required a strange approach from the road.
- The buyers for the combined lot wanted a more private entrance. They bought the lot with access to Swiss Alpine Road.
- Did not know if the buyers would abandon the access to Homestead Drive in exchange for access to Swiss Alpine Road.
- A driveway on Homestead Drive would be more problematic.
- The developer agreed to a wider trail and could limit trees to improve the sight view.
- Combining the lots would reduce the traffic created by the project. Council Member Dougherty responded that a large house could be built on the combined lot which would have just as much traffic as two smaller houses. Mr. Morris indicated that a plan for a large house had not been submitted.

Motion: Council Member Dougherty moved to modify the prior approval to eliminate lots three and four and to combine them into lot three with the following findings and conditions:

- The new lot three would only be accessed from Homestead Drive.
- The proposal met the intent of the General Plan for the R-1-22 zone.
- The proposal complied with the land use requirements of the R-1-22 zone.
- A public trail would be built as part of the subdivision that would benefit members of the community.
- 0.956 acres of open space would be created as part of the development.
- The Homestead Drive half width adjacent to the development would be widened to 26 feet.
- The duration of final approval would be for one year from the date of final approval of the development by the City Council. Should a final plat not be recorded by the County Recorder within the one-year period of time, the development's approval would be voided, and both preliminary and final approvals would have to be re-obtained, unless, on a showing of extenuating circumstances, the City Council extended the time limit for plat recording, with or without conditions.
- A plat note would be included that precluded access to lot three from Homestead Drive.
- Funds to build the five-foot bike lane along Homestead Drive adjacent to this project would be added to the general trails fund and would be used when the bike lane was completed in the future as part of a larger improvement project.
- The plat and development agreement would clearly state that parcel eight was not currently considered a building lot and what needed to occur for the parcel to become buildable. This would include at a minimum the need for additional planning approval, possibly amending the development agreement, obtaining a minimum of 115 feet of

frontage along a road built to city standards, lot improvements that included a sewer connection, culinary water connection, irrigation connection, adequate access to a fire hydrant, etc.

- The trail easement along Swiss Alpine Road would be a minimum of 15 feet wide.
- A different name would be used on the plat map for the area shown as open space.

Second: The motion did not receive a second.

Motion: Council Member Payne moved to approve the consolidation of lots three and four into one single lot with the following findings and conditions:

- The new lot would only be accessed from either Homestead Drive or Swiss Alpine Road.
- The proposal met the intent of the General Plan for the R-1-22 zone.
- The proposal complied with the land use requirements of the R-1-22 zone.
- A public trail would be built as part of the subdivision that would benefit members of the community.
- 0.956 acres of open space would be created as part of the development.
- The Homestead Drive half width adjacent to the development would be widened to 26 feet.
- The duration of final approval would be for one year from the date of final approval of the development by the City Council. Should a final plat not be recorded by the County Recorder within the one-year period of time, the development's approval would be voided, and both preliminary and final approvals would have to be re-obtained, unless, on a showing of extenuating circumstances, the City Council extended the time limit for plat recording, with or without conditions.
- Funds to build the five-foot bike lane along Homestead Drive adjacent to this project would be added to the general trails fund and would be used when the bike lane was completed in the future as part of a larger improvement project.
- The plat and development agreement would clearly state that parcel eight was not currently considered a building lot and what needed to occur for the parcel to become buildable. This would include at a minimum the need for additional planning approval, possibly amending the development agreement, obtaining a minimum of 115 feet of frontage along a road built to city standards, lot improvements that included a sewer connection, culinary water connection, irrigation connection, adequate access to a fire hydrant, etc.
- The trail easement along Swiss Alpine Road would be a minimum of 15 feet wide.
- A different name would be used on the plat map for the area shown as open space.

Second: Council Member Drury seconded the motion.

Discussion: Council Member Simonsen noted that the access requirement would not be easy to monitor or enforce. Council Member Dougherty asked if the plat map should include a note to facilitate enforcement.

Council Member Simonsen asked what would happen if the corner of the combined lot was sold to the owner of the lot to the south. Council Member Dougherty responded that would require a plat map amendment. Council Member Simonsen wanted to resolve that issue that night. Council Member Payne indicated that the interest in the easement could be quit claimed. Council Member Dougherty disagreed. He recommended that such a change come back to the Council as an amendment. Council Member Orme questioned why the Council wanted it to

come back.

Council Member Dougherty asked how the access conditions would be enforced especially after several owners. Council Member Payne responded that a similar condition was placed on Ryan Davis' subdivision.

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

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

7. Resolution 2021-19 / Rising Ranch Development Agreement Revision (City Attorney – Approximately 5 minutes) – Discuss and possibly amend the approval for Resolution 2021-19 to revise the development agreement for the Rising Ranch Subdivision located at 425 North Homestead Drive (Zoning is R-1-22).

Corbin Gordon explained that he would revise the development agreement to reflect the new approval.

Motion: Council Member Payne moved to approve the development agreement as drafted with the additional corrections, related to the added condition of approval, and the subdivision being reduced to six lots.

Second: Council Member Drury seconded the motion.

Discussion: None

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

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

8. Ordinance 2021-31 / Gross Square Footage (Midway Heritage Development – Approximately 30 minutes) – Discuss and possibly adopt Ordinance 2021-31 amending Section 16.5.3.i2c of the Midway City Municipal Code regarding gross square footage in structures. Recommended without conditions by the Midway City Planning Commission.
Public Hearing

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

- Current code

- Proposed amendment
- Impact
- Applicant's justifications for the amendment
- Proposed language.

Mr. Henke also made the following comments:

- Midway Heritage Development applied for the change.
- The proposal would adjust gross square footage for mixed-use developments.
- A change to the proposal had been suggested for developments over 25 acres. The change would probably apply only to the applicant's development.
- 25 acres was equivalent to three and a half of the City's blocks.
- The City would not loose out on any commercial development.
- Suggested ten units per acre in the commercial zones but a previous council raised that to 20. It was difficult to fit that many units on an acre.
- The General Plan recommended mixed use in the commercial zones.
- Special noticing would be required to change the number of units per acre.
- The change would not apply to the resort zone. It would only apply to new applications, but the applicant could use it for his existing development.

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

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

- There should not be new residential development in the commercial zones.
- The focus should be on commercial zoning as a whole.
- Three story apartments would be required to get 20 units per acre.
- Midway should not be like Heber City with big box businesses.
- Midway's commercial areas should be quaint and eclectic.
- Two story commercial developments were not successful.
- Main Street was too long to have nothing but commercial development.
- Residential development was driving the market.
- Both residential and commercial development should be reduced along Main Street.
- The change should be restricted just to the applicant's development.
- The issue before the Council did not include the amount of development per acre.
- The proposal should be considered with other changes to the commercial zones.
- It addressed an ambiguity in the Municipal Code.
- It reduced the overall requirement for commercial while maximizing residential which did not benefit the City or its taxpayers.

Dan Luster, applicant, reviewed the purpose for the proposal and made the following comments:

- The requirement for commercial development increased as a project included more open space. Not counting garages would resolve this issue.
- Questions regarding all the commercial zones should be considered at another time.
- Was trying to increase open space along Main Street.
- His current development could work under the current code, but it would have more two story and blocky buildings.

- The proposal decreased parking on the streets.
- More open space rather than commercial development should be encouraged along Main Street.

Public Hearing

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

Paul Berg, Berg Engineering Resource Group

Mr. Berg indicated that some municipalities counted gross square footage while others did not include mechanical rooms, hallways, etc.

Athina Koumarela

Ms. Koumarela indicated that property taxes were based on the square footage of a house. Council Member Orme responded that garages were not included in the property tax calculation.

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

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

- The result but not the approach was good.
- Should the proposal exclude the frontage and number of units per acre requirements? This would reduce the required amount of commercial development.
- Less commercial and more open space increased the rural feel.
- The amount of commercial in a mixed-use project could be reduced by having less residential.
- No one liked the applicant's approved development.
- The proposal would effectively apply only to the applicant's project.

Motion: Council Member Dougherty moved to approve Ordinance 2021-31 as presented by staff.

Second: Council Member Orme seconded the motion.

Discussion: Council Member Simonsen asked the reasons for the frontage and units per acre requirements. Michael Henke responded that they were needed to determine setbacks and limit density.

Council Member Drury disagreed with making decisions based on a specific project. He also disagreed with making a decision based on the applicant's approved development.

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

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

Motion: Without objection, Mayor Johnson recessed the meeting at 8:15 p.m. She reconvened the meeting at 8:24 p.m.

9. Resolution 2021-27 / Watts Remund Farms Master Plan Agreement Second Amendment (Berg Engineering – Approximately 30 minutes) – Discuss and possibly approve Resolution 2021-27 adopting a second amendment of the master plan agreement for the Watts Remund Farms PUD located at 200 East 600 North. Recommended without conditions by the Midway City Planning Commission.

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

- Land use summary
- Location of the development
- Master plan approval
- Proposed amendments
- Existing 2019 master plan
- Proposed master plan
- Possible findings
- Proposed conditions
- Pictures of the trail and fencing going to 250 North

Mr. Henke also made the following comments:

- The request amended the master plan for the project.
- Some units would encroach into the wetlands buffer with the amendment.
- Phases four and five would be affected.
- The existing master plan allowed other units to encroach into the buffer.
- The Council could grant encroachments into the buffer.
- Phase four had received preliminary approval but phase five had not.
- The amendment met the open space requirements.
- The changes to the water requirements were insignificant.
- The closest structure to the property line would be an outbuilding.
- The applicant could pave a gravel trail on 300 North and connect it to a sidewalk in the project in exchange for the request. This trail would also be a hard surface emergency access.
- The applicant could also build a trail connecting to 200 East on 600 North.
- Partial results had been received from the water studies.
- The project setbacks were grandfathered from a previous code.

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 Municipal Code indicated that the City Engineer recommended an encroachment into the open space buffer. What was his criteria for a recommendation? The City Engineer looked at council approval, amenities, the type of development, etc. This information was not included on the proposed plat map.
- Decks had to be in the building envelope unless otherwise noted.
- The request could allow a 35-foot-high structure next to wetlands.
- The City Engineer had granted encroachments, without council approval, for driveways and sports courts.
- Phase five could be affected by ongoing water studies.

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

- Building envelopes had been increased in the first three phases to include roof overhangs.
- The houses would not be any larger.
- The envelopes were also being increased for decks.

Public Hearing

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

Steve Ritland

Mr. Ritland asked if the height of the units would change. Michael Henke responded that they would not change.

Athina Koumarela

Ms. Koumarela read the section of the Municipal Code regarding wetlands and surface grading. She made the following comments:

- The original setback should be honored.
- The request would set precedence.
- Roof overhangs should not be so close to wetlands.
- The setbacks had been discussed in many meetings and now the developer wanted to change them.
- The larger setbacks were a concession to the neighbors.
- Work along her fence line needed to be completed.
- The water data had fluctuated significantly.

Note: Ms. Koumarela also submitted written comments which are contained in the supplemental file.

Cathy Philpot

Ms. Philpot made the following comments:

- The development caused significant water problems on her property.
- Reed grass and mud had increased on her property.
- The humidity was 90% underneath her house.
- There was more water in the pasture to the south of her house.
- The increased water was happening during a drought.
- The life of her house would be reduced.
- Gave an easement for infrastructure for the property.
- Water from the east side of the project was flowing down to her property.
- Water was coming out of the ground and going into the ditch along 250 North.
- The setbacks should not be reduced.
- She was being taken advantage of.
- Was told there would be no further approvals if the problems continued.
- Her property taxes had significantly increased.
- Did not want the open space to be lost.
- French drains eventually plugged off.

Ron Meek

Mr. Meek made the following comments:

- Put in a drain on his property.
- Had to also install a sump pump.
- Water was coming up in his lawn.
- The value of his property was being reduced.
- He was on a fixed income.

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

Russ Watts, applicant, made the following comments:

- Was working on the water issues and wanted them resolved before approval was granted for the two phases.
- Cleaned the ditch as a service but removed clay in the process which effected the flow of water.
- Was dedicating 50% open space.
- Would use the same house plans as the other phases.
- The rest of the development had dried up except for the fifth phase.
- The majority of the water and sewer had been installed at the request of the City.

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

- Property owners could protest their tax bills with the Board of Equalization.
- The City Engineer, project developer, and project hydrologist had met but a plan had not

- yet been submitted to mitigate the flow of the water.
- The HOA for the project could continue to monitor the piezometers.
- Did the bond for the project cover the water issues?
- Pipes and French drains could be cleaned by the HOA in conjunction with the cleaning of the sewer lines.
- A rock saw had been used and discharged on a narrow area of Ms. Koumarela's fence line.
- The developer had voluntarily increased the setbacks up to 100 feet in some areas.
- The setbacks should not be reduced.
- Units had been removed from one side of a road, in the project, and other units allowed to go into the wetlands buffer. This helped increase the setbacks.
- The City should do all that it could to mitigate the water issues.
- The request should be tabled to improve the location of Unit 96 and address other issues.
- The wetlands buffer could be violated more easily than people thought.
- An approval was meaningless if the project could not be built because of the groundwater.
- Clay dams had been installed to prevent ground water from flowing along the buried infrastructure. The clay could be forcing the water to neighboring properties.
- Should piezometers be placed on the neighboring properties?
- The ditch along 250 West now included watercress which indicated that it had fresh water.
- The utilities had already been installed in the cul-de-sac so the location of the units could not be moved. The floorplan for Unit 96 might have to be changed.

Motion: Council Member Simonsen moved to table Resolution 2021-27, and that it be reviewed by the applicant and the City Council to be brought back to the next council meeting if the following issues had been resolved:

- Unit 96 fixed by keeping the setback at 42 feet.
- The water issues reviewed to determine if they should be dealt with now or later and how they would be monitored and prevented over time.

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: Council Member Drury moved to continue the meeting 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

10. The Farm at Wilson Lane / Final Approval (Berg Engineering – Approximately 10 minutes)
– Discuss and possibly grant final approval for The Farm at Wilson Lane located at 1500 North Canyon View Road. Recommended without conditions by the Midway City Planning Commission.

Michael Henke indicated that no significant changes had been made since preliminary approval was granted.

Motion: Council Member Dougherty moved to grant final approval for The Farm at Wilson Lane.

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	Nay
Council Member Simonsen	Aye

Council Member Payne indicated that he voted against the motion because he wanted the open space to be along Canyon View Road.

Motion: Council Member Dougherty moved to continue the meeting 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. Resolution 2021-28 / The Farm at Wilson Lane Development Agreement (City Attorney – Approximately 5 minutes) – Discuss and possibly approve Resolution 2021-28 adopting a development agreement for The Farm at Wilson Lane located at 1500 North Canyon View Road.

Paul Berg, representing the applicants, indicated that he was not the signer on the agreement.

Motion: Council Member Orme moved to approve Resolution 2021-28 adopting the development agreement for The Farm at Wilson Lane with no changes.

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 Nay
Council Member Simonsen Aye

Council Member Payne indicated that he voted against the motion because he wanted the open space to be along Canyon View Road.

Motion: Council Member Dougherty moved to continue the meeting to consider Item 12.

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. Haynie Subdivision / Preliminary & Final Approval (Berg Engineering – Approximately 30 minutes) – Discuss and possibly grant preliminary and final approval for the Haynie Density Reduction Subdivision located at 151 East 600 North (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
- Density determination
- Location of the development
- Pictures of the property
- Proposed plat map
- Site plan
- Water board recommendation
- Planning commission recommendation
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- A house was already being built on the property which was a lot of record.
- The density was within 1/100th of the amount required. Was comfortable rounding up to the require amount.
- There could be five to six lots on the property.
- All the lots would be accessed from a shared driveway.
- A section of 600 North, which was recently paved, would have to be removed and repaved to install the utilities.
- The developer was required to install a bike lane on the north side of 600 North along the project.
- There were not corner lots in the project because of the shared driveway.
- The Municipal Code was not clear on what would be the rear setback. Usually considered it the setback opposite the front door of the house.

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 bike lane on the south side of 600 North could be widened to be a connection.
- It should be clear how any money paid to the City would be used.

Public Hearing

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

Glenn Lent

Mr. Lent, representing the applicant, did not understand why a bike lane was needed on the north side of 600 North when one already existed on the south side. He thought that the City was treating the requirement like an impact fee. Mr. Henke responded that both bike lanes were shown on the City's trails plan.

Mr. Lent asked if the north lane would be built immediately? Mr. Henke did not know when it would be built. He noted that the trail plan could change in the future.

Mr. Lent stated that the City was double dipping by requiring money for the bike lane and a trails impact fee. Wes Johnson responded that the City required the same thing with the Cozens Subdivision which Mr. Lent was involved with. Mr. Henke added that all developments were treated the same.

Mr. Lent wanted the money to be used only for the north bike lane. Mr. Johnson responded that it would go into a fund and could be used somewhere else.

Council Member Payne indicated that the Council could not tie a future council's hands regarding trails, etc.

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

Motion: Council Member Dougherty moved to table the application for the City Attorney to consider the position the City wanted to take to be on firm legal ground.

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: Council Member Orme moved to continue the meeting 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

13. Resolution 2021-30 / Haynie Subdivision Development Agreement (City Attorney – Approximately 5 minutes) – Discuss and possibly approve Resolution 2021-30 adopting a development agreement for the Haynie Density Reduction Subdivision located at 151 East

600 North.

Motion: Council Member Simonsen moved to table Resolution 2021-30 because it was tied to the previous item.

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: Council Member Drury moved to not continue the meeting to consider Item #14.

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

14. Resolution 2021-26 / Fees for Public Buildings (Mayor Johnson – Approximately 15 minutes) – Discuss and possibly approve Resolution 2021-26 amending the Midway City Fee Schedule regarding fees for the use of public buildings.

The item was not considered.

Motion: Council Member Dougherty moved to continue the meeting to consider Item #15.

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

15. Mountain Spa Property / Letter of Commitment Second Revision (City Attorney – Approximately 5 minutes) – Discuss and possibly approve a second revision to a letter of commitment for the reduction of density on the Mountain Spa Property on the west side of River Road and south side of Burgi Lane. The revision would increase Midway City’s commitment from \$1.4 million to \$1.5 million.

Corbin Gordon made the following comments:

- The Council originally approved providing \$1.5 million to reduce density in the project.
- The applicant then returned and requested that the amount be reduced to \$1.4 million. The Council revised the letter of commitment to the reduced amount.
- The applicant now requested that the amount be raised back to \$1.5 million.

Motion: Council Member Dougherty moved to approve the second revision of the letter of commitment and authorized the Mayor to sign it.

Second: Council Member Simonsen seconded the motion.

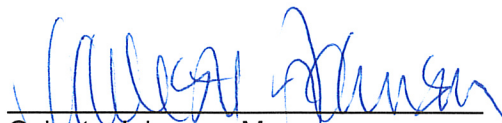
Discussion: None

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

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

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

The meeting was adjourned at 10:31 p.m.



Celeste Johnson, Mayor



Brad Wilson, Recorder