

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

**Tuesday, 19 October 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 6:07 p.m. She excused Council Member Drury.

Members Present:

Celeste Johnson, Mayor
Steve Dougherty, 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

Members Excused:

Jeff Drury, Council Member

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. Council Member Orme gave the prayer and/or inspirational message.

Note: Council Member Orme left at 6:09.

2. Consent Calendar

- a. Agenda for the 19 October 2021 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 5 October 2021 City Council Work Meeting
- d. Minutes of the 5 October 2021 City Council Regular Meeting

- e. Courtland Nelson to a Second Four Year Term on the Midway City Open Space Advisory Committee
- f. Natalie Streeter to a Second Four Year Term on the Midway City Open Space Advisory Committee
- g. Woody Woodruff to a Second Four Year Term on the Midway City Open Space Advisory Committee

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

Council Member Simonsen indicated that the committee members, who were on the consent calendar for reappointment, were doing an exceptional job.

Motion: Council Member Dougherty moved to approve the consent calendar including the reappointment of Courtland Nelson, Natalie Streeter, and Woody Woodruff who were doing an extraordinary job.

Discussion: Michael Henke indicated that Dave Carson had also done an exceptional job on the Open Space Committee but asked not to be reappointed.

Second: Council Member Payne seconded the motion.

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

Council Member Dougherty	Aye
Council Member Drury	Excused from the Meeting
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.

River Road Project (60 South to 300 North) / Update

Nephi Jensen asked for an update on the River Road Project. Council Member Simonsen gave an update on the project and the related detour. He added that Wes Johnson would prepare a change order to extend the project by 120 days. He noted that the change order would not include a cost increase.

Water Quality

Suzette Gertsch indicated that the culinary water at her house was yellow and had ruined her humidifier. She asked what should be done. Wes Johnson responded that the City's monthly water samples were good. He indicated that the Public Works Department could test the water at her house to determine if there was a problem. Council Member Dougherty added that the

annual water quality report was on the City's website. He suggested that her water heater or expansion tank could be failing.

No further comments were offered.

4. Department Reports

Housing Authority / Restructuring

Council Member Payne reported that the Wasatch County Housing Authority was interviewing firms to assist it in a restructuring.

Ice Rink / Header Leaks

Wes Johnson made the following comments:

- Several leaks in the ice rink header had been found and repaired.
- Replacement brine would be ordered.
- The chiller would be started on November 1st.

Water / Age

Wes Johnson reported that it would cost \$107,000 to determine the amount of time the water, in the City's culinary sources, had been underground. Council Member Dougherty noted that the current drought could affect the flow rate from the sources. Mayor Johnson recommended that the Council consider the issue when Council Member Drury was in attendance. Council Member Simonsen indicated that there was enough money in the water fund for the test.

The Highlands at Soldier Hollow / Well and Water System

Council Member Dougherty made the following comments:

- The drillers, for the well at The Highlands at Soldier Hollow, had reached the required depth.
- The well may not be as good as hoped but should be good enough.
- An agreement for the well and water system would be prepared.

Pressurized Irrigation System / Shut Down

Council Member Dougherty reported that the pressurized irrigation system had been shut down for the winter.

River Ditch / Pipe

Council Member Dougherty reported that the pipe, being stored on River Road, would be used to slip line the existing pipe for the River Ditch.

Midway Business Alliance / Meeting

Council Member Dougherty reported that Tonia Turner, who managed the City's souvenir shop, would organize the next meeting for the Midway Business Alliance.

HL&P / EV Stations / Impact Fee Report

Council Member Dougherty reported that a groundbreaking ceremony had been held for EV stations owned by the Heber Light & Power Company (HL&P). He added that a public meeting would be held by HL&P regarding its most recent impact fee report.

Cowboy Poetry / Attendance

Council Member Orme reported that the Heber Valley Western Music and Cowboy Poetry Gathering was held that week and was impressive. She indicated that attendance at the event was down because of fall break.

Businesses / Employees

Council Member Orme reported that local businesses needed employees. She encouraged retirees to contact her to work periodic shift at these businesses.

Health Department / Flu Clinic

Council Member Dougherty reported that the Wasatch County Health Department would hold another drive-thru vaccination clinic for the flu. He indicated that appointments were required.

- 5. Probst Farm Subdivision / Final Approval Revision** (Summit Engineering – Approximately 15 minutes) – Discuss and possibly revise the final approval for the Probst Farm Rural Preservation Subdivision, located at 496 North Center Street, to reduce the required amount of water (Zoning is R-1-15).

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

- Location of the development
- Sensitive lands
- Structures
- Non-irrigated area
- Plat map
- Approved water requirement
- Area historically irrigated
- New water board recommendation

Mr. Henke also made the following comments:

- The request was to revise the final approval.
- A small area for sensitive lands had been subtracted for the water calculation.
- The property owner had been unavailable during the pandemic to give his input on how much water should be required. He was now available and requested the change.

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

Motion: Council Member Payne moved to approve the final approval revision for the Probst Farm Subdivision, located at 496 North Center Street, to reduce the required amount of water to 11.3 acre feet as recommended by the Water Advisory Board.

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	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

6. Resolution 2021-33 / Revised Probst Farm Development Agreement (City Attorney – Approximately 5 minutes) – Discuss and possibly approve Resolution 2021-33 revising the development agreement for the Probst Farm Rural Preservation Subdivision located at 496 North Center Street.

Corbin Gordon reported that he removed the deadlines and updated the water requirement in the development agreement.

Randal Probst, applicant, explained that his goal was to not do anything with the property, so he did not want any deadlines in the agreement.

Motion: Council Member Dougherty moved to accept Resolution 2021-33 and authorize the Mayor to sign the revised development agreement for the Probst Farm Rural Preservation Subdivision.

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	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

7. Temporary Vendor Sales / Discussion (City Planner - Approximately 30 minutes) – Discuss amending Title 7 (Business Licensing) of the Midway City Municipal Code regarding temporary vendor sales.

Michael Henke gave a presentation regarding temporary vendor sales, reviewed the current code, and made the following comments:

- Wanted input from the Council.
- The uses allowed as temporary vendor sales were not defined. This could be a loophole for businesses to sell unrelated items. Could someone come onto a business's property and sell things not related to the business?
- Allowed a fireworks stand for a business that had a permanent license.
- What about other items like rug stands, etc.?
- TNT Fireworks wanted a stand in Midway.
- Agricultural products were covered by a different section of the Municipal Code.
- The proposal would cover art stands.
- Performances that solicited contributions were considered events rather than a business that required a license.
- Food trucks were covered by a different section of the Municipal Code.
- A business could have its own greenhouse in its parking lot.
- Criteria should be established for temporary vendors.
- Liked business activity but wanted Midway to be attractive.
- Did not want to take business from existing businesses.
- Requiring restrooms was the easiest way to eliminate temporary vendors.
- Racehorse Lane and its market fell under the festival market business license regulations.
- Temporary produce stands would not qualify.

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 impact of performances and soliciting needed to be addressed.
- Permits should not be required for temporary businesses. They should be covered by the license for the hosting business.
- The temporary snow cone business in front of Ridley's Market was not a problem. This business was "grandfathered" but was required to have a business license.
- Vendors were not allowed on public property unless part of a permitted event.
- The City could prohibit certain types of vendors but allow the remaining types.
- Temporary vendors could be unsightly and create parking problems.
- Temporary vendors would be a benefit if they paid taxes to Midway City.

- Food trucks paid taxes to the municipality where they were licensed.
- A vendor could be shut down if they created parking or other issues. Enforcement was problematic on weekends.
- Any regulations needed to anticipate significant problems.
- Vendors needed to be ADA compliant.
- The City's commercial area was not about temporary vendors.
- Currently any business could say they could sell anything just because they had a business license.
- Temporary vendors should be allowed if they were associated with an existing business.
- Any new regulations should not add additional enforcement.
- Were existing businesses concerned about temporary vendors? Was the City trying to fix a problem that did not exist?
- The issue would be simple if no third-party vendors were allowed.
- Many municipalities did not allow third-party vendors.
- Local businesses struggled and should not be further hindered.

8. Streetlights / Discussion (City Engineer - Approximately 45 minutes) – Discuss amending the Midway City Standard Specifications and Drawings regarding streetlights.

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

- Current Midway City requirements
- Possible options

Mr. Henke also made the following comments:

- Heber City reduced the number of required streetlights to reduce light pollution. Wasatch County was considering something similar.
- Initially wanted to reduce the number of streetlights, but Wes Johnson suggested installing the same number and turning some off.
- New technology allowed for streetlights to be turned off and their brightness adjusted.
- Streetlights did not need to be turned on until building began in that area.

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

Wes Johnson indicated that he spoke with HL&P and the new streetlights could be turned off and dimmed.

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

- It would be more costly for the City to install streetlights after a development was completed.
- Grants were available for these types of projects. HL&P also offered a partial grant.
- Less was more. Too many poles were unsightly. They should only be installed at intersections.
- The Wasatch County Fire District wanted streetlights over fire hydrants. This was not

required by Midway.

- Less light was an opportunity for crime.
- A high percentage of vehicle crimes occurred at the end of cul-de-sacs.
- The City could experiment with the new adjustable streetlights.
- It should be determined if the City would have any liability if it installed less streetlights.
- There should be a demonstration of the new streetlights.

Motion: Without objection, Mayor Johnson recessed the meeting at 7:55 p.m. She reconvened the meeting at 8:05 p.m.

9. Resolution 2021-26 / Fees and Policies for Public Buildings (Mayor Johnson – Approximately 10 minutes) – Discuss and possibly approve Resolution 2021-26 amending the Midway City Fee Schedule and the Midway City Policies and Procedures regarding fees, fee waivers, and policies for the use of public buildings.

Mayor Johnson reviewed the proposed applications for renting the City's buildings.

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

- There needed to be a policy and summary on waiving rental fees.
- Would all waivers be considered by the Council?
- There should be a recital in the resolution regarding waivers, appreciating nonprofits using the City's buildings, etc.
- Some organizations were concerned about the increase in the rental fees. Reducing or waiving fees helped with these concerns.
- It should be clear that a reduction or waiver was at the sole and absolute discretion of the City.
- Generally, waivers could be on the consent calendar.
- Could waivers be approved by the Council using email?
- Should there be a waiver committee comprised of the mayor and two council members?
- A requester should be able to wait for the next council meeting if they wanted a waiver.
- Any decision process regarding waivers needed to meet the requirements of the Open and Public Meetings Act.
- Who would consider an appeal of a waiver decision?
- The Mayor should approve waivers up to \$1,000.
- The Mayor should not have to make the decision by herself especially the ones that were controversial.
- Some alcohol permits were approved administratively but could be referred to the Council.
- The Mayor could refer controversial requests to the Council.
- The applications outlined a process but not a policy.
- Something needed to be adopted because people wanted to rent the buildings.
- The application form had been revised so the proposed addendums were no longer necessary.
- A policy could be prepared for the next council meeting.

Motion: Council Member Dougherty moved to adopt Resolution 2021-26 amending the Midway

City Fee Schedule and Policies and Procedures for the rental of public buildings and related matters with the following conditions:

- The resolution heading state "...the fee schedule and providing applicable applications and agreement forms and related matters."
- The resolution would be as stated in the meeting packet with the following two exceptions:
 - A sixth recital would be added that would read "Whereas Midway City appreciates and supports nonprofit groups' use of city facilities and in consideration will accept fee reduction/waiver applications to be processed under the policy and procedure adopted by the City Council."
 - The resolution would refer to "city facilities".
- The red highlighted sentences under the fee reduction/waiver application heading would read "Fee reduction or waiver requests shall be submitted to the City pursuant to the policy addressing the same. You will be notified in approximately two weeks."

Second: Council Member Simonsen seconded the motion.

Discussion: Council Member Simonsen asked if the resolution would be replaced when the anticipated changes were made. Corbin Gordon responded that another resolution would only adopt a policy.

Council Member Simonsen asked if the motions should state "nonprofit groups that provided a public benefit". Council Member Dougherty responded that the person approving the waiver would make that decision. He indicated that would be the Mayor for fees under \$1,000 and the Council for greater amounts. He accepted the change.

Suzette Gertsch asked why a nonprofit organization would be favored over a for-profit organization if they both benefited the community. She reviewed the benefits of several events she organized. She noted that she chose not to start a nonprofit organization because they were encumbered by various rules and could be harder to administer. Council Member Dougherty recommended that "nonprofit groups" be changed to "community benefit organizations".

Council Member Orme emphasized that the City was not trying to make money but help pay for the cleaning and supplying of its buildings.

Council Member Payne said that the documents should not be so tightly defined that only Midway groups could receive a fee waiver or reduction.

Council Member Simonsen suggested nonprofit groups be defined as "organizations that provide a community benefit".

Amended Motion: Council Member Dougherty moved to adopt Resolution 2021-26 amending the Midway City Fee Schedule and Policies and Procedures for the rental of public buildings and related matters with the following conditions:

- The resolution heading state "...the fee schedule and providing applicable applications and agreement forms and related matters."
- The resolution would be as stated in the meeting packet with the following two exceptions:

- A sixth recital added that would read “Whereas Midway City appreciates and supports organizations that provide a community benefit and their use of city facilities, and in consideration will accept fee reduction/waiver applications to be processed under the policy and procedure adopted by the Midway City Council.”
- The resolution would refer to “city facilities”.
- The red highlighted sentences under the fee reduction/waiver application heading would read “Fee reduction or waiver requests shall be submitted to the City pursuant to the policy addressing the same. You will be notified in approximately two weeks.”

Second: Council Member Simonsen seconded the amended motion.

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

Council Member Dougherty	Aye
Council Member Drury	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

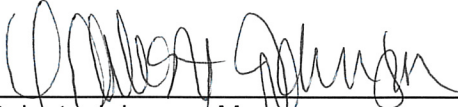
10. Closed Meeting to Discuss Pending or Reasonably Imminent Litigation and the Purchase, Exchange, or Lease of Real Property.

A closed meeting was not held.

11. Adjournment

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

The meeting was adjourned at 9:00 p.m.



 Celeste Johnson, Mayor



 Brad Wilson, Recorder