

**MINUTES OF THE
MIDWAY CITY COUNCIL
(Regular Meeting)
Tuesday, 21 December 2021, 5:00 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.

Members Present:

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

Staff

Michael Henke – City Planner
Melannie Egan – Admin. Assistant
Joe Serre – City Engineer
Luke Robinson – Planner
Corbin Gordon, Attorney

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

Mayor Johnson called the meeting to order at 6:15 p.m.

2. Consent Calendar

Be it hereby moved that the following consent calendar items stand approved:

- a. Agenda for the 21 December 2021 City Council Regular Meeting
- b. Warrants
- c. Connie Tatton as a Member of the Midway City Board of Adjustment
- d. Whitaker Farms Subdivision One Year Warranty Period

Motion: Council Member Payne moved to approve the consent calendar with the agenda, Warrants, Connie Tatton and Whitaker Farms Subdivision's One Year Warranty Period

Second: Council Member Simonson seconded the motion.

Discussion: None

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

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

- 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

- a. Buildings, Cemetery, Legislative, and Tourism
No new reports
- b. Roads, Sidewalks, Parking, Parks, Trails, and Trees
No new reports
- c. Heber Valley Railroad, Heber Valley Special Service District, and the Midway Sanitation District
No new reports

5. Resolution 2021- 09 / The Village Master Plan Agreement

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).

- Hails Engineering has made all revisions on the traffic study that was received today
- Corbin Gordon made all changes and new edits from a meeting that happened yesterday. Corbin explained those edits to the council.
 - Open Space
 - Water Chart- Specify the amount that is in escrow before Phase 3
 - Roads and Trails
 - Add all of these from the slides
 - Fences and locations of berms to block headlights on East and West sides of the project
 - Plat designation of restricted commercial space and storage space. Include parking.
 - Underground parking and water. Create a pathway to come forward with data.
 - Traffic Signal at Main Street and River Road. Developer shall pay 50% of any city costs expended on the installation of the traffic signal for required infrastructure, expansion of pavement, landscaping, etc.

Ryan Hails from Hails Engineering clarified the various revisions.

There was a discussion about a left-hand turn lane on River Road to the 3rd access and does it need to be put in the agreement. The language in the traffic study states that UDOT is not warranted and not required at this time. Michael Henke stated that each phase is a conditional use and safety issues would be studied at that point and be addressed at Phase 3 as safety concern. Dan Luster stated that he would be happy to pave the extra area when the need arises.

There was a discussion regarding the fencing, walls, and berms. It was agreed upon that they would state that this is a conditional use permit and will be addressed with at each phase to mitigate these issues with the neighbors and legally enforceable.

There was a short discussion regarding the storage space for the commercial businesses.

Changes that Corbin made yesterday, are red lined in the report presented in tonight's meeting.

Include totals for water chart for phase 1 and 2 and give an estimate for phase 3
The letter from Horrocks is Exhibit C- Transportation Division and the corrections.
Roads and trails are private
Rewrite L- Fences, berms, and lighting
Paragraph N- Add to underground Parking
1-S take out all reference to administrative
Add on V, reference to River Road, Turn Lane on River Road and reference as Access 3
Last Sentence- Traffic signal. Edit the title.

Motion: Council Member Drury moved to 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). With all the changes made in the packet to the agreement as noted by Corbin Gordon and modified and noted in this meeting.

Second: Council Member Dougherty seconded the motion.

Discussion: None

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

Council Member Dougherty

Council Member Drury

Council Member Orme

Council Member Payne

Council Member Simonsen

6. Ordinance 2021-40 / Landscaping

Discuss and possibly adopt Ordinance 2021-40 amending Title 16 (Land Use) of the Midway City Municipal Code regarding landscaping. Recommended for approval by the Midway City Planning Commission. **Public Comment**

Michael Henke gave a presentation

Proposal Background

The purpose of this item is to update the landscape requirements for new development applications and to ensure that the requirements are consistently referenced in the various development sections of the code.

Proposed Code Language (Adjustments in Red)

16.13 SUPPLEMENTARY REQUIREMENTS IN ZONES

16.13.22 Landscaping Plan – Sections C & G

C. When landscaping is required as a part of a site plan, conditional use, ~~small or~~ standard subdivision, PUD, resort, ~~commercial~~, or other development approved under this Title, such landscape plans shall incorporate compliance with all other required conditions of the City for the project.

G. Site Plan Required. Where landscaping is required in this Title, a site plan showing the proposed landscaping development, watering system and use of the property shall be submitted to ~~the land use authority for approval. Planning Commission and City Council, except that a separate site plan showing the landscape plan shall not be required for one and two-family dwellings within subdivisions or on zoning lots of record. Otherwise, the same plan used to show parking layout or other requirements for the issuance of a building permit may be used to show landscaping, providing all required landscaping is detailed adequately on said plot plan. The City Council may disapprove such plans if it determines that they are not consistent with the requirements and purposes of this Chapter.~~

16.13.22 Landscaping Plan – Section H

H. Landscape Minimums. Where landscaping is required in this Title, the following landscape requirements must be met.

I. Native or wildflower seed mixes may only be used on slopes of 20% or greater.

II. When property is developed, it must include trees at the following rates. These are in addition to any required street trees. At a minimum, trees must be spaced to accommodate their mature size:

a. Residential Development: One tree per 2,904 square feet (gross) of common and open space area (15 trees per acre).

b. New Commercial, New Mixed-Use or Business and Manufacturing Park Development: One tree per 4,840 square feet (gross) of parcel area (9 trees per acre).

c. New Resort Development: One tree per 2,904 square feet (gross) of common and open space area (15 trees per acre).

III. Street trees will be required at the following rates. Required street trees are in addition to trees required above in subsection II:

a. Planned Unit Development: Trees will be required in all park strips, or adjacent to roadways, spaced at a maximum interval of 40'.

b. Large Subdivision: Trees are only required in park strips, or adjacent to roadways, when it abuts common space or open space, spaced at a maximum interval of 40'.

c. New Commercial, New Mixed-Use, Business and Manufacturing Park or New Resort Developments: Trees will be required in all park strips, or adjacent to roadways, spaced at a maximum interval of 40'.

IV. All deciduous trees must have a minimum caliper of 2" at time of installation. All conifer trees must be a minimum of 6' in height at time of installation.

V. In all developments, no more than 20% of the proposed trees may be the same species. All proposed trees should be in compliance with any approved or prohibited tree list that is maintained by Midway City.

VI. Trees that are proposed near trails must be installed in compliance with regulations found in Chapter 16.29.

VII. Landscape plans must note how landscaping will be irrigated (broadcast, drip, etc.)

16.13.22 Landscaping Plan – Section I, J, K Sections H, I and J and renumbered I, J and K

BUSINESS AND MANUFACTURING PARK ZONE

16.4.6 Landscaping –

All land not covered by off-street parking or buildings shall be planted into lawn, trees or shrubs, and otherwise landscaped and maintained with lawns, trees and shrubs, except for permitted driveways and sidewalks. Landscaping and site drainage plans shall be submitted for all permitted (primary and secondary) and conditional uses, and will be reviewed approved as a part of conditional use and site plan approval. The plan will be reviewed by the Visual and Architectural Committee during the approval process and must meet the requirements found in section 16.13.22.

RESORT ZONE

16.15.4.G Design Guidelines –

4. Landscape Design Plan. A landscape design plan is required for all permitted and conditional uses in the Resort Zone. The plan will be reviewed by the Visual and Architectural Committee during the approval process and must meet the requirements found in Section 16.13.22. The Landscape Design Plan shall highlight the natural resources within the Resort and integrate them into the layout of the site in order to promote a connection to the natural environment.

- a. Natural features of the site, such as significant vegetation, geologic features, rock outcroppings, water bodies, wildlife habitat, and animal use pattern, shall be preserved and incorporated into the project design to the extent practicable.
- b. Project landscaping, including hardscape areas, shall be consistent with the overall design theme of the resort. Use of indigenous plant materials is encouraged. Existing vegetation shall be preserved and incorporated into the design of the project to the extent practical, especially wooded areas and other significant vegetation which provides shelter, feed or habitat for wildlife.

16.15.5.D.4 Submit an updated Design Elements Plan –

C. The Landscape Design Plans submitted with the Preliminary Development Plan Application shall be reviewed by the Visual and Architectural Committee during the approval process and must meet the requirements found in Section 16.13.22. The plan shall demonstrate that the natural resources within the Resort have been appropriately preserved and integrated into the layout of the site so that:

PLANNED UNIT DEVELOPMENTS AND STANDARD SUBDIVISIONS

16.16.7.A General Standards and Requirements -

6. A landscaping plan is required for all planned unit developments and standard subdivisions with open space and common space. The plan will be reviewed by planning staff during the approval process and must meet the requirements found in Section 16.13.22. In addition to the requirements found in section 16.13.22, all areas not covered by buildings, parking, streets or drives shall be planted with grass, trees, shrubs or other plant materials to preserve and protect the final grading plan and the drainage plan proposed are part of the project as part of the submittal of the final landscape plan. Areas may be allowed to be left in a natural state, or xeriscaped, if the Planning Commission and City Council find this more desirable than traditional landscaping; also, a permanent sprinkler system shall be installed in all landscaped areas to provide irrigation of planted areas.

Possible Findings

- The General Plan emphasizes the importance of landscaping and the city's streetscape in helping reinforce the rural feel of Midway
- The proposed adjustments will clarify when landscaping plans are required
- The proposed adjustments will clarify the landscape requirements in the code

Council Comments

All zones will have the code added to their sections.

There was a discussion regarding using wildflower mixes on lands that are less than 20%.

There was a conversation regarding having a list of approved wildflower mixes and native grasses. Michael Henke stated that there is already a list of approved trees and thinks that having a list of grasses and wildflower mixes is a good idea.

There was a conversation regarding the proposed 9 trees per acre in the commercial area and 15 for Resort Developments. Some council stated that it may be too steep. It was suggested that an offsite tree area could be developed/established for businesses and resort developments if the property cannot fit all the required trees. Keep the management at the staff level. Existing trees may count with the tree requirement.

Changes: Section H approve native grass and wildflower on slopes greater than 25%. Create an approved list of Trees. Section B increase the trees to 15 and have the option to give the trees to the city and can be planted offsite. Add existing trees can be counted in the tree requirement standard. Part 5 all development 20% may be the same species in the open space, but along streets, there is no requirement for specie type.

Motion: Council Member Drury moved to approve Ordinance 2021-40 amending Title 16 (Land Use) of the Midway City Municipal Code regarding landscaping with the changes that were discussed in this meeting and give the mayor final form of those changes.

Second: Council Member Dougherty seconded the motion.

Discussion: None

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

Council Member Dougherty

Council Member Drury

Council Member Orme

Council Member Payne

Council Member Simonsen

7. Ordinance 2021-41 / Mixed-Use Density

Discuss and possibly adopt Ordinance 2021-41 amending Section 16.5.3(1)(2) (Mixed-Use Standards) of the Midway City Municipal Code reducing the density for mixed-use developments greater than one acre. Recommended for denial by the Midway City Planning Commission. **Public Comment**

Michael Henke gave a presentation

Proposal Background

Section 16.5.3.1.2 of the land use code allows parcels in the C-2 and C-3 zones that are at least one acre in size and have 200' of frontage to be developed as mixed-use projects. The current mixed-use code allows developers to propose densities of up to 20 residential units per acre. These residential units are in addition to the 20% commercial square footage that is required by code. There have been discussions in the past about whether these potential residential densities are appropriate in the commercial zone. As we have reviewed as a planning staff, we feel that it would be appropriate to recommend reducing the residential density maximum to match the residential

density that is allowed in the adjoining R-1-7 residential zone, which allows for 7,000 square foot lots.

Proposed Adjustment

COMMERCIAL C-2 AND C-3 ZONES

16.5.3.1.2 – Mixed Use Standards

The current code states the following:

b. Up to 20 residential units per acre

The proposed amendment language is the following:

b. Up to 5 residential units per acre

Proposed Findings

- The proposed code text amendment would only impact mixed-use developments that are one acre or larger
- The proposed adjustment would create a more gradual transition of allowed residential densities from the commercial zones to the surrounding residential zones
- Midway would continue to require a minimum of 20% commercial density within mixed-use developments, but would limit residential to densities that match the surrounding areas
- The proposed amendment would comply with the vision of Main Street as described in the General Plan

Council Comments

Steve Dougherty suggested that we make a motion to continue this item until after we get through the General Plan. He was under the impression that it is what was agreed upon in the last meeting. There was a discussion about passing something during the moratorium for protection and then come back and make changes later. Kevin Payne is concerned about another Village coming in. Could it be possible to adopt a pending order before the moratorium ends and then we can have time to get it clean.

There was a discussion about the density of the Village Project.

Are we giving too much residential vs the percentage of commercial?

Long term should be explored

Worried about discounting the commercial, there is not enough left for our base

Addressing residential only plugs one hole. Need a short-term solution.

Motion: Council Member Simonson moved to continue Ordinance 2021-41 amending Section 16.5.3(1)(2) (Mixed-Use Standards) of the Midway City Municipal Code reducing the density for mixed-use developments greater than one. Except that we would reduce to one unit per acre in one acre and the 25 acres.

Second: Council Member Orme seconded the motion.

Discussion: For mixed use with direct staff and come back the percentage that is required and come back with solutions. What are our needs for commercial? We have very little.

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 Nay
Council Member Simonsen Nay

The motion failed

Motion: Council Member Drury moved to approve Ordinance 2021-41 amending Section 16.5.3(1)(2) (Mixed-Use Standards) of the Midway City Municipal Code reducing the density for mixed-use developments to one unit per acre in any of the three acreage categories. Also asking staff to study and explore and come back at the appropriate time with recommendations.

Second: Council Member Simonson seconded the motion.

Discussion: Council Member Drury also to state in regard to the motion:

- Still analyzing the impact on commercial space
- What our needs are in terms of commercial space over time
- Affordable housing and other varieties of housing
- May want to change the number to protect our commercial space
- Look at other possible commercial zones
- Explore the 80/20 percentage ratio of commercial space

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

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

8. Ordinance 2021-36 / Temporary Vendor Sales

Discuss and possibly adopt Ordinance 2021-36 amending Title 7 of the Midway City Municipal Code regarding temporary vendor sales.

Michael Henke gave a presentation

Proposed Background

The proposed code text amendment to Section 7.01.180 Sale from Vehicles, Temporary Structures, or Lots Prohibited would clarify existing language that prohibits sales from vehicles, temporary structures, and lots. It would also add a list of restrictions and requirements for a valid retail business to engage in “sidewalk” or “lawn” sales.

Code Text Amendment

Section 7.01.180 Sale from Vehicles, Temporary Structures, or Lots Prohibited

It shall be unlawful for a merchant without a valid retail business license to engage in retail sales within Midway City. All retail business licenses shall be issued for a specific and permanent retail location that has been inspected and approved for retail sales. Sale of any merchandise from a vehicle, temporary structure, parking lot, or parcel of land is strictly prohibited unless the sale qualifies as an on-site agricultural sale in residential zones as established in Title 16 of the Midway City Code.

This provision shall not prohibit merchants holding a valid retail business license from engaging in “sidewalk” or “lawn” sales at their designated location of business if the following restrictions and requirements are met:

1. The business must hold a current and valid “retail business” license that included at the time of issuance an inspection of the premises for purposes of affirming the location complies with applicable building and parking standards established by Midway City code.
2. No external sales booths, tents, racks, structures or goods may be placed on any existing parking stall or within a designated parking lot used by the retail business.
3. Third party vendors are strictly prohibited from engaging in any “retail sales” around, on or in any licensed retail business within Midway City. Those merchants holding a valid retail business license who allow third party vendors to violate this clause while on or within the licensed premises shall be subject to the possible suspension or even termination of their “retail business” license.
4. For purposes of accurately accounting for and paying applicable sales tax, and to assure no third-party vendors are violating City Code, all sales transacted in the outside sales booths shall be required to run through the cash register of the licensed retail business.
5. For purposes of this section, a licensed Retail Business is one which sells goods at retail directly to the consumer, dedicates at least 75% of its floor space for display and sale of goods, and pays a minimum of \$1,500.00 in sales tax annually.

This provision does not prohibit the sale of merchandise from authorized “booths” at “Swiss Days”, with the understanding that booth approval for Swiss Days falls under Section 7.05.010 Festival Market Business Licenses.

General Plan

Main Street Vision

Midway’s Main Street is the heart of the city and is a reflection of its residents. As the city grows, this main corridor has great potential to provide a public gathering place for residents and tourists to interact and coexist with one another. Future development in this area should integrate harmoniously along with the existing historic buildings, to create a lively and comfortable district. The area will cater to the pedestrian experience and incorporate access to open space such as plazas, street furniture, pocket parks, and trails. Architecture, characterized by a Swiss/European influence, should be used to create a unique identity that suits both the people and the surroundings of Midway.

GOAL 1: The most powerful and lasting image associated with Midway is Main Street so we need to preserve Main Street as the economic, architectural, and historical heart of the community which is a destination for residents, tourists, and visitors.

Objective 1: This commercial core should be developed as a distinctive shopping and business area emphasizing it as an attractive meeting place.

Possible Findings

- The proposed language more clearly states that temporary sales from vehicles, temporary structures, and lots is prohibited.
- The General Plan describes a beautiful Main Street characterized by a Swiss/European influence. It would be difficult to assure that temporary sales would promote this vision.
- The proposed language states under what regulations a permanent business can have “sidewalk” or “lawn” sales.

Council Comments

There was a clarification regarding the Festival Market License vs an existing business having a “lawn” sale on their property with their own products.

There was a discussion regarding contribution vs sales. Michael Henke stated that he would have to look into that, and it may or may not be another topic for future conversation and exploration.

The purpose of number 5 is meant to be qualifiers to legitimize the business.

Motion: Council Member Simonson moved to approve Ordinance 2021-36 amending Title 7 of the Midway City Municipal Code regarding temporary vendor sales. Change number 5 to state that they are a current business license holder which holds a business license in Midway.

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

9. Ordinance 2021-42 / Parking in Public Rights-of-Way

Discuss and possibly adopt Ordinance 2021-42 amending Title 8 (Streets and Sidewalks) of the Midway City Municipal Code regarding parking in public rights-of-way.

Michael Henke gave a presentation

Proposal Background

This proposal is to readopt a section of code that was inadvertently removed from the Midway Municipal on September 15, 2021. The city approved a major revision to this section of code on September 15, 2021, and inadvertently removed a section that limits the amount of time a vehicle may be parked in the public right-of-way, which is 48 hours.

Section to be Readopted

Section 8.02.060 Prohibited Parking

It shall be unlawful for any person to park or leave standing on any public right-of-way, road, street, alley, or municipal property any motor vehicle, motor home, boat or trailer for 48 or more consecutive hours, and any vehicle, motor home, boat or trailer so parked or left standing may be impounded or removed by the chief law enforcement officer or his agent. For purposes of impoundment and removal, the chief law enforcement officer or his agent may, after making a reasonable effort to locate the owner, impound and remove any motor vehicle which has been unremoved for 48 consecutive hours. The cost of impoundment and removal shall be charged to the owner or any person who claims the impounded motor vehicle. Any motor vehicle, motor home, boat or trailer which are moved from a parking spot and then re-parked on the same street block within 24 hours from the time of said removal shall be deemed to have been continuously parked for the purposes of this section.

A. Trailer means a vehicle designed or used to carry its load entirely on its own structure or partly on another vehicle and is drawn by a motor vehicle.

B. Block means the section of the street where the vehicle was parked between two intersecting streets.

Proposed Findings

- The proposed code will limit the amount of time a vehicle may park in the public right-of-way
- This section of code was inadvertently removed from the Municipal code earlier this year
- All other parking ordinances will remain unchanged including parking regulations for snowstorms

Motion: Council Member Orme moved to readopt Ordinance 2021-42 amending Title 8 (Streets and Sidewalks) of the Midway City Municipal Code regarding parking in public rights-of-way. Striking the last sentence of the first paragraph and remove B.

Second: Council Member Simonson 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 2021-37 / Dominion Energy Franchise Agreement

Discuss and possibly approve Resolution 2021-37 adopting a franchise agreement for Dominion Energy.

Corbin Gordon gave a presentation regarding the edits made in the agreement

- With the absence of Brad Wilson there are some clarifying questions that cannot be answered.
- Expand streets

Motion: Council Member Drury moved to continue Resolution 2021-37 adopting a franchise agreement for Dominion Energy.

Second: Council Member Payne seconded the motion.

Discussion: None

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

Council Member Dougherty Aye

Council Member Drury Aye

Council Member Orme Aye

Council Member Payne Aye

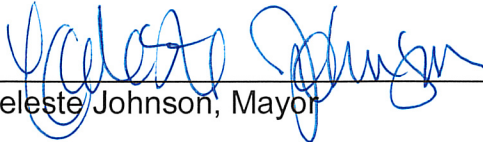
Council Member Simonsen Aye

Council Member Drury motioned that we go into closed session and Council Member Orme second the motion.

11. Adjournment

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

The meeting was adjourned at 10:08 p.m.



Celeste Johnson, Mayor



Melannie Egan- Planning Tech