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**Date:** 13 April 2022  
**To:**  
**Cc:**  
**From:** Brad Wilson, City Recorder  
**RE:** Minutes of the 5 April 2022 City Council Regular Meeting

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Please note that the following minutes are awaiting formal approval and are in draft or unapproved form.

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

**Tuesday, 5 April 2022, 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 Pro Tem Drury called the meeting to order at 6:08 p.m. He excused Mayor Johnson.

**Members Present:**

Jeff Drury, Mayor Pro Tempore  
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  
Shane Owens, Public Works Assistant Crew  
Chief  
Luke Robinson, City Planner  
Brad Wilson, Recorder/Financial Officer

**Members Excused:**

Celeste Johnson, Mayor

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

Mayor Pro Tem Drury led the Council and meeting attendees in the pledge of allegiance. Council Member Orme gave the prayer and/or inspirational message.

**2. Consent Calendar**

- a. Agenda for the 5 April 2022 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 1 March 2022 City Council Work Meeting
- d. Minutes of the 1 March 2022 City Council Regular Meeting
- e. Rich Clifton as a full member of the Midway City Planning Commission
- f. Laura Wardle as a full member of the Midway City Planning Commission
- g. Kelli Lineback as an alternate member of the Midway City Planning Commission

- h. Andrew Osborne as an alternate member of the Midway City Planning Commission
- i. Jared Neal as a full member of the Midway City Open Space Advisory Committee
- j. Jodi Clyde Call as an alternate member of the Midway City Open Space Advisory Committee
- k. Travis Nokes as a member of the Vision Architecture Committee
- l. Alex LaCouture as a member of the Vision Architecture Committee
- m. The final language for Ordinance 2022-06 (IADUs) as adopted on 15 February 2022
- n. A letter in support of Council Member Payne’s work on the Wasatch Future Schools Project Advisory Committee

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

Council Member Orme made the following comments regarding the letter of support:

- It was different from what was presented.
- Wanted to consider both sides of the issue before she considered supporting it.

Council Member Payne made the following comment regarding the letter:

- Offered to represent the Council on the Advisory Committee. Thought that Mayor Johnson nominated him, but she did not.
- Several members of the Advisory Committee came up with an alternative that needed to be explored.
- Wanted the Council to support consideration of the alternative.
- Wanted to present the alternative to the Wasatch County Board of Education.

Council Member Dougherty noted that the letter did not take a position on any proposal or alternative. He indicated that Council Member Payne’s position was not necessarily that of Midway City. Corbin Gordon added that the letter only encouraged consideration of the alternative.

**Motion:** Council Member Simonsen moved to approve the consent calendar excluding Item “n”.

**Second:** Council Member Payne seconded the motion.

**Discussion:** None

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

Council Member Simonsen supported considering alternatives for future schools. He indicated that the letter noted that all alternatives should be considered.

Council Member Payne was concerned that another bond election would fail if the same proposal was submitted to the voters. He indicated that a different proposal was needed for a bond to be approved.

Council Member Orme was concerned that the City would be taking a side because of the letter.

Council Member Dougherty indicated that the Council was not taking a position and Council Member Payne was not representing it on the Advisory Committee. He thought that a bond could have a significant impact on property taxes. He encouraged smart decisions.

**Motion:** Council Member Simonsen moved to approve Item “n”.

**Second:** Council Member Dougherty seconded the motion.

**Discussion:** None

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Nay
Council Member Payne	Abstained
Council Member Simonsen	Aye

### **3. Public Comment** – Comments were taken for items not on the agenda.

Mayor Pro Tem Drury asked if there were any comments from the public for items not on the agenda. No comments were offered.

### **4. Department Reports**

#### Street Sweeping

Council Member Simonsen reported that some of the City’s streets were being swept which would take some time.

#### River Road Construction / Update

Wes Johnson reported that work on River Road would be completed soon with asphalt being laid around April 25<sup>th</sup>.

#### Homestead Trail / Update

Wes Johnson reported that work on the final section of the Homestead Trail would be done that year along with road, water, and sewer improvements.

### 250 West Improvements / Update

Wes Johnson reported that 250 West, from 500 South to 970 South, was being widened and improved with the construction of the Saddle Creek Subdivision.

### Law Enforcement / Update

Brad Wilson gave a presentation on law enforcement provided by the Wasatch County Sheriff's Department. He reviewed the hours logged, base service hours provided, additional service hours provided, additional service hours contracted, additional service hours provided at no charge, and the number of traffic stops.

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

### Water / Restrictions

Mike Kohler, Midway Irrigation Company Manager, indicated that summer would be challenging because of the ongoing drought. He reported that the same water restrictions from the previous year would be imposed that year.

### **5. Financial Statements / Audit Report** (Approximately 15 minutes) – Receive a presentation on the fiscal year 2021 financial statements (Ryan Child) and audit (Ben Probst).

Nicole Nelson, Child Richards, reviewed in detail the FY 2021 Financial Statements for the City. She specifically reviewed the statement of net position, government funds, proprietary funds, capital assets, and long-term liabilities.

**Note:** A copy of the Financial Statements is contained in the supplemental file.

Ben Probst, Gilbert and Stewart, distributed a letter communicating the audit findings. He said that the financial statements were in proper order and there were no findings.

### **6. Legislative Session / Presentation** (Representative Mike Kohler – Approximately 10 minutes) – Receive a presentation from State Representative Mike Kohler on the 2022 session of the Utah State Legislature.

Utah State Representative Mike Kohler reviewed the state legislative session for 2022. He specifically reviewed affordable housing, transportation, elections, UTV noise, water, inflation, and school impact fees.

### **7. Town Square Master Plan / Presentation** (IBI – Approximately 30 minutes) – Receive and Discuss a Presentation from IBI regarding the redesign of the Midway Town Square located

at 150 West Main Street. **Public Comment**

Luke Robinson gave a presentation on the master plan and specifically reviewed the purpose and timeline. He asked the Council for guidance on moving forward.

Dave Nicolas, IBI, also gave a presentation on the master plan and specifically reviewed the purpose and intent statement, guiding principles, concept, town square lodge, parking, and phasing.

**Note:** A copy of Mr. Robinson's and Mr. Nicolas' presentation is contained in the supplemental file.

### **Public Comment**

Mayor Pro Tem Drury asked if there were any comments from the public.

#### Athina Koumarela

Ms. Koumarela asked if she could get copies of the public comments and survey regarding the master plan. Mr. Robinson responded that he could provide that information.

She asked the square footage for the revised community center. Mayor Pro Tem Drury responded that the master plan was not to that detail.

She asked if the irrigation ditch along the Town Square would be relandscaped. Council Member Simonsen responded that restoring the ditch had been discussed.

She recommended dark sky compliant lights.

She asked if the large trees would be removed. Council Member Simonsen responded that only the lilacs would be removed.

She recommended that the current amount of greenspace be maintained.

#### Sheila Siggard

Ms. Siggard made the following comments:

- Why did Midway have to be changed so much?
- The Town Square was one of the last icons in Midway.
- The Town Hall was the focus of the Square.
- More cement should not be added to the Square.
- The name of the Community Center should not be changed. It was a historic church that was part of Midway's history.
- Not many people wanted the Square to be changed.
- Midway was unique and did not need to be like other places.
- Inflation and taxes were increasing.

- Maintenance would be a problem.
- The irrigation ditch was overgrown.

### Clint Coleman

Mr. Coleman made the following comments:

- Appreciated the time taken to receive comments.
- The proposed plan could accommodate Swiss Days.
- The process should not be rushed.
- Additional parking was needed.
- Invited those working on the master plan to be on the Square the week of Swiss Days.
- No decision should be made until the cost of the project was determined.

### Nathan Morris

The public should be involved in the design process. Council Member Drury responded that the master plan was a high-level review of the Square. He indicated that more detailed work would be done in phases.

Council Member Orme was concerned about the lack of parking. She also worried about the maintenance cost. Council Member Simonsen responded that the Square was for more than parking cars.

Council Member Payne noted that the proposed accesses did not feed into anything. He recommended against using the Square to solve the parking problem.

**Motion:** Without objection, Mayor Pro Tem Drury recessed the meeting at 8:01 p.m. He reconvened the meeting at 8:08 p.m.

### **8. Resolution 2022-15 / Appenzell PUD Master Plan Amendment** (City Planner – Approximately 45 minutes) – Discuss and possibly approve Resolution 2022-15 amending the master plan for the Appenzell PUD located at 700 South Center Street.

Council Member Dougherty explained that he practiced law and represented the president of the Appenzell HOA in a separate matter. He recused himself from consideration of the item.

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

- Development agreement
- Land use summary
- Location of the development
- Landscaping plan
- Area proposed to be vacated
- Landscaping bond
- Landscaping improvement plan
- Pictures of the property

- History
- High Valley Ranch
- Deer Creek Estates
- Open space
- Open space code amendment of 2018
- Items of consideration
- Possible findings
- Proposed conditions
- Zoning

Mr. Henke also made the following comments:

- The development had the maximum allowed density.
- It now had additional open space because of changes to the Municipal Code.
- The Council did not have to approve the amendment.
- Worried that other PUDs would want to sell off excess open space.
- The City was trying to preserve open space.
- Had received other inquiries about selling off open space.

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

Wes Johnson indicated that it would be difficult to get money from the warranty bond to pay for the landscaping.

Corbin Gordon gave a presentation regarding the request and reviewed the following items:

- Legal analysis of amending a master plan
- Standards for amendments
- Standards if the request was a land use application

Mr. Gordon also made the following comments:

- Had received a letter from the attorney representing the Appenzell HOA.
- The issue was a contract issue and not a land use question.
- The Council was not obligated to approve the request.

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

David Tew, Appenzell HOA President, made the following comments:

- The homeowners took control of the HOA on 30 November 2021.
- The homeowners were committed.
- Did not own a house in the development.
- Was identifying deficiencies inherited from the developer and recommending remedies.
- Wanted the project to be a jewel.
- The homeowners attempted to work with the developer and the City.



- Was trying to rectify the problem instead of beautifying the property.
- The HOA had spent \$234,000 to address the issues.
- The developer did not lay down any topsoil.
- The HOA removed many boulders and reconfigured the berms.
- Another \$529,000 was still needed for remediation.
- It would cost each homeowner \$15,179.49 to deal with the issues.
- A special assessment was an option.
- Wanted to use the funds from the sale of the open space to partially fund the remediation.
- Trees and other improvements had not been installed by the developer. Thought that the warranty bond would incentivize the developer to do this.
- The developer was supposed to widen Center Street.
- The HOA voted overwhelmingly to amend the master plan and vacate and sell the section of open space. The money from the sale would go into a trust fund just for the landscaping remediation.
- The current open space requirements would be more than satisfied after the amendment and sale.
- Recent code changes should apply to the project.
- The developer had not been held accountable.
- The request did not include any beautification.
- The HOA's engineer calculated that the setbacks would be above 50 feet.
- An accredited landscaping company had provided a seven-page spreadsheet of deficiencies.
- Was committed to water conservation.
- Wanted to reduce water consumption by 30%.

Natalie Streeter made the following comments:

- Was speaking as a neighbor to Appenzell and not in any other capacity.
- Had the longest boundary with the development and was the most impacted neighbor.
- Supported the amendment because it did the right thing.
- Sent an email complaining about marmots in the development when the bond was released. The marmots caused thousands of dollars in damage
- Not controlling the marmots was a violation of Title 5 of the Municipal Code.
- Complained when the project had a thistle problem.
- The HOA approached the problem as a good neighbor.
- The remedy was not cheap.
- The amendment would help but not cover all the costs.
- The request had a unique fact pattern from other developments that might want to sell their open space. Other developments could not sell their open space.
- Visual density was different from numeric density.
- Other neighbors supported the amendment.

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

- The current code might allow 37 units using the existing acreage.
- UDOT changed its position and asked that the development not widen Center Street.
- The warranty bond for Phase 1 was released when it was verified that all of the zones of the sprinkler system were working.

- The warranty bond for Phase 2 had not been released.
- The developer hired a company to remove the marmots.
- The landscaping was not the best, but it was sufficient for the warranty bond to be released. The sprinkling system operated but coverage and other items were not reviewed.
- The City had immunity and any liability fell to the developer.
- It needed to be verified that the amendment met current code.
- The purchaser should provide a letter stating they would deed restrict the property as open space.
- The amendment would set precedence.
- The developer had been given additional density because of the amount of open space.
- The Council should not make a quick decision.
- Agreements created predictability for all parties.
- Approving the amendment would have a ripple effect with other projects.
- The amendment could increase density and/or decrease open space.
- The issue was a private matter between the homeowners and the developer.
- The City was not taking away the right for someone to sue the developer.
- The request could not be submitted multiple times based on the same set of facts.
- The City could consider helping resolve the issue with the warranty bond.
- The homeowners had been before the Council twice complaining about landscaping and flooding.

Brenda Ford, who would purchase the property, said that a home would be built on it for her son.

**Motion:** Council Member Simonsen moved to continue the item to get more information and to have several questions answered.

**Second:** Council Member Orme seconded the motion.

**Discussion:** None

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

**9. Additional Pickleball Courts / Contribution** (Council Member Simonsen – Approximately 20 minutes) – Discuss and possibly approve contributing to additional pickleball courts at the Southfield Park located at 895 W 100 S, Heber City.

Carrie Hobbs gave a presentation regarding the request and reviewed the following items:

- History

- Tournaments
- Why more courts at the Southfield Park.
- Why pickleball was growing.

Mr. Hobbs also made the following comments:

- There was a 250-member pickleball club in the area. A high percentage of the members were from Midway.
- More courts were needed at the Southfield Park.
- It was more cost effective for the Wasatch County Parks and Recreation Special Service District to build and maintain large regional parks.
- Funding the new courts should be a public and private effort.
- Asked that Midway fund one new court, Wasatch County fund two new courts, Heber City fund one new court, and the pickleball club fund two new courts.

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

Tom Bonner, Parks and Recreation Special Service District Director, reviewed the history of the District. He indicated that they focused on parks larger than 40 acres and the municipalities focused on small neighborhood parks.

Mr. Bonner asked the City to encumber its donation but it could be paid over two fiscal years. He emphasized that the courts would be public.

Ken Mickelson gave a presentation and made the following comments:

- Midway's impact fees facilities plan stated that it would work with Wasatch County regarding parks and recreational facilities.
- The Heber City Council unanimously agreed to participate.

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

Connie Green, president of the pickleball club, asked that Midway City and Heber City each contribute \$40,000 and Wasatch County and the pickleball club each contribute \$80,000. She added that the Wasatch Community Foundation agreed to donate \$20,000 toward the club's contribution.

**Motion:** Council Member Dougherty moved to authorize and encumber \$40,000 from park impact fees to the effort with the following conditions:

- Legal review of the cooperative agreement.
- \$20,000 could be contributed per year.

**Second:** Council Member Orme seconded the motion.

**Discussion:** None

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

**10. Resolution 2022-06 / Cemetery Fees and Policies** (City Attorney – Approximately 30 minutes) – Discuss and possibly approve Resolution 2022-06 amending the Midway City Fee Schedule regarding cemetery fees and the Midway City Policies and Procedures regarding cemetery policies.

Council Member Orme reviewed the proposed fees and indicated that the Council had been sent a comparison with fees for other cemeteries.

Shane Owens reviewed the total proposed cost for a nonresident.

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

- The City should not make money off of its cemetery.
- The fees should not be so low that they encouraged nonresidents to buy burial spaces.
- The burial space cost for a resident should remain at \$500.
- Nonresidents got residents to buy spaces for them at the lower price. This was a nightmare to prevent.
- Raising the fees for everyone would reduce demand.

**Motion:** Council Member Simonsen moved to approve Resolution 2022-06 as presented with the change that the nonresident fee for a burial space be \$5,000 instead of \$3,000.

**Second:** Council Member Orme seconded the motion.

**Discussion:** Council Member Orme recommend that the City expand the Midway Cemetery into the vacant area owned by the City.

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

Council Member Simonsen asked if the City could issue a bond to construct a new phase of the Cemetery. Brad Wilson responded that the City could issue general obligation bonds for the construction. Mayor Pro Tem Drury noted that the Public Works Department could do a lot of the work.

**Motion:** Council Member Payne 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:

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

**11. Resolution 2022-03 / Qwest Franchise Agreement** (City Attorney – Approximately 5 minutes) – Discuss and possibly approve Resolution 2022-03 adopting a franchise agreement for Qwest Corporation (CenturyLink).

Corbin Gordon indicated that the agreement was not ready for approval.

**Motion:** Council Member Orme moved to continue the item.

**Second:** Council Member Payne seconded the motion.

**Discussion:** None

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	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 Payne seconded the motion.

**Discussion:** None

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye

Council Member Payne                   Aye  
Council Member Simonsen               Aye

**12. Resolution 2022-14 / UBB Franchise Agreement** (City Attorney – Approximately 5 minutes) – Discuss and possibly approve Resolution 2022-14 adopting a franchise agreement for Utah Broadband (UBB).

Corbin Gordon made the following comments:

- UBB approved of the agreement.
- The agreement was patterned after the proposed franchise with Qwest.

Grady Van Almen, UBB, made the following comments:

- Eventually the company wanted to install a fiber optic system in Midway.
- The cables would be mostly underground.

**Motion:** Council Member Simonsen moved to Resolution 2022-14 adopting a franchise agreement for Utah Broadband.

**Second:** Council Member Orme seconded the motion.

**Discussion:** None

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

Mayor Pro Tem Drury                   Aye  
Council Member Dougherty            Aye  
Council Member Orme                   Aye  
Council Member Payne                 Aye  
Council Member Simonsen              Aye

**Motion:** Council Member Payne 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:

Mayor Pro Tem Drury                   Aye  
Council Member Dougherty            Aye  
Council Member Orme                   Aye  
Council Member Payne                 Aye  
Council Member Simonsen              Aye

**13. 2022 Surface Treatments and Striping / Contract** (City Engineer – Approximately 15 minutes) – Discuss and possibly approve a contract for the 2022 Road-Trail Surface Treatments & City-Wide Striping Project.

Wes Johnson recommended that the contract be awarded to Morgan Pavement Maintenance, who was the low bidder, and that the Mayor Pro Tem be authorized to sign the contract. He added that the company did good work.

**Motion:** Council Member Payne moved to award the contract to Morgan Pavement Maintenance, who was the low bidder, and that the Mayor Pro Tem be authorized to sign the contract.

**Second:** Council Member Simonsen seconded the motion.

**Discussion:** None

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	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 Payne seconded the motion.

**Discussion:** None

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

**14. Ordinance 2022-03 / PUDs and Subdivisions** (City Planner – Approximately 15 minutes) – Discuss and possibly adopt Ordinance 2022-03 amending Chapter 16.16 (Planned Unit Developments and Subdivisions) of the Midway City Municipal Code regarding planned unit developments and subdivisions. Recommended by the Midway City Planning Commission.

Michael Henke recommended that the ordinance be considered at the next meeting because of the time.

**Motion:** Council Member Dougherty moved to continue Item 14.

**Second:** Council Member Payne seconded the motion.

**Discussion:** None

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

## **15. Closed Meeting to Discuss the Purchase, Exchange, or Lease of Real Property**

**Motion:** Council Member Simonsen moved to go into a closed meeting.

**Second:** Council Member Orme seconded the motion.

**Discussion:** None

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

**Note:** Closed meeting minutes are sealed and strictly confidential. Access to such minutes must be obtained through a court of law.

**Motion:** Council Member Dougherty moved to go out of the closed meeting.

**Second:** Council Member Simonsen seconded the motion.

**Discussion:** None

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

## **16. Adjournment**



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

The meeting was adjourned at 10:28 p.m.

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Celeste Johnson, Mayor

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Brad Wilson, Recorder

DRAFT