

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

**Wednesday, 11 July 2018, 6:00 p.m.  
Midway Community Center, City Council Chambers  
160 West Main Street, Midway, Utah**

**Note:** Notices/agendas were posted at 7-Eleven, Ridley's Express, the Midway City Office Building, and the Midway Community Center. Notices/agendas were provided to the City Council, City Engineer, City Attorney, Planning Director, Public Works Assistant Crew Chief, and The Wasatch Wave. The public notice/agenda was published on the Utah State Public Notice Website and the City's website. A copy of the public notice/agenda is contained in the supplemental file.

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

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

**Members Present:**

Celeste Johnson, Mayor  
Lisa Christen, Council Member  
Jeff Drury, Council Member  
Bob Probst, Council Member  
JC Simonsen, Council Member  
Ken Van Wagoner, 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. Hollie Kent gave the prayer and/or inspirational message.

**2. Consent Calendar**

- a. Agenda for the 11 July 2018 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 13 June 2018 City Council Work Meeting
- d. Minutes of the 13 June 2018 City Council Regular Meeting

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

Mayor Johnson noted that several bills had been added to the warrant list. She gave the Council

several minutes to review them.

**Motion:** Council Member Drury moved to approve the consent calendar.

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

**Discussion:** None

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

|                            |     |
|----------------------------|-----|
| Council Member Christen    | Aye |
| Council Member Drury       | Aye |
| Council Member Probst      | Aye |
| Council Member Simonsen    | Aye |
| Council Member Van Wagoner | Aye |

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

Mayor Johnson asked if there were any comments from the public. No comments were offered.

**4. Ordinance 2018-16 / Theaters in Commercial Zones** (City Planner – Approximately 30 minutes) – Discuss Ordinance 2018-16 amending Title 16 of the Midway City Municipal Code to allow theaters in the C-2 and C-3 zones. Recommended without conditions by the Midway City Planning Commission (**Public Hearing**).

Mayor Johnson explained that the item was towards the first of the agenda because some supporters were in a play later that evening.

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

- Code proposal
- History of theaters not being allowed in the commercial zones
- Land use map
- Locations of the commercial zones
- Vision Statement
- General Plan
- Points of discussion
- Parking requirements
- Amphitheaters
- Movie theaters
- Delaying any changes until a specific plan for a theater was presented
- Proposed findings

Mr. Henke also made the following comments:

- The current code required one parking space for every two people. It did not specify if that included only attendees or also performers, etc. It also did not specify the

- specifications, type and size of parking lots or structures.
- Parking spaces could be shared in a mixed-use development.

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

Council Member Drury noted that no specific plan had been submitted for a theater.

### **Public Hearing**

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

#### Randon Wilson

Mr. Wilson made the following comments:

- Was a member of a coalition proposing a theater in Midway.
- Heber Valley had a broad range of arts.
- An arts complex was needed in the Valley.
- The Coalition recommended the complex be at the base of the Memorial Hill on the south side.
- An amphitheater would share resources with an indoor theater. The lights for the amphitheater would shine into the hill.
- The complex needed to be combined with commercial or mixed-use development to be successful.
- Was working with a potential developer who could donate the land for the complex.
- The cost would be \$25 million. This money would come from donations. A non-profit organization had been created to raise the money for construction and an endowment.
- It was determined that a government funded facility would not work.
- Theaters needed to be allowed in the zone before people would donate.
- Any theater would have to be approved by the City.
- Residential development was a drain on the City's resources.
- Commercial and mixed-use development were key to meeting the future needs of the City.
- A feasibility study determined that the complex could bring in \$300,000 annually to the City.
- The approximate size and design of the complex had been determined but no plan had been submitted to the City. It would be a maximum 42,000 sq. ft. on multiple levels. The main theater would have a capacity of 500 to 550 attendees. It would be anchored by High Valley Arts, but its use would be coordinated with other art groups.

#### Inez Wilde

Ms. Wilde made the following comments:

- Lived in front of the proposed location for the arts complex.

- Was not against the arts but had concerns with the complex. It would infringe on the neighbors, increase traffic and the location was not good.

#### Janice Kennedy

Ms. Kennedy made the following comments:

- Sent an email to the City Council regarding the proposed ordinance.
- Parking for each project should benefit the entire community.
- It would cost a developer a lot of money to prepare a specific proposal.
- The Council should decide the issue and not wait for a specific proposal to be submitted.
- No movie theater would be built if it was limited to one screen.

#### Barry Kent

Mr. Kent made the following comments:

- The legacy of the Valley needed to be preserved and a vision for the future developed.
- A plan was needed to preserve Midway as a unique community.
- Supported theaters. They would complement the community and allow participation by families and children.
- The impact on the neighbors could be mitigated.
- Underground parking could be used.

#### Beverley Snow

Ms. Snow made the following comments:

- Theaters conformed to the City's vision statement.
- Was impressed with High Valley Arts.
- A theater would encourage the arts.
- The impact on the neighbors could be mitigated.
- The proposed location would be developed whether a theater was built there or not.
- A theater was preferable to other uses and would create a public space.

#### Candice Nowers

Ms. Nowers made the following comments:

- Grew up in Midway.
- Taught the arts.
- Residents wanted a rural atmosphere.
- Opposed multiplex movie theaters.
- Many questions with theaters needed to be answered.
- People going to theaters, etc. would park in residential areas.
- The Memorial Hill was an area icon.

- The light from an arts complex could be a problem for the neighbors.

#### Amaria Scovil

Ms. Scovil made the following comments:

- Did not oppose the arts.
- Theaters should not be in or near residential areas.
- When she moved to Midway the location proposed for the theater was zoned for agriculture.
- An area should not be zoned commercial without a specific plan in place.
- Noise, light, etc. could not be mitigated.
- Heard the productions from the current location of High Valley Arts.

#### Mindy McMaster

Ms. McMaster made the following comments:

- Was a member of the coalition promoting the theater complex.
- Related to the neighbors and their concerns.
- The property proposed for the complex would be developed.
- The complex could be part of a European themed village.
- An amphitheater might not be included in the complex.
- The Coalition had monthly meetings to inform the public about the project.

#### Hollie Kent

Ms. Kent asked about the arts complex and its relationship to the proposed ordinance. Mr. Henke responded that the proposed location for the complex was currently zoned residential. He said that it would have to be rezoned commercial if the ordinance was adopted.

Ms. Kent asked what uses were allowed in the commercial zones. Mr. Henke responded that retail uses, restaurants, professional offices and mixed-use projects were some of the allowed uses.

Ms. Kent stated that theaters would enrich the community and benefit citizens and their children.

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

The Council, staff and meeting attendees discussed the following items related to the proposed development:

- It was never intended that theaters be prohibited but moved to the proposed C-4 zone.
- They should be in an area where they could be better managed.
- There were a lot of comments from the public to consider.
- The issues raised should be addressed before theaters were allowed again in the City.

- The proposed arts complex was a significant project.
- The Council was considering those who supported and opposed the project.
- Parking, parking structures, drainage, etc. should be addressed.

## **5. Department Reports**

### Independence Day Celebration

Council Member Drury reported that the Independence Day celebration, held by the Midway Boosters, was a success.

### Swiss Days

Council Member Drury reminded the Council that Swiss Days would be held on the Labor Day weekend.

### HL&P / Nuclear Power Plant

Mayor Johnson reported that the Heber Light & Power (HL&P) Board would visit a small scale nuclear power plant proposed in Oregon.

### Heber Valley Railroad / Locomotives / Car Building

Mayor Johnson reported that the Heber Valley Railroad had purchased two new locomotives and was raising funds for a car storage building.

### HVSSD / Organic Waste

Mayor Johnson reported that organic waste was being dumped into the sewer system in Heber City. She indicated that it was a significant problem for the Heber Valley Special Service District (HVSSD) which treated the sewage.

### MSD / Contract with City

Mayor Johnson reported that the contract between the Midway Sanitation District (MSD) and Midway City would be finalized in August.

### Cemetery / Dry Spots in Grass

Mayor Johnson reported that there were dry spots in the grass at the Cemetery. She indicated that the region was in a drought and the Public Works Department was working on the sprinkler system.

**6. HVTED / Mid-Year Tourism Update** (Ryan Starks – Approximately 15 minutes) – Receive a mid-year tourism update from Heber Valley Tourism and Economic Development.

Ryan Starks, Heber Valley Tourism and Economic Development Executive Director, gave a mid-year tourism update and specifically covered the following items:

- Frugal use of money
- Mission
- Ultimate Family Reunion
- Epic 90 golf pass
- Brochures and materials
- Heber Valley special events
- Radio advertising and programs
- TV and magazine interviews
- Heber Valley Visitors Center
- Roger Brooks
- Meetings and conferences
- Tourism marketing committee
- Chamber of Commerce
- Wasatch Back Economic Summit
- Economic development plan
- Wayfinding signs concept

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

Mayor Johnson reported that the Utah State Tax Commission notified the City that it could not levy the Resort Communities Tax after 1 July 2019. She said that Mr. Starks was willing to help with the issue.

**7. Wildfire Prevention Program / Presentation** (Approximately 15 minutes) – Receive a presentation on Midway City's participation in the Utah Department of Natural Resources' wildfire prevention program.

Mayor Johnson indicated that the presentation would not be given that night because the presenter was fighting area wildfires.

**8. Ice Rink / Agreement Addendum** (City Attorney – Approximately 10 minutes) – Discuss and possibly approve an addendum to the Midway Ice Rink Facility Management Agreement dated 22 November 2017.

Corbin Gordon explained the history and purpose of the addendum. The Council requested to see the final accounting for the previous season before it was approved.

**Motion:** Council Member Van Wagoner moved to continue consideration of the addendum.

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

**Discussion:** None

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

|                            |     |
|----------------------------|-----|
| Council Member Christen    | Aye |
| Council Member Drury       | Aye |
| Council Member Probst      | Aye |
| Council Member Simonsen    | Aye |
| Council Member Van Wagoner | Aye |

**9. Resolution 2018-24 / Security Deposit for Park Pavilions** (Purchasing Agent – Approximately 10 minutes) – Discuss and possibly approve Resolution 2018-24 amending the Midway City Fee Schedule regarding security deposits for park pavilions.

Brad Wilson reviewed the challenges, as explained in the work meeting, with a security deposit for the park pavilions.

Mayor Johnson indicated that a policy needed to be developed for the proposed consultation fee before it was adopted.

**Motion:** Council Member Drury moved to approve Resolution 2018-24, amending the Midway City Fee Schedule, excluding the proposed consultation fee which would be addressed at another time.

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

**Discussion:** None

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

|                            |     |
|----------------------------|-----|
| Council Member Christen    | Aye |
| Council Member Drury       | Aye |
| Council Member Probst      | Aye |
| Council Member Simonsen    | Aye |
| Council Member Van Wagoner | Aye |

**10. Bond Counsel Services / Award Contract** (Purchasing Agent – Approximately 5 minutes) – Discuss and possibly award a contract for bond counsel services.

Mayor Johnson recused herself from consideration of the bond counsel services and financial advisory services.

**Note:** Mayor Johnson left at 7:56 p.m.

Brad Wilson explained the request for proposals for bond counsel services. He indicated that



the only proposal submitted was from GillmoreBell. He added that the proposal met all the requested requirements, was for a fee of \$24,000 and recommended that it be accepted.

**Motion:** Council Member Probst moved to award a contract for bond counsel services to GillmoreBell as outlined for \$24,000.

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

**Discussion:** None

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

|                               |     |
|-------------------------------|-----|
| Mayor Pro Tempore Van Wagoner | Aye |
| Council Member Christen       | Aye |
| Council Member Drury          | Aye |
| Council Member Probst         | Aye |
| Council Member Simonsen       | Aye |

**11. Financial Advisory Services / Award Contract** (Georgia McGuire – Approximately 5 minutes) – Discuss and possibly award a contract for financial advisory services.

Brad Wilson explained the request for proposals for bond counsel services and made the following comments:

- Proposals had been received from George K. Baum & Company and Zions Public Finance.
- Both proposals received the highest possible rankings in each evaluation category except for cost.
- George K. Baum & Company's fee was \$20,000.
- Zions Public Finance's fee was \$15,000.
- The committee which reviewed the proposals was comprised of Council Member Drury, Georgia McGuire (Midway City Purchasing Officer) and Mr. Wilson. They recommended that Zions Public Finance be awarded the contract.

**Motion:** Council Member Christen moved to award a contract for financial advisory services to Zions Public Finance for \$15,000.

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

**Discussion:** None

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

|                               |     |
|-------------------------------|-----|
| Mayor Pro Tempore Van Wagoner | Aye |
| Council Member Christen       | Aye |
| Council Member Drury          | Aye |
| Council Member Probst         | Aye |
| Council Member Simonsen       | Aye |

**Motion:** Without objection, Mayor Pro Tempore Van Wagoner recessed the meeting at 8:13 p.m. Mayor Johnson returned and reconvened the meeting at 8:21 p.m.

**12. Resolution 2018-14 / Whitaker Annexation Amendment** (City Planner – Approximately 30 Minutes) – Discuss and Possibly Approve Resolution 2018-14 Adopting an Amended Agreement for the Whitaker Annexation.

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

- History of the annexation and associated project
- Reasons for the amendment
- Proposed changes

Mr. Henke indicated that the City would not actively pursue the extension of 600 North from River Road to the Provo River.

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

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

- Reasonable landscaping was required for the roundabouts on River Road.
- Reasonable landscaping would be determined with a detailed landscaping plan.

**Motion:** Council Member Christen moved to approve Resolution 2018-14 based upon the recommendation and changes of the City Attorney.

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

**Discussion:** Council Member Drury asked the timeline for acquiring the needed property from Wasatch County. Wes Johnson responded that the County supported the roundabout concept at the entrance to the Memorial Hill. He indicated that once the applicant provided a final and more detailed design, then the City would go back to the County for formal approval. Dan Luster, applicant, indicated that the design would be ready within a couple of weeks.

Tom Whitaker, who owned the property that was proposed for development, asked if the Remund Farms developer could participate in the 600 North roundabout. Wes Johnson responded that the City could not require the developer's participation because the Remund Farm's traffic study did not support it. He added that extra money set aside for trails could be used for the roundabout instead.

Council Member Van Wagoner noted that Remund Farms had already received final approval.

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

|                            |     |
|----------------------------|-----|
| Council Member Christen    | Aye |
| Council Member Drury       | Aye |
| Council Member Probst      | Aye |
| Council Member Simonsen    | Aye |
| Council Member Van Wagoner | Aye |

**13. Whitaker Farm / Preliminary Approval** (City Planner - Approximately 30 Minutes) – Discuss and possibly grant preliminary approval for the Whitaker Farm Subdivision located at 455 North River Road (Zoning is RA-1-43). Recommended with conditions by the Midway City Planning Commission.

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

- Land use summary
- Location
- Site plan
- Cross-section for roads in the development
- Discussion items
- Trails
- Water Board recommendation
- Possible findings
- Proposed conditions

**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 City would maintain the asphalt in the parking lot for Memorial Hill. The development HOA would maintain the landscaping around the lot.
- Pedestrian safety along River Road needed to be addressed.
- The width of the trails in the project could be reduced from eight feet to six feet. The landscaping strip could then be widened by two feet to better separate the road and trail.
- Trails in front of houses should be asphalt or concrete.
- There would be no public access to the Provo River through the development. The HOA would be responsible to enforce this restriction.
- The water calculation for the project would have to be increased if the trail width was reduced and the landscaping strip was widened.
- Construction should not begin until all water rights were provided to the City.
- Xeriscaping was suggested for the roundabouts.
- The development would help keep Midway rural.

**Motion:** Council Member Drury moved to grant preliminary approval for the Whitaker Farm Subdivision with the following findings and conditions:

- The proposed development appeared to comply with the requirements of the code for

the RA-1-43 zone for frontage, acreage, and width.

- The proposal did not have County approval for a new access to Memorial Hill.
- A revised landscaping plan for the open space must be submitted for final approval.
- The developer would present and receive approval from Wasatch County of an access plan for Memorial Hill before final approval would be granted.
- A landscaping plan would be submitted and approved by staff before final approval would be granted. The landscaping plan would include the River Road roundabouts
- City would accept xeriscaping for the roundabouts.
- The required water would be recalculated based on the reduction of the trail width to six feet.
- The annexation agreement would be approved by the Wasatch County Council before final approval was granted by the City Council.

**Second:** Council Member Van Wagoner seconded the motion.

**Discussion:** None

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

|                            |     |
|----------------------------|-----|
| Council Member Christen    | Aye |
| Council Member Drury       | Aye |
| Council Member Probst      | Aye |
| Council Member Simonsen    | Aye |
| Council Member Van Wagoner | Aye |

#### 14. Adjournment

**Motion:** Council Member Van Wagoner moved to adjourn the meeting. Council Member Christen seconded the motion. The motion passed unanimously.

The meeting was adjourned at 8:55 p.m.

  
\_\_\_\_\_  
Celeste Johnson, Mayor

  
\_\_\_\_\_  
Brad Wilson, Recorder