

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

**Tuesday, 18 September 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 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, 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 6:00 p.m. She indicated that Council Member Drury was participating in the meeting electronically.

**Members Present:**

Celeste Johnson, Mayor  
Lisa Christen, Council Member (Arrived at 6:19 p.m.)  
Jeff Drury, Council Member (Participated Electronically)  
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. Kent Kohler gave the prayer and/or inspirational message.

**2. Consent Calendar**

- a. Agenda for the 18 September 2018 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 22 August 2018 City Council Regular Meeting
- d. First One Year Extension of the Final Approval for the Indian Summer Subdivision Located at 200 North and 400 East (Zoning is R-1-9 and R-1-15).

**Note:** Copies of items 2a, 2b, 2c, and 2d are contained in the supplemental file.

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

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

**Discussion:** None

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

Council Member Christen	Excused from the Meeting
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. Department Reports**

##### Cemetery / Old Maintenance Building

Council Member Probst reported that the old maintenance building at the cemetery would be removed.

##### Cemetery / Berm Next to New Maintenance Building

Council Member Probst reported that a berm would be built by the new maintenance building so that it could not be seen from the cemetery.

##### Town Hall / Sprinkler Damage

Council Member Probst reported that there was some sprinkler damage at the Town Hall.

##### Town Hall / Shingles

Council Member Probst reported that the shingles on the Town Hall did not require oil. He added that oiling them would negate their warranty.

##### Public Works Vehicle Building

Council Member Van Wagoner reported that the new vehicle building, at the maintenance yard,

was completed except for connecting utilities and laying surrounding asphalt.

#### Maintenance Yard / Site Plan

Council Member Van Wagoner recommended a site plan for the maintenance yard that showed where all the equipment would be stored.

#### SCADA System / Upgrades

Council Member Van Wagoner reported that the SCADA system failed to provide notification that the Alpenhof water tank had emptied. He said that some system components needed to be upgraded and that batteries needed to be replaced.

#### Swiss Alpine Road / Saint-Prex Estates

Council Member Simonsen reported that additional portions of Swiss Alpine Road would be repaired with the construction of the Saint-Prex Estates Subdivision. He added that the additional cost would be covered by money not used for road surface treatments.

**Note:** Council Member Christen arrived at 6:19 p.m.

#### Roads / Surface Treatments

Council Member Simonsen reported that the road surface treatments had been completed.

#### Roads / Striping

Council Member Simonsen reported that roads would be striped that week.

#### Valais Park Tennis Courts / Resurfacing

Council Member Simonsen reported that the resurfacing of the Valais Park tennis courts had been completed. He added that the Public Works Department would re-landscape around the courts.

#### Town Square Tennis Court / Striping for Pickleball

Council Member Simonsen reported that the Town Square tennis court has been striped for pickleball.

#### Trails and Parks Committee / Refocus on Trails

Council Member Simonsen reported that the Midway City Trails and Parks Advisory Committee

would refocus on trails. He added that they were working on a trails map.

#### Center Street to Pine Canyon Trail / Completion

Council Member Simonsen reported that the trail, from Center Street to Pine Canyon Road, had been completed.

#### Michie Lane Park / Design RFP

Council Member Simonsen reported that a request for proposals had been issued for the design of the Michie Lane Park.

### **5. Issuance of General Obligation Bonds / Public Hearing** (Approximately 45 minutes) – Presentation and public hearing regarding the issuance of not to exceed \$5,000,000 general obligation bonds to finance all or a portion of the costs to preserve open space and related improvements; and related matters. **Public Hearing**

Courtland Nelson, Midway City Open Space Advisory Committee Chairman, reviewed the work of the Committee and the following items:

- Required meetings for issuing general obligation bonds
- What open space did the City want in 25 years
- Meetings and open houses held by the Committee
- Resolution from the Committee regarding bonding for open space
- Arguments for and against a bond
- Meetings to be held regarding the bond

Mr. Nelson also made the following comments:

- The Committee was working with open space professionals.
- It was drafting a new chapter for the General Plan regarding open space.
- It was also developing an evaluation process to determine what open space should be preserved.

#### **Public Hearing**

Mayor Johnson opened the public hearing.

#### George Hansen

Mr. Hansen noted that some of the best open space, such as ridgelines and stream corridors, were protected by legislation. He noted that legislation could be changed as development pressure increased. He asked the City to purchase that open space to insure its protection.

#### Jon McKeon

Mr. McKeon indicated that Cache Valley, Jackson Hole and Draper had changed dramatically because of development. He supported bonding to protect the City and the surrounding area.

#### Jinny Tuite

Ms. Tuite supported open space and farming. She wanted functional open space with sensitivity towards farms and dairies. She suggested that the City work with Utah State University to accomplish these goals.

Ms. Tuite said that she owned property in the North Fields. She indicated that preserving open space would save the City money because it required fewer municipal services than residential development.

#### Katie Noble

Ms. Noble said that all tools including bonding should be used to protect open space. She understood that bonding could be scary, but it would help the City to be ready when protection opportunities arose.

#### Jordan Olin

Mr. Olin agreed with purchasing legislatively protected open space. He thought that planned projects, such as bypass roads, would bring more people to the area.

#### Colleen Bonner

Ms. Bonner made the following comments:

- She was not against open space.
- The City had been protecting it for some time.
- 1,700 of the 3,500 acres in Midway had been preserved as open space.
- 15% of subdivisions and 50% of PUD's were open space.
- Setbacks had been increased which provided more open space.
- Could not support the bond because she did not know what it would buy.
- A small percentage of residents had taken the surveys regarding open space. The City should not base its decisions on these surveys.
- The City should present a plan to its citizens before it requested to bond.
- If the City issued bonds, then there would be pressure to immediately spend that money.
- Would the money be spent on parks and trails which were useable open space?
- The Wasatch Mountain State Park provided 23,000 acres of open space and trails.
- No actual farms were left in Midway. The remaining farmers leased land to graze their cattle.

#### Heather Whitney

Ms. Whitney made the following comments:

- Moved to Midway because it was a small town with open space, diversity and farms.
- Other entities would help purchase open space if the City approve the bond.
- There were many examples of paradise being lost.
- Parks and trails were important.
- People needed to be able to get around without using vehicles.
- Supported the bond.

#### Lyle Gertsch

Mr. Gertsch made the following comments:

- Was a lifelong resident of Midway.
- Opposed the bond. There were better ways to protect open space.
- Everyone wanted open space.
- Many residents bought in subdivision that did not have open space.
- Residents should buy open space themselves if they wanted it.
- The best loan was no loan.
- The City should not go into bondage for \$5 million.
- His property taxes had more than doubled over the last six years.
- Had purchased three acres of open space.
- Taxes would be increased for a new high school, etc.
- Money should be spent on other needs such as law enforcement to control speeding.

#### Robin Johnson

Ms. Johnson made the following comments:

- Loved Midway and open space.
- It was difficult to watch open space be developed into projects like Dutch Fields.
- Liked the people who had moved into Midway and did not want them to move.
- Would people be disparaged for not protecting their property as open space?
- You should not tell others what they should do with their property.
- A family had left Midway because they wanted to do aquaponics on their property and were disparaged by neighbors.
- The City Council needed to protect property rights.
- Questioned how much open space could be purchased with \$10 million including matching funds.
- Thought that purchasing open space would not significantly reduce the need for more schools.

#### Don Huggard

Mr. Huggard made the following comments:

- Grew up in Park City and saw residents leave because the taxes became too high. The

- same thing was happening in Midway.
- His taxes had gone up \$855 that year.
- Many organizations wanted to raise taxes.
- Some residents were on fixed incomes.
- Everyone liked open space.
- Midway had already changed significantly. Cows and sheep used to be herded down Main Street.
- Good people had moved to Midway.
- If a bond was approved would the money only be used for open space in the City?
- Would there be a limit on the interest rate for the bond?

Mayor Johnson responded that only open space within the City's current annexation boundary could be preserved with the bond money.

#### Brian Baker, Zions Public Finance

Mr. Baker explained bonding, interest rates and general obligation bonds. He reviewed the bonds that had been issued in Utah for open space. He made the following comments:

- Was the bond financial advisor for the City.
- The interest rate for municipal bonds would be around 3.65% and that would not change much.
- This City's bond rate would be fixed.
- Other municipal bonds that had higher rates were an aberration because of special circumstances.
- Some open space bonds had been approved for specific projects while others had not.
- The amount of matching funds for open spaced varied widely. Park City purchased Bonanza Flats with \$25 million of bond money and \$10 million of matching funds.

#### Heather Whitney

Ms. Whitney indicated that she had purchased ten undeveloped acres in Midway. Bonding would not limit the other tools that could be used to preserve open space. Financial incentives could be important in the preservation process.

#### Steve Bonner

- His family had lived in Midway for generations.
- Was proud of Colleen, his wife, who had been the mayor. She had done a lot of things to keep Midway beautiful.
- Had a business spraying weeds and liked keeping the area beautiful.
- A municipality should bond for needs not wants.
- Residents should be responsible, not panic and should develop a plan to protect open space.
- Worried about residents on fixed incomes.
- Was most likely against the bond.

### Holly Bodily

Ms. Bodily made the following comments:

- The community was not rushing to preserve open space. It was behind in preserving it.
- Subdivisions were what was available for homebuyers.
- Had been coming to Midway for 30 years.
- The residents could choose if they wanted the area to fill in with development like other communities.
- Preserving open space saved the City money in the long run.
- Open space could only be preserved with willing buyers and sellers. Did not want to pressure anyone.
- Some residents were willing to pay into a tax relief fund to help those on fixed incomes.
- It was not realistic to require a perfect plan for open space preservation.
- Preservation would offset some costs for additional schools.
- If open space was not preserved, then tourism revenue would drop with traffic and pollution increasing.
- Was willing to not eat out twice a year to pay for her portion of the bond.

### Athina Koumarela

Ms. Koumarela made the following comments:

- Had lived in Midway for 42 years.
- Had spent months trying to find someone to preserve the Remund family property. That property could have been purchased for open space.
- The area needed to be able to produce its own food.
- The bond would be a beginning step in open space preservation.

### Kent Kohler

Mr. Kohler made the following comments:

- His family had lived in Midway for five generations.
- None of his children were able to live in Midway.
- Tools were already in place to protect open space. The farm preservation subdivision was an example.
- Private donations should be considered first, and government money considered last.
- Questioned what \$5 million would buy. It might buy a sliver of land.
- How would the price of development rights be determined?
- Were there property owners who wanted to sell their land or development rights for open space? Had talked to landowners and they were not willing to sell their development rights.
- A preservation plan was needed.

### Clint Coleman



Mr. Coleman made the following comments:

- Was not opposed to open space but the cart had been put before the horse.
- Wasatch County had been working on open space preservation for years. Residents should support the County's open space bond. It would have less financial impact on residents.
- Park City had a commercial tax base that Midway did not.
- Were wealthy residents willing to buy their own open space?
- Questioned who would be willing to put a conservation easement on their property.
- The bond had divided the community.
- Taxes did not go down once they were raised.

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

Council Member Simonsen hoped that any bond money for open space could be leveraged.

Courtland Nelson made the following additional comments:

- It would be rare that open space would be purchased fee title.
- Hoped that the bond money could be leveraged three to one but that would take time. It could take one to two years to put together a preservation deal.
- When money was put on the table it made interesting things happen.
- New ballot language would be needed if specific properties were slated for purchase.
- Areas already protected could be emphasized.
- Different criteria could be used for the center of the City.
- The City might receive up to \$1.8 million from the County's bond if it passed. The cost would be \$37 per resident per year.

Mayor Johnson reminded the attendees of future meetings regarding the bond.

**6. Michie Lane & 300 East / Increased Intersection Markings** (Jordan Council – Approximately 10 minutes) – Discuss and possibly approve additional markings at Michie Lane and 300 East to better identify the intersection.

Mr. Council made the following comments:

- Was the HOA president for Bowden Fields.
- The intersection of 300 East and 300 South (Michie Lane) was dangerous. Michie Lane was a farm road that had been improved to a bypass of Main Street.
- The road included a bike lane.
- It had several four way stops.
- The associated trail was an improvement.
- Requested more traffic enforcement on the road and improved marking at the intersection.
- Over 60 children used that intersection to go to school.
- There would also be a park at the intersection.
- 90% of the drivers did not stop at the stop signs.

- It would be tragic if a child was killed.
- Spoke to the school principal regarding safety at the intersection.

Mayor Johnson responded that her message, in the next city newsletter, would address speeding, etc.

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

- Additional money had been budgeted for law enforcement.
- Enforcement would be throughout the City.
- Shrubs would direct children in the park to cross the road using the intersection.
- The intersection would be striped that Thursday.
- A crossing guard had been discussed but that required a formal crosswalk, committee approval and plan.
- The intersections should not be four way stops. Yield signs should be used instead.
- Other traffic devices had varying degrees of effectiveness.
- Safety was the paramount concern.
- Children should be reminded about the proper way to cross an intersection.

**7. Kraig Ford Subdivision / Preliminary & Final Approval** (Berg Engineering – Approximately 10 minutes) – Discuss and possibly grant preliminary and final approval for the Kraig Ford Subdivision (2 lots) located at 115 West 970 South.

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

- Land use summary
- Location of the proposed subdivision
- Proposed plat map
- Water recommendations
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- The applicant wanted to create a building lot for his daughter.
- The request met the requirements of the zone.
- There was enough width for a driveway with a hammerhead turnaround. It did not have to be an impervious surface.

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

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

- The applicant could have done half acre lots but chose to do a one-acre lot.
- The process had been started to transfer some of the water rights, in an existing well, into the City’s culinary system.

**Public Hearing**

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

**Motion:** Council Member Van Wagoner moved to grant preliminary and final approval for the Kraig Ford Subdivision, located at 115 West 970 South, with the recommendation of the Water Board and the following findings and conditions:

- The proposed lot met the minimum requirements for the R-1-22 zoning district.
- The proposal met the intent of the General Plan for the R-1-22 zoning district.
- A Midway Irrigation Company easement would be shown on the plat for the irrigation ditch that ran along the north side of the property.
- A note would be included on the plat that required a hammerhead or turnaround driveway that would be installed with the construction of a dwelling on Lot #2.

**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

**8. Lola’s Street Kitchen / Conditional Use Permit to Serve Alcohol** (David Perez-Medina – Approximately 15 minutes) – Discuss and possibly grant a conditional use permit and local consent for Lola’s Street Kitchen, located at 24 East Main Street, to serve beer and wine (Zoning is C-2). Recommended with conditions by the Midway City Planning Commission.

**Public Hearing**

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

- Overview
- Proposed conditions
- Possible findings

Mr. Henke also made the following comments:

- The applicant was requesting a conditional use permit to serve alcohol at the restaurant.
- The applicant would have to comply with any city regulations above and beyond those required by the State.
- In the past, the City had limited the hours during which alcohol could be served.
- The City had also limited signage advertising alcohol.

- All property owners within 600 feet of the business had been notified of the public hearing.
- Received three calls regarding the request with two in support and one opposed.
- Only beer and wine would be served. There would not be a bar.

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

Mayor Johnson opened the public hearing.

#### Robin Johnson

Ms. Johnson asked that the Council impose the same restrictions, limiting the hours during which alcohol could be served, that it placed on the Midway Mercantile restaurant. She also asked that the Council maintain the restrictions on the Mercantile to avoid problems later in each evening.

#### Kent Kohler

Mr. Kohler favored the permit because it would be good for business and the City's tax base. He thought that there had been no problems with the Mercantile and also favored removing those restrictions.

#### Jordan Council

Mr. Council supported the requests for Lola's Street Kitchen and the Mercantile with the restriction on alcohol related signage.

#### John Platt

Mr. Platt supported the request because it would help a burgeoning Main Street business area. He added that alcohol related signage was not necessary.

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

Council Member Simonsen approved of restricting the hours for serving alcohol, but he was not comfortable treating individual restaurants differently. He asked if the limitation could be put on all restaurants serving alcohol. Mr. Henke responded that the restriction could not be imposed on other restaurants, that had been approved to sell alcohol, until there was a violation of the nuisance ordinance.

Council Member Probst asked if there had been any issues with a restaurant that already served alcohol. Mr. Henke responded that the only complaint came from Robin Johnson regarding the old Bear Dance Café.

Council Member Drury said that he spoke to the applicant and supported the request.

**Motion:** Council Member Drury moved to grant a conditional use permit, for Lola's Street Kitchen, to serve beer and wine with no alcohol related signage readily visible.

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

**Discussion:** Mayor Johnson asked if the motion included any restriction on the hours of serving alcohol. Council Member Drury responded that it did not.

**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. Midway Mercantile / Conditional Use Amendment to Serve Alcohol** (John Platt – Approximately 10 Minutes) – Discuss and possibly amend the conditional use permit for the Midway Mercantile Restaurant, located at 99 East Main Street, to serve alcohol (Zoning is C-2).

Mr. Henke also made the following comments:

- The restaurant had received a conditional use permit the year before to serve alcohol.
- The permit was subject to no alcohol related signage and limitations on the hours of service.
- The applicant was asking that the limitation on the hours be removed.
- The restaurant sold beer, wine and liquor.

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

Mr. Platt, applicant, made the following comments:

- The restaurant was open until 10 p.m.
- There was no plan to extend those hours.
- Occasionally the restaurant might be rented out beyond that time.
- Did not want to deny alcohol to someone that came in at 9:45 p.m.
- Patrons could go to another restaurant in the City and get alcohol after 10 p.m.
- The bar was small and had not been a problem.

Robin Johnson made the following comments:

- Her husband predicted that the restrictions on the hours of service would be brought back before the Council.
- She had received a letter regarding Lola's but did not receive any notification regarding

the Mercantile's request.

- The applicant had sent her a letter when the restaurant would be open later.
- The restaurant was just outside of their bedroom window.
- People were more active later at night.
- People could be coming out of the restaurant at midnight or 1 a.m.

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

- The permit could be revoked if there was an issue.
- A notification had not been sent because it was felt that it was not needed.
- The approval could be conditioned on not disturbing the neighbors while they tried to sleep.
- All businesses should be treated the same.
- The owner needed to be responsible and quickly deal with any problems.
- What was disruptive needed to be defined.
- It was a problem if law enforcement had to be called.
- Restaurants were good for Midway.
- The Planning Commission could recommend limits on disruptions.

Corbin Gordon recommended that the Council treat the Mercantile the same as it had other restaurants serving alcohol.

**Motion:** Council Member Simonsen moved to approve the amendment to the Midway Mercantile's conditional use permit, which removed the restriction on the hours of serving alcohol but not the alcohol related signage restriction, because it promoted fairness.

**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

**10. John Probst / Settlement Agreement** (City Attorney – Approximately 15 minutes) – Discuss and possibly approve a settlement agreement with John Probst regarding the issuance of a business license for a residential treatment facility located at 430 West 200 North.

Corbin Gordon made the following comments:

- John Probst had filed a federal lawsuit against the City.
- There was a possible settlement to the suit with the City proposing revisions to the agreement.
- Could not recommend that the Council approve the settlement agreement, as proposed

- by Mr. Probst's attorneys, because it did not include all parties that could sue.
- Several edits also needed to be made.
  - Recommended tabling the item and continuing to work to resolve the issue.

**Motion:** Council Member Christen moved to table consideration of the settlement agreement.

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

**Discussion:** None

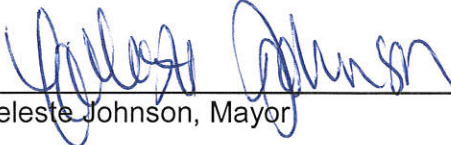
**Vote:** The motion was approved with the Council voting as follows:

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

## 11. Adjournment

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

The meeting was adjourned at 9:11 p.m.

  
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Celeste Johnson, Mayor

  
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Brad Wilson, Recorder