

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

**Tuesday, 4 December 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.

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. Lisa Christen gave the prayer and/or inspirational message.

2. Consent Calendar

- a. Agenda for the 4 December 2018 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 20 November 2018 City Council Regular Meeting
- d. Jon McKeon and Heather Whitney as alternate members of the Midway City Planning Commission

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

Council Member Christen asked about the two payments to Wheeler Machinery Co. for the same amount. Brad Wilson responded they were the lease payment for a backhoe that was separated among various departments.

Motion: Council Member Christen moved to approve the consent calendar.

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

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 / Burials

Council Member Probst reported on the number of burials in the City's cemetery.

Cemetery / Burials

Council Member Probst reported on the number of burial plots recently sold in the cemetery.

Snowplowing / Reminders

Council Member Van Wagoner reminded the public to be patient when snow was being plowed off the City's roads. He also reminded residents not to park vehicles on the sides of roads during snowplowing.

Public Works Vehicle Building

Council Member Van Wagoner reported that the public works vehicle building had been completed.

Water / New Water Lines

Council Member Van Wagoner reported that the City was considering installing several new water lines.

Water / Supply

Council Member Van Wagoner reported that the City had enough culinary water with the completion of a new well.

Swiss Alpine Road / Completion

Council Member Simonsen reported that the reconstruction of Swiss Alpine Road had been completed except for the striping.

Parking

Council Member Simonsen reported that the City was still working on parking issues in and around its commercial zones.

Parks / Michie Lane Park

Council Member Simonsen reported that construction of the Michie Lane Park would be let out for bid that January.

Trails / Grants

Council Member Simonsen reported that the City would apply for grants to connect sections of trail.

Utah State Legislature / Lobbyist

Mayor Johnson reported that the City had hired the same lobbyist to represent it at the Utah State Legislature.

- 5. LaBarge Subdivision / Preliminary Approval** (City Planner – Approximately 20 minutes) – Discuss and possibly grant preliminary approval for the LaBarge Subdivision located at 922 North Pine Canyon Road (Zoning is R-1-15 and R-1-22). Recommended for approval with conditions by the Midway City Planning Commission. **Public Hearing**

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

- Location of the subdivision
- Zoning

- Proposed plat map
- Access
- Roads
- Land use summary
- Water Board recommendation
- Possible findings
- Bike lane
- Wetlands
- Length of cul-de-sacs
- Recommended conditions
- Setback from Pine Canyon Road
- Scale of the subdivision

Mr. Henke also made the following comments:

- There was an agreement between the developer and the owner of the property just to the south.
- Recommend extending the existing cul-de-sac, because it could possibly connect to Pine Canyon Road and the density in the subdivision was reduced.
- The subdivision could have been eight to nine lots.

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

Public Hearing

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

John Duncan

Mr. Duncan indicated that he owned property on the other side of Pine Canyon Road. He asked if the size of the homes in the proposed subdivision would be limited. Mr. Henke responded that they would only be limited by the setbacks for each lot.

Mr. Duncan asked the timeframe for construction. Mr. Henke responded that he did not know the timeframe.

Mr. Duncan asked about the proposed bike lane on Pine Canyon Road. Mr. Henke reviewed the bike lane.

Mr. Duncan asked if he would be notified when the land south of his property was proposed for development. Mr. Henke responded that he would be notified.

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

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

- There needed to be consequences for not maintaining the landscaping strip on the south

- side of the proposed cul-de-sac.
- A road through the subdivision could not be required because it was not on the City's roads plan.
- The City should consistently apply its 500-foot length limit for cul-de-sacs.
- Long cul-de-sacs were problematic because they put a lot of traffic onto a point in a collector road. They were also difficult for emergency vehicles to use.
- The proposed cul-de-sac could alleviate some problems if it eventually connected to Pine Canyon Road.
- Drivers usually understood that a cul-de-sac, which was no longer than 300 feet, was not a through road.
- Pine Canyon Road was narrow.
- There would be a five-foot-wide sidewalk on both sides of the road and around the cul-de-sac. Was all that sidewalk needed at that time?
- The Council had some discretion in the length of cul-de-sacs.
- Wasatch County allowed cul-de-sacs as long as 1,300 feet with a certain number of units.
- Should cul-de-sac lengths be specified in the Municipal Code?
- The cul-de-sac, in the proposed subdivision, would come off an existing stub road.

Motion: Council Member Simonsen moved to grant preliminary approval for the LaBarge Subdivision, located at 922 North Pine Canyon Road, with the mixed zoning of R-1-15 and R-1-22 with the following findings and conditions:

- An agreement had been completed between the developer and Larry Brown so that the property could be deeded to the City for the road to connect.
- Lot 1 would be deed restricted so that it could not be further subdivided.
- The two irrigation easements would be included on the plat map.
- Lot 1 would have a 100-foot setback from Pine Canyon Road recorded on the plat map.
- The developer would contribute to a fund for a bike lane along Pine Canyon Road.
- All water would be turned over to the City as recommended by the Midway Water Advisory Board.
- The City would prefer that in the future the road continue to Pine Canyon to improve traffic flow.
- The subdivision met the goals of the General Plan to lower density and maintain a rural atmosphere.
- The 500-foot cul-de-sac limit was important but there should be some flexibility from situation to situation. There was also the possibility of a through road through the subdivision. This was consistent with a lot split proposed for 780 East, which was on a cul-de-sac longer than 500 feet, because it also had a stub road.
- The owner of lot 1 would landscape and maintain the park strip along the south side of the road from lot 1 to the boundary of the Swiss Farms Subdivision until the Brown parcel was developed.

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	Nay
Council Member Simonsen	Aye
Council Member Van Wagoner	Aye

6. Ordinance 2018-25 / Resort Zone Amendments (City Planner – Approximately 30 minutes) – Discuss and possibly adopt Ordinance 2018-25 amending Section 16.15 (Recreational Resort Zones) of the Midway City Municipal Code regarding the resort zone. Recommended for approval by the Midway City Planning Commission. **Public Hearing**

Mayor Johnson made the following comments:

- The Planning Commission had extensively reviewed the proposed ordinance.
- The Council reviewed it at its work meeting that morning.
- The Council would have to adopt something that night to meet the deadline for the notice of pending ordinance.
- Further work might be needed on the resort zone code.

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

- Zoning map for Midway City
- Locations of the resort zone
- Current resort zone code
- Notice of pending ordinance
- Concerns with the current resort zone code
- Permitted uses in the current resort zone code
- State Code requirements for land use language
- Resort development tax base
- Proposed required uses from the Planning Commission
- Proposed required uses from staff (Updated from the work meeting)
- Large vs. small properties
- Height limits (Updated from the work meeting)
- Density
- Approval process
- Phasing (Updated from the work meeting)
- Required percentage of commercial and residential (Updated from the work meeting)

Mr. Henke also made the following comments:

- The percentage of tax generating commercial uses had been reduced to 5% because of the discussion at the work meeting.
- Should amenity buildings be included in the 20% required commercial?
- The setbacks were changed to match those in the commercial zones.
- The staggering of structures had been moved back 50 feet.
- Water rates would depend upon the meter size.

Note: A copy of Mr. Henke's presentation and a revised version of the proposed code is contained in the supplemental file.

Public Hearing

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

Roland DeCardenas

Mr. DeCardenas, representing the Lacy Lane HOA, gave a presentation and made the following comments:

- The Lacy Lane HOA was concerned about the portion of the resort zone that was next to their subdivision and included the old Mt. Spa.
- Was concerned with the sightline because the elevation of the resort zone property was 47 feet higher than their homes.
- Wanted 100-foot setbacks for the resort zone.
- A resort on the Mt. Spa property was not compatible with the surrounding properties.

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

Bill McDonald, Lacy Lane HOA President

Mr. McDonald made the following comments:

- Questioned a development that had both resort and residential zoning.
- A structure could seem 100 feet high because of an elevation change.
- A structure could obscure the mountains.
- Wanted to protect his investment.
- Asked that the Mt. Spa property be considered for preservation with open space funds.

Paulette Tillman

Ms. Tillman indicated that Midway residents wanted to protect the area's rural character. She noted that the City's vision statement supported that goal. However, she thought that Midway was encouraging destination resorts and increased revenue.

Paul Berg

Mr. Berg made the following comments:

- \$3 per room per night in transient room tax was generated by the Homestead Resort.
- A person would have to spend \$1,000 at Main Street businesses to equal the tax revenue they would generate by staying at a family reunion type lodge. Recommended that such lodges be added as permitted uses in the resort zone and count as

commercial. They were low impact and high revenue.

- Used the current RZ code for 19 years in developing or redeveloping the Zermatt Resort, Homestead Resort and Mt. Spa. It favored resorts.
- The City should consider other uses that worked well in the zone.
- The Mt. Spa, although it was in an odd location, was a resort long before the Lacy Lane Subdivision was built.

Mr. Berg also reviewed the history of resort zoning in Midway. He indicated that some changes over time had reduced the number of transient rentals and jeopardized the City collecting the Resort Communities Tax.

Nathan Anderson

Mr. Anderson made the following comments:

- Represented the owners of the Mt. Spa property.
- Appreciated the urgency to adopt a revised code for the resort zone.
- Would have liked to review the draft code prepared after that day's work meeting.
- Asked to be informed of revisions as they were proposed.
- The phasing regulations needed to be improved.
- Developers needed flexibility to respond to the market. They should be able to make changes without endangering the entitlements.
- Lenders did not like to lend on projects with a short shelf life.
- Provided a letter to the Council the day before.

Scott Lewis

Mr. Lewis indicated that any use that had an open-ended definition should be conditional. He said that RV parks required dump stations and refueling.

Kristina Beaver

Ms. Beaver asked for an explanation of conditional uses. Mr. Henke explained they were permitted uses with conditions and required noticing of property owners within 600 feet.

Mayor Johnson read the following email from a concerned citizen regarding the proposed ordinance:

The 20% policy forced the developer to build large boxes like Zermatt.

The 20% policy generated no tax base and was a huge cash drain with vacant space sitting unused.

The best tax base generator was rental rooms, lockouts, condos for rent and large homes for rent.

Taxes from retail were negligible, taxes from rental property were ten times as effective.

After talking to resort owners about their success formula, please consider reducing it to a combined overall total of 15%, and include as many categories and amenities as possible, and let the development team use their best judgment and experience to build & provide elements and amenities in the resort, that enticed as many renters and families as possible to come to Midway.

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

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

- Who would determine the eligible uses for the commercial and tax generating categories? Should that be an administrative decision by the Planning Director?
- Should non-residential uses be conditional because they were so broad?
- The proposed ordinance was not perfect and could be changed in the future if needed.
- A sightline study would be required for structures over 35 feet high.
- The proposed code allowed RV pads not RV parks.
- The difference between the resort zone and the transient rental overlay district.
- Some revisions needed to be adopted that night but more work on the regulations was needed.
- The Council had not been given much time to consider the proposal.
- Appreciated the work done by the Planning Commission.
- The City should adopt a policy that the Council had at least two months to review and consider code text amendments.
- Any future revisions would have to first be considered by the Planning Commission.
- The Council should give the Commission its concerns regarding the proposal.
- There was limited time because of the notice of pending ordinance which would expire on December 13th.

Motion: Council Member Drury moved to adopt Ordinance 2018-25 and accept the staff report with the following findings and conditions:

- The proposed amendment established permitted and conditional uses allowed in the resort zone - as included in the staff report with the addition of short-term Glamping and RV parks. Pads and camping sites would follow the same setback conditions as buildings, currently 100 feet. The planning commission should examine any density requirements for Glamping and RV parks in the future.
- The proposed amendment allowed smaller acreage property standards for development with the two acres as stated in the staff report and the setbacks as changed and discussed that evening.
- The proposed amendment established setback and height requirements as discussed that evening with the intent that there would be a city wide height maximum of 35 feet allowed. In the resort zone a conditional or case by case review of up to a maximum of 55 feet, with the language and discussion in the staff report, would be allowed. In the resort zone a 15-foot architectural element would be allowed above the 55 feet upon meeting conditions and approval.
- The proposed amendment insured that water rights would be secured in escrow during entitlement as stated in the staff report and consistent with the other zones in the City.

- The proposed amendment insured that 20% of gross square footage would be commercial. ¼ of the require 20% had to be specific tax generating uses and that those uses would exclude services as noted in the revised table for permitted and conditional uses.
- The proposed amendment required that at least 30% of the gross square footage be transient nightly rentals.
- In the proposed amendment, non-residential uses be changed from a permitted to a conditional use in the table of permitted and conditional uses.
- Uses necessary for the operation of resort activities be changed to a conditional use.
- The addition of short-term lodges to that table as a permitted use and counting towards the commercial space requirements.

Second: Council Member Van Wagoner seconded the motion.

Discussion: Council Member Christen asked if the Planning Commission needed to further review the resort zone code. Council Member Drury responded that he included that request in his motion. He thought that the current code had worked but was ambiguous. He added that the code as amended needed further examination and revision. Council Member Christen agreed that the code needed more work.

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

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

Motion: Without objection, Mayor Johnson recessed the meeting at 8:43 p.m. She reconvened the meeting at 8:50 p.m.

7. Ordinance 2018-26 / Accessory Structures in Commercial Zones (City Planner – Approximately 15 minutes) – Discuss and possibly adopt Ordinance 2018-26 amending Section 16.5 (Commercial C-2 and C-3 Zones) of the Midway City Municipal Code regarding accessory structures. Recommended for approval by the Midway City Planning Commission. **Public Hearing**

Michael Henke gave a presentation regarding the proposed ordinance and reviewed the commercial zone setbacks.

Mr. Henke also made the following comments:

- The current code for the commercial zones did not address accessory structures.
- The commercial zones usually ended in the middle of a block. It had been this way for so long that it was not a problem.
- In the future, wanted to unify and simplify the setbacks in all zones for accessory structures.
- The height and size of an accessory structure depended upon the size of the lot or property.

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

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

- Residents did not know the setbacks because they changed from zone to zone.
- A 35-foot high accessory building could be within three feet of a property line with the current code. Residential buildings had to be 15 feet away.
- Setbacks should be consistent from zone to zone.
- The proposed ordinance should be tabled and the setbacks in all zones reviewed.

Public Hearing

Mayor Johnson opened the hearing and asked if there were any comments from the public. She closed the hearing when no public comment was offered.

Council Member Simonsen asked if another public hearing should be held if the proposal was revised to look at all zones. The Council agreed that another hearing should be held.

Motion: Council Member Drury moved to continue consideration of the ordinance to review the setbacks for accessory buildings in all zones, including the commercial zones, to develop consistency.

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

8. Ordinance 2018-23 / General Plan Amendment (City Planner – Approximately 10 minutes)
– Discuss and possibly adopt Ordinance 2018-23 amending the Midway City General Plan regarding open space. Recommended by the Midway City Planning Commission.

Mayor Johnson explained that the amendment had been considered in October, but the Council felt like it should not be voted on before the special bond election.

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

- Why the chapter should be added to the General Plan
- Open space chapter

- to be annexed into the City.”
- Change “...to encourage or require the preservation of open space...” to “...to preserve open space...”.

Council Member Drury recommended that “...our intention that when bonds are issued...” be changed to “...our intention that prior to bonds being issued...”.

Council Member Christen asked what was meant by “value proposition”? Council Member Simonsen responded that the value was not just money but the value to the community. Council Member Drury suggested that the sentence be change to “...specific community benefit is clearly identified...”.

Motion: Council Member Van Wagoner moved to approve Resolution 2018-30.

Second: Council Member Christen seconded the motion.

Discussion: Mayor Johnson thought that the statement of intent would help the Open Space Committee. She also indicated that the Committee was reviewing what other communities had done.

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. Financial Report / 1st Quarter (Financial Officer – Approximately 5 minutes) – Receive a report on Midway City’s finances for the first quarter (July – September) of fiscal year 2019.

Brad Wilson indicated that the financial report was reviewed in detail at that morning’s work meeting. He added that a copy could be obtained on the City’s website.

11. Council Meetings / Holiday Schedule (Approximately 5 minutes) – Discuss and possibly change the schedule for the Midway City Council meetings during the Christmas and new year holidays.

Mayor Johnson noted that the holiday schedule had been discussed in the work meeting that morning.

Motion: Council Member Christen moved to cancel the work and regular meetings scheduled for December 18th and January 1st with the Mayor authorized to pay any bills for already approved projects.

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

12. Adjournment

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

The meeting was adjourned at 9:33 p.m.



Celeste Johnson, Mayor



Brad Wilson, Recorder