

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

**Tuesday, 17 September 2019, 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 6:14 p.m. She excused Council Member Probst and Council Member Van Wagoner.

**Members Present:**

Celeste Johnson, Mayor  
Jeff Drury, Council Member (Participated Electronically)  
Lisa Orme, Council Member  
JC Simonsen, Council Member

**Staff Present:**

Corbin Gordon, Attorney  
Michael Henke, Planning Director  
Wes Johnson, Engineer  
Brad Wilson, Recorder/Financial Officer

**Members Excused:**

Bob Probst, Council Member  
Ken Van Wagoner, Council Member

**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. She also gave the prayer and/or inspirational message.

**2. Consent Calendar**

- a. Agenda for the 17 September 2019 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 3 September 2019 City Council Regular Meeting
- d. Conclude the warranty period and release the remainder of the bond for the Kelson Rural Preservation Subdivision, located at 943 West Swiss Alpine Road, subject to the payment of all fees due to Midway City

- e. Release the construction bond minus 10%, \$21,000 for landscaping, \$25,576.80 to slurry seal, and \$5,850.29 for a survey for as-built drawings and begin the one-year warranty period for Phase II of the Appenzell PUD located at 600 South Center Street

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

Brad Wilson asked that the closed meeting minutes from 3 September 2019 also be included on the consent calendar.

**Motion:** Council Member Orme moved to approve the consent calendar including the closed meeting minutes from 3 September 2019.

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

**Discussion:** None

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Probst	Excused from the Meeting
Council Member Simonsen	Aye
Council Member Van Wagoner	Excused from the Meeting

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

Mayor Johnson asked if there were any comments from the public for items not on the agenda.

#### High Valley Arts / Performance Space

Anna McMaster gave a presentation on the High Valley Arts Foundation including its benefits to the community. Andrea Scott also talked about the benefits of the Foundation and indicated that it wanted its own space in which to perform.

#### Parking / Blocking

Cecil Duval expressed concern that residents, especially part-time residents, were blocking off the public parking in front of their properties. He indicated that parking was a problem and the Council needed to act.

#### Volksmarch

Athina Koumarela gave a presentation on the planned Volksmarch and thanked those who supported it.

No further comments were offered.

#### **4. Department Reports**

##### Road Work

Council Member Simonsen and Wes Johnson reported on the road work happening in the City.

##### Striping

Council Member Simonsen reported on the road striping in the City. He indicated that a crosswalk had been striped on Pine Canyon Road for a trail.

##### Roads / Surface Treatments

Council Member Simonsen and Wes Johnson reported on the roads being chip sealed in the City.

##### Trails / Grants

Council Member Simonsen reviewed the grants that had been received for trails. He also reported on the associated trails projects.

##### Trails / Survey

Council Member Simonsen reported on the recent survey regarding trails in the City.

##### Town Square / Pickleball Courts

Council Member Simonsen reminded the Council that the City's trails and parks committee was still considering recommending pickleball courts on the Town Square.

##### Swiss Days / Dogs

Council Member Simonsen asked if dogs were allowed on the Town Square during Swiss Days. Mayor Johnson responded they had been allowed that year because of a miscommunication. She said that the Midway Boosters was considering the issue but thought that they should not be allowed.

##### ULCT Conference

Council Member Orme reported on the conference held by the Utah League of Cities and Towns. She suggested that the entire Council attend the following year.

**5. Main Street Streetlights** (Carson Fillin – Approximately 15 minutes) – Discuss streetlight options and examples for Midway Main Street.

Mayor Johnson explained that Heber Light & Power Company (HL&P) wanted to change the streetlight fixtures, along Main Street, to LED lights. The change would reduce power consumption and HL&P would pay the changeout cost. She added that HL&P would also pay to change the pole if the number of fixtures on each pole was reduced from two to one.

Mr. Fillin gave a presentation on the project, dark sky compliance, safety, types of fixtures, costs, etc.

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

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

- The definition for dark sky compliance needed to be amended in the Municipal Code.
- The brightness of the new fixtures would be adjustable.
- Two fixtures per pole was twice the maintenance.
- A logo could be put on the poles.
- The LED fixtures would reduce power consumption by 50%.
- Having one fixture per pole would further reduce consumption.
- Irrigation lines could be run inside of the poles. The poles could also hold banners and flower baskets.
- A new LED fixture with comfort lighting, which looked like the current fixtures on Main Street, would be available the following month. Pricing for that fixture would be available at that time.

Mayor Johnson asked that the item again be placed on the agenda in November.

Athina Koumarela suggested that streetlights throughout the City also be changed to the LED comfort light.

**6. Watts Remund Farms PUD / Master Plan Amendment** (Berg Engineering – Approximately 30 minutes) – Discuss and possibly amend the master plan for the Watts Remund Farms PUD located at approximately 200 East 600 North (Zoning is R-1-15). Recommended with conditions by the Midway City Planning Commission.

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

- Land use summary
- Location of the PUD
- Master plan approval
- Proposed amendments with recent adjustments
- Approved site plan
- Approved phasing plan
- Amended phasing plan considered by the Planning Commission

- Amended phasing plan recommended by the Planning Commission
- Most recent phasing plan
- Open space plan
- Pad #84 changes
- Proposed plat map note for private areas
- Items to consider
- Proposed findings
- Items being requested

Mr. Henke also made the following comments:

- Some adjustments had been made since the amendment was considered at the previous council meeting.
- The amendment with the adjustments met the requirements of the Municipal Code.
- The City would only oversee structural items in the proposed private areas. Other items like fire pits would be an issue for the HOA.
- Water rights would be turned over to the City with each phase.
- Some of the trails would be completely constructed with Phase I. Others would be constructed but not asphalted with Phase I.

**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 Council would have granted more phases with the original approval.
- The Municipal Code did not limit the number of phases.
- An amendment would be needed to reduce or eliminate the existing buffers with the neighbors.
- Should site obscuring fences be prohibited in the proposed private areas? The HOA not the City should enforce this prohibition.
- Property owners had planned based on the original approval. Was it fair to then change the approval?
- The temporary loss of tax revenue, caused by additional phases, was a concern.
- Should there be a limit on the number of phases?
- The amendment should only be approved if it was in the best interest of all involved.
- Staggering of units was only required if they were next to a road.
- There would be silt fences installed during construction.
- Wetlands in the City had not been impacted by runoff from a development.
- There was an existing master plan agreement and there needed to be significant benefits for the community to justify it being changed.
- The existing master plan and phasing worked.
- The City should not have to maintain infrastructure without the benefit of the full tax revenue.
- When a phase was recorded then the higher amount of tax revenue would be collected for the prior five years.
- Would support the amendment if the agreement terminated in five years.
- An agreement should not terminate if the related development had been recorded.
- The applicant was now requesting an increase of phases to five instead of eight.

- The final two phases were small which would defer less tax revenue.
- Phase I was already being taxed for the lots.
- Phasing would leave land undisturbed for longer.
- The Wasatch County School District had to plan for new growth.
- Asphaltting more of the trails, as part of the amendment, would be a benefit to the community. Reducing the number of units would be a benefit. Extending the trail to River Road would also be a benefit.

Russ Watts, applicant, made the following comments:

- Site obscuring fences could be prohibited in the proposed private areas.
- Was limited by a stream and trails when staggering some of the units.
- It was natural for phases to be changed as a project was developed. This was not an effort to avoid the regulations in the Municipal Code but to protect the project from a recession.
- Adjusting phasing also protected the City from having to finish the infrastructure in an abandoned development.
- Had collaborated with the neighbors, during the original approval, regarding trails and setbacks. Had agreed to additional trails, improving 600 North, looping water lines, connecting sewer lines, and would construct four park areas. A lot of community benefits had been agreed to during the original approval.
- There was little cost to maintaining sewer and water infrastructure. The greater cost would be finishing a project during an economic downturn.
- There would not be an impact on schools, emergency services, etc. until people moved into the units.
- Was willing to make the south and east perimeter trails a public use but maintained by the HOA.
- Was willing to extend the trail through Swiss Paradise and along River Road to the planned roundabout at the entrance to Memorial Hill.
- Had a trails and utility easement on a lot in Swiss Paradise that would be used to extend the trail.

**Motion:** Council Member Simonsen moved that staff prepare an amended master plan agreement that addressed the following items:

- The proposed private areas would not encroach on the wetlands and wetlands buffer.
- No site obscuring fences would be allowed in the proposed private areas. The HOA not the City would enforce this restriction. The Municipal Code could be referenced for guidance.
- The number of phases would be changed to five because each was of a reasonable size. In this case the increase did not seem egregious.
- A public trail easement across the perimeter trail would be granted.
- The developer would build an asphalt trail along 300 North and River Road to the planned roundabout at the entrance to the Memorial Hill. The developer would work with the City on its design.
- Units 84 to 87 would not be staggered.
- Unit 84 would have the same setbacks as in the original approval.
- The proposed master plan appeared to meet the requirements of the code.

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

**Discussion:** None

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Probst	Excused from the Meeting
Council Member Simonsen	Aye
Council Member Van Wagoner	Excused from the Meeting

**7. Zermatt Resort / Business Growth Grant** (Maxine Jensen – Approximately 30 minutes) – Discuss Zermatt Resort’s application for a business growth grant.

Mayor Johnson reviewed the request from the Zermatt Resort. She also explained that there were not many options to get large groups of skiers from Midway the ski resorts. She noted that Ms. Jensen was unable to attend that evening’s meeting.

**Note:** A copy of the Zermatt Resort’s request is contained in the supplemental file.

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

- The Zermatt Resort was an important part of the City’s tax base.
- A process should be established to fairly and thoughtfully award grants and ensure that the money was used as planned.
- Businesses would scrutinize how any grants were awarded.
- The cultural as well as the economic benefit needed to be considered.
- How should businesses be treated as opposed to non-profit organizations?
- The issue needed to be considered further. It also needed to be considered by the Midway Business Alliance.

**8. Ice Rink / Management Agreement** (City Attorney – Approximately 15 minutes) – Discuss and possibly approve an agreement with the Midway Boosters to manage the Midway City Ice Rink for the 2019 - 2020 season.

Corbin Gordon made the following comments:

- A management agreement had been negotiated the previous year but not signed.
- The proposed agreement allowed the Midway Boosters to keep any money in its account if the Rink closed.
- Several exhibits needed to be finalized.
- The Boosters had already signed the agreement.
- The Boosters would keep any skates that it purchased.
- The City would remove the snow from the rink.

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

- The City owned but did not maintain the Zamboni.
- The City should not require the return of the \$25,000 of start-up funds provided to the Boosters.
- Would the Boosters lose money if the City was unable to immediately remove snow from the Rink?
- The City should not lay down the ice, paint the ice or remove the snow.

**Motion:** Council Member Orme moved to approve the management agreement, with the changes discussed, and authorized the Mayor to sign it.

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

**Discussion:** None

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Probst	Excused from the Meeting
Council Member Simonsen	Aye
Council Member Van Wagoner	Excused from the Meeting

**Motion:** Without objection, Mayor Johnson recessed the meeting at 9:15 p.m. She reconvened the meeting at 9:26 p.m.

**9. Land Use Agreements / Duration** (City Attorney – Approximately 15 minutes) – Discuss the duration for various agreements related to land use including annexation agreements, master plan agreements, development agreements, etc.

Mayor Johnson indicated that the issue would be discussed on October 1<sup>st</sup> when the rest of the Council was present.

**10. Closed Meeting to Discuss the Purchase, Exchange, or Lease of Real Property and the Character, Professional Competence, or Physical or Mental Health of an Individual.**

**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:



Council Member Drury	Aye
Council Member Orme	Aye
Council Member Probst	Excused from the Meeting
Council Member Simonsen	Aye
Council Member Van Wagoner	Excused from the Meeting

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

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

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

**Discussion:** None

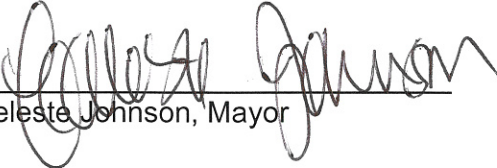
**Vote:** The motion was approved with the Council voting as follows:

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Probst	Excused from the Meeting
Council Member Simonsen	Aye
Council Member Van Wagoner	Excused from the Meeting

## 11. Adjournment

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

The meeting was adjourned at 10:34 p.m.

  
Celeste Johnson, Mayor

  
Brad Wilson, Recorder