

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

**Tuesday, 3 December 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 6:00 p.m.

Members Present:

Celeste Johnson, Mayor
Jeff Drury, Council Member
Lisa Orme, 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. She gave the prayer and/or inspirational message.

2. Consent Calendar

- a. Agenda for the 3 December 2019 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 22 October 2019 City Council Work Meeting
- d. Minutes of the 13 November 2019 City Council Work Meeting
- e. Minutes of the 13 November 2019 City Council Closed Meeting
- f. Minutes of the 19 November 2019 City Council Work Meeting
- g. Minutes of the 19 November 2019 City Council Closed Meeting
- h. Minutes of the 19 November 2019 City Council Regular Meeting

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

Wes Johnson asked that a warrant be added for CKC Asphalt in the amount of \$303,094.86 for road surface treatments.

Motion: Council Member Van Wagoner moved to approve the consent calendar with the change indicated.

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	Aye
Council Member Simonsen	Aye
Council Member Van Wagoner	Aye

3. Volksmarch / Report (Kris Ward – Approximately minutes) – Receive a report on the Volksmarch held on September 21st.

Holly Bodily and Kris Ward gave a presentation on the Volksmarch.

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

4. 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.

Recycling

Tasha Lingos asked about recycling options for the area. Mayor Johnson responded that she and the Heber City Mayor were working on recycling. She noted that the types of recyclables were being limited because countries like China were no longer accepting them. She added that some recyclers were now sending these items to landfills.

No further comments were offered.

5. Department Reports

Cemetery / Trees

Council Member Probst reported that new trees had been planted at the City's cemetery.

City Office Building / Remodel

Council Member Probst and Mayor Johnson reported on the remodeling of the Midway City Office Building.

Roads / Snow Plowing

Council Member Van Wagoner reported that snow had been plowed off the roads over the Thanksgiving holiday and a lot of salt was used.

Trails / Grants

Council Member Simonsen reported that trails, partially paid for by grant money, would be constructed that spring.

Roads / 2019 Work

Council Member Simonsen reported that the road work for 2019 had been completed.

Impact Fees / Schools

Mayor Johnson recommended that the State Legislature allow school districts to charge an impact fee.

Ice Rink

Council Member Drury reported that repairs had been made at the City's ice rink and it was now operational.

6. Rocky Mountain Power / Conditional Use Permit for Transmission Line (City Planner – Approximately 45 minutes) – Discuss and possibly approve a conditional use permit for Rocky Mountain Power to improve a transmission line along 970 South, Stringtown Road and Wards Lane.

Mayor Johnson made the following comments:

- A public hearing on the conditional use permit (CUP) would not be held that night.
- The City Council would discuss the issue that night.
- The results of a survey, regarding burying the line, would not be available until the next council meeting.

Michael Henke gave a presentation regarding the CUP and a photo simulation of the metal poles.

Mr. Henke also made the following comments:

- The number of poles and lines would be reduced.
- There would be an 88-foot-tall and 50-65-inch diameter metal pole on the corner of 970 South and Stringtown Road.
- The estimated cost to bury the line would be \$3.8 million.
- The cost for burying would increase if the associated dip poles were moved to the east and away from State Hwy 113.

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

Benjamin Clegg, a consulting engineer for Rocky Mountain Power (RMP), explained the arms on the metal poles.

Mayor Johnson and Brad Wilson explained how the survey was developed and the geographic areas determined.

Jason Norlan, Heber Light & Power Company (HL&P) explained that it would cost \$250,000 to \$300,000 to rebuild the rack at the substation instead of using dip poles.

Council Member Van Wagoner made the following comments:

- The cost per utility meter to bury the line, at \$3.8 million with an interest rate of 3.5%, would be \$13.65 a month.
- The cost would be more if the money was borrowed.
- There was not time to borrow the money.
- Did not want to borrow the money.
- Services might have to be reduced to bury the line.
- The only alternative was significant fundraising.
- Questioned if HL&P would loan the City the money.

Mayor Johnson made the following comments:

- \$500,000 had already been raised to bury the line.
- The City might be able to bond to repay HL&P.
- The Council should wait for the results of the survey to make a decision.

Council Member Simonsen made the following comments:

- A lot of money would have to be raised.
- Did not like a special assessment area.
- There was a possibility that HL&P would loan the City the money.
- The effects of growth were difficult.
- Did not want to hurt those who could not pay.
- Even if the money was available to bury the line the issue of the dip poles needed to be

addressed.

Council Member Simonsen made the following comments:

- RMP would need “earnest” money to begin work.

Council Member Orme made the following comments:

- Did not want residents’ power bills to be increased for 20 years to bury the line.
- Had received calls from residents who could not afford to pay that cost.
- The issue had become divisive and ugly.
- Time that could be used for fundraising was being wasted.
- Could the City condition the CUP on allowing fundraising until March?

Council Member Drury made the following comments:

- What was driving the construction dates for the proposal?

Benjamin Clegg made the following comments:

- The construction dates were not arbitrary and were based on deadlines like the manufacturing of the metal poles.
- The project had been going on for multiple years.
- There was a system risk for the community and others.
- Hoped that the CUP could be approved with authorization for design work on both above and below ground options.

Corbin Gordon made the following comments:

- The Council could approve almost any condition with the CUP, but it risked being taken to the States facilities commission.
- The down payment of \$75,000, proposed by the applicants, would provide a couple of months for fundraising, etc.
- The Council could approve the dual design path, but it could cost up to an additional \$1 million.

Motion: Council Member Orme moved to approve the conditional use permit with the following conditions:

- The line would be buried.
- The dip poles would be moved away from Center Street.
- The needed \$75,000 would come from donations, because the City did not have the money, or investigate other funding sources.
- The community would have until March 15th to raise the necessary funds. If the funds could not be raised by that time, then the line could not be buried.

Second: Council Member Probst seconded the motion.

Discussion: Council Member Drury said that the approval should be continued until the results of the survey had been received. Council Member Orme was worried about the timing and did not want to wait another two weeks. She wondered what would happen if the survey was evenly split.

Council Member Drury thought that the Council had no good options. He said either option would include large steel poles. He stated that the survey would give an objective voice to all residents.

Council Member Simonsen thought that the survey was the best way to obtain the residents' input. He was concerned about funding, timing and the dip poles.

Council Member Drury indicated that the survey would help determine how much of the funding should be public versus private.

Council Member Probst noted that the dip poles would not go away and it was speculative if they could be moved away from the roads.

Council Member Orme indicated that it would be devastating to Byron Day to put the dip poles on his property. She did not want all residents to have to pay the cost for burying. She added that the survey would not change her position.

Council Member Van Wagoner pointed out that the City could pay the initial \$75,000.

Council Member Simonsen requested that the conditions for the line to go above ground should also be included in the motion.

Mayor Johnson thought that there were too many ambiguities to make a motion and the Council should wait for the results of the survey.

Council Member Simonsen liked the direction of the motion but felt it was becoming too complex.

Council Member Van Wagoner wanted the motion to require the corner poles be as small as possible and confirm that the distribution lines would be buried.

Michael Henke noted that RMP would have to cooperate with moving the dip poles. Benjamin Clegg responded that RMP would not open the CUP with the County if it required a public process. He added that RMP would attend a meeting regarding the CUP being an administrative approval.

Council Member Van Wagoner recommended the following conditions to the motion:

- The City, Wasatch County, RMP and HL&P work together to facilitate the moving of the dip poles.
- The smallest possible poles were used on the corners.
- Wood poles would be used between the corners.
- The fewest number of poles be used.
- The distribution and communication lines would be buried.

- The poles would be placed in the best locations to have the least impact on the residents.
- All the effected residents would be contacted before construction began.
- The longer spans would be used.
- The metal poles would be rust colored.
- Alternate option “B” be used.

Council Member Drury recommended the condition that all property rights be obtained before construction began.

Jason Norlan explained that conduit for the communications lines would be buried but it was the City’s responsibility to have the communications companies use the conduit.

Council Member Probst indicated that a better motion could be made at the next council meeting.

Withdrawal: Council Member Orme withdrew her motion. Council Member Probst withdrew his second to the motion.

Motion: Council Member Drury moved to continue consideration to the meeting on December 17th to address the various items raised, to meet with the County, finalize the dip poles, gather more information on the provided funding, and obtain the results of the survey.

Second: Council Member Simonsen seconded the motion.

Discussion: Council Member Van Wagoner made the following comments:

- Would be on vacation on December 17th because he thought that the meeting had been cancelled.
- The Council should consider the City’s budget when making a decision.
- The survey, because of the way it was worded, would show most residents wanted the line buried.
- The funding should be secured before burying the line.
- Was proud of the City being financially solvent.
- Midway had the second highest cost of living in the State.
- Requested that the applicants work with the City on the applicable dates before the next meeting.
- Was concerned about the dip poles.

Council Member Drury stated that Council Member Van Wagoner’s public service was unmatched.

Council Member Probst was concerned with the dip poles. He said that moving them would increase the cost of the project.

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

Council Member Drury	Aye
Council Member Orme	Aye

Council Member Probst	Aye
Council Member Simonsen	Aye
Council Member Van Wagoner	Aye

Motion: Without objection, Mayor Johnson recessed the meeting. She reconvened the meeting at 8:33 p.m.

7. Ordinance 2019-14 / Development Phasing (City Planner – Approximately 45 minutes) – Discuss and possibly adopt Ordinance 2019-14 amending Section 16.16.4 (Concept Plan/Master Plan) of the Midway City Municipal Code limiting the number of phases and plat maps in a master planned development. Recommended for approval by the Midway City Planning Commission. **Public Hearing**

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

- History
- Master plan approval
- Examples
- Option #1
- Option #2
- Option #3
- Possible findings

Mr. Henke also made the following comments:

- The Planning Commission recommended Option #3.
- The base number for any option needed to be established. Less than ten would cause more work for staff.
- Multiple plat maps could be recorded at the same time.

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. She closed the hearing when no public comment was offered.

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

- Should Option #3 be based on the number of lots allowed on a cul-de-sac?
- Options #1 and #2 could become complicated.
- The ordinance would save staff time.

Motion: Council Member Van Wagoner moved to adopt Ordinance 2019-14 regarding

development phasing with Option #3 and a minimum of 15 lots/units and the following findings:

- The proposed amendments would establish standards for master plan phasing.
- The proposed amendments would assure that the number of phases/plats in a development were manageable.
- The proposed amendments might save time for the Planning Commission, City Council, and staff.
- Option #3 allowed the developer to have flexibility regarding the number of units that could be included in a phase/plat.
- The proposed amendments would not change the fact that all other master plan requirements (open space, water requirements, traffic circulation, etc.) were still required for each phase.

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	Aye
Council Member Simonsen	Aye
Council Member Van Wagoner	Aye

8. Resolution 2019-28 / Saddle Creek Ranch, Phase 1 Development Agreement (City Attorney – Approximately 5 Minutes) – Discuss and possibly approve Resolution 2019-28 adopting a development agreement for Phase 1 of the Saddle Creek Ranch Subdivision located at 970 South 250 East.

Corbin Gordon reviewed the changes from the previous meeting. Mayor Johnson asked that the development agreement include the following items:

- A clear description of the first phase and all phasing with associated improvements.
- The changes to the applicable water line extension agreements were clearly addressed or the revised water line extension agreements were attached to the development agreement.
- The upsizing of the water line was clarified.

Mr. Gordon indicated that he would make the changes.

Motion: Council Member Simonsen moved to approve Resolution 2019-28 adopting a development agreement for Saddle Creek Ranch, Phase 1 with the following conditions:

- The details of the enlargement agreement on pages four and nine be consolidated on page four.
- Clarify that the City would pay the additional cost because of the larger water line.
- The developer would provide the revised water line extension agreements with the third parties. If they didn't provide the agreements, then they would pay the default fees in full

at the beginning of the project.

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	Aye
Council Member Simonsen	Aye
Council Member Van Wagoner	Aye

9. Resolution 2019-29 / Hughes Property Culinary Water Agreement (Johnathan Hughes – Approximately 30 minutes) – Discuss and possibly approve Resolution 2019-29 adopting a will serve agreement allowing the Hughes property, located at 282 East 520 South, to be connected to the Midway City’s culinary water system.

Mayor Johnson indicated that the applicant had withdrawn the request. Michael Henke explained that the Hughes were illegally using 300 East to access their property. He said that the City needed to decide what to do or a prescriptive access right would be established.

10. Phone System / Contract (City Recorder – Approximately 15 minutes) – Discuss and possibly approve a contract to replace or repair the phone system for the Midway City Office Building.

Council Member Drury recused himself from consideration of the item because he made the introduction between one of the bidders and the City.

Note: Council Member Drury left at 9:29 p.m.

Brad Wilson gave a presentation on the phone system bids and reviewed the following items:

- Current phone system
- Bid comparison excluding internet upgrade
- Bid comparison with internet upgrade
- Recommendation of the bid from Veracity.

The Council and staff discussed the bids including their cost. Council Member Simonsen asked if the cost of the City’s fiber internet access would change when the contract ended. Wes Johnson thought that the City would receive free internet access because of its franchise agreement with Comcast.

Motion: Council Member Van Wagoner moved to continue the item until answers could be given for the questions raised.

Second: Council Member Simonsen seconded the motion.

Discussion: None

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

Council Member Drury	Recused
Council Member Orme	Aye
Council Member Probst	Aye
Council Member Simonsen	Aye
Council Member Van Wagoner	Aye

Note: Council Member Drury returned at 9:53 p.m.

11. Closed Meeting to Discuss Pending or Reasonably Imminent Litigation 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	Aye
Council Member Simonsen	Aye
Council Member Van Wagoner	Aye

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

Motion: Council Member Van Wagoner moved to go out of the closed meeting.

Second: Council Member Orme seconded the motion.

Discussion: None

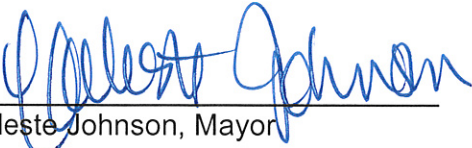
Vote: The motion was approved with the Council voting as follows:

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

12. Adjournment

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

The meeting was adjourned at 10:35 p.m.



Celeste Johnson, Mayor



Brad Wilson, Recorder