

# MINUTES OF THE MIDWAY CITY COUNCIL

## (Regular Meeting)

Tuesday, 3 March 2020, 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 6:03 p.m.

#### Members Present:

Celeste Johnson, Mayor  
Steve Dougherty, Council Member  
Jeff Drury, Council Member  
Lisa Orme, Council Member  
Kevin Payne, Council Member  
JC Simonsen, 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. Council Member Drury gave the prayer and/or inspirational message.

### 2. Consent Calendar

- a. Agenda for the 3 March 2020 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 18 February 2020 City Council Regular Meeting
- d. Minutes of the 18 February 2020 City Council Closed Meeting

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

Brad Wilson reviewed the warrant for a used vehicle.

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

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

**Discussion:** None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

**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.

River Road / Closure / Pedestrian Crosswalk

Brad Hart indicated that closing River Road because of construction had slowed traffic on the road, which was used as a shortcut between Utah County and Park City. He also requested a pedestrian crosswalk for the road.

Homestead Drive / Speeding / Passing Busses

Randy Lundin indicated that drivers were speeding on Homestead Drive and passing stopped school busses. He asked the City to speak with UDOT regarding the problems.

Traffic Enforcement

Brad Hard indicated that traffic enforcement could be paid for by the tickets that were issued.

100 North / Chip Seal

Quinn Calder indicated that the chip seal on 100 North was starting to come off. He asked that the road be swept. Wes Johnson responded that the contractor would redo the road when they were back in the area.

No further comments were offered.

**4. Department Reports**

Wasatch County Housing Authority / Prestige, Phase 2

Council Member Payne reported on the Wasatch County Housing Authority and funding for the Prestige, Phase 2 development.

#### Midway Boosters / Festival Market Business Licenses

Council Member Drury reported that the Midway Boosters wanted to form a committee with local business owners to review the City's festival market business license regulations.

#### Ice Rink / Update

Council Member Drury reported that the City's ice rink was open day to day depending upon the temperatures.

#### HL&P / Loan to Bury Transmission Lines

Mayor Johnson reported that the board for Heber Light & Power Company (HL&P) would meet the following day to discuss loaning Midway City the money to bury the 970 South transmission line.

#### HVRR / Update

Mayor Johnson reported on the Heber Valley Railroad (HVRR), its north pole express, new railroad cars and the number of riders.

#### HVSSD / Purchase of Additional Land

Mayor Johnson reported that the Heber Valley Special Service District (HVSSD) wanted to purchase additional land for its sewer farm.

#### River Road Water Line

Wes Johnson recommended that the contractor, working on the Whitaker Farm Subdivision, be contracted to extend the City's water line along River Road/400 West. He said that the cost would be less because the contractor was already on site and would use 2018 costs. Brad Wilson explained that the purchasing policy allowed for change orders to existing contracts with the City but did not anticipate the same for contracts between developers and their contractors.

Mayor Johnson asked Mr. Johnson, the City Attorney and Brad Wilson to review the recommendation.

Council Member Simonsen suggested that the purchasing policy be amended to address the situation.

**Note:** Council Member Orme left at 6:50 p.m.

**5. Albert Kohler Legacy Farm / Letter of Financial Support** (Approximately 60 minutes) – Discuss and possibly approve a letter of financial support for the preservation of open space at the Albert Kohler Legacy Farm located at River Road and Burgi Lane. **Public Hearing**

Wendy Fischer, Utah Open Lands Executive Director, gave a presentation regarding the Albert Kohler Legacy Farm and made the following comments:

- The project was a watershed moment.
- It had scenic, agricultural, educational, and economic value.
- The Kohler family was committed to preserving the entire farm.
- The City's contribution would be leveraged 7 to 1.
- The appraisal for the project would be updated.
- Feared that if the Farm was not preserved now it would be developed.
- Utah Open Lands would hold the conservation easement with the City being a co-holder.
- The family would be good stewards of the land.

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

Michael Henke made the following comments:

- The Farm was the first preservation project to be considered by the City.
- The bond money could only be used for open space within the City or its annexation boundary.
- One of the two parcels in the project was outside of the annexation boundary.
- The Open Space Advisory Committee recommended a \$1 million contribution by the City.

Mr. Henke explained the difference between purchasing land and a conservation easement.

Courtland Nelson, Midway City Open Space Advisory Committee Chair, reviewed the Committee's work. He said that the Committee supported the project because it brought together a view corridor, agriculture, a historic farm and retail.

Steve Stevens, a member of the Open Space Advisory Committee, also emphasized the educational component of the farm.

### **Public Hearing**

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

#### Art Lang

Mr. Lang supported the project because it would protect open space, the rural nature of the community, a small business, an area around the Provo River, a riparian area, and wetlands.

#### Dallin Koecher, Heber Valley Tourism and Economic Development

Mr. Koecher supported the project because of the cheese factory, and that it was one of the last two dairies in the area.

Robert Duncan

Mr. Duncan supported the project because it would be the last chance to save the dairy. He noted that some other open space was spotted throughout developments which was not ideal.

Ken Mickelson

Mr. Mickelson noted that he preserved open space during his career. He supported the project because of the leveraging of funds and that it set a pattern for future projects. He thought that it was the best proposal.

Katie Noble

Ms. Noble said that the project “knocked it out of the park” and set a tone for future preservation.

Becky Rambo

Ms. Rambo supported the project and encouraged young people to get into sustainable farming.

Russ Watts

Mr. Watts supported the project and indicated that he tried to preserve open space with his developments.

Lori Stone

Ms. Stone supported the project because it protected the legacy of Midway and could encourage others to preserve their land.

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

Council Member Simonsen supported the project because it was a working dairy, encouraged agritourism and would use other fields preserved as open space.

**Motion:** Council Member Drury moved to approve the letter of financial support for the Albert Kohler Legacy Farm with the following findings:

- The project and funding request were consistent with the vision of the Open Space Element of the General Plan.

- The 5.5 to one leveraging maximized Midways' possible contribution, and the continuation of an important agricultural business was an added benefit.
- The project was located along one of the three major entry corridors into Midway.
- Preservation of the dairy would keep valuable agricultural land as open space and the dairy would continue to provide agricultural products to the community.
- While the motion demonstrated Midway City's intent in principal to commit up to \$1 million there were many details and conditions including the possible annexation of the property into the Midway City limits, that still needed to be negotiated.

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

**Discussion:** None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Recused
Council Member Payne	Aye
Council Member Simonsen	Aye

**Note:** Council Member Orme returned at 7:40 p.m.

- 6. Sale of Bonds / Open Space** (Approximately 20 minutes) – Discuss and possibly authorize the preparation of an authorizing resolution and preliminary official statement for the sale of general obligation bonds for the preservation of open space. **Public Hearing**

Michael Henke presented potential open space projects and Brad Wilson reviewed the bond issuance process.

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

Mayor Johnson indicated that positive things were happening, such as the donation of 40 acres of open land to the City, because of its commitment to bond for open space.

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

- The difference between the interest rate for the bond and the interest rate for investments with the Public Treasurers' Investment Fund was negligible.
- The amount on residents' property tax bill, to repay the bond, would only vary based on the number of taxpayers and the value of their properties.
- Issuing the full \$5 million in bonds gave the City flexibility and showed its support for open space preservation.

### **Public Hearing**

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

Katie Noble

Ms. Noble asked how many preservation projects were dependent upon Wasatch County and how that would affect their timeframe. Courtland Nelson responded that approximately five projects were associated with the County. He added that there were a lot of issues that needed to be worked out and that the County favored preserving agricultural land.

Nora Lundin

Ms. Lundin asked for clarification on the County's preservation plan. Mr. Nelson reviewed the County's standards for preservation and indicated that how much of the money would be spent in each community still needed to be determined.

Ms. Lundin asked if her family's property was annexed into Midway could they receive any county money for preservation. Mayor Johnson responded that Midway and the County needed to work together on preservation.

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

**Motion:** Council Member Payne moved to approve the preparation of an authorizing resolution and preliminary official statement for the sale of a single issuance of \$5 million of bonds and that they be brought back to the Council at its next scheduled meeting.

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

**Discussion:** None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

**Department Reports (Continued)**

Mike Kohler, who lobbied for the City at the State Legislature, reviewed legislation that potentially effected municipalities. He and the Council reviewed efforts to allow school districts to impose impact fees.

**Motion:** Without objection, Mayor Johnson recessed the meeting at 8:36 p.m. She reconvened the meeting at 8:44 p.m.

**7. Jory Mixed-Use Development / Conditional Use Permit** (Matthew and Chelsea Jory – Approximately 15 minutes) – Discuss and possibly approve a conditional use permit for a mixed-use development located at 17 South 580 East (Zoning is C-2). Recommended without conditions by the Midway City Planning Commission. **Public Hearing**

Michael Henke gave a presentation regarding the proposed conditional use permit and reviewed the following items:

- Land use summary
- Location of the property
- Site plan
- Setbacks
- Parking
- Proposed building
- Mixed-use requirements
- Visual Architecture Committee (VAC) motion
- Possible findings

Mr. Henke also made the following comments:

- The proposed building would match the house and its architectural elements.
- The VAC recommended approval of the request.
- The width of the road in front of the house allowed for on-street parking.
- Several neighbors' concerns about the visual impact of the business were resolved when they saw the drawings for the proposed building.
- Noise and hours of operation could be an issue.
- The main garage was also the parking stall for the business owner/homeowner.
- Sound studies were not required but could be a condition of approval.
- This was an allowed use in the commercial zone and a conditional use permit in a mixed-use development.

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

Chelsea Jory, applicant, made the following comments:

- Her and her husband had owned the business for seven years.
- They were the only employees.
- They now served more local motorcyclists than racers.
- It was a boutique business.
- The business was clean and quiet.
- The building would be built to eliminate noise and engines would not be started every day.
- Equipment would be tested in a sound insulated booth.
- There would be normal hours of operation.
- Did not need to warehouse parts.
- There would be a solvent tank which was regulated.
- All work would be done inside except for washing the motorcycles.



**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:

- Noise, windows on the east side of the proposed building and on-street parking after business hours were concerns.
- The applicants had spoken to their neighbors about the proposal.
- If the proposed building was designed correctly it would not be overwhelming.
- There should not be any storage or operations outside of the building.
- Noise was regulated by the Municipal Code.

**Motion:** Council Member Drury moved to approve the mixed-use conditional use permit located in the C-2 zone with the following findings and conditions:

- The proposed use was a conditional use in the C-2 zone.
- The proposal was consistent with the vision of the General Plan for Main Street.
- Limit commercial on street parking during the day to the South property line.
- No overnight on-street parking for the business.
- No windows on the East side of the commercial building as specified on the building plans.

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

**Discussion:** Council Member Payne asked if a condition regarding sound was needed. Mr. Henke responded that noise was regulated by the Municipal Code.

Council Member Payne was concerned about someone else purchasing the property and not being as quiet or clean. He also was concerned about outside storage. Mr. Henke responded that the Municipal Code did not allow outside storage which included motorcycles.

Council Member Drury did not object to motorcycles being washed outside.

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

**8. Scotch Fields PUD / Master Plan Amendment** (Berg Engineering – Approximately 15 minutes) – Discuss and possibly amend the master plan for the Scotch Fields PUD located at 1300 North Canyon view Drive (Zoning is RA-1-43). Recommended without conditions by the Midway City Planning Commission. **Public Hearing**

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

- Land use summary
- Location of the PUD
- Phasing plan
- Proposed phasing plan
- Plan to split a phase
- Water Advisory Board recommendation
- Property line issue with Laren Gertsch

**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 did not know that there was an error in recording the deed to resolve the property line issue.
- A new deed had been prepared and would be recorded.
- The triangle piece of property near the entrance was not large enough to be a lot or further developed.
- The phasing was being changed for partnership and tax reasons.

Laren Gertsch asked that the deed be recorded before the plat map for the phase.

**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.

**Motion:** Council Member Simonsen moved to approve the request to re-phase the PUD subject to the deed, resolving the property line issue with Laren Gertsch, being recorded before the plat map.

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

**Discussion:** None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

- 9. Watts Remund Farms PUD, Phases 2 and 3 / Final Approval** (Berg Engineering – Approximately 15 minutes) – Discuss and possibly grant final approval for Phases 2 and 3 of the Watts Remund Farms PUD located at 200 East and 600 North (Zoning is R-1-15). Recommended without conditions by the Midway City Planning Commission.

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

- Land use summary
- Location of the PUD
- Phasing plan
- Open space analysis
- Site plan
- Trails
- Roads
- Private areas
- Proposed plat maps
- Site studies
- Water Advisory Board recommendation
- Possible findings

Mr. Henke also made the following comments:

- Originally the developer looked at connecting the project to 250 North and 300 North. The project was not approved with these connections and met the requirements of the Municipal Code. The Wasatch County Fire District did not raise any concerns about access at that time.

**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:

- Setback requirements were met.
- An issue of running the sewer line through some wetlands needed to be finalized.

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

- The plat map should include a note stating that water rights had not been turned in for the wetlands. If they dried up, then more water rights had to be turned in for that land to be irrigated.
- Work on the sewer line encroachment in the wetlands could not be done until approved by the Army Corp of Engineers.

**Motion:** Council Member Orme moved to grant final approval to Watts Remund Farms, Phases 2 and 3 with the plat note regarding irrigating the wetlands.

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

**Discussion:** None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

**10. Resolution 2020-06 / Watts Remund Farms PUD, Phases 2 and 3 Development Agreement** (City Attorney – Approximately 10 minutes) – Discuss and possibly approve Resolution 2020-06 adopting a development agreement for Phases 2 and 3 of the Watts Remund Farms PUD located at 200 East and 600 North (Zoning is R-1-15).

Corbin Gordon indicated that the agreement would be ready for the next meeting.

Russ Watts, applicant, asked if a preconstruction meeting could be held.

**Motion:** Council Member Drury moved to table Resolution 2020-06 until the next meeting and authorize a preconstruction meeting once the construction plans were completed.

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

**Discussion:** None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

**Scotch Fields PUD / Master Plan Amendment (Continued)**

Corbin Gordon indicated that a formal agreement was needed for the amendment. He asked that the Council approve him drafting it and then the Mayor signing it.

**Motion:** Council Member Simonsen moved to authorize the Mayor to sign an agreement allowing the phases to be changed in the master plan.

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

**Discussion:** None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

**11. Resolution 2020-04 / Amend FY 2020 Budget** (Financial Officer – Approximately 15 minutes) – Discuss and possibly approve Resolution 2020-04, amending the Midway City FY 2020 Budget, to approve and fund an update to the Midway City Impact Fee Facilities Plan and to adjust expenditures for various capital projects. **Public Hearing**

Brad Wilson reviewed the budget amendment and explained that it budgeted for an update to the City’s impact fee facilities plan. He indicated that no other changes were being made including to capital projects.

Wes Johnson recommended the update because there had been significant changes to the City’s roads, trails, etc.

**Public Hearing**

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

Clint Coleman

Mr. Coleman asked what was next. Mayor Johnson responded that the plan would be updated.

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

**Motion:** Council Member Payne moved to approve the budget amendment to allow the plan to be reviewed and updated.

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

**Discussion:** None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

**12. Parking Agreement / 70 East Main Street** (City Attorney – Approximately 5 minutes) –

Discuss and possibly approve an agreement to use property at 70 East Main Street for public parking.

Mayor Johnson indicated that the City Attorney had been unable to reach the landowner.

**Motion:** Council Member Simonsen moved to continue consideration of the agreement until the next meeting because there was information that still needed to be reviewed.

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

**Discussion:** None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

**13. Ordinance 2020-07 / Amend Planning Commission Bylaws** (City Attorney – Approximately 20 minutes) – Discuss and possibly adopt Ordinance 2020-07 amending the by-laws for the Midway City Planning Commission.

Corbin Gordon indicated that the ordinance was completed but had not yet been distributed to the Council.

**Motion:** Council Member Simonsen moved, that because it had not yet been prepared, to continue Ordinance 2020-07 amending the planning commission bylaws.

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

**Discussion:** None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

**14. Reimbursement for Damage / 1206 North Cottage Way** (City Attorney – Approximately 5 minutes) – Discuss and possibly approve an agreement to reimburse the property owners for damage at a home at 1206 North Cottage Way.

Mayor Johnson indicated that the couple, whose home had been damaged, wanted to discuss the agreement before deciding.

**Motion:** Council Member Payne moved to continue item 14 until the next meeting.

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

**Discussion:** None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

**15. 2020 Water Line Projects / Approve Contract** (City Engineer – Approximately 5 minutes)  
– Discuss and possibly approve a contract for the 2020 water line projects.

Wes Johnson reviewed the 2020 water line projects and the received bids. Council Member Dougherty questioned why the low bid was so much less than the other bids. Mr. Johnson responded that he had worked with the low bidder a lot and they were fair and honest.

**Motion:** Council Member Simonsen moved to accept the bid from KW Robinson Construction, because they were the low bidder and recommended by the City Engineer, and authorized the Mayor to sign the contract for \$1,295,841.97.

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

**Discussion:** None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

**16. 2020 Road Surface Treatments / Approve Contract** (City Engineer – Approximately 5 minutes) – Discuss and possibly approve a contract for the 2020 road surface treatments.

Wes Johnson reviewed the 2020 road surface treatments and the received bids. He had not worked with the low bidder. He met with them and they assured him that they could do the work for the bid amount. He added that the company would be bonded and insured and had been in business for two years. He had reviewed the projects they had done and found no problems when he contacted their references.

**Motion:** Council Member Simonsen moved to accept the bid from Asphalt Preservation for \$201,158.90, for the 2020 road surface treatments, because they were the low bidder and recommended by the City Engineer and authorized the Mayor to sign the contract.

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

**Discussion:** None

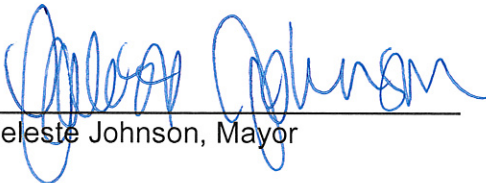
**Vote:** The motion was approved with the Council voting as follows:

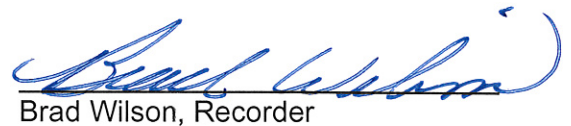
Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

## 17. Adjournment

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

The meeting was adjourned at 10:26 p.m.

  
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Celeste Johnson, Mayor

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