

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

**Tuesday, 7 April 2020, 6:00 p.m.
Electronic Meeting**

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 6:05 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

Mayor Johnson led the Council and meeting attendees in the pledge of allegiance. Council Member Payne gave the prayer and/or inspirational message.

2. Consent Calendar

- a. Agenda for the 7 April 2020 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 3 March 2020 City Council Work Meeting
- d. Minutes of the 3 March 2020 City Council Closed Meeting #1
- e. Minutes of the 3 March 2020 City Council Closed Meeting #2
- f. Minutes of the 3 March 2020 City Council Regular Meeting
- g. Minutes of the 17 March 2020 City Council Regular Meeting

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

Motion: Council Member Orme moved to accept and 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.

970 South Transmission Line / Bids

Clint Coleman asked the status of the transmission line and said the Council should stop fighting a battle that it could not win. Corbin Gordon responded that the City was waiting for information from Rocky Mountain Power and preparing for a hearing before the Utah Utility Facility Review Board. Mr. Gordon added that the main issue was the value of the easements for the line.

No further comments were offered.

4. Department Reports

Ice Rink / Clean-Up

Council Member Drury reported that the ice rink would be taken down when social distancing had ended.

Gardening Seminar

Council Member Drury reported that Ryan Davis would hold an online gardening seminar.

Off-Square Vendors / Committee

Council Member Drury reported that a committee had been formed to address off-square vendors during Swiss Days. He indicated that the committee had not met because of the pandemic and a lack of time.

HL&P / New Office Building

Mayor Johnson reported that Heber Light & Power Company (HL&P) was considering building a new office building.

HVRR / Repairs and Maintenance

Mayor Johnson reported that the Heber Valley Railroad (HVRR) was doing repair and maintenance work. She said that they needed rail.

HVSSD / Smell

Mayor Johnson reported that the smell from the Heber Valley Special Service District's (HVSSD) treatment plant was due to maintenance.

MSD / Items Flushed

Mayor Johnson reported that the Midway Sanitation District (MSD) was asking customers to be careful what they flushed into its system.

5. **Trails Survey / Report** (Council Member Simonsen – Approximately 30 minutes) – Receive a report regarding a trails survey conducted by the Midway City Trails and Parks Advisory Committee.

Council Member Simonsen presented the trails survey, conducted by the Trails and Parks Advisory Committee, and reviewed the following items:

- Respondents
- Current condition of the trails
- Trails access
- How trails were used
- Desired uses for the trails
- How often they were used
- Hours of use
- Changes to encourage use
- Surface types
- Preferred surface based on cost
- Allocation of tax dollars
- Prioritizing trails
- General comments

6. **2020 Trails Project / Approve Contract** (City Engineer – Approximately 15 minutes) – Discuss and possibly approve a contract for the 2020 trails project.

Wes Johnson reviewed the project and bids received. He indicated that the low bidder was Wasatch Paving for \$307,662 which included installing a pressurized irrigation line.

Motion: Council Member Simonsen moved to approve the project and grant the contract to Wasatch Paving, which was the low bidder at \$307,662, with Midway City paying \$215,772 and the Midway Irrigation Company paying \$91,890. He authorized the Mayor to sign the documents.

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

7. Meadow Springs Subdivision / Second Plat Map Amendment (Summit Engineering – Approximately 15 minutes) – Discuss and possibly approve a second plat map amendment for the Meadow Springs Subdivision located at Diana Drive (680 North) Pine Canyon Road.
Public Hearing

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

- Land use summary
- Location of the subdivision
- Reasons for the amendment
- Amended plat map
- Proposed plat map
- Proposed amendments
- Possible findings
- Proposed conditions
- Zoning

Mr. Henke also made the following comments:

- The boundaries for all lots would be adjusted.
- The density of the subdivision would not change.
- The parcel to the west could be subdivided but its density was limited by wetlands.
- The width of the private drive would be 70 feet. It would be combined with the parcel to the west.
- The drive would allow for at the most one additional lot. The drive would have to be upgraded to a public street and dedicated to the City.
- There were no concerns with utilities.
- The west parcel would increase in size and continue to be a lot of record.
- Quick claim deeds would be needed for the boundary between the subdivision and the west parcel.
- An easement would not be needed for the drive because it would be part of the west parcel.

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.

Billie Rose

Ms. Rose owned lot two in the subdivision and asked how its size would change. Mr. Henke responded that it would decrease but still meet the zoning requirements. Derrick Kohler, representing the applicant, responded that the size would change very little.

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

Motion: Council Member Payne moved to approve the Midway Springs Subdivision, second plat map amendment, located at Diana Drive and Pine Canyon Road with the following findings and conditions:

- All four Midway Springs lots would continue to comply with the requirements of the R-1-15 zone.
- State law allowed the adjustment of a lot line regardless of whether the lots were in the same subdivision.
- State law required a land use authority to approve a lot line adjustment if the exchange would not result in a violation of any land use ordinance.
- State law stated a plat amendment might be considered by the land use authority at a public meeting.
- The areas vacated from the Midway Springs plat, from lots 2 & 3 and Diana Drive, would be joined to parcel OMI-213-0-027-034 and recorded as such at the time the Midway Springs plat amendment was recorded to avoid creating any parcels that were nonconforming to the R-1-15 zone.
- The acreage of lot two would basically remain the same.

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

- 8. Ordinance 2020-03 / Outside Dining and Parking** (City Planner – Approximately 15 minutes) – Discuss and possibly adopt Ordinance 2020-03 amending Section 16.13.39(A)(11) (Off-Street Parking and Loading) of the Midway City Municipal Code regarding outside dining and parking. The Midway City Planning Commission recommended no change to the current code.

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

- Proposed changes
- Proposed code

Mr. Henke also made the following comments:

- One parking space for 200 sq. ft. was a compromise from the previous meeting.
- ADA parking was not required on-site, but an ADA accessible route was needed from the parking to the restaurant.
- The City Council had discretion when determining the proximity of parking.
- A business license could be revoked if the designated off-site parking was no longer available.

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

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

- Outside dining should be defined as permanent, seasonal or for more than two weeks.
- Needed to know what impact the compromise of 200 sq. ft. would have on restaurants.
- Any of the parking for outdoor seating could be off site.
- A specific standard should be established for the proximity of parking.
- The Council should have flexibility with the proximity of parking.
- The regulations should not be too complex.
- Fees needed to be established for City owned off-site parking.
- The parking requirement for both indoor and outdoor seating should be one parking stall per 200 sq. ft.
- 250 sq. ft. incentivizes outside dining and reduced its burden.

Motion: Council Member Simonsen moved to approve Ordinance 2020-03 making changes to the parking code with the following findings and conditions:

- Increasing parking for outside dining at restaurants and cafes might help alleviate potential parking problems for future restaurants and cafes.
- Midway desired to encourage business, a walkable Main Street and outside dining.
- Outside dining was considered permanent if it was continually used for at least two weeks.

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

9. Ordinance 2020-05 / Accessory Structures in Commercial Zones (City Planner – Approximately 45 minutes) – Discuss and possibly adopt Ordinance 2020-05 amending Section 16.5 (Commercial C-2 and C-3 Zones) of the Midway City Municipal Code regarding accessory structures in the commercial zones. 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:

- Commercial and residential structures
- History of the R-1-7 zoning in the commercial zones
- Commercial zone setbacks
- Planning Commission recommendation
- Examples

Mr. Henke also made the following comments:

- The ordinance would allow residents in the commercial zones to add garages, sheds, etc. to their lots.
- It required structures to be compatible with existing structures on site. This was subjective.
- Commercial buildings went through a different process including architectural guidelines and the Vision Architecture Committee.
- The setbacks between two lots, that both had commercial structures, were zero. This was allowed because commercial structures had engineering reviews.

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

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

- Commercial and residential setbacks in the commercial zones should be the same. The current setbacks were unfair.
- Residential property owners might not have the resources for an engineering review.
- Midway’s downtown was eclectic and should have structures with different setbacks.
- The City should not be arbitrary.
- A structure like a garage should not be allowed ten feet from Main Street.
- A commercial structure stayed commercial or became mixed-use.
- The historical and quaint feel of the downtown area should be preserved.

- Visioning would be done for Main Street.

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 Ordinance 2020-05 regarding accessory structures in the commercial zones in order to establish more clear guidelines and allow residential use of accessory structures in the commercial zones as outlined by staff, accept the recommendation of the Planning Commission and with the following findings:

- Adding residential accessory structures as a permitted use would allow property owners to better use and enjoy their property.
- Adding commercial accessory structures would make it clear that they were allowed and what the requirements were for these structures.
- Requiring a 15' greater setback for residential accessory structures than the dwelling would help maintain the visual appeal of the streets in the commercial zones.

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. Ordinance 2020-10 / Terms of Office (City Attorney – Approximately 10 minutes) – Discuss and possibly adopt Ordinance 2020-10 amending Title 2 of the Midway City Municipal Code regarding the terms of office for appointed officials.

Mayor Johnson reviewed the need for consistent terms of office. Corbin Gordon indicated that all terms would be for four years and begin and end in January of the year. Council Member Dougherty indicated that some other committees needed to be added. Council Member Simonsen also indicated that the Community Development and Renewal Agency should not be included.

Motion: Council Member Simonsen moved to table Ordinance 2020-10, regarding terms of office, until the next council meeting in order to add committees, remove any mention of the CDRA and make the items consistent.

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

11. Ordinance 2020-07 / Amend Planning Commission Bylaws (City Attorney – Approximately 10 minutes) – Discuss and possibly adopt Ordinance 2020-07 amending the by-laws for the Midway City Planning Commission.

Corbin Gordon reviewed the proposed ordinance.

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

- A quorum would be five members or four members and the chair of the Planning Commission.
- The recusal provision eliminated a member's right to petition their government and should be removed.
- Members were in a quasi-judicial position and needed to avoid bias and be neutral.
- Members should be able to petition their government but should not use their position inappropriately.
- The Planning Commission was just an advisory body unlike the City Council.
- Members should not advocate before the City Council.
- A member could recuse themselves from an issue and then advocate for or against that issue.
- Members needed to be trained on the subject.
- How many votes were needed to approve a motion?

Motion: Council Member Simonsen moved to approve Ordinance 2020-07 with the following changes:

- Four members and the chair constituted a quorum.
- Motions did not have to be repeated by the chair.
- The section regarding recusal was removed and not approved that night.

Discussion: Council Member Dougherty said that referencing the chair in the quorum requirement was confusing. He recommended saying that five members constituted a quorum. Council Member Payne noted that one of the five might need to be appointed as a temporary chair. He asked how that would affect a vote because the chair voted only to make or break a tie. It was questioned why the chair should be able to cause a tie.

Second: The motion died for lack of a second.

Motion: Council Member Simonsen moved to approve Ordinance 2020-07 with the following changes:

- Article 8 Section 1 should state that four voting members constituted a quorum.
- Article 9 Section 5 was accepted as proposed.
- Section 7 regarding recusal would not be added to the end of Article 12.

Second: Council Member Dougherty seconded the motion.

Discussion: Council Member Payne asked if one of the four members, if acting as a temporary chair, would be able to vote. Michael Henke responded that the chair could vote on any point and three members would be needed for a motion to pass.

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. Whitaker Farm Subdivision / Road Widths (City Engineer – Approximately 45 minutes) – Discuss and possibly approve narrowing the width of the roads in the Whitaker Farm Subdivision located at 455 North River Road.

Wes Johnson made the following comments:

- The City standard for road width was 30 feet of asphalt.
- The width of asphalt had been reduced in Watts Remund Farms to increase the distance between the garages and the sidewalks. This prevented vehicles from blocking the sidewalks and increased safety. The difference in the road construction cost was paid to the City.
- Drivers reduced their speed as a road narrowed.
- Would the Council approve narrowing the asphalt width in Whitaker Farm? The cost savings would be given to the City and used for area improvements such as trails.
- The developer for Whitaker Farm agreed to the request.
- The width could be 25 feet with an additional two feet of ribbon curb on each side.
- Two vehicles could pass each other with a vehicle parked on one side of the road. Only one car could go by if vehicles were parked on both sides of the road.
- The lots in the project had a lot of frontage which usually reduced on-street parking.
- There would be grass and a swale next to the curb.

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

- The standard road widths should be reconsidered in a separate discussion.
- Would the width of the south stub road also be reduced? The road would not be a thoroughfare.
- The amount of asphalt would be reduced by 20% if the asphalt width was reduced from 30 to 25 feet. This would reduce maintenance costs and promote a rural feel.

Motion: Council Member Payne moved to reduce the road width as proposed from the standard 30 feet to 25 feet of asphalt per the conditions summarized by the City Engineer with the cost

savings paid to the City.

Discussion: Dan Luster, Whitaker Farm developer, said the reduction would be a better aesthetic with increased green space and lower traffic speed. He asked that the cost savings be used for the reconstruction of River Road.

Second: Council Member Simonsen seconded the motion.

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. Parking Agreement / 70 East Main Street (City Attorney – Approximately 10 minutes) – Discuss and possibly approve an agreement to use property at 70 East Main Street for public parking.

Mayor Johnson indicated that the Council needed to decide on the agreement. Wes Johnson made the following comments:

- UDOT wanted to check with its traffic engineer regarding the entrances. Anticipated a response that week.
- The lot would have approximately 20 parking stalls.
- Construction of the lot had been awarded with one of the water projects with the cost at \$18,844.40.

Corbin Gordon indicated that the property owners would not agree to a first right of refusal.

Motion: Council Member Dougherty moved to authorize the Mayor to sign the agreement as presented, for the property at 70 East Main Street, with the effective date being 31 December 2019.

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

Mayor Johnson indicated that the contractor could begin work on the lot. Corbin Gordon also indicated that the property taxes needed to be paid as part of the agreement. Wes Johnson added

that he would contact the owners and let them know the City would proceed.

14. Reimbursement for Damage / 1206 North Cottage Way (City Attorney – Approximately 10 minutes) – Discuss and possibly approve an agreement to reimburse the property owners for damage at a home at 1206 North Cottage Way.

Corbin Gordon responded that he tried to contact the homeowners but had not gotten a response. Mayor Johnson asked Mr. Gordon to send a certified letter to them.

15. Closed Meeting to Discuss Pending or Reasonably Imminent Litigation

Motion: Council Member Orme moved to go into a closed meeting to discuss pending or reasonably imminent litigation.

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

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

Motion: Council Member Dougherty 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:

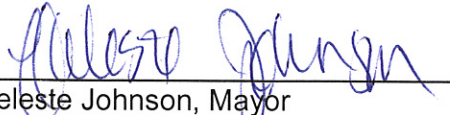
Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

16. Adjournment

Motion: Council Member Dougherty moved to adjourn the meeting. Council Member Payne

seconded the motion. The motion passed unanimously.

The meeting was adjourned at 11:12 p.m.



Celeste Johnson, Mayor



Brad Wilson, Recorder