

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

**Tuesday, 5 May 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, 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 6:02 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

participating at 6:57 p.m.)  
Michael Henke, Planning Director  
Wes Johnson, Engineer (Started  
Participating at 6:15 p.m.)  
Brad Wilson, Recorder/Financial Officer

**Staff Present:**

Corbin Gordon, Attorney (Started

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

**2. Consent Calendar**

- a. Agenda for the 5 May 2020 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 7 April 2020 City Council Regular Meeting
- d. Minutes of the 7 April 2020 City Council Closed Meeting
- e. Minutes of the 8 April 2020 City Council Meeting
- f. Minutes of the 14 April 2020 City Council Meeting
- g. Minutes of the 21 April 2020 City Council Meeting
- h. Minutes of the 21 April 2020 City Council Regular Meeting
- i. Minutes of the 21 April 2020 City Council Closed Meeting

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

Council Member Simonsen asked about the offsetting entries for the warrant for RC Enterprise Paving and Construction. Brad Wilson responded that he would research the issue and notify the Council of the result.

Council Member Simonsen indicated that he gave the prayer and/or inspirational message at the 21 April 2020 regular meeting.

**Motion:** Council Member Drury moved to approve the consent calendar with the change by Council Member Simonsen.

**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. No comments were offered.

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

##### Affordable Housing

Council Member Payne recommended that the City Council have a study session regarding affordable housing.

**Note:** Wes Johnson started participating at 6:15 p.m.

##### Midway Boosters / Swiss Days / Events

Council Member Drury reported that Swiss Days had been cancelled for that year. He added that no announcement had been made on holding other events sponsored by the Boosters.

##### HVSSD / Odor

Mayor Johnson explained the reason for the odor from the Heber Valley Special Service District's treatment facility. She also reported on what was being done to correct it.

#### Next Council Meeting

The Council decided to hold its next meeting electronically.

#### Health Department / Bulk Items

Mayor Johnson reported that the Wasatch County Health Department had order pandemic related items, such as masks, in bulk. She added that they were available to local businesses at cost.

#### City Office Building / Public Access

Mayor Johnson reported that the public could now enter the Midway City Office Building by appointment if they wore a mask and practiced social distancing.

#### MAG / Grants

Council Member Orme reported that the Mountainland Association of Governments was offering grants to local businesses.

- 5. Yeiser Property / Connect to Culinary Water** (David Bellessa – Approximately 20 minutes) – Discuss and possibly allow a parcel of property, located at 1795 South (Stringtown Road) and 442 West (Tate Lane), to be connected to the City's culinary water system.

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

- Location
- Zoning map
- Items to consider

Mr. Henke also made the following comments:

- The property was outside of the City and on the corner of its growth boundary.
- It was surrounded by the Farms at Tate Lane and state park property.
- There was a well on the property that serviced the home.
- The Farms at Tate Lane was serviced by the City's culinary water system.
- It was unlikely that the property would be annexed into the City.
- The Council recently adopted a policy regarding such requests.
- The Council did not have to approve the request.
- A change application would have to be filed transferring the water rights from the well to the City.

- Usually the City asked for certain things during annexation.
- No roads or trails were planned on the property.
- The request had not been discussed by the Midway Water Advisory Board.
- The applicant would have to turn in water rights to the City and pay 1.5 times the culinary water rate.
- Was not aware of the Farms of Tate Lane being required to participate in any future annexations.
- The water rights in the well exceeded the rights needed to connect to the culinary system. The City did not allow credits in its system for excess water.

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

David Bellessa, representing the applicant, made the following comments:

- There were no occupants in the house.
- The interior of the house had been removed.
- The applicant planned to use the well but wanted to offer a culinary connection when selling the property.
- The well was functional and included water rights. The rights would be turned over to the City.
- The applicant would pay the required fees.
- The property would be listed for sale based on its size and views.
- The Farms at Tate Lane should have been previously annexed into the City along with this property.

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

- There was a fee that had to be paid as part of a water line extension agreement.
- The request could be granted conditioned upon the property owner agreeing to be part of any future annexation.
- The issue of wells had been discussed by the Midway Irrigation Company. They recommended that such wells be abandoned when replaced with culinary water. The State had a process for well abandonment.
- Did the applicant also want to connect to the pressurized irrigation system? This should be coordinated with the Irrigation Company.

**Note:** Corbin Gordon started participating at 6:57 p.m.

- Allowing the request would create additional expense and maintenance for the City.
- There was no urgency since the well functioned and there were not any health or safety issues.
- The owner would pay 1.5 times the water rate.
- The City was not bound by decisions to annex other properties.
- The option to annex had been taken from the applicant because it was surrounded by the Farms at Tate Lane.

**Motion:** Council Member Drury moved to deny the request to connect the Yeiser Property, located at 1795 South (Stringtown Road) and 442 West (Tate Lane), to the culinary water system because it was outside of the City's boundaries.

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

**Discussion:** Council Member Payne asked if an approval would set precedence and hinder enforcing the annexation policy. Corbin Gordon indicated that the motion needed to state why this request was unique.

**Amended Motion:** Council Member Drury moved to deny the request to connect the Yeiser Property, located at 1795 South (Stringtown Road) and 442 West (Tate Lane), to the culinary water system with the following findings:

- The property was outside of the City's boundaries.
- There was no immediate health or safety need.

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

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

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

**6. Ordinance 2020-13 / Identification of Streets** (City Planner – Approximately 20 minutes) – Discuss and possibly adopt Ordinance 2020-13 repealing Ordinance 96-6 requiring that all streets be identified with a number and houses have an identification number on the exterior.

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

- Wasatch County's policy for street signs
- New technology to locate addresses
- Reasons for the proposal
- Items to consider
- Fire District response
- Examples
- Proposed language

Mr. Henke also made the following comments:

- The proposal would replace Ordinance 96-6 which had confusing language.
- Private roads were not mentioned.
- A developer should be able to choose a street name rather than a number.
- Addresses should be visible from the street.

- Recommended a number on each house or on the street in front of the house.
- The format of the signs was not part of the proposal.
- The Fire District wanted uniformity.
- It was difficult to change road names or numbers because they were on recorded plat maps. The County had a process for such changes.
- The County wanted distinct names.

**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 Public Works Department said that it was a state requirement for the primary address to be above the secondary address on a street sign.
- The style of signs needed further consideration.
- Numbers were helpful on a street sign.
- Numbers could be hard to read on homes further from the road.
- Should the building inspector have discretion when approving numbers on a house? A set size should be required depending upon how far the house was from the road.
- Homes at least a certain distance from the road could be required to have the numbers at the street.
- Were numbers on a mailbox sufficient?
- Requiring numbers at the road and on the house would help when multiple homes were on a common driveway.
- Would some residents not want numbers on their house because they did not want to be found?
- Numbers could be required for health and safety.
- At one time Wasatch County put numbers on all houses that did not have them.
- The City should not be heavy handed.
- Numbering houses made life easier and did not intrude on owners’ rights. They were important for emergency services and GPS did not always work properly.
- The proposal added clarity and would encourage curved streets with names.
- The term “new” should be struck out when referring to roads.

**Motion:** Council Member Simonsen moved to continue the item until the next meeting so that staff could review and refine the ordinance and address the following issues:

- The size of the number on a dwelling should be specified.
- Section “B” be refined or rephrased.
- Determine a policy before street signs were replaced with the City’s new logo.
- Striking out the word “new” when referring to streets.

**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

**7. Tentative FY 2021 Budget / Adoption** (Financial Officer - Approximately 10 Minutes) – Discuss and possibly adopt a tentative budget for FY 2021.

Brad Wilson gave a presentation on the changes to the budget since the last time it was discussed.

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

Council Member Payne indicated that money needed to be budgeted to complete the revision of the Impact Fees Facility Plan.

**Motion:** Council Member Drury moved to adopt the tentative FY 2021 budget

**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

**8. Tentative FY 2021 Budget / Set Public Hearing** (Financial Officer – Approximately 5 Minutes) – Discuss and possibly set a time and place for a public hearing on the tentative budget for FY 2021.

**Motion:** Council Member Simonsen moved to set a public hearing for 19 May 2020 at 6:00 p.m. regarding the upcoming budget.

**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. 970 South Transmission Line / Burial** (City Attorney – Approximately 30 minutes) – Discuss and possibly approve burying the 970 South transmission line, determine the sections to be buried and pay the applicable costs of burial.

**10. Facilities Review Board / Appeal** (City Attorney – Approximately 30 minutes) – Discuss and possibly appeal the decision of the Utah Utility Facilities Review Board regarding the 970 South transmission line.

Mayor Johnson indicated that the items would be discussed publicly but a public hearing would not be held.

Corbin Gordon gave a presentation regarding the items and made the following comments:

- The Review Board made a decision and would issue a written order.
- The Council had to decide that evening how it would move forward.
- It had 15 days to choose the length of the transmission line to bury, from the different bids, or not to bury the line. It had to enter into a payment agreement with RMP within that time.
- The bids ranged from \$12 million to \$28 million.
- Argued against the validity and price of the bids before the Board.
- Rocky Mountain Power (RMP) wanted an extravagant design that was not needed.
- The Board accepted the bids as submitted by RMP.
- The City had 120 days, after the 15-day decision period, to pay the full excess cost of burying the line.
- The Board decided the cost of an above ground line was \$1.8 million with \$690,000 for easements.
- VOLT raised \$700,000 to bury the line.
- The City would have to post a bond for \$5 million to \$10 million for it to appeal the Board's decision. Only the party appealing had to post a bond.
- The City could appeal and argue that the cost of the easements could not be established by estimates, RMP did not include surcharges, the Board abdicated its responsibility to review the specifications, and the Board dismissed evidence of erroneous bids.
- The cost might be reduced to \$8 million or \$8.5 million if the City won the appeal. With other factors the cost might be reduced to \$4,810,000 which would still be difficult to pay in 120 days.
- An appeal had to be made within 30 days of the decision being issued.
- A decision regarding length and payment would still have to be made during an appeal.
- The legal cost for an appeal would be approximately \$50,000.
- RMP would choose the bid.
- The City would waive its right to have the line buried if it did not act within the 15 days.
- A stay issued by a court would be needed.
- An appeal would be lengthy.
- The City signed an agreement that it would only show the bid specifications to certain



people.

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

- The City would have to commit to paying \$12 million to \$20 million, to bury the line, while paying \$50,000 and bonding for \$10 million to appeal. It was paying legal fees to be able to pay at the least \$4.8 million to bury the line.
- The Council needed to see the written order of the Board before it could decide.
- The amount to bury the line, as determined by the Board, was more than the City's entire budget. Even the lowest possible cost was more than the City could pay.
- A private citizen was willing to pay \$40,000 of the cost to appeal.
- The Council needed to know the amount of the appeal bond before it decided.
- A stay would not be issued before the City had to enter into a payment contract.
- Was the Council interested in committing to \$4.8 million and paying that out of the City's financial reserves?
- Heber Light & Power Company (HL&P) would not loan the City the money to bury the line.
- An appeal could give the City the time to issue bonds for the project. The City would still have to post a significant amount of money to appeal before the bonds could be issued.
- The City should not ask the voters to approve a \$4.8 million bond when the cost could be more if it lost the appeal. The City could ask for more but did not have to issue the full amount. Realistically the City would have to ask for \$20 million.
- RMP would sue the City for breach of contract if it did not pay the amount agreed upon in the payment contract.
- Citizens should have some say in the transmission line. Utility companies owed this to every city.
- The City should be allowed the time to raise the money to bury the line.
- RMP could not build the line above ground that year.
- The amount of money the City would have to provide to appeal was outlandish.
- The state statute regarding the issue was a mess.
- The utility companies were uncooperative.
- Midway residents would vote for a bond to bury the line.
- The City should not sign a \$20 million payment agreement.
- The bid amounts had already been determined and the Council only had to decide on the length to be buried.
- A special counsel meeting could be held later to decide.
- Should the City try to negotiate with RMP one last time?

**Motion:** Council Member Orme moved not to bury the transmission line because the City did not have to money to fight any further or sign a payment agreement for \$20 million.

**Discussion:** Council Member Simonsen asked if the City should get additional expert advice. Council Member Orme responded that the City had hired experts and it still lost at the Review Board. Corbin Gordon added that the City proved to the Board that the bids were \$3 million to \$5 million too high, but they did not listen.

Council Member Dougherty indicated that the approval, for the conditional use permit (CUP), needed to be modified for running the line above ground.

**Withdrawal:** Council Member Orme withdrew her motion.

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

- The financial reserves in the Water Fund could not be used for the project.
- Using all the City’s reserves would eliminate any money for an emergency.
- The City had nothing to lose if it tried to negotiate with RMP one last time.
- The law was not on the City’s side.
- RMP was vested and the CUP could not be changed.
- If the Council did not make a decision, then the portion of the CUP for an above ground line remained in effect.
- The next council meeting would be in 14 days so a decision could be postponed until that time.

**Motion:** Council Member Drury moved to do nothing and leave the CUP unchanged.

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

**Discussion:** Council Member Dougherty asked if the motion precluded further discussion at the next council meeting. Council Member Simonsen indicated that the CUP could not be modified but if something new came up within the next two weeks that could be discussed. Council Member Drury stated that the CUP should not be changed.

**Withdrawal:** Council Member Drury withdrew his motion.

**Motion:** Council Member Drury moved to continue items nine and ten until the next council meeting.

**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	Nay
Council Member Payne	Aye
Council Member Simonsen	Aye

**Motion:** Without objection, Mayor Johnson recessed the meeting at 9:27 p.m. She reconvened the meeting at 9:35 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 Orme moved to go into a closed meeting to discuss the character, professional competence, or physical or mental health of an individual.

**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

**Note:** Pursuant to section 52-4-206, Utah Code Annotated 1953, the closed meeting was not recorded nor was written minutes kept. An affidavit affirming the purpose of the meeting is contained in the supplemental file.

**Motion:** Council Member Simonsen 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

**12. CDRA Meeting** – A Meeting of the Community Development and Renewal Agency for Midway City (Please See Separate Agenda).

**Motion:** Council Member Orme moved to convene as the governing board of the Community Development and Renewal Agency of Midway City.

**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

**Note:** Minutes of the Agency are maintained separately.

**Motion:** Board Member Orme moved to adjourn the board meeting of the Community Development and Renewal Agency and to continue the City council meeting.

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

**Discussion:** None

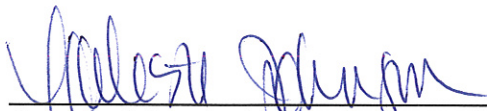
**Vote:** The motion was approved with the Board voting as follows:

Board Member Dougherty	Aye
Board Member Drury	Aye
Board Member Orme	Aye
Board Member Payne	Aye
Board Member Simonsen	Aye

### 13. Adjournment

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

The meeting was adjourned at 10:15 p.m.

  
\_\_\_\_\_  
Celeste Johnson, Mayor

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