

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

**Tuesday, 2 June 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 6:09 p.m.

Members Present:

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

Staff Present:

Corbin Gordon, Attorney (Participated
Electronically)
Michael Henke, Planning Director
Wes Johnson, Engineer (Participated
Electronically)
Nancy Simons, Accounting
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 also gave the prayer and/or inspirational message.

2. Consent Calendar

- a. Agenda for the 2 June 2020 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 19 May 2020 City Council Work Meeting
- d. Minutes of the 19 May 2020 City Council Regular Meeting

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

Motion: Council Member Payne moved to approve the consent calendar.

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

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

Boosters / Beautification Day

Council Member Drury reported that the Midway Boosters would hold their annual beautification day on June 13th.

HL&P / Projects

Mayor Johnson reported on capital projects and system mapping being done by the Heber Light & Power Company (HL&P).

HVRR / Operating

Mayor Johnson reported that the Heber Valley Railroad (HVRR) was operating again.

HVSSD / Odor

Mayor Johnson reported that the odor from the Heber Valley Special Service District's (HVSSD) sewer treatment plant had been eliminated. She reviewed the plant's treatment system and said that the ponds would be dredged as needed.

MSD / Grease Traps

Mayor Johnson reported on the replacement of grease traps by the Midway Sanitation District (MSD).

Pandemic / Update

Mayor Johnson gave an update on the COVID-19 pandemic. She explained that hospitalizations had increase and tracking was now more difficult. She added that there were sites for free testing.

5. Ordinance 2020-11 / Food Truck Amendments (City Planner – Approximately 10 minutes)
– Discuss and possibly adopt Ordinance 2020-11 amending Section 7.05.050 (Periodic Sale of prepared Food by Mobile Vendors) of the Midway City Municipal Code.

Michael Henke gave a presentation regarding the proposed ordinance. He also made the following comments:

- The ordinance had been considered by the Council at several meetings.
- The version being considered that evening included direction from the City Council.
- A public hearing had been held regarding the proposal.
- It was specific to food trucks on public property. The Council recommended that they also be allowed in the public streets rights-of-way.
- It allowed catering by food trucks with no business license required.
- Food trucks could not sell alcohol even if the sponsoring business had a liquor license.
- The event organizer, not the owner of the food truck, should get the appropriate city license. This would be clarified in the ordinance.

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

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

- Food trucks should be allowed in the public rights-of-way as determined by the planner. This would help businesses.

Motion: Council Member Drury moved to a approve Ordinance 2020-11/Food Truck Amendments with the following findings and changes:

- The proposed code would allow food trucks on Midway City public areas if all requirements were met.
- Food trucks had been included in several events. Adding language in the Municipal Code would make it clear what the requirements were for including food trucks.
- Food trucks would only be allowed if the public property were rented.
- Food trucks would need to comply with all Health Department requirements.
- Catering from a food truck would be allowed in all zones but no direct sales from the food truck would be allowed.
- Section 7 would be adjusted to allow food trucks in the public right-of-way if approved by

the City Planner.

- The definition of a vendor would be clarified in Section E(1)(e).

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

6. Gardner Properties / Financial Support (City Planner – Approximately 60 minutes) – Discuss and possibly approve \$1 million for the preservation of various parcels of open space owned by Kem Gardner. **Public Hearing**

Wendy Fisher, Utah Open Lands Executive Director, gave a presentation regarding the proposal and made the following comments:

- Kem Gardner loved open space and the properties proposed for preservation.
- The properties were accessible and used.
- Preserving the properties was a significant contribution by Mr. Gardner and his family.
- Utah Open Lands would do the necessary fund raising.
- Midway's donation would be matched six or seven to one.
- The cost was significantly less than the developable value.
- Certain things would be delineated in the conservation easements.

Michael Henke also gave a presentation and reviewed the following items:

- Locations of the properties
- Land use summaries
- General Plan items
- Trails
- Development potential
- Wildlife
- Possible findings

Mr. Henke also made the following comments:

- Appreciated Mr. Gardner's time and effort.
- The Midway City Open Space Committee recommended financially supporting the proposal.
- Any crossing of State Highway 113 would have to be coordinated with UDOT.

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

Alison Weyher, Utah Open Lands, made the following comments:

- The properties met all the criteria for preservation.
- They would be large public spaces.
- They could be preserved because of collaboration with a generous owner.
- The trail on the north property could be fenced off from the field.

Kem Gardner made the following comments:

- Had a home in Midway since the 1970's.
- Watched the rural character of Midway disappear.
- Would return the \$1 million to the City to pay for improvements on the south parcel.
- Might also put a conservation easement on additional property.
- His son wanted to build a house on the Walker parcel on the east side of Snake Creek.
- Wanted the north property to be signed just for walking with camping, vehicles, etc. prohibited. Did not want parking on the lane going to the property.
- 150 people a day visited the north parcel.
- Both parcels were a total of 130 acres.

Public Hearing

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

Micky Oksner

Mr. Oksner recommended that a plaque or monument honoring Mr. Gardner and his donation.

George Hansen

Mr. Hansen read remarks explaining the history of open space and sensitive lands preservation in Midway and thanked Mr. Gardner for his contribution.

Sheila Siggard

Ms. Siggard thanked Mr. Gardner for the donation and noted that she often road a horse on the north property. She suggested that the trail on the property be named after Mr. Gardner or McKardy Kelly who was a resident and the National Rodeo Queen.

The following people expressed their support through email or the chat function on Zoom:

- Angela Jones
- Athena Koumarela
- Bengt Jonsson
- Leslie Miller
- Lori Stone

- Michelle Crawford
- Robin Stone
- Seija Surr

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

Mayor Johnson thanked Mr. Gardner and the Open Space Committee.

Council Member Payne thanked Mr. Gardner. He said that the parcels were prime pieces of property and there was no better example for using open space funds.

Motion: Council Member Dougherty moved to accept the recommendation of the Open Space Committee and commit to contributing \$1 million of open space funds towards the project with a letter of support.

Second: Council Member Payne seconded the motion.

Discussion: Council Member Simonsen appreciated the donation because it would leverage the City's money, preserve agricultural land, and provide a significant trail.

Council Member Orme also thanked Mr. Gardner.

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. Resolution 2020-14 / Zenger Annexation Agreement Amendment and Midway Vistas Master Plan (City Planner – Approximately 60 minutes) – Discuss and possibly approve Resolution 2020-14 amending the annexation agreement for the Zenger Annexation and adopting a master plan agreement for the Midway Vistas Subdivision (Formerly known as the Zenger Annexation, Murano Subdivision and Malmrose PUD) located at approximately 1600 North Interlaken Road (West side) (Zoning is RA-1-43). **Public Hearing**

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

- Location of the proposed development
- Overview
- Original plan approved when the property was annexed
- Newly proposed plan
- Trails
- Access
- Discussion items
- Interlaken Drive

- Freedom Agreement
- Off-site trail
- Pictures of the backcountry trails
- Interlaken garbage dumpsters
- Planning Commission motion
- Changes to the Annexation Agreement
- Water Board recommendation
- Proposed conditions

Mr. Henke also made the following comments:

- The development would connect two backcountry trails.
- The off-site trail, which the developer was supposed to build, had already been built. Recommended that the developer build a section of trail along Homestead Drive instead.
- The Interlaken garbage dumpsters had been removed from the parking lot, for the Valais Park, to provide ADA parking.
- Canyon View Road was not really a collector road because it included driveways.
- The developer only had to build Canyon View Road if another developer did not build it first.
- Canyon View Road was on the City's roads plan as a second access to Interlaken.
- A master plan, which was required for a phased development, would replace the annexation agreement.
- Had only provided to the Council the executive summary of the geotechnical report.
- Some areas did not have water rights and would not be irrigated. The Midway Water Advisory Board recommended that this be stated on the plat map.
- Some lots would need individual pumps for irrigation water.
- The private roads would be maintained by the HOA.

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

Paul Berg, Berg Engineering Resource Group and representing the applicant, made the following comments:

- The previously proposed PUD had more open space, amenities, and trails.
- The new proposal complied with the annexation agreement, had 15% more open space than required, and two trails that were part of the master plan.
- Tried to provide buffers around the exterior as much as possible.
- The Freedom Agreement was signed in the 1990's and replaced with a new agreement when the property was annexed. The cost of maintaining Interlaken Drive was distributed among several developments.
- Read and explained the agreement allowing the dumpsters to be in the Valais Park parking lot. It was not fair to ask the developer to find another location for the dumpsters.
- Was working through the concerns raised by the Planning Commission including the protection of Interlaken Town's well.
- Canyon View Road was a public road that then became a private road with a public use easement.
- There was another road, without a lot of driveways, that came off Canyon View Road and went to Pine Canyon Road.

- The main entrance would be on Interlaken Road.
- The developer had met all the requirements of the 2006 access agreement.
- Each lot would have its own garbage can and be serviced by the Wasatch County Solid Waste Special Service District.
- The development would be considered again for preliminary approval. Some of the issues could be resolved in the meantime.
- Other trails would be replaced by sidewalks.

Wes Johnson made the following comments:

- The geotechnical report was complete.
- Pumps were not needed for the culinary water but wanted to increase the pressure to at least 50 psi.

Council Member Dougherty asked if the developer should provide a location for the Interlaken Dumpsters instead of just proposing one. Mayor Johnson said that Interlaken was concerned about others using the dumpsters.

Greg Harrigan, Interlaken Mayor, made the following comments:

- Interlaken Town inherited the agreements
- The dumpsters being in the gravel on the side of the road, instead of in the Valais Park parking lot, was untenable.
- Some of Interlaken's roads were on the developer's property.
- Some of its roads were not well built.
- The Town did not have any municipal property.
- The Solid Waste Special Service District would allow an interim solution for the location of the dumpsters if there was also a long-term solution. Using Edelweiss Lane as a location would work but only when Phase 1 of the development was built.
- The gravel area near Edelweiss Lane was not in Interlaken.

Motion: Without objection, Mayor Johnson recessed the meeting at 8:45 p.m. She reconvened the meeting at 8:57 p.m.

Public Hearing

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

William Ream

Mr. Ream made the following comments:

- The dumpsters should not be near the main entrance to Burgi Hill Ranches.
- A new home looked down on the gravel area suggested for the dumpsters.
- The no trespassing signs should be removed if Interlaken Road was public.
- Worried that some residents of the proposed development would go through Burgi Hill Ranches which had 40 children and no sidewalks.

- More needed to be done for traffic control and safety.

Steve Mader

Mr. Mader made the following comments:

- Had a traffic study been done? Mr. Berg responded that the study had been completed and submitted to the City Engineer.
- Would the landscaping in the project be mature?
- Would the project have a fugitive dust plan? Wanted a number to call if there were any problems with dust. Wes Johnson responded that a SWIPP permit would be required which would necessitate dust control.

Tasha Lingos

Ms. Lingos made the following comments:

- Was told that there could be no development in the source protection zone for the well. Mr. Berg responded that was only true within 100 feet of the well.
- Questioned the height of the homes in the proposed development. Mr. Henke responded that they could only be as high as 35 feet above natural grade.
- Wanted more open space along Lucerne Road. Mr. Berg responded that the proposed PUD had more open space but was rejected by the City because of its increased number of homes.
- Canyon View Road should go straight through the development.
- There were too many questions to make a decision that night.

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

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

- Should approval be granted before the location of the dumpsters was determined?
- The master plan trails needed to be designated public so the HOA or developer would not try to prohibit public access. Who would maintain the trails also needed to be determined.
- The developer should only provide a location for the dumpsters.
- The new proposal was an improvement with less hard surface, a better arrangement, and trails that covered major connections.
- The connection to the west backcountry trail should not be across a private lot.
- The item should be continued to clarify issues like the dumpsters.
- Did the traffic study take into consideration other developments when looking at the entrance on Interlaken Road? The executive summary indicated that the intersection would remain at a service level of "A".
- Drivers from the development would go through Burgi Hill Ranches.
- The amendment to the annexation agreement could be done at the same time as the master plan or at different meetings.
- The master plan needed to be better understood and should not be separate from the

annexation agreement.

Motion: Council Member Simonsen moved to continue consideration of Resolution 2020-14 / Zenger annexation agreement amendment and Midway Vistas master plan until the next meeting for the following reasons:

- Remaining questions including the dumpsters could be cleared up.
- The City could work with other parties.
- A decision could be made if anything needed to be done regarding trail safety and Interlaken Road.
- The City Engineer could review the traffic study.
- Make sure that language in the agreement was correct and minor edits made.
- The developer building a section of trail along Homestead Drive made sense and could move forward.
- The City Planner could address the trail language to make it more consistent on who would do what.
- The trail easement on the west side would be called out and noted on the plat map.
- More study was needed into the trails as proposed.
- The plat map note that the streets would always have public access.

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. Resolution 2020-16 / FY 2020 Budget Amendment (Financial Officer – Approximately 10 minutes) – Discuss and possibly approve Resolution 2020-16 amending the fiscal year 2020 budget for Midway City. **Public Hearing**

Brad Wilson gave a presentation on the proposed amendment.

Note: A copy of Mr. Wilson’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:

- \$300,000 from the General Fund balance, being transferred to the CIP Fund, should be set aside for future litigation.
- \$50,000 of the same balance should be set aside for future ice rink capital expenditures.
- \$100,000 of the same balance should also be set aside for creating additional parking.
- The ice rink chiller would need to be replaced in the future and that could cost up to \$250,000.
- The appearance of the ice rink slab was not good, but it would not affect its operation.
- The pipes under the slab were in satisfactory condition.
- Could a splash pad be put in the slab?

Motion: Council Member Simonsen moved to approve Resolution 2020-16 / FY 2020 budget amendment with the following changes:

- Financial staff were authorized to pursue the idea of a \$300,000 self-funded legal fund to deal with unexpected legal costs.
- \$50,000 transferred into the Ice Rink Fund.
- \$100,000 in the CIP Fund to purchase or create additional parking.

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. Resolution 2020-17 / FY 2021 Budget (Financial Officer – Approximately 10 minutes) – Discuss and possibly approve Resolution 2020-17 adopting the fiscal year 2021 budget for Midway City.

Brad Wilson gave a presentation on the changes to the proposed budget since the last council meeting.

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

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

- The budget should include \$1 million for each of the two open space preservation projects already considered by the Council.
- A letter of intent had been approved for the Albert Kohler project but several issues like annexation still needed to be addressed.
- \$120,000 should be budgeted for additional law enforcement.

- The bond revenue for open space needed to be shown.

Motion: Council Member Simonsen moved to approve Resolution 2020-17/FY 2021 budget as presented to the Council with the following changes:

- \$120,000, which would have been moved to the CIP Fund for road improvements, would instead be budgeted for additional law enforcement.
- An account be added for the proceeds from the open space bond.
- A \$1 million expenditure from the bond proceeds would be added in anticipation of possibly moving forward with the Kem Gardner project.
- A \$1 million expenditure from the bond proceeds would be added for the Albert Kohler Legacy Farm if the project moved forward.

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

10. Resolution 2020-18 / Property Tax Rate (Financial Officer – Approximately 5 minutes) – Discuss and possibly approve Resolution 2020-18 adopting a certified property tax rate for Midway City.

Brad Wilson reported that the resolution could not be considered that night because the property tax rate had not yet been set by the Utah State Tax Commission.

11. Resolution 2020-15 / Fee Schedule Amendment (City Planner – Approximately 15 minutes) – Discuss amending the fee schedule for Midway City regarding planning, building and other fees.

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

- Proposed fees
- Examples of the amount of work for various planning requests.

Mr. Henke also made the following comments:

- The fees would cover time and labor.
- The fee to appeal a staff decision could be deleted.
- Fees would be waived for any request initiated by the City.

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

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

- Someone should not have to pay to appeal. An appeal should not be a frustrating process.
- The fees for amendments could be increased.
- Midway City was taxpayer funded. Where was the line between taxpayers getting what they had already paid for and nontaxpayers using the Planning Department too much without paying?
- Taxpayers should not subsidize developers, etc.
- What if the City benefited from an amendment?
- Better agreements should be made when a development was approved so amendments were not needed.
- The fees should be comparable to what other municipalities charged.
- The City did not want growth and had a small staff.
- Developers who paid millions in construction costs could afford higher fees.
- The proposal should be discussed in a work meeting.

Motion: Council Member Drury moved to continue the item until a future work meeting.

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. Resolution 2020-19 / Dutch Fields Trail Agreement (Council Member Simonsen – Approximately 10 minutes) – Discuss and possibly approve Resolution 2020-19 adopting an agreement between Midway City and the Dutch Fields HOA regarding the Dutch Fields Trail.

Council Member Simonsen reviewed changes to the proposed agreement. He indicated that the Dutch Fields HOA asked that consideration be postponed until they met.

Motion: Council Member Simonsen moved to continue the item.

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

13. Review Board Decision / Stay and Appeal (City Attorney – Approximately 10 minutes) – Receive an update on the stay of the Utah Utility Facility Review Board’s decision, regarding the 970 South transmission line, and potential further action to pursue and appeal of the decision.

Corbin Gordon made the following comments regarding the stay and appeal:

- The appeal to the Utah Utility Facility Review Board had been denied.
- The Review Board did adjust their original decision to account for an administration fee.
- They would issue a written decision within ten days and strengthen their findings for the original decision.
- They had doubled down on several items in their original decision.
- The City had 20 days, once the written decision was issued, to enter into a payment agreement with Rocky Mountain Power (RMP).
- The Review Board said that its purpose was to ensure that the facilities were built.
- They did not want to review the project specifications even though that was set in the state statute.
- Had not used all the \$15,000 donated by VOLT. Updating the brief to the appeals court, reviewing RMP’s brief, and requesting a stay would use the remaining funds.
- The City would not have to post a bond to appeal.

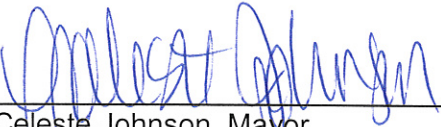
14. Closed Meeting to Discuss Pending or Reasonably Imminent Litigation

Mayor Johnson indicated that a closed meeting was not needed.

15. Adjournment

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

The meeting was adjourned at 10:49 p.m.



Celeste Johnson, Mayor



Brad Wilson, Recorder