

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

**Tuesday, 1 November 2022, 6:00 p.m.
Midway Community Center, 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, 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 Pro Tempore Drury called the meeting to order at 6:06 p.m. He excused Mayor Johnson.

Members Present:

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

Staff Present:

Corbin Gordon, Attorney
Michael Henke, Planning Director
Wes Johnson, Engineer
Brad Wilson, Recorder

Members Excused:

Celeste Johnson, Mayor

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

Mayor Pro Tem Drury led the Council and meeting attendees in the pledge of allegiance. Corbin Gordon gave the prayer and/or inspirational message.

2. Consent Calendar

- a. Agenda for the 1 November 2022 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 4 October 2022 City Council Work Meeting
- d. Minutes of the 4 October 2022 City Council Regular Meeting
- e. First One Year Extension of the Final Approval for the Edelweiss Meadows Subdivision Located at 640 East 200 South (Zoning is R-1-11).

- f. Release the construction bond, minus 10% for Midway City, any amount for landscaping, and 10% for the Midway Sanitation District, and begin the one-year warranty period for Phase I of the Reserve at Midway located at 285 West Luzern Road (Zoning is RA-1-43).
- g. Release the construction bond, minus 10% for Midway City, any amount for landscaping, and 10% for the Midway Sanitation District, and begin the one-year warranty period for Phase II of the Reserve at Midway located at 285 West Luzern Road (Zoning is RA-1-43).
- h. Award a contract to Wright's Shed Company to replace the restrooms at the Midway City Cemetery.
- i. Award a contract to SuperTrees to utilize a Community Forestry Partnership Grant for the maintenance of Midway City's trees.
- j. Kelly Lineback to a four-year term as a full member of the Midway City Planning Commission.
- k. Andrew Osborne to a four-year term as a full member of the Midway City Planning Commission.
- l. Travis Nokes to a four-year term as an alternate member of the Midway City Planning Commission.
- m. Genee Miles to a four-year term as an alternate member of the Midway City Planning Commission.

Note: Copies of items 2a through 2m are contained in the supplemental file.

Wes Johnson explained the errors in billing for traffic tubes that were discussed at the last council meeting.

Council Member Simonsen requested that the minutes, from the 4 October 2022 council meeting, indicate that a very small amount of taxes were used for donations.

Motion: Council Member Simonsen moved to approve the consent calendar with the edit to the minutes and that the issue with the traffic tubes be finalized.

Second: Council Member Dougherty seconded the motion.

Discussion: Council Member Dougherty made the following comments:

- Extensions for approvals, like the one for the Edelweiss Meadows Subdivision, were problematic.
- The LaBarge subdivision was originally approved before the current council was in office.
- Asked that staff reconsider how many extensions could be granted.
- The Municipal Code changed over time.
- It was difficult to determine which version of the Code applied to a development that's approval had been extended.
- Extenuating circumstances needed to be defined. It should include supply chain issues, etc. but not changes in the market.

Mayor Pro Tem Drury noted that development agreements used to be open ended.

Wes Johnson reported that the infrastructure had been completed for Edelweiss Meadows.

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	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 Pro Tem Drury asked if there were any comments from the public for items not on the agenda. No comments were offered.

4. Department Reports

Ice Rink / Opening / Dasher Boards

Mayor Pro Tem Drury hoped that the City's ice rink would be open by the tree lighting ceremony. Council Member Dougherty indicated that advertising space was available on the rink's dasher boards.

PI System / Shut Down for Winter

Council Member Dougherty reported that the pressurized irrigation (PI) system had been shut down for the winter.

Midway Business Alliance

Council Member Dougherty reported that the Midway Business Alliance met the previous week. He complimented Tonia Turner for her work assisting the Alliance.

HL&P / Rate Increase / Combine Meters / Power Outage / Growth

Council Member Dougherty reported that rate increases for Heber Light & Power Company were going into effect.

He suggested that Midway City combine some of its power meters to reduce usage charges.

He reported that a transformer was down at the Provo River Substation which caused a valley wide power outage.

He added that HL&P was considering integrated planning to help catch up with the growth and reduce the cost for existing rate payers.

Main Street / Lights

Council Member Dougherty reported that every other streetlight, along Main Street, would be replaced with a bollard light.

Olympic Bid Committee

Council Member Dougherty reported on an interlocal meeting with the bid committee for another winter Olympics in Utah.

Public Transportation

Council Member Dougherty reported that there was now free public transportation from the Heber Valley Hospital to Park City. He also reported that micro-transit was available for the area.

Streetlights / Maintenance

Mayor Pro Tem Drury asked who maintained the neighborhood streetlights. Wes Johnson responded that HL&P maintained the standard lights while individual developments had to maintain non-standard lights. He added that HL&P did not have a set maintenance schedule.

5. Resolution 2022-41 / Rural Planning Organization (City Planner – Approximately 15 minutes) – Discuss and possibly deny, continue, or approved Resolution 2022-41 establishing a rural planning organization for Wasatch and Summit counties.

Michael Henke gave a presentation regarding the proposed rural planning organization and reviewed the following items:

- Overview
- Voting
- Committees

Bob Allen, Mountainlands Association of Governments (MAG) Senior Planner, made the following comments:

- The organization would formalize an existing planning group for Wasatch County.
- Summit County would be added to the group.
- The organization would focus primarily on transportation, but other issues might be considered.
- It would make suggestions to UDOT.
- It would have no authority to supersede local government regulations.
- Dues for the organization had been paid for the current cycle. No increase in the cost of dues was anticipated.
- The organization would be able to influence UDOT, the State Legislature, etc.

- The mayors or their designees would serve on the governing board.
- Participation was voluntary.
- All participants would sign the same agreement.
- A section still needed to be added to the agreement regarding subcommittees.

Corbin Gordon did not see any issues with the agreement.

Motion: Council Member Dougherty moved to approve Resolution 2022-41, a resolution establishing the Wasatch Back Rural Planning Organization, with the Mayor authorized to execute it on behalf of the City or at her discretion bring it back to the Council for consideration.

Second: Council Member Payne seconded the motion.

Discussion: None

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

- 6. Resolution 2022-35 / The Village Amended Master Plan Agreement** (Midway Heritage Development – Approximately 10 minutes) – Discuss and possibly deny, continue, or approve Resolution 2022-35 amending the master plan agreement, for The Village located at 541 East Main Street, to accommodate a boundary determination and allow additional units to be transient rentals (Zoning is C-2).
- 7. Resolution 2022-36 / The Village, Phase 1 Amended Development Agreement** (City Attorney – Approximately 10 minutes) – Discuss and possibly deny, continue, or approve Resolution 2022-36 amending the development agreement for Phase 1 of The Village located at 541 East Main Street (Zoning is C-2).
- 8. Resolution 2022-37 / The Village, Phase 2 Amended Development Agreement** (City Attorney – Approximately 10 minutes) – Discuss and possibly deny, continue, or approve Resolution 2022-37 amending the development agreement for Phase 2 of The Village located at 541 East Main Street (Zoning is C-2).

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

- The master plan agreement should reference the buffer zone. This would emphasize that the Transient Rental Overlay Zone (TROD) boundary was not being changed.
- The agreements needed to address the units that were still in the TROD but outside of the boundary determination. They also needed to state that the units were voluntarily being excluded.

- Section “P” needed to be revised to state that only the units designated in the exhibit could be transient rentals.

Motion: Council Member Dougherty moved to adopt Resolution 2022-35, approving the first amendment to the master plan for The Village as provided, with the following changes:

- Exhibit “C” of the development agreements being incorporated in the master plan agreement to deal with the transient rental unit designations.

Second: Council Member Payne seconded the motion.

Discussion: None

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

Motion: Council Member Payne moved to approve Resolution 2022-36 with the proposed additional language and corrections previously summarized in Section “P” and the addition of Exhibit “C”.

Second: Council Member Dougherty seconded the motion.

Discussion: None

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

Motion: Council Member Payne moved to approve Resolution 2022-37 with the same modifications that were made for Resolution 2022-36.

Second: Council Member Dougherty seconded the motion.

Discussion: Council Member Dougherty asked if the changes made in Subsection “q” also needed to be made in the amendment for Phase 1.

Amended Motion: Council Member Payne moved to approve Resolution 2022-37 with the same modifications that were made for Resolution 2022-36, including both having the same language in Subsection “q” including the word “residential” being stricken.

Second: Council Member Dougherty seconded the motion.

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

9. Bonner Meadows / Final Approval (Colton Chronister – Approximately 20 minutes) – Discuss and possibly deny, continue, or grant final approval for the Bonner Meadows Subdivision located at 100 South and 100 East (Zoning is R-1-9).

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

- Planning commission recommendation
- Land use summary
- Location of the proposed development
- Site plan
- Proposed plat map
- Important items
- Street profiles
- Land use summary
- Utility plan
- Letter from the City Engineer
- Discussion items
- Safety plan
- Water board recommendation
- Possible findings
- Recommended conditions

Mr. Henke also made the following comments:

- A section on the north side of 185 South would be dedicated to the Wasatch County School District to avoid double fronted lots.
- The District would plow 185 South after it was dedicated to them.
- The trail connecting the cul-de-sac with 185 South remained on the plans.

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

Wes Johnson reviewed the storm water system and made the following comments:

- All storm water would go to a retention pond.
- A gate would be put in any fence to maintain maintenance access to the pond.
- The priority for road plowing in the winter would change because of the project.

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

- During construction there would always be one lane open to access Midway Elementary School. During certain periods access would increase.
- The City originally requested the connector trail between the proposed cul-de-sac and 185 South. The trail was also an easement for the sewer. The school principal approved of the trail.

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

- The connector trail was a safety concern.
- It compensated for no sidewalks on 200 East.

Council Member Dougherty indicated that Mike Kohler, Midway Irrigation Company Manager, did not want any main ditches in back yards. Mr. Berg responded that there was no room to put the ditch in the road. Wes Johnson indicated that Mr. Kohler preferred that it follow 100 East and then 185 South. Council Member Dougherty suggested that the applicant work with the Irrigation Company on a solution. Mr. Berg expressed frustration that the issue was raised at the last minute. Council Member Dougherty suggested that approval could be granted subject to a resolution with the Irrigation Company.

Colton Chronister, applicant, made the following comments:

- Would work with the Irrigation Company on the ditch.
- Asked that the development be approved that night conditioned on the location of the ditch being resolved.

Motion: Council Member Payne moved to grant final approval for the Bonner Meadows Subdivision, located at 100 South and 100 East, including the following findings and conditions:

- The proposal did meet the intent of the General Plan for the R-1-9 zoning district.
- The proposal complied with the land use requirements of the R-1-9 zoning district.
- The sidewalks crossing the property and connecting to neighboring roads and existing sidewalks would benefit the community by allowing safe pedestrian access.
- Any failure to submit a proposed final plan and final approval submittal package within one year of the approval of the Preliminary Plan by the City Council would terminate all proceedings and render the Preliminary Plan null and void.
- Construction times on 100 East and 185 South would be limited to the specific times listed in the staff report.
- Construction times for areas not on 100 East and 185 South would be limited to Midway standards.
- Construction access was limited to the specific locations identified in the staff report.
- The irrigation ditch, which had been discussed, would be subject to the approval of the City Engineer and the Midway Irrigation Company.
- There would be a ten-foot-wide gate installed, to access the retention pond, if a fence was build.

Second: Council Member Dougherty seconded the motion.

Discussion: None

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

10. Resolution 2022-39 / Bonner Meadows Development Agreement (City Attorney – Approximately 5 minutes) – Discuss and possibly deny, continue, or approve Resolution 2022-39 adopting a development agreement for the Bonner Meadows Subdivision located at 100 South and 100 East (Zoning is R-1-9).

Corbin Gordon made the following comments:

- Just received requested changes from the developer. Did not agree with some of them and wanted the Council's opinion.
- Should the duration of the agreement be longer?

Mr. Gordon reviewed the following changes suggested by the developer and they were discussed by the attendees:

- Connecting trail from the cul-de-sac to 185 South
- Road restrictions
- Confirmation of studies
- Confirmation that there was not a remainder parcel
- Duration of the agreement
- Superseded language

Motion: Council Member Dougherty moved to continue the item until staff could return a revised and satisfactory agreement unless they needed more direction.

Second: Council Member Payne seconded the motion.

Discussion: Mr. Chronister indicated that he worked as hard as possible to get the requested changes back to the City.

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

Motion: Without objection, Mayor Pro Tem Drury recessed the meeting at 8:15 p.m. He

reconvened the meeting at 8:22 p.m.

11. Ordinance 2022-28 / Animals in Vehicles (City Attorney – Approximately 15 minutes) – Discuss and possibly adopt Ordinance 2022-28 amending Title 6 (Animal Control) of the Midway City Municipal Code regarding animals in vehicles.

Corbin Gordon made the following comments:

- The proposed ordinance was requested by area animal services.
- It allowed certain people to break into a car to save an animal.
- It would create policy uniformity throughout the area.

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

- Some vehicles could run their air conditioning indefinitely which meant an animal could be left in a vehicle. These cars should not be broken into to save an animal.
- The proposal gave a lot of discretion to the responding authority.
- It was too subjective. Ordinances needed to be clear and unambiguous.
- It protected the responding authority.
- The Council and City Attorney should prepare an ordinance and present it to the area animal services.

Motion: Council Member Simonsen moved to direct the City Attorney to review and prepare a version of the ordinance that addressed the concerns raised.

Second: Council Member Dougherty seconded the motion.

Discussion: None

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

12. Ordinance 2022-30 / Feral Cats (City Attorney – Approximately 15 minutes) – Discuss and possibly adopt Ordinance 2022-30 amending Title 6 (Animal Control) of the Midway City Municipal Code regarding feral cats.

Corbin Gordon reviewed the proposed ordinance. He indicated that it was also requested by area animal services. Council Member Simonsen further explained that it would allow authorities to spay or neuter, tag, and then release feral cats after five days.

Motion: Council Member Dougherty moved to adopt Ordinance 2022-30 amending Title 6 (Animal Control) of the Midway City Municipal Code regarding feral cats.

Second: Council Member Simonsen seconded the motion.

Discussion: None

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

13. Closed Session to Discuss Deployment of Security Personnel, Devices, or Systems

Motion: Council Member Simonsen moved to go into a closed meeting.

Second: Council Member Payne seconded the motion.

Discussion: None

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	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 Payne seconded the motion.

Discussion: None

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

Mayor Pro Tem Drury	Aye
Council Member Dougherty	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

14. Adjournment

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

The meeting was adjourned at 9:30 p.m.



Jeff Drury, Mayor Pro Tempore



Brad Wilson, Recorder