

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

**Tuesday, 19 September 2023, 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 Johnson called the meeting to order at 6:14 p.m. She excused Council Member Drury.

Members Present:

Celeste Johnson, Mayor
Steve Dougherty, 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

Members Excused:

Jeff Drury, Council Member

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

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

2. Consent Agenda

- a. Agenda for the 19 September 2023 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 15 August 2023 City Council Work Meeting
- d. Minutes of the 15 August 2023 City Council Regular Meeting
- e. Minutes of the 15 August 2023 City Council Closed Meeting

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

Brad Wilson noted that a change to the closed meeting minutes had been emailed to the Council.

Motion: Council Member Simonsen moved to approve the consent agenda as noted.

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	Excused from the Meeting
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.

High Valley Arts / Invitation

Mary Eckersley, Ben Lawson, Nora Davis, and Thor Jensen explained their participation in productions by High Valley Arts, thanked the Council for letting the theater company use the Town Hall, and invited them to attend a rehearsal.

No further comments were offered.

4. Department Reports

Swiss Days / Clean-Up

Council Member Orme reported that Swiss Days and its clean-up had been a success.

Midway Business Alliance / Invitation

Council Member Dougherty reported that there would be a meeting of the Midway Business Alliance. He invited local business owners to attend.

HL&P / Batteries / Net Metering

Council Member Dougherty reported on a ribbon cutting for batteries at Heber Light & Power's Lake Creek hydroelectric plant. He indicated that power storage was as important as power generation.

He explained why net metering was unavailable in certain areas.

Water Aging Study

Mayor Johnson reported that the aging study, on water from the City's culinary sources, was almost complete.

PI System / Meters / Shut Off

Council Member Dougherty reported that meters were being installed on all pressurized irrigation (PI) system laterals. He added that the system would be turned off in mid-October.

- 5. Burgi Hill Park Tennis Courts / Plaque Honoring Jeff and Melinda Romney** (Mayor Johnson – Approximately 10 minutes) – Discuss and deny, continue, or approve placing a plaque at the tennis courts, in the Burgi Hill Park, remembering and honoring Jeff and Melinda Romney.

Mayor Johnson made the following comments:

- Jeff and Melinda Romney were recently killed in a motorcycle accident.
- Jeff was a tennis player and instructor who taught youth how to play at no charge.
- A young man asked if a plaque could be placed on a bench at the tennis courts in Burgi Hill Park to honor the couple.
- Would the Council support the request?

Motion: Council Member Orme moved to approve placing a plaque for the Romneys at the tennis court.

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	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

- 6. Friends of Wasatch Hit & Giggle / Donation** (Laura Bohn – Approximately 10 minutes) – Receive a presentation, discuss, and possibly deny, continue, or approve a donation to the

Friends of Wasatch Hit & Giggle fundraiser.

Laura Bohn gave a presentation regarding the event and reviewed the following items:

- History of the Friends of Wasatch
- Hit & Giggle
- Sponsors
- Participation in the event
- Summary of the event results

Ms. Bohn also made the following comments:

- The organization purchased new targets for the Wasatch Mountain State Park's archery range, new playground equipment for the Park's visitor center, and helped with the black willow project.
- Thanked the Council for its support of the organization.
- Asked for increased financial support.
- Was looking for members for the organization's board.

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

7. Rocky Mountain Power / Conditional Use Permit (Travis Jones – Approximately 30 minutes) – Discuss and possibly deny, continue, or approve a conditional use permit for Rocky Mountain Power to rebuild the existing Judge transmission line located along the west boundary of Midway City. **Public Hearing**

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

- Land use map
- Route of the transmission line
- Coordinating with Wasatch County
- Discussion items
- Possible findings
- Public comment

Mr. Henke explained that rebuilding the transmission line would make it more fire resistant and to help prevent it from causing fires.

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

Travis Jones, a business manager with Rocky Mountain Power, made the following comments:

- The design of the line and vegetation control would be improved.
- Rocky Mountain Power was improving multiple transmission lines.
- It was looking at all lines in wildland urban interfaces.

- The voltage carried would not be increased.
- The 138 kV rather than the 48 kV design was now the standard.
- The south section of the line, going down Provo Canyon, was in a different district.

Nicole Kendal, an engineer with Rocky Mountain Power, made the following comments:

- A 138 kV design had more space between lines and greater ground clearance.
- The conductors would not be larger as part of the upgrade.
- Rocky Mountain Power would have to come back to the Council if it wanted the line to carry a higher voltage.
- The installation method depended upon the contractor.
- The proposed steel poles were lighter than wood poles and came in smaller sections.
- A crane would be needed for construction which would be like the equipment used for normal maintenance.
- Any road widening would be remediated.
- The minimum ground clearance would increase.
- The sag in the lines would depend upon the type of wire and its properties, the equipment used, and how tight it would be. Estimated a sag of five to six feet.
- The distance between insulators would increase from eight to ten feet.
- There would be 15.5 feet on top of each pole for lightning protection.
- A portion of each pole would be in the ground.
- The height difference between a 46 kV and a 138 kV pole would not be that much.
- The proposal would not accommodate a second circuit.
- The transmission line on 970 South would not accommodate a second circuit.
- The distance between the poles for the current and new lines would be similar.
- All the wider structures would be in Wasatch County.

Abhineet Sabharwal, representing Rocky Mountain Power, made the following comments:

- Only existing access roads would be used.
- Some minimal clearing would be needed.
- Specific standards would be followed.
- Tires and boots would be cleaned to prevent transferring noxious weeds.
- Erosion blankets and drainage plans would be used.
- Was coordinating with the Wasatch Mountain State Park.
- Would obtain a SWPPP permit and give a copy to the City.
- The height of the power poles would go from 70 to 80 feet to 80 to 90 feet.

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

- There was no information provided in the meeting packet regarding fire mitigation.
- The line could provide more power for the ski lifts in Park City.
- A 138 kV design would be more visible than a 48 kV design.
- The Council could not deny a conditional use permit but could add reasonable conditions to mitigate its impact.
- The City should approve the construction plan to mitigate damage.
- A relative that worked for Rocky Mountain Power indicated that the 970 South transmission line was designed for two circuits. Ms. Kendal responded that she designed that line, and it would not accommodate a second circuit.

- Why did the poles vary on the 970 South line when the ground was flat and there were no obstacles? Ms. Kendal responded that there were several reasons why poles could vary.
- Wasatch County had a permit to rebuild the line.

Mayor Johnson suggested that Council Member Payne meet with Rocky Mountain Power to discuss the number of circuits that could be on the 970 South line. Council Member Payne responded that he could not approve the request until the issue was resolved. He indicated that his nephew was honest and volunteered his comments. He did not want to have him appear before the Council for fear that he would lose his job.

Mayor Johnson suggested that any approval of the request be conditioned upon the line only being used for approved functions.

Public Hearing

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

Jordan Olin

Mr. Olin made the following comments:

- Only received one notice of the proposal.
- How would the new poles negate sparks?
- Was worried that the western side of Midway would look industrial.
- Was also worried that the new line would affect his views.
- How was the cost to bury the line determined?
- The line should at least be buried from 100 North to the State Park.
- Moved to Midway for the lifestyle and the views.

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

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

- The money needed to bury the 970 South line was never raised. It could not be raised for the Judge line.
- Burying the line would be safer but more expensive. It would also cause more scarring on the mountainside.
- The City should only consider burying the line if Wasatch County agreed to do the same.
- There should be good communication between the City and the County.
- The City had contacted the County multiple times about the line and they raised no concerns.

Motion: Council Member Simonsen moved, that based on the reasons given, Midway City had good reason to continue the Rocky Mountain Power conditional use permit request, to upgrade the Judge line for fire mitigation, until such time that Council Member Payne's questions were resolved, or attempted to be resolved in good faith, and to make sure that there was good

interagency cooperation between area governing bodies.

Second: Council Member Payne seconded the motion.

Discussion: Council Member Dougherty indicated that other work could be done while the request was continued. He requested literature that the State mandated the upgrade. He thought that the Council’s questioning was not personal but a result of the approval for the 970 South line. He noted that two people had died fighting a wildfire in the same area as the proposed project.

Council Member Dougherty asked if there was a deadline for the project. Council Member Simonsen responded that project milestones were in the information provided to the Council.

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

Council Member Dougherty	Aye
Council Member Drury	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

- 8. **Ordinance 2023-13 / Kay’s Landing Annexation Amendment** (Berg Engineering – Approximately 45 minutes) – Discuss and possibly deny, continue, or adopt Ordinance 2023-13 approving an amendment to the Kay’s Landing Annexation located at 1591 South Stringtown Road (Zoning would be RA-1-43).

- 9. **Resolution 2023-22 / Kay’s Landing Annexation Agreement Amendment** (City Attorney – Approximately 5 minutes) – Discuss and possibly deny, continue, or approve Resolution 2023-22 adopting an amended annexation agreement for the Kay’s Landing Annexation located at 1591 South Stringtown Road (Zoning would be RA-1-43).

- 10. **Kay’s Landing Subdivision / Second Revised Final Approval** (Berg Engineering – Approximately 5 minutes) – Discuss and possibly deny, continue, or revise the final approval for the Kay’s Landing Subdivision located at approximately 1375 South Stringtown Road (Zoning is RA-1-43).

- 11. **Resolution 2023-23 / Kay’s Landing Subdivision Amended Development Agreement** (City Attorney – Approximately 5 minutes) – Discuss and possibly deny, continue, or approve Resolution 2023-23 adopting an amended development agreement for the Kay’s Landing Subdivision located at approximately 1375 South Stringtown Road (Zoning is RA-1-43).

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

- Summary
- Location of the annexation

- Original plat map
- Possible findings for the annexation
- Approved conditions
- Revised annexation agreement

Mr. Henke indicated that the park fee was based on the amount of acreage in the annexation and was discretionary.

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

Corbin Gordon reviewed changes to the annexation agreement.

Council Member Dougherty recommended that a recital in the agreement tie with the approval for a more complete record.

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

- Land use summary
- Location of the development
- Original plat map

Mr. Henke also made the following comments:

- A strip of property had been removed from the development and deeded to Randall Probst.
- An easement had been recorded allowing access to the strip of property.

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

Council Member Dougherty asked if the property, being taken out of the annexation and the development, could be used for a road instead of just an agricultural access. He noted that would create a county road accessing a city road which then accessed a county road. Mr. Henke responded that there was another possible route to access the property.

Randall Probst made the following comments:

- Previous buyers wanted the access to his property to be at the end of the cul-de-sac. Jeremy Pope, who bought the property, used it for a sod farm and did not like that route.
- The property for the access was supposed to be deeded back to him before the annexation and subdivision were approved.
- The access would be a buffer with his son's house and access a water line.

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

- Mr. Probst would likely annex his property to receive culinary water.

- The approvals should be updates or revisions to the annexation and the subdivision.

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

- The original findings and conditions should be included in any motion.

Motion: Council Member Payne moved to adopt Ordinance 2023-13, approving an amendment to the Kay's Landing Annexation, with the following findings and conditions:

- The City would gain control over the land use and zoning if the area was annexed.
- The proposal was a legislative action.
- The proposal would increase density and traffic to the area.
- The density of the project was relatively low at five dwellings on almost eleven acres. This would help promote the vision of the general plan to preserve more open area and a rural atmosphere.
- Development on the parcel was limited to five lots. The five lots would be deed restricted and would not allow any further subdividing.
- A parks annexation donation fee of \$6,368.82 would be paid before the recording of the annexation plat.
- Any approval of the revised annexation plat maps would nullify and vacate all prior approvals, and any mylars associated with any prior approvals would be destroyed.
- The amended annexation agreement would be adopted.
- The applicant would pay all associated costs, including application, engineering, and recording fees, and reimburse a \$1,000 check that Randall Probst paid to the City prior to the plat map being recorded.

Second: Council Member Dougherty seconded the motion.

Discussion: Brad Wilson asked for clarification of the \$1,000 check. Michael Henke responded that an additional application fee was charged for the amendment because of the time and effort spent by staff.

Council Member Payne made the following comments:

- He brought up the issue of who paid the fees in an email to Mr. Berg in 2022 but nothing was done.
- The applicant was now requiring that Mr. Probst pay part of the application costs.
- Wanted the \$1,000 paid back to Mr. Probst before the plat map could be recorded.

Mr. Berg made the following comments:

- Did the Council want to interfere with a private agreement?
- Encouraged the applicant to pay all the fees.
- Apologized for misreading the email from Council Member Payne.

Mr. Probst indicated that he paid a portion of the fee because he was out of the country, when the issue should have been resolved, and he wanted to move the process along.

Council Member Dougherty indicated that his second of the motion was not assigning blame, but he felt that the applicant should pay the fees.

Council Member Orme asked if the Council could legally require the applicant to pay Mr. Probst in exchange for recording the plat map. Corbin Gordon responded that the Council did not have a basis for the requirement.

Amended Motion: Council Member Payne moved to amend his motion to remove the \$1,000 reimbursement to Mr. Probst but to increase the park annexation fee by \$1,500.

Second: Council Member Dougherty said that he could not second the amended motion.

Discussion: Corbin Gordon recommended not increasing the park annexation fee. Mr. Probst indicated that he wanted to be a good neighbor and did not need to be reimbursed for the money that he paid.

Amended Motion: Council Member Payne amended his motion to approve Ordinance 2023-13, approving an amendment to the Kay's Landing Annexation, with the following findings and conditions:

- The City would gain control over the land use and zoning if the area was annexed.
- The proposal was a legislative action.
- The proposal would increase density and traffic to the area.
- The density of the project was relatively low at five dwellings on almost eleven acres. This would help promote the vision of the general plan to preserve more open area and a rural atmosphere.
- Development on the parcel was limited to five lots. The five lots would be deed restricted and would not allow any further subdividing.
- A parks annexation donation fee of \$6,368.82 would be paid before the recording of the annexation plat.
- Any approval of the revised annexation plat maps would nullify and vacate all prior approvals, and any mylars associated with any prior approvals would be destroyed.
- The amended annexation agreement would be adopted.

Second: Council Member Dougherty seconded the amended motion.

Discussion: Council Member Simonsen asked if Mr. Probst had any remedy for having to pay part of the fees. Mr. Gordon responded that he could sue the applicant.

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

Council Member Dougherty	Aye
Council Member Drury	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

Motion: Council Member Payne moved to approve Resolution 2023-22 adopting a revised agreement for the Kay's Landing Annexation incorporating the requested changes.

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	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

Motion: Council Member Payne moved to approve the second revised final approval for the Kay's Landing Subdivision with the following findings and conditions:

- The proposal met the intent of the General Plan for the RA-1-43 zoning district.
- The proposal complied with the land use requirements of the RA-1-43 zoning district.
- 1.67 acres of open space would be created as part of the development, which would be noted on the plat map and restricted from future building or development.
- The property was restricted to five lots by a private deed restriction and by the annexation agreement.
- The duration of final approval would be for one year from the date of final approval of the development by the City Council. Should a final plat map not be recorded by the County Recorder within the one-year period of time, the development's approval would be voided, and both preliminary and final approvals would have to be re-obtained, unless, on a showing of extenuating circumstances, the City Council extended the time limit for plat recording, with or without conditions.
- The applicant would contribute to the planned bike lane in an amount approved by the City Engineer before the plat map would be recorded.
- Development on the parcel was limited to five lots. The five lots would be deed restricted and would not allow any further subdividing.

Second: Council Member Dougherty seconded the motion.

Discussion: Council Member Simonsen asked if the open space needed to be recalculated. Mr. Henke responded that the applicant did not make that request and the lot with the open space was not affected by the revision.

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

Council Member Dougherty	Aye
Council Member Drury	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

Motion: Council Member Payne moved to approve Resolution 2023-23 adopting an amended development agreement for Kay's Landing Subdivision with the changes outlined by the City Attorney and Mr. Berg.

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	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

12. Ordinance 2023-12 / Parks & Trails Parking (City Planner – Approximately 30 minutes) – Discuss and possibly deny, continue, or adopt Ordinance 2023-12 amending Chapter 5.03.060 (Miscellaneous Activities) of the Midway City Municipal Code regarding parks and trails parking.

Katie Villani made the following comments regarding the proposed ordinance:

- A person had been living at Burgi Hill Park in a large RV.
- The Municipal Code prohibited camping in the City’s parks.
- The Parks, Trails, and Trees Committee requested more specificity and greater restrictions for parking. It had proposed additions to the Code.
- The ordinance would only apply to parks and trails.

Rob Bouwhuis made the following comments:

- The person living at Burgi Hill Park was belligerent and argumentative. She was now camping along Michie Lane which should be addressed.
- Some people parked overnight in the park during baseball tournaments.
- The park parking lots should not be used for storage.
- The restrictions needed to be posted at each park.
- The City should not enforce parking for short periods of time.

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

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

- Why was there a 25-foot limit on vehicles? Pick-up trucks could be up to 21 feet.
- The proposed language should prohibit all trailers and boats. It should also prohibit all vehicles over 25 feet. Were they prohibited for any amount of time? They should be specifically prohibited for overnight camping.
- Should people be allowed to camp in the parks during the day?
- The parks did not include any parking spaces for trailers, boats, RVs, etc.
- The City owned the right-of-way along Michie Lane.
- Several vehicles were parked along the south section of Michie Lane across from the Montresee PUD. No parking signs or chevrons could be installed along the road. The road would be striped, which would help.

Motion: Council Member Orme moved to adopt Ordinance 2023-12 with the following findings and changes:

- The proposed amendment would prohibit overnight parking in City Parks and on City Trails.
- The proposed change would prohibit parking of trailers and/or boats and/or vehicles over 25 feet in length.
- The proposed amendment would prohibit parking of motor vehicles and/or trailers in any manner which blocks, inhibits, or otherwise interferes with use of the City's Parks and Trails by other lawful users unless otherwise permitted by the City.
- Parking facilities at City Parks and Trails were not unlimited. The proposed change would ensure accessibility, including access to parking resources, to the public for authorized uses of the City's Parks and Trails.
- The proposed amendment would apply to all City of Midway Parks and Trails.
- The clause regarding permission from the City be in Subsection "A" rather than in the individual numbered subsections.
- Vehicles over 25 feet be separated from trailers and boats for clarification.
- Parking any vehicle at any time on a trail would be prohibited.

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	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

13. 2023 Primary Election / Canvass Ballots (City Recorder – Approximately 5 minutes) –
Canvass the Ballots for the 2023 Municipal Primary Election.

Brad Wilson gave a presentation regarding the primary election and reviewed the following items:

- Statistics
- Vote totals by candidate

Mr. Wilson also made the following comments:

- The six candidates that received the most votes would continue to the general election.

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

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

- What was the significance of zero of eight precincts complete? Mr. Wilson did not know but would contact the County Clerk for an answer.

Motion: Council Member Simonsen moved to certify the ballot canvass as presented but directed staff to resolve the question of zero of eight precincts not complete.

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	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

14. Closed Meeting to Discuss Pending or Reasonably Imminent Litigation and the Purchase, Exchange, or Lease of Real Property

Motion: Council Member Payne moved to go into a 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	Excused from the Meeting
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 Payne moved to go out of the closed meeting.

Second: Council Member Orme seconded the motion.

Discussion: None

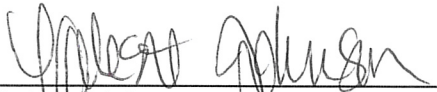
Vote: The motion was approved with the Council voting as follows:

Council Member Dougherty	Aye
Council Member Drury	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

15. Adjournment

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

The meeting was adjourned at 10:17 p.m.



Celeste Johnson, Mayor



Brad Wilson, Recorder