

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

**Tuesday, 3 December 2024, 6:00 p.m.  
Midway Community Center, Council Chambers  
160 West Main Street, Midway, Utah**

**Note:** Notices/agendas were posted at 7-Eleven, The Market 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 6:11 p.m. She excused Council Member Drury.

**Members Present:**

Celeste Johnson, Mayor  
Lisa Orme, Council Member  
Kevin Payne, Council Member  
Craig Simons, Council Member  
JC Simonsen, Council Member

**Staff Present:**

McKay Murdock, Attorney's Office  
Michael Henke, Planning Director  
Wes Johnson, Engineer  
Katie Villani, Planner  
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 Payne gave the prayer and/or inspirational message.

**2. Consent Agenda**

- a. Agenda for the 3 December 2024 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 19 November 2024 City Council Work Meeting
- d. Minutes of the 19 November 2024 City Council Regular Meeting
- e. Conclude the warranty period and release the remainder of the bond for Phase 2 of The Reserve, located at 285 West Luzern Road, subject to the payment of all fees due to Midway City.

- f. Conclude the warranty period and release the remainder of the bond for the Mill Canyon Farms Subdivision, located at 850 South 250 West, subject to the payment of all fees due to Midway City.

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

**Motion:** Council Member Orme moved to approve the consent agenda as written.

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

**Discussion:** None

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

Council Member Drury	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	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 about items not on the agenda. No comments were offered.

**4. Department Reports**

Law Enforcement / Vehicle Markings / Patrolling

Mayor Johnson reviewed the markings that would be on the outside of the vehicles used by the Heber City Police Department to patrol Midway. She added that the Department had started patrolling.

Council Member Simons recommended that a large Midway City logo be on the back of the vehicles.

**Note:** A representation of a vehicle with the markings is contained in the supplemental file.

Roads / Trails / Project

Council Member Simonsen reported that he was working with the City Engineer on future road and trail projects.

Historic Preservation Committee / Oral Histories

Council Member Simons reported on the oral histories being done by the Midway Historic Preservation Committee.

#### Pressurized Irrigation System / Shut Down

Council Member Simons reported that the pressurized irrigation system had been shut down for the winter.

#### MBA / Meetings

Council Member Orme reported that the Midway Business Alliance (MBA) was holding its meetings at local businesses.

#### Cemetery / Town Square Pavillion / Bathroom Doors

Mayor Johnson reported that new bathroom doors had been installed on the Town Square Pavillion and at the Cemetery.

#### HVTED / Promotional Video

Council Member Orme presented a promotional video by Heber Valley Tourism and Economic Development (HVTED). Mayor Johnson asked that a link be put on the City's website.

#### Sign Ordinance / Outreach

Katie Villani reported that the Planning Department would reach out to local businesses regarding the new sign ordinance.

#### Domestic Violence Shelter / CAPS / Awareness / Website

Mayor Johnson reported that the Wasatch Center for Advanced Professional Studies (CAPS) was building awareness for a domestic violence shelter in Wasatch County. The group requested that Midway City donate \$500 for a website. The Council agreed.

Mayor Johnson indicated that the community would continue to support the Peace House in Park City.

- 5. Lundin Property / Clarification of Motion** (City Planner – Approximately 45 minutes) – Discuss and possibly clarify the motion authorizing the use of Midway open space bond funds for the Lundin property located at approximately 900 West Bigler Lane.

Katie Villani gave a presentation regarding the matter and reviewed the following items:

- 20 June 2023 motion
- 16 January 2024 motion
- Emergency access
- Site tour
- Aerial photographs
- Potential access routes
- Swiss Oaks versus the Lundin's existing road as an access from the north.
- South access options
- Possible findings
- Proposed motion
- Proposed conditions with changes by Utah Open Lands

Ms. Villani also made the following comments:

- The request was for an extension of a prior approval.
- Most people agreed that an emergency access from Sunburst Ranch to Bigler Lane was doable but not desirable.
- Any access would only be for emergencies.
- The feasibility of the proposed routes needed to be determined.
- The Lundin family was on a schedule and had to finalize the City's participation by December 15<sup>th</sup>.
- Did not know when Sunburst Ranch, Phase 3 would be developed and could accommodate a south connection for the emergency access.
- There was a lawsuit regarding a first right of refusal on the family's property.
- The City Council could not accept undo risk and then hope for the best.
- The City was willing to pay for the conservation easement and delay its recording to allow for requests for other funds. It needed security to ensure that the easement would be recorded. The family had pledged additional water shares as collateral. This was a good compromise.
- Hoped that the access could go through Swiss Oaks but that was not the City's or the family's decision.
- A fallback or default route was needed.
- The City should not allow the conservation easement without securing a second access for the Swiss alpine area.
- Applauded the family for their sacrifice.
- Applauded the City for granting the extensions and not using the open space funds elsewhere.
- Some issues the City could not control.
- Any solutions had to be coordinated between all parties.
- Most of the family's property was in Wasatch County and not the City.
- The access would not need to be paved or meet the City's road standards. It would need to be 20 feet wide.
- The City met with the Wasatch County Fire District regarding the access. The District was willing to work to resolve the issue.
- Appreciated the residents that voted for the open space bond.
- The City could not accept some access routes only being ten feet wide. The City had to meet fire code requirements and vehicles needed room to pass each other. Widths could be reduced for limited sections.
- The Swiss Oaks HOA was willing to discuss access through its property. Approval did not require a vote of the unit owners.

- An access from Lucerne Drive was acceptable.
- Brett Walker wanted additional density for the access to cross his property.
- Several weeks would be required to complete the legal documents.
- The City could not negotiate without an alternate access if the route along the Probst ditch failed.
- The family would have three years to record the conservation easement.
- The Probst ditch route was preferred but not guaranteed.
- The route from Lucerne Drive would be expensive to build.

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

Nora Lundin made the following comments:

- Could not agree to some of the access routes proposed by the City.
- The route along the Probst ditch would be 20 feet wide.
- The County Assessor determined the amount of her family's property that was irrigated. Did not disagree with the determination.
- Supported a 20-foot-wide emergency access and a trail along the Probst Ditch.
- Could not support the access going along the north side of the family's property to Lime Canyon Road. It would be too wide and would require switchbacks. The pressurized irrigation system would also have to be moved, a historic plum orchard would be affected, and the agricultural area reduced. Might support it if it was just ten feet wide and had no setbacks.
- Farming was not easy.
- The family was turning down a lot of money and committing themselves to farming for the rest of their lives and their children's lives.
- Their property could be used for an access in an emergency.
- Wanted to preserve their farm.
- Wasatch County was approving large buildings on properties like theirs.
- Had to have the money for conservation by December 15<sup>th</sup> or the property would go up for sale.
- Had met every timeline that the City had set.
- A route other than the Probst Ditch was unacceptable if it eliminated agricultural land.
- Any route would have to be fenced unless it was only an escape route.

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

- A stub road in the master plan for Sunburst Ranch could be used for the access road.
- The situation would be different if the family requested a development.
- The second access was a decades old problem, but would benefit the community.
- 40 Midway Irrigation Company water shares would be encumbered by the conservation easement and remain with the land.
- An access through Sunburst Ranch was guaranteed but the timing was unknown.
- The access would help prevent loss of life in case of an emergency.
- Cutting into the hill for the access from Lucerne Drive was not a great option.
- The access road needed to allow the public to get down and emergency services to get up.
- The City could ask the owner of Sunburst Ranch, Phase 3 for a temporary easement but

could not require it.

- An emergency access would benefit the entire community.
- Other developers had contributed money for the emergency access.
- The access along the north boundary to Lime Canyon Road would jeopardize eligibility for Natural Resources Conservation Service (NRCS) funding.
- The north access would scar the hill and would be seen from around the valley. Erosion would be difficult to control.
- This route would reduce the land eligible for NRCS funding.
- The route beyond the Lundin's north boundary would not be finalized by the 15<sup>th</sup>.
- A guaranteed emergency access was needed. The irrigation issues with using Bigler Lane could be mitigated. Agricultural land would still be lost.
- The City did not have an incentive to only use the Probst ditch route.
- The City could not agree to just one route if it was not guaranteed.
- The primary objective was to secure open space.
- The City would hold firm to the access requirement if the project was a development.
- Everyone needed to step back and look at the big picture.
- An emergency access was not a problem to be entirely solved by the family.
- Routes that were too steep or difficult for fire trucks to make the turns were not acceptable.
- The south access was under the City's control.
- The route of the north access could be determined in a couple of weeks.
- The Probst ditch should be the primary route with Lucerne Drive being an alternative.
- Needed to know if Swiss Oaks would allow an access through its property. The Swiss Oaks HOA was willing to discuss an access and various routes. The HOA Board would have to approve the use of its property.
- The Lundin's agricultural property should be protected.
- The Sunburst Ranch HOA Treasurer supported the south access through the project.
- An easement would be needed through Swiss Oaks.
- The Sunburst Ranch HOA did not control Phase 3 where the south access would be located.
- The Sunburst Ranch Master Plan included an access to the Lundin's property through Phase 3. It was unknown when that phase would be constructed.
- An access through Swiss Oaks was not ideal.
- The property next to Swiss Oaks could not be used because it was part of an already recorded development.

**Motion:** Council Member Payne moved to extend the May 15, 2024, deadlines set in the January 16, 2024 City Council motions, through and inclusive of December 31, 2024, to allow the parties time to complete the purchase agreement for the conservation easement and any other outstanding conditions precedent for use of Midway Open Space Bond funds, authorizing the Mayor to sign the Conservation Easement Purchase Agreement consistent with the terms set forth in the following findings and conditions, and authorizing dispersal of the Open Space Funds upon execution by the parties of the aforesaid Purchase and Sale Agreement.

Findings:

1. This project and funding request remained consistent with the vision of the Open Space Element of the General Plan.

2. The committed funds from Wasatch County and from other potential sources would maximize Midway's contribution through leveraging and would help continue an important agricultural operation.
3. The project was visible from much of Midway and from many areas of the Heber Valley.
4. Preservation of the Lundin farm would keep valuable agricultural land as open space, and the farm would continue to provide agricultural products to the community.
5. Extending the May 15, 2024, deadlines set forth in the January 16, 2024, motions through December 31, 2024, would not cause unreasonable delay but would allow the parties time to complete the conditions precedent, including finalizing the purchase agreement for the conservation easement.
6. 40 unencumbered Midway Irrigation Shares would be encumbered by the Conservation Easement and remain with the Property, which County records represented covered the historic irrigation and livestock watering uses on the Property as well as expected future water use associated with the conservation easement. The Lundins did not disagree with this statement.
7. An additional 10 Midway Irrigation Shares (the 40 shares encumbered with the Conservation Easement plus 10 additional shares for a total of 50 Midway Irrigation Shares) would be escrowed or otherwise encumbered to the satisfaction of the City of Midway and Wasatch County as security for their respective Open Space Bond Fund grants pending recordation of the Conservation Easement. These shares would be free and clear of encumbrances and would not be used as security for other investors.
8. The grant of Open Space funds was conditioned upon a conservation easement including emergency access/wildfire evacuation route and public trail in conjunction with an agricultural access road across the Lundin property.
9. The parties' Preferred Route would access the Lundin property from the South near the Sunburst Phase 3 development(\*) and follow the Probst Ditch northward to the northern boundary of the Lundin Property, continue northward along the Probst Ditch on property owned by Swiss Oaks, and exit Swiss Oaks to Lime Canyon Road across Swiss Oaks or other property to the North of the Property, which route required easements across property not owned or controlled by the Lundins.
10. Given the above, the City required and the Lundins proposed an alternative ("Northern Default Route") in the event the Preferred Route was not feasible. The Northern Default Route would follow the same route as the Preferred Route until it reached at or about the intersection of the Probst Ditch with the northern boundary of the Property, at which point it would run generally eastward along the Northern boundary of the Property from the Probst Ditch to the West Bench Ditch to Lime Canyon Road. The parties agree in good faith to continue working with landowners to the north and south of the Property to effectuate Seller's Preferred Route. The Northern Default Route would be the default option in the event that easements along the Probst Ditch and exiting to Lime Canyon Road through properties north of the Property could not be accommodated through agreement(s) or other regulatory means. (\*)
11. (\*) The preferred southern access for both the Preferred and Default Northern route would access the Lundin property from the south near Sunburst Phase 3 on Swiss

Alpine Road, however the parties recognize that this would involve easements from other landowners which have not been granted.

12. There was currently southern access to the Lundin Property along the northern bend of Lucerne Drive. The Lundins agreed to provide access across their Property for emergency access/wildfire evacuation and trail from either southern access (Sunburst Phase 3 (Preferred) and/or Lucerne Drive (Default)), understanding that it might take time to determine if access was feasible through Sunburst Phase 3 and to obtain required easements.
13. The parties would work in good faith to obtain access through Sunburst Phase 3, but until or unless such access was acquired on terms acceptable to the parties, would continue to accommodate access from Lucerne Drive. Once the City built the access and trail on one of these southern accesses (Sunburst Phase 3 (preferred) or Lucerne Drive (default)), it would abandon any claim to the other southern access.
14. The parties would work together cooperatively to identify, determine, and pursue solutions that could provide for the Preferred Route and preferred southern access complying with applicable laws and regulations, budget and engineering constraints, and required easements prior to a conservation easement being recorded.
15. The parties would cooperate in grant and other funding applications/requests as may be applicable.
16. The Lundins would allow the City and its agents reasonable access to the property to determine and confirm feasibility of access routes.
17. The Lundins advised they needed access to Open Space Bond funds by December 15, which did not allow time to obtain a decision on easement and feasibility of easement across Swiss Oaks.
18. Because the Lundins' deadline of December 15 did not allow time to obtain a necessary northern easement for the preferred route, a default route remained necessary.
19. The City made accommodation for the Lundins by letting the Lundins define the default plan of their choosing and moving away from a road, both of which deviated from the City's Master Plan.
20. The Northern Default Route as defined would remain part of any agreement until and unless the City obtained the necessary easements across Swiss Oaks. Once the City had such guarantee, it would release the Lundins from the Northern Default Route insofar as the route crossed the northern boundary of the Lundin property.
21. The southern routes (preferred and default) would survive.
22. Midway City was willing to accept the Northern Default Route proposed by the Lundins in place of the road set forth in the City Master Plan, provided that the actual emergency access/evacuation route consistent with the foregoing was specified in the conservation easement.
23. A public trail and firebreak across the Lundin property would benefit residents and was a condition of approval. The parties preferred a location following the Preferred Route for



the emergency access/evacuation route. Wildlife friendly fencing would be constructed along any portions used as a trail at the expense of the City. The Lundins agreed to cooperate with the City in applying for any applicable grants or other funding. Wasatch County agreed to provide in-kind assistance with building the emergency access/evacuation route and trail.

Proposed Conditions:

1. 40 unencumbered Midway Irrigation Shares would be encumbered by the Conservation Easement and remain with the Property, which County records represented cover the historic irrigation and livestock watering uses on the Property as well as expected future water use associated with the conservation easement. The Lundins did not disagree with this statement.
2. An additional 10 shares of Midway Irrigation (the 40 shares encumbered with the Conservation Easement and remaining with the Property plus 10 additional shares for a total of 50 Midway Irrigation Shares) would be escrowed or otherwise secured to the satisfaction of the City of Midway and Wasatch County as security for their respective Open Space Bond Fund grants pending recordation of the Conservation Easement. These shares would be free and clear of prior encumbrances and not be used as security for other investors.
3. The grant of Open Space funds was conditioned upon a Conservation Easement including emergency access/wildfire evacuation route and public trail in conjunction with an agricultural access road across the Lundin Property.
4. The emergency access/evacuation route and trail would follow one of the following routes:
  - (a) The parties' Preferred Route would access the Lundin property from the South near the Sunburst Phase 3 development(\*) and follow the Probst Ditch northward to the northern boundary of the Lundin Property, continue northward along the Probst Ditch on property owned by Swiss Oaks, and exit Swiss Oaks to Lime Canyon Road across Swiss Oaks or other property to the North of the Property, which route required easements across property not owned or controlled by the Seller.
  - (b) Given the above, the City required and the Lundins proposed an alternative ("Northern Default Route") in the event the Preferred Route was not feasible. The Northern Default Route would follow the same route as the Preferred Route until it reached at or about the intersection of the Probst Ditch with the northern boundary of the Property, at which point it would run generally eastward along the Northern boundary of the Property from the Probst Ditch to the West Bench Ditch to Lime Canyon Road. The parties agreed in good faith to continue working with landowners to the north and south of the Property to effectuate Seller's Preferred Route. The Northern Default Route would be the default option in the event that easements along the Probst Ditch and exiting to Lime Canyon Road through properties north of the Property could not be accommodated through agreement(s) or other regulatory means. (\*)

5. (\*) The preferred southern access for both the Preferred and Default Northern route would access the Lundin property from the south near Sunburst Phase 3 on Swiss Alpine Road, however the parties recognized that this would involve easements from other landowners which had not been granted. There was currently southern access to the Lundin Property along the northern bend of Lucerne Drive. The Lundins agree to provide access across their Property for emergency access/wildfire evacuation and trail from either southern access (Sunburst Phase 3 (Preferred) and/or Lucerne Drive (Default)), understanding that it might take time to determine if access was feasible through Sunburst Phase 3 and obtain required easements.
6. The parties would work in good faith to obtain access through Sunburst Phase 3, but until or unless such access was acquired on terms acceptable to the parties, would continue to accommodate access from Lucerne Drive. Once the City built the access and trail on one of these southern accesses (Sunburst Phase 3 (preferred) or Lucerne Drive (default)), it would abandon any claim to the other southern access.
7. The parties would work together cooperatively to identify, determine, and pursue solutions that could provide for the Preferred Route and preferred southern access complying with applicable laws and regulations, budget and engineering constraints, and required easements prior to a conservation easement being recorded.
8. The parties would cooperate in executing documents as well as grant and other funding applications/requests if and as might be applicable.
9. The Lundins would allow the City and its agents reasonable access to the property to determine and confirm feasibility of access routes.
10. Because the Lundins' deadline of December 15 did not allow time to obtain a necessary northern easement for the preferred route, a default route remained necessary.
11. The Northern Default Route as defined would remain part of any agreement until and unless the City obtains the necessary easements across Swiss Oaks. If and when the City had such guarantee, it would release the Lundins from the Northern Default Route insofar as the route crossed the northern boundary of the Lundin property. The southern routes (preferred and default) would survive.
12. While location could not be finalized until the City obtained topography and survey data and engineering review, the City was willing to accept the Northern Default Route proposed by the Lundins in place of the Master Plan Route as default. The parties would continue to work toward the Preferred Route which would hopefully render the default moot.
13. While the City Master Plan called for a paved road meeting City standards, since the road was for emergency access and wildfire evacuation, the road need not be paved, might be soft surface more in keeping with the environment while capable of supporting emergency vehicles. For the Preferred Route, the route would be 20 feet in width as an emergency access and evacuation route, with crash gate(s) and appropriate signage. For the Default Northern Route, the City Council would allow this route to be evacuation only at a width of 10 feet.
14. If construction and/or maintenance of the route impaired existing water lines utilized for current agricultural use, the City would work with the Lundins to relocate or separate

such lines.

15. A public trail and firebreak across the Lundin property would benefit residents and was a condition of approval. The parties preferred a location following the Preferred Route for the emergency access/evacuation route. For purposes of the Northern Default Route described in condition 13 above, a public trail would not be included in the Northern Default Route easement running along the Northern edge of the Property. The Northern Default Route did not require fencing. Wildlife friendly fencing would be constructed along any portions used as a trail at the expense of the City. The Lundins agreed to cooperate with the City in applying for any applicable grants or other funding. Wasatch County had agreed to provide in-kind assistance with building the emergency access/evacuation route and trail.
16. Easements for emergency access/wildfire evacuation and public trail consistent with the findings and conditions set forth above would be described with specificity in the Conservation Easement.
17. For consistency, Midway incorporated by reference any conditions placed by Wasatch County on release of Wasatch County Open Space Bond Funds.
18. The remaining conditions set forth in the June 20, 2023, and January 16, 2024 motions, as set forth below, would be continued while adjusting dates to accommodate the extension through December 31, 2024, where necessary to make the provision relevant.
  - Application submitted to the LeRay McCallister Fund by May 1, 2024,
  - A commitment received from the Lundin family and applicants entered into an agreement with Utah Open Lands committing to sell the development rights for 119 acres of property by May 1, 2024,
  - The contribution continued for a period of three years from June 20, 2023, then an extension would be needed from the City Council,
  - An MOU containing these conditions and identifying the property that was a conservation easement separate and apart from the rest of the family's property prior to any final approval of funding.
  - The form of the conservation easement would comply with the MOU.

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

**Discussion:** Mayor Johnson made the following comments:

- She worked hard for the open space bonds. This was the reason that she ran for mayor.
- Was not mayor for the compensation.
- The City did care about preserving the Lundin property as open space. It put a lot of time and effort into the project.
- The Council made a motion a year earlier that approved the open space funds and required an emergency access.
- The City did not try to delay the project or push around the family.

- The community wanted the project done correctly.

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

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

**Motion:** Without objection, Mayor Johnson recessed the meeting at 8:47 p.m. She reconvened the meeting at 8:58 p.m.

**6. Kastle Court Subdivision / Preliminary Approval** (City Planner – Approximately 30 minutes) – Discuss and possibly deny, continue, or grant preliminary approval for the Kastle Court Subdivision located at 800 North Pine Canyon Road (Zoning is R-1-15 and R-1-22). Recommended with conditions by the Midway City Planning Commission. **Public Hearing**

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

- Land use summary
- Location of the development
- Zoning map
- Contour map
- Layout
- Discussion items
- Water board recommendation
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- The development was dissected by two zones.
- It included building envelopes because of the different setbacks for the zone.

**Note:** Katie Villani left at 9:06 p.m.

- The road was curbed to be at least 40 feet from an existing driveway.
- The building height would be enforced from the original grade. This grade was determined by a geotechnical study and test pits. A city inspector oversaw the study and the tests. These grade numbers would be included on the plat map.
- Bike lanes would be on both sides of Pine Canyon Road.
- The developer would also contribute money for the lanes.
- The project qualified for the rural cross-section.

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

John Ace Money, applicant, made the following comments:

- Two to three feet of fill had been put over the natural grade.
- Houses could not be built on the fill, but it could be used for landscaping.
- Pulled the cul-de-sac back to improve Lot #4.

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

- There was a downhill and blind curve on Pine Canyon Road just north of the project.
- The rural cross-section should be used because the lots were long and shallow. It would also provide for more landscaping.

### **Public Hearing**

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

### **Tom Christensen**

Mr. Christensen made the following comments:

- Lived on the north side of the project.
- Spoke with the applicant and staff.
- Was concerned about his family's safety during construction.
- The entrance was a blind spot and needed to be addressed.

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

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

- The City Engineer would evaluate that section of Pine Canyon Road especially regarding site distances.
- The applicant would install a construction fence and use dust control to accommodate Mr. Christensen and his family.

**Motion:** Council Member Simons moved to grant preliminary approval for the Kastle Court Subdivision, located at 800 North Pine Canyon Road, with the following findings and conditions:

- The proposal met the intent of the General Plan for the R-1-15 and R-1-22 zones.
- The proposed lots complied with the land use requirements of the R-1-15 and R-1-22 zones.
- The developer would contribute to a bike lane that would benefit members of the community.

- The height of future structures would be measured from natural grade.
- Natural grade would be established and placed on the plat to determine the maximum height of future structures.
- The developer would contribute \$6,825 to the trails fund that would help build the bike lanes along Pine Canyon Road at a future date.
- The rural cross-section could be used.
- Construction would be done to be sensitive to the neighbor to the north.

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

**Discussion:** None

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

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

Council Member Payne noted that a subdivision with less than six acres was not required to have open space. He added that Kastle Court would have one less lot and 0.7 acres of open space if it fell under the requirement. Michael Henke responded that open space required an HOA and a small development might not have the number of residents for a successful association. Council Member Orme indicated that expanding the requirement would make housing less affordable. Mayor Johnson said the change could be discussed at the Council's strategic planning meeting.

**7. Ordinance 2024-17 / Land Use Amendments (City Planner – Approximately 45 minutes) –**  
 Discuss and possibly deny, continue, or adopt proposed Ordinance 2024-17 amending the Midway City Municipal Code to include land use changes required by the State of Utah (2023 Utah State Senate Bill 174). Recommended with conditions by the Midway City Planning Commission. **Public Hearing**

Katie Villani gave a presentation regarding the request and reviewed the following items:

- Appeals
- Council authority
- Code change process
- Code text additions
- Proposed findings
- Planning commission recommendations

Ms. Villani also made the following comments:

- The City's planners, engineer, and building official would be the final approval authority.
- The appeal fee should be increased.
- Further research was needed to determine how the engineering appeal costs should be distributed among the City and the appellant.

- There were no recommended conditions.
- Including the public as members of the final approval authority was problematic. They would require training, must meet strict timelines, and could only determine if the proposal met code requirements.
- The changes would take effect on the first day of 2025.

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

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

- The changes to the land use approval process would allow the Council to focus on code changes.
- Staff needed to bring code issues to the Council.

### **Public Hearing**

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

#### **Jamie Hewlett**

Ms. Hewlett stated that the proposal took land use authority away from the officials elected by the public. Mayor Johnson responded that the change was mandated by the State.

#### **Paul Berg**

Mr. Berg made the following comments:

- Appeals usually resulted from confusing codes and standards or staff being pushed to stop development.
- Had watched other local governments go through the same changes.
- Not many developers supported the changes.
- The changes could be problematic if the city did not have good standards, or the Council did not trust staff.
- The changes would allow the Council to focus on the Municipal Code and updating the General Plan more than every five years.
- Midway's construction standards were in the top third of area governments.
- Updated guidelines or a checklist would be helpful.

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

**Motion:** Council Member Orme moved to adopt Ordinance 2024-17 approving land use amendments with the following findings and conditions:

- The Planning Commission would continue to be a recommending authority for Preliminary Review of Subdivision Applications involving Single-Family and Two-Family

Homes and Townhomes with City Staff (consisting of Planners, Engineer and Building Inspector) the designated land use authority for Preliminary review.

- City Staff (City Planners, City Engineer, and Building Inspector/Fire Marshall) would serve as the designated land use authority for Final Review of Subdivision Applications involving Single-Family and Two-Family Homes and Townhomes.
- The proposed code text amendments set forth above and in the attachment to the Staff Report showing tracked changes complied with the State mandates codified under SB 174 (2023).
- Staff would review the applicable checklists.
- The Ordinance would become effective on 31 December 2024.

**Discussion:** Council Member Simons asked if the ordinance included private citizens as part of the final review. Katie Villani responded that it did not.

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

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

Council Member Drury	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Nay
Council Member Simons	Aye
Council Member Simonsen	Aye

Paul Berg suggested that the City solicit residents with certain backgrounds to serve on the Planning Commission. Mayor Johnson responded that the appointment process for the Commission would be discussed at a strategic planning meeting.

**8. Resolution 2024-27 / Culinary Water Rates** (City Attorney – Approximately 30 minutes) – Discuss and possibly deny, continue, or adopt proposed Resolution 2024-27 amending the Midway City Fee Schedule regarding culinary water rates.

Brad Wilson suggested that council members take their suggestions, regarding culinary water rates, to a specific staff member. He added that this would avoid confusion. He clarified that council members could meet with any staff member at any time. The Council decided that suggestions should be given to the City Treasurer who oversaw water billing.

**Motion:** Council Member Payne moved to continue the agenda item.

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

**Discussion:** None

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

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



Council Member Simons  
Council Member Simonsen

Aye  
Aye

### Department Reports (Continued)

#### Construction / Cleaning Roads / Work Hours

Council Member Simons indicated that Homestead Drive was dirty because of construction projects. He added that the windshield in one of his vehicles had been broken because of the debris. He thought that contractors were allowed to do whatever they wanted despite the Municipal Code.

Council Member Orme indicated that contractors were also working early in the morning and late at night. Council Member Payne noted that these hours were outside the staff's work hours.

Michael Henke responded that the building official should be notified about these issues. Wes Johnson also responded that he would verify that SWPPP permits were being followed.

Council Member Simons asked that the Burgi Lane and River Road roundabout be swept.

### **9. Adjournment**

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

The meeting was adjourned at 10:21 p.m.

  
Celeste Johnson, Mayor

  
Brad Wilson, Recorder