

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

**Tuesday, 21 January 2025, 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 Mayor, 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 on the City's website. A copy of the public notice/agenda is contained in the supplemental file for the meeting.

1. Call to Order; Pledge of Allegiance; Prayer and/or Inspirational Message

Mayor Johnson called the meeting to order at 6:10 p.m.

Members Present

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

Staff Present

Corbin Gordon, City Attorney
Michael Henke, City Planning Director
Wes Johnson, City Engineer
Katie Villani, City Planner
Brad Wilson, City Recorder

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

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

2. Consent Agenda

- a. Agenda for the 21 January 2025 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 10 December 2024 City Council Meeting
- d. Minutes of the 17 December 2024 City Council Work Meeting
- e. Minutes of the 17 December 2024 City Council Regular Meeting
- f. Minutes of the 17 December 2024 City Council Closed Meeting
- g. Brad Winegar as a full member of the Midway City Board of Adjustment

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

Council Member Simons requested that the committee member appointment process be discussed at a work meeting. Council Member Orme agreed.

Motion: Council Member Simons moved to approve the consent agenda with items “a” through “g”.

Second: Council Member Drury seconded the motion.

Discussion: None

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye*

* Council Member Simonsen noted that he was excused from the meetings on December 17th. He abstained from voting on the minutes for those meetings.

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.

Sign Code

James Hendricks with Watts Enterprises distributed a letter to the Council and made the following comments:

- Watts Enterprises built houses.
- It posted its signs on its building lots.
- Was told that building inspections would be withheld until the signs were removed.
- One of the company’s employees painted over the sign so that inspections could proceed.
- The City’s sign code and enforcement had gone too far.
- Signs with the name and phone number of the builder were allowed by other local governments.
- The signs were removed after construction.
- They provided a way for people with complaints, etc. to contact the builder.
- Enforcement of the sign requirements should be paused.
- Staff had been cordial during enforcement.

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

Mayor Johnson responded that she spoke with the City's building official, and he denied that any inspections were withheld because of signage, but warned that it might become a problem in the future. Mr. Hendricks agreed this was a fair statement.

Susan Kohler made the following comments:

- Had permanent string lights installed on her house. She put the installer's sign on her property.
- Katie Villani, one of the city planners, walked onto her property and removed the sign and told her that she could not have the sign.
- The sign was on private property.
- Ms. Villani should have talked to her and explained why the sign was not allowed.
- Ms. Kohler moved the sign next to her door.
- Received a certified letter from the City regarding the sign. This cost the taxpayers money.
- The City should not be spending time and money driving around and confiscating signs.
- Residents wanted their property to look nice.
- Felt like she was a prisoner in the City's HOA.
- The City should treat people like it wanted to be treated.
- She was singled out.
- Lived in the area for 72 years.

Mayor Johnson explained the usual location of public versus private property and that many people landscaped in the right-of-way. She responded with the following comments:

- Ms. Villani was not a confrontational person.
- The sign was in the right-of-way.
- It was standard practice for the City to remove signs on its property.
- The City's staff were not disrespectful.
- Ms. Kohler was not singled out.

Ms. Villani made the following comments:

- As advised on the date, off premises advertising is not allowed on public or private property.
- The business that installed the lights was not located at Ms. Kohler's house.
- In response to Ms. Kohler's questions about construction signs, said that signs which indicated a lot number were allowed. However, some of these signs now included pictures and business information. Additional signs for subcontractors and architects were also being installed. These signs should be informational and not for advertising.

Bryan Hoggan made the following comments:

- Was at a business when several city employees gave the owner a difficult time about a sign in the window.
- Such visits were not appropriate during business hours and should not be conducted in front of customers.

Mayor Johnson said that she would look into the issue.

Highway 40 and River Road Development

Mark Austin made the following comments:

- He and his family opposed the annexation and proposed development of the southwest corner of the Highway 40 and River Road intersection.
- The Council's opinion regarding the development should be heard even though it did not have responsibility over the property.
- The intersection was one of the entrances into Midway.
- Heber City and Wasatch County should put a moratorium on all development because their infrastructure was not sufficient.

Mayor Johnson made the following comments:

- Met with the Heber City Council regarding the project.
- The project had been approved years earlier by Wasatch County.
- The developer would have to install the required infrastructure.
- The developer had spent a lot of money to receive approval.
- Density would increase but be significantly less than what had been reported.
- The developer would build off-site affordable housing.
- The annexation would give Heber City control over the project.
- Park City should have annexed Kimball Junction so that it could have controlled its development.

Council Member Orme made the following comments:

- Met with two members of Heber City's council and one of its planners.
- Hopefully, Heber City would approve less density.
- Was interested in the project and let people know how she felt about it.
- The County's approval did not have a sunset clause.

Council Member Payne made the following comments:

- Affordable housing was used to obtain additional density.
- Developed affordable housing for a living.
- Was a member of the Wasatch County Housing Authority Board.
- What was being promoted as affordable housing was not affordable.
- Heber City not Midway would control the property.

No further comments were offered.

4. Department Reports

Heber City Deputy Police Chief

Branden Russell, Heber City Deputy Police Chief, introduced himself.

Trails

Council Member Simonsen reported on the trails that would be built beginning in the spring.

Historic Preservation Committee / Oral Histories / Plaques

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

Irrigation Company / Annual Meeting / Water / Water Board

Council Member Simons reported on the annual meeting of the Midway Irrigation Company. He reported that the area had plenty of good water. He appreciated the Irrigation Company and the Midway Water Advisory Board.

Town Hall / Renovation

Council Member Orme reported that the Town Hall would be closed in April for certain renovations.

HVTED / Board Members

Council Member Orme reported on new board members for Heber Valley Tourism and Economic Development.

Legislative Session / ULCT

Council Member Orme reported that the Utah League of Cities and Towns (ULCT) would be participating in the upcoming session of the Utah State Legislature.

Survey / Business Owners

Mayor Johnson reported that a survey had been sent to local business owners.

- 5. Lundin Property / Extension** (City Attorney – Approximately 10 minutes) – Discuss and possibly deny, continue, or extend a motion approving the use of Midway open space bond funds for the Lundin property located at approximately 900 West Bigler Lane.

Mayor Johnson indicated that the item would extend the Council's approval of bond funds.

Wendy Fisher, Utah Open Lands Executive Director, made the following comments:

- Commended everyone who was participating in the preservation effort.
- Requested a 90-day extension until April 30th to work through some final legal issues.
- A settlement deadline had passed but thought that could be worked through.
- No documents would be presented that night.

Katie Villani asked that any extension include the findings and conditions from the previous extension.

Motion: Council Member Orme moved to extend, until April 30th, the Ludin approval and commitment with the following findings and conditions:

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.
19. Staff and the City Attorney should do whatever they could to complete the project.

Second: Council Member Simons seconded the motion.

Discussion: Council Member Orme made the following comments:

- Her family went through the same preservation process which was difficult.
- Commended the Lundins for wanting to preserve their property as open space.
- The open space would be a gift to the entire community.
- Thanked everyone involved.

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

6. Southill Mixed Use Development, Phase 3 / Preliminary and Conditional Use

Approvals (Dan Luster – Approximately 45 minutes) – Discuss and possibly deny, continue, or grant preliminary and conditional use approvals for the Southill mixed use development, Phase 3 located at 541 East Main Street (Zoning is C-2). Recommended with conditions by the Midway City Planning Commission. **Public Hearing**

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

- Land use summary
- Project location
- Site plan
- Sensitive lands map
- Phasing plan
- Connecting road
- Traffic signal
- Main Street upgrades
- Master plan
- Memorial Hill trail
- Lower-level parking
- Landscaped berm
- Setbacks
- Parking
- Landscaping
- Open space map
- Road and trail map
- Townhouses
- Pressurized irrigation system
- River Road access and options
- TROD
- Pictures of the units
- Discussion items

- Water rights
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- Phase three could not be recorded until the new infrastructure on Main Street was completed.
- The neighbors still wanted a landscaped berm. The developer suggested a wall. One of the two needed to happen.
- The space on top of the covered alleys would be limited common area. Driveways in PUDs were designated as limited common area. Fences, chairs, etc. but no structures could be put in the area. Limited common area did not count as open space.
- No ground water had surfaced in the alleys. Ground water would be pumped to an irrigation ditch.
- The phase had the required amount of open space.
- The irrigation ditch through the property would be open but would have a lot of crossings. The crossing could be limited if the Irrigation Company allowed the ditch to be rerouted.
- Preferred that the property owner, to the north of the River Road access, change their driveway to come off the access.
- Fixtures were not restricted on top of the covered alleys.
- Fences could be up to six feet high.
- At a previous meeting the Council discussed and allowed the alleys to be below grade.

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

Scott Lewis, representing the applicant, made the following comments:

- Excavated potrock was stored on the property. It would be used for road base and the site returned to its natural grade.
- Hot tubs, walls, trellises, etc. would be allowed on top of the covered alleys and within a certain distance from the units.

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

- The irrigation ditch might not be rerouted because of 30% slopes.
- The north option for the River Road access lined up with the driveway across the road.
- The south option looked better and had a trail on the north side of the access. It worked better with another parcel to the north.
- The option used depended upon a property owner to the north.
- There was plenty of shared parking. Some of that parking might be used for the trail going up Memorial Hill.

Dan Luster, applicant, made the following comments:

- The alleys and areas on top of them would be concave and not a straight line.
- You would see a row of garages if the alleys were at ground level.

- Fences would be installed at the back of the units even if the alleys were not covered.

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

- Limitations on what could be on top of the covered alleys should be in the CC&Rs.
- The views would be more open if the alleys were not covered but also blocked by vehicles.
- The tops of the covered alleys would have a British garden feel.
- The height of the walls on top of the covered alleys should be limited to protect the views.

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 additional items:

- Why was a left-hand turn lane, from River Road to the development, not required? Wes Johnson responded that the traffic study showed River Road would remain a level of service "A" without a turn lane. The developer would have installed a turn lane if it was required by the study.
- There were many locations in the City that did not have left hand turn lanes.
- The left hand turn lane on Homestead Drive did not work.
- The traffic study was revised three times with no change in the level of service for River Road.
- The level of service at the intersection of River Road and Main Street would be a level "D" but would return to a level "A" with a traffic signal.

Mr. Luster made the following additional comments:

- The access did not change the level of service on River Road.
- It would be helpful for the Council to walk the property.
- Covered alleys were better than alleys at grade.
- Wanted the covered areas to look good.
- The HOA had complete control over what could and could not be put on top of the covered alleys. This was indicated to potential buyers.
- Wanted to protect the views.
- Could do a sketch of the tops of the covered alleys. Legal council recommended that these areas be limited common area.
- The walls on the tops of the covered alleys would be hidden by trees.
- The CCRs limited trellises to within ten feet of the units.
- Committed to a berm along the property with a wall along Inez Wilde's property.
- The covered alleys would limit noise and light from vehicles.
- Roof balconies would be hidden.
- There would be a three-foot drop from the top of the covered alleys. This would limit views into the kitchens.

Motion: Council Member Simons moved to approve the Southill mixed use development, Phase 3, located at 541 East Main Street (Zoning is C-2), with the following findings and conditions:

- The proposal would benefit the City financially by creating a greater tax base.
- The proposal might help the City better comply with state requirements regarding the ability to collect resort tax depending on the number of units that would be rented on a short-term basis.
- The proposal complied with the requirements of the amended master plan and the conditions placed on the rezoning of some of the property.
- If Wasatch County approved a trail from Phase 3 to the lower road on Memorial Hill, the developer was responsible for the design and construction of the trail in Phase 3 and on Wasatch County property.
- Dumpster locations and enclosures would be shown on the plans.
- Driveway access would be granted on the private road from River Road to Southill for parcel OMI-0418-0 because of the 40’ code requirement between driveways and road intersections and a signed document between the developer and the owner of parcel OMI-0418-0 would be provided that granted access and acknowledged that the existing driveway would be abandoned, or the proposed road would be located 40’ from the existing driveway to comply with code.
- The applicant would receive approval from the Midway Irrigation Company to reroute the ditch that crossed Phase 3.
- Final landscaping plans would include a berm (or wall) along the western boundary line of Phase 3 from the Phase 2 boundary to the Hewlitt property.
- The route of the irrigation ditch would be finalized with the Midway Irrigation Company.
- The issue of a berm or fence would be determined and confirmed with the neighbors.
- Trellises could come out up to ten feet from the units and be up to eleven feet high.

Second: Council Member Payne seconded the motion.

Discussion: None

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

7. Harvest Restaurant / Conditional Use Permit and Local Consent for Alcohol Dispensing (Emma Worsley – Approximately 15 minutes) – Discuss and possibly deny, continue, or grant a conditional use permit and local consent for the Harvest Restaurant, located at 195 West Main Street, to dispense alcohol (Zoning is C-2). Recommended with conditions by the Midway City Planning Commission. **Public Hearing**

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

- Location of the business
- Proposal
- Conditional use permit

- Background
- Possible findings
- Proposed conditions

Ms. Villani also made the following comments:

- The signage was now in compliance and condition number two was not needed.

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

Kristine Cluff, representing the applicant, made the following comments:

- Requested a limited liquor license which allowed only indoor consumption. It was limited to bottled and canned beer and wine.
- Eventually, the applicant might have a food truck.

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

- The requirements regarding a pizza oven and fridge had been met.
- The applicant should be familiar with and must comply with the special event code and what was and was not allowed.

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.

Motion: Council Member Drury moved to grant a conditional use permit and local consent for alcohol dispensing for the Harvest Restaurant, located at 195 West Main Street, with the following findings and conditions:

- The proposed use was conditionally permitted within the Land Use Title and would not impair the integrity and character of the intended purpose of the subject zoning districts.
- The proposed use was consistent with the General Plan. No issues to the contrary had been identified.
- The approval of the conditional use permit for the proposed use complied with the requirements of state, federal and Midway City regulations. The applicant would obtain approval of the CUP, Local Consent, Business License, Alcohol License, and obtain and comply with all applicable state licensing requirements of the UDABS.
- There would be no potential, significant negative effects upon the environmental quality and natural resources that could not be properly mitigated and monitored. No issues have been identified.
- The design, location, size, and operating characteristics of the proposed use were compatible with the existing and future land uses with the general area in which the proposed use was to be located and would not create significant noise, traffic, or other conditions or situations that might be objectionable or detrimental to other permitted

uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare to the City. The proposed use and associated traffic were consistent with commercial uses in the commercial zone and consistent with prior uses at this location. A dumpster enclosure approved by the VAC was required for the dumpster at the location and a business license would not be granted by the City until the enclosure was completed.

- The subject site was physically suitable for the type and density/intensity of the proposed use and had been used for a comparable use in the past. Special events would need to receive the proper City permitting/approval and comply with Midway City Code, including but not limited to light and noise ordinances.
- There were adequate provisions for public access, including internal and surrounding traffic flow, water, sanitation, and public utilities, and services to ensure that the proposed use would not be detrimental to public health and safety. No detrimental impacts had been identified.
- The proposed license would allow the sale of alcohol at Harvest Midway.
- The restaurant property was located within 200' of public property.
- The State regulated this type of alcohol license.
- Special events on site would be required to comply with the Midway City Code.
- No alcohol-related signage would be visible on the exterior of the building or on the inside, visible from the outside, including from 200 West and Main Street.
- A dumpster enclosure, reviewed and approved by the Vision Architectural Committee, would be constructed to mitigate the visual impact of the dumpster for neighbors and for passing motorists prior to issuing of a business license.
- Adherence to the special event policies in the City was dependent upon this approval. If those policies were not followed, then approval would be rescinded.

Second: Council Member Orme seconded the motion.

Discussion: None

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

- 8. Kevin Mir Subdivision / Plat Map Amendment** (Emma Worsley – Approximately 10 minutes) – Discuss and possibly deny, continue, or approve a plat map amendment for the Kevin Mir Subdivision located at 195 West Main Street. Recommended with conditions by the Midway City Planning Commission.

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

- Recorded plat map
- Overview
- Background
- UCA 10-9A-609

- Subdivision amendments
- Midway City Code
- Possible findings
- Parking considerations
- Proposed conditions
- Possible actions

Ms. Villani also made the following comments:

- The proposal included the same property as the Harvest Restaurant.
- It would combine the three existing lots into one.
- Parking would have to be addressed if any of the existing green space was developed.
- There was not a recommendation from the Planning Commission.

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

Kristine Cluff, representing the applicant, said that eventually the green space might be used for a barn setting.

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

- A fourth parcel of property on the plat map was sold.
- The applicant could lease parking from the City.
- The language "...or use..." should be removed from the second finding.

Motion: Council Member Payne moved to approve the Kevin Mir Subdivision plat map amendment, located at 195 West Main Street, with the following findings and conditions:

- The requested plat amendment to combine three existing lots into one was a legislative action over which the City Council had broad discretion.
- The proposed plat amendment did not seek to change the zoning of the property.
- The proposed plat amendment did not seek to vacate or amend any public street or any municipal utility easement.
- The reasons for the plat amendment cited by the applicant, including tax benefits, parking considerations, and ease and clarity of future development, were found to constitute good cause for the relief requested.
- The applicant would submit an amended plat map signed by each owner of record and meeting the requirements for filing with the Wasatch County Recorder to the City for review, approval and execution. The applicant would file the approved amended plat map in accordance with state and local laws, which would vacate, supersede, and replace any contrary provisions in any previously recorded plat map.
- The duration of the plat amendment approval would be for one year from the date of approval of the amendment by the City Council. Should the amended plat map not be recorded by the County Recorder within the one-year period of time, the plat map amendment's approval would be voided, and approval would have to be re-obtained, unless, upon request by the applicant and on a showing of extenuating circumstances, the City Council extended the time limit for recording, with or without conditions. Such conditions might include, but were not limited to, provisions requiring that: (a) each

extension would be for a one-year period only, after which time an annual review would be requested by the applicant and presented before the City Council; and/or (b) no more than three one-year extensions would be allowed. The granting or denying of any extension, with or without conditions, was within the sole discretion of the City Council, and an applicant had no right to receive such an extension.

Second: Council Member Drury seconded the motion.

Discussion: None

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

Council Member Drury	Aye
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 8:59 p.m. She reconvened the meeting at 9:11 p.m.

9. Ordinance 2025-02 / Commercial Lights (Tom and Sarah Clark – Approximately 20 minutes) – Discuss and possibly deny, continue, or adopt Ordinance 2025-02 amending Title 5 (Health and Safety) of the Midway City Municipal Code regarding commercial lights.

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

- Current code
- Proposed code
- String lights versus soffit lights

Mr. Henke also made the following comments:

- Limiting brightness was difficult because it had to be quantified.
- The number of bulbs could be limited.
- It was difficult to determine lumens and required going on private property to inspect the light bulbs.
- A license could be revoked if the businesses' lighting was illegal.
- String lights were not required to be turned off at night.

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

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

- The string lights were dimmer than what appeared in the pictures presented to the Council.
- Soffit lights were a problem because they shined down the wall of a building.

- The brightness of lights was a concern. The light could extend beyond a property and effect the neighbors.
- Could the brightness of lights on walls be addressed?
- There should be industry standards that could be followed.
- There were no extreme lights or lighting in Midway.
- There were advantages to having lights on at night.
- Installing lights that were not approved was a concern.
- The Municipal Code should be followed.
- Soffit lights were not a problem.
- The applicant's contractor was honest that he made a mistake by installing soffit lights. He was willing to remove them.
- There was a difference between a building and lighting designed by an architect and a contractor.
- Soffit lights were a problem because they were so high on a building compared to other lighting.
- The Code should not be changed to meet a mistake.
- Soffit lighting was very visible and not comparable to holiday lights.
- Commercial lighting was different from residential lighting. Commercial lighting should be turned off at night.
- Everyone had a different opinion on lighting. It was overreach to say that soffit lighting was not good design.
- Soffit lighting could be on a slope which increased the problem.
- Light should be kept on a person's property.
- The City required full cutoff light for dark sky compliance. You could see the bulb in a soffit light.
- Soffit lights would be replaced with string lights which were not shielded.
- Could a cone be installed on soffit lights?

Cory Calderwood, representing the applicant, made the following comments:

- You could not see the bulb in soffit lights until you were under them.
- The applicant's soffit lights were dimmable. They were dimmed as low as possible. The lights were LED.
- The applicant liked the mood and aesthetic created by soffit lights.
- Most commercial buildings had lights on during the night.
- Should have known that soffit lights were prohibited.
- Failed to see that the building official wrote on the approved plans that soffit lights were not allowed.

Motion: Council Member Simons moved to adopt Ordinance 2025-02, amending Title 5 (Health and Safety) of the Midway City Municipal Code regarding commercial lights, with the following findings and changes:

- People should be able to use their own discretion when turning off or leaving on soffit lights like they did for other lights.
- Proposed item "b" should be struck from the ordinance.

Second: Council Member Drury seconded the motion.

Discussion: None

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

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

Mayor Johnson indicated that turning off lights during the night should be looked at again in the future. Council Member Simons asked if the City had received any complaints regarding lighting. Michael Henke responded that it had not.

10. Ordinance 2025-01 / Vacate Cosper Subdivision Plat Map (Berg Engineering – Approximately 10 minutes) – Discuss and possibly deny, continue, or adopt Ordinance 2025-01 vacating the recorded plat map for the Cosper Subdivision located at 515 West Cari Lane.

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

- Land use summary
- Location of the development
- Recorded plat map
- Proposed findings

Mr. Henke also made the following comments:

- The Cosper Subdivision was on property to be used for the Whispering Creek Subdivision. The plat map needed to be vacated for Whispering Creek to be approved.
- No public rights-of-way were being vacated.
- The applicant needed to show good cause for the vacation.
- Did not propose any conditions for approval.
- Whispering Creek had to be approved if it complied with the Municipal Code.
- The one lot in the Cosper Subdivision would be changed to three lots in Whispering Creek.
- One dwelling was existing on property proposed for Whispering Creek.
- Whispering Creek would be reduced to three or four lots if the Cosper Subdivision remained. Access would be needed through the Cosper Subdivision.
- The need to vacate the Cosper Subdivision was included in all staff reports for Whispering Creek.
- The Cosper Subdivision was not deed restricted.

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

Paul Berg, Berg Engineering Resource Group and representing the applicants, made the

following comments:

- The property around the proposed projects had already been developed.
- The neighbors to the east built their houses before the proposals.
- The Municipal Code and General Plan allowed the proposed project.
- Developments should not be denied just because they created more density.
- The original developer for the Cosper Subdivision chose to record a plat map rather than try to determine that the property was a lot of record. The Municipal Code was different at that time.
- The Cosper Subdivision should have been discussed at preliminary approval.

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

- The vacation could be conditioned upon Whispering Creek being approved.
- Should the Council vacate a plat map to allow denser development? It had denied such requests in the past. Would this set precedence?
- The Vincent Fields Subdivision could have been eight lots but was only approved for two. It was also proposed with an affordable housing lot. This proposal was not approved.
- Plat map vacations were discretionary and did not have to be approved by the Council.

Corbin Gordon made the following comments:

- The Council had broad discretion regarding plat map vacations.
- A vacation required good cause which was a broad requirement.
- It was problematic to deny a development that was allowed in a zone.
- It was also problematic to deny a request to subdivide a large remnant parcel in an existing development.
- The original applicant for the Cosper Subdivision might not have known the maximum density allowed.
- Would developers be forced to request the maximum density when they first developed a property?
- Council decisions should not feel punitive.
- Vacating a plat map with already built houses was more difficult.

Motion: Council Member Drury moved to approve Ordinance 2025-01 vacating the Cosper Subdivision with the following conditions and findings:

- The approval was conditioned on approval of the Whispering Creek Subdivision and Resolution 2025-02. If this did not happen then the plat map could not be vacated.
- Cosper Subdivision was a single lot subdivision.
- It was approved prior to the current code.
- It did not include multiple lots.
- Other lots were not relying upon the density granted in a single lot subdivision.

Second: Council Member Orme seconded the motion.

Discussion: Council Member Simonsen explained that the Council had restricted subdividing when applicants wanted to combine lots. He asked if that affected the current request. Corbin Gordon responded that an applicant knowingly gave away their rights when they combined lots.

He doubted that the original Cosper developer knowingly waived their rights.

Council Member Payne said it was an assumption that the original developer did not know their rights. He added that neighboring property owners might expect that the development would remain one lot. Mr. Berg responded that none of the neighbors chose to come to the meeting that evening. Mayor Johnson added that the neighbors built their houses before the Cosper Subdivision was approved.

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

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

Motion: Council Member Orme moved to continue the meeting to consider the next item on the agenda.

Second: Council Member Drury seconded the motion.

Discussion: None

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

11. Whispering Creek Subdivision / Final Approval (Berg Engineering – Approximately 20 minutes) – Discuss and possibly deny, continue, or grant final approval for the Whispering Creek Subdivision located at 515 West Cari Lane (Zoning is R-1-15).

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

- Land use summary
- Location of the development
- Sensitive lands
- Flood plain
- Proposed plat map
- Street cross-section
- Landscaping plan
- Creek crossing
- Submitted documents
- Water board recommendation
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- The plat map should have a note regarding the flood plain.
- The developer would have to build the bridge and driveway for lot three. This would have to be done before the plat map was recorded or included in the construction bond.
- The HOA would be responsible for the common area.
- There were no open space requirements.
- The pond was unable to be moved.
- The City would approve flood plain work on behalf of FEMA.
- A new study would be required if a new flood plain map was adopted.
- None of the lots could be sold until the plat map was recorded.
- Requested that building envelopes be included on the plat map.
- The building envelope for lot four was not shortened because it had multiple sides, the neighbors had already built close to it, and the shortening was not required by the Code.

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

Paul Berg, Berg Engineering Resource Group and representing the applicants said that houses could not be built until the infrastructure was substantially completed.

Council Member Payne recommended that the Council consider amending the Code to allow the City to determine which setbacks were considered the rear and the side.

Motion: Council Member Drury moved to grant final approval for the Whispering Creek Subdivision, located at 515 West Cari Lane, with the following conditions and findings:

- The proposal met the intent of the General Plan for the R-1-15 zone.
- The proposal complied with the land use requirements of the R-1-15 zone.
- Sensitive lands on the property and setbacks would be included on the plat along with notes informing future lot owners of any risk.
- The City received approval of the wetlands study by the Army Corps of Engineers.
- A stream alteration permit was required for the driveway crossing on lot three.
- The developer would build the driveway crossing in lot three as part of the subdivision infrastructure.
- The existing accessory structures of the proposed lot two would either be removed or be moved to a location that complied with the code requirements before the plat map was recorded.
- The applicant be advised that they needed to meet the timeline for building the bridge as set forth by FEMA. They were advised that if they ask for an extension on this approval, it would be subject to the timeline for them completing the bridge or the City using the bond to complete the bridge.
- The approval was conditioned on the approval of Resolution 2025-02.

Second: Council Member Simons seconded the motion.

Discussion: Council Member Orme asked Mr. Berg to ask the applicant if the building envelope for lot four could be moved away from the east boundary. Mr. Berg responded that he would

ask. However, he thought that the response would be no because it was already discussed at preliminary approval.

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

12. Resolution 2025-02 / Whispering Creek Subdivision Conditions (City Attorney – Approximately 5 minutes) – Discuss and possibly deny, continue, or approve Resolution 2025-02 adopting the conditions of approval for the Whispering Creek Subdivision located at 515 West Cari Lane (Zoning is R-1-15).

Corbin Gordon made the following comments:

- The proposed resolution was provided to the Council.
- It replaced development agreements which were no longer allowed in most cases by state law.
- Would add the condition regarding the timeline for the bridge.

Paul Berg indicated that the resolution needed to include the rural cross-section.

Motion: Council Member Drury moved to approve Resolution 2025-02 with language stating that an extension was subject to FEMA's timeline and the development would have a rural rather than a standard cross-section.

Second: Council Member Simons seconded the motion.

Discussion: None

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

13. Adjournment

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

The meeting was adjourned at 10:46 p.m.


Celeste Johnson, Mayor


Brad Wilson, Recorder