MINUTES OF THE MIDWAY CITY COUNCIL

(Regular Meeting)

Tuesday, 15 January 2019, 6:00 p.m. Midway Community Center, City Council Chambers 160 West Main Street, Midway, Utah

Note: Notices/agendas were posted at 7-Eleven, Ridley's Express, the United States Post Office, the Midway City Office Building, and the Midway Community Center. Notices/agendas were provided to the City Council, City Engineer, City Attorney, Planning Director, Public Works Assistant Crew Chief, and The Wasatch Wave. The public notice/agenda was published on the Utah State Public Notice Website and the City's website. A copy of the public notice/agenda is contained in the supplemental file.

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

Mayor Johnson called the meeting to order at 6:00 p.m. She excused Council Member Orme.

Members Present:

Celeste Johnson, Mayor
Jeff Drury, Council Member (Participated
Electronically)
Bob Probst, Council Member
JC Simonsen, Council Member
Ken Van Wagoner, Council Member

Staff Present:

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

Members Excused:

Lisa Orme, 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. She gave the prayer and/or inspirational message.

2. Consent Calendar

- a. Agenda for the 15 January 2019 City Council Regular Meeting
- **b.** Warrants
- c. Minutes of the 4 December 2018 City Council Work Meeting
- d. Minutes of the 4 December 2018 City Council Regular Meeting
- **e.** Ordinance 2019-01 which prescribes the time and place of the recurring meetings of the Midway City Council.

- f. The bond for the Midway City mayor.
- g. Conclude the warranty period and release the remainder of the bond for the Meadows at Dutch Canyon, located at 1600 North Dutch Canyon Road, subject to the payment of all fees due to Midway City.
- h. Conclude the warranty period and release the remainder of the bond for the Dutch Canyon Subdivision, located at 600 East Saddle Drive, subject to the payment of all fees due to Midway City.

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

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

Second: Council Member Probst seconded the motion.

Discussion: None

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

Council Member Drury Aye

Council Member Orme Excused from the Meeting

Council Member Probst Aye
Council Member Simonsen Aye
Council Member Van Wagoner Aye

3. Public Comment - Comments were taken for items not on the agenda.

Mayor Johnson asked if there were any comments from the public. No comments were offered.

4. Department Reports

Midway Business Alliance

Mayor Johnson reported that the Midway Business Alliance was strong and working with Heber Valley Tourism and Development.

2019 State Legislative Session

Mayor Johnson reported that the 2019 session for the Utah State Legislature would begin that month.

Representative Tim Quinn

Mayor Johnson reported that she met with Tim Quinn, who was Midway's state representative, regarding several issues.

Historic Preservation Committee

Mayor Johnson reported that the Midway City Historic Preservation Committee would now meet every third Tuesday at 2:00 p.m.

Midway Boosters

Council Member Drury reported that the boosters had a "kick-off" party for the year.

Midway City Ice Rink

Council Member Drury reported that the ice rink was doing well and did well during the holiday season.

Open Space Committee

Council Member Drury reported that the Midway City Open Space Advisory Committee presented at the Council's work meeting that day.

Swiss Days

Council Member Drury reported that Swiss Days would be held that year.

Heber Light & Power Company / Transmission Line

Mayor Johnson reported that the board of directors, for the Heber Light & Power Company, approved the new transmission line going along 970 South and Ward's Lane. She indicated that some modifications had been made to the design.

Heber Valley Railroad

Mayor Johnson reported that the Heber Valley Railroad had a successful North Pole Express. She added that the Railroad would ask the State Legislature for more money.

Heber Valley Special Service District

Mayor Johnson reported that the Heber Valley Special Service District was running well.

Midway Sanitation District

Mayor Johnson reported that the Midway Sanitation District was running well.

5. Financial Statements / Audit Report – Receive a Presentation on the Fiscal Year 2018 Financial Statements (Ryan Child) and Audit (Ben Probst) for Midway City.

Ryan Child, Child Richards, reviewed in detail the FY 2018 Financial Statements for the City.

Note: A copy of the Financial Statements is contained in the supplemental file.

Ben Probst, Gilbert and Stewart, distributed a letter communicating the audit findings. He gave a clean opinion of the Financial Statements. He reported that the fund balance in the General Fund was over the allowed 25% of revenue. He said that the City was financially strong.

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

Brad Wilson thanked Mr. Child and Mr. Probst for their exceptional work and assistance.

6. Dutch Draw Annexation / Further Consideration (Mike Johnston – Approximately 10 minutes) – Discuss and possibly approve for further consideration the Dutch Draw Annexation located at the corner of River Road and Dutch Canyon Road.

Brad Wilson gave a presentation on the annexation process.

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

Mike Johnston, Summit Engineering and representing the petitioner, made the following comments:

- Had previously asked to connect the property to the City's culinary water system without annexation. The City Council preferred that it be annexed.
- The existing home was included in the annexation and would remain on a well.
- Connecting to the culinary water system was better than three new wells.
- The connection would be on Dutch Canyon Road.
- The petitioner wanted access off Dutch Canyon Road and not River Road.
- The petitioner would not install a water line along River Road because it would be too expensive for three lots.

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

- The property should be annexed so that the City's setbacks would apply.
- Normally the City required that a developer ran the culinary water line to the limits of the development.
- If the water line was not run along River Road with this annexation, then the petitioner for the next annexation would have to do it.

Motion: Council Member Simonsen moved to approve for further consideration the Dutch Draw Annexation.

Second: Council Member Probst seconded the motion.

Discussion: None

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

Council Member Drury A

Council Member Orme Excused from the Meeting

Council Member Probst Aye
Council Member Simonsen Aye
Council Member Van Wagoner Aye

7. Meadow Estates PUD / Amendment (Mike Johnston – Approximately 10 minutes) – Discuss and possibly grant a plat map amendment for the Meadow Estates Subdivision located at Meadow View Drive (800 North) and Pine Canyon Road. Public Hearing

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

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

Mr. Henke also made the following comments:

- The owners of lot four still wanted to work out some minor issues.
- The plat map was being amended because of some trees and other issues.

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

Public Hearing

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

Scott McDougle

Mr. McDougle explained that he owned lot four and wanted consideration of the amendment, along with the public hearing, to be postponed. Mr. Henke responded that Mr. McDougle's attorney consented to holding the public hearing.

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

Motion: Council Member Van Wagoner moved to table the amendment to such time as it was brought back before the Council.

Second: Council Member Simonsen seconded the motion.

Discussion: None

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

Council Member Drury

Aye

Council Member Orme

Excused from the Meeting

Council Member Probst
Council Member Simonsen

Aye Aye

Council Member Van Wagoner

Aye

8. Homestead Villas / Preliminary Approval (Steve Eddington – Approximately 10 minutes) – Discuss and possibly grant preliminary approval for the Homestead Villas Subdivision, located at the intersection of Bayhill Drive and Fairway Drive. One lot is also located on Mountain Springs Drive (Zoning is R-1-15). Recommended for approval with conditions by the Midway City Planning Commission. Public Hearing

The applicant requested that the item not be considered that night.

9. Ordinance 2019-02 / Transmission Lines (City Planner – Approximately 15 minutes) – Discuss and possibly adopt Ordinance 2019-02 amending Section 16.13.10 (Maximum Height Provisions for all Buildings) of the Midway City Municipal Code regarding transmission lines. Recommended for approval by the Midway City Planning Commission. Public Hearing

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

- Proposed code
- Transmission lines in Midway
- Locations of transmission lines
- Pole markings
- Transmission lines in Wasatch County
- Options for transmission lines and poles
- General Plan

Mr. Henke also made the following comments:

Wood poles had to be taller than metal ones.

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

Corbin Gordon reviewed the proposed ordinance. He noted that Rocky Mountain Power wanted transmission lines to be a conditional use and that change had been made.

Public Hearing

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

Kevin Payne

Mr. Payne made the following comments:

- The spacing of poles should not change.
- Greater flexibility should be given for the types of required studies.
- Reimbursement agreements could be used to repay the cost of burying transmission lines.
- Noticing of proposed lines should be more robust.

Begnt Johnsson

Mr. Johnsson made the following comments:

- A lot of positive changes had been made to the proposed transmission line along 970 South and Ward's Lane.
- A portion of each transmission line pole was underground, so a 55 ft. pole would be approximately 47 feet above ground.
- The proposed ordinance should not obligate the City to pay for burying lines. The City could negotiate those costs with the power company.
- The impact of increase voltage was exponential.
- The proposal should give the City a certain amount of time to raise the funds to bury lines.
- The requirement for the City to pay for burying lines had not been challenged in court.
- Residents would sleep 30 feet away from the proposed transmission line.

Ron Lowry

Mr. Lowry made the following comments:

- The sale of his home failed because it was close to the proposed transmission line. The specific concern of the buyer was the increased voltage.
- Voltage was the most significant issue with transmission lines.
- A transmission line destroyed property values.
- Transmission lines should be buried.

Travis Jones, Rocky Mountain Power

Mr. Jones made the following comments:

- The proposed transmission line was necessary and being done properly.
- Was not required to apply to the City to install the line.
- Wanted to be part of the solution.
- Heber Valley needed more infrastructure as it grew.
- Appreciated the edits to the proposed ordinance including adding the conditional use process.

Hollie Kent

Ms. Kent made the following comments:

- The public had not been informed about the proposed transmission line.
- Landowners should have to be notified of these types of projects.
- The first public hearing was held after an agreement for the line had been made.

Scott Lewis

Mr. Lewis made the following comments:

- The proposed ordinance would be difficult to enforce.
- The City should require that developers bury the new and existing power lines going to their developments.
- Rocky Mountain Power (RMP) was primarily concerned about profit.
- The City was liable for high voltage lines in residential areas.
- Midway was beautiful and should not be denigrated.
- The proposed ordinance was a significant capitulation and included significant loopholes.

Heather Whitney

Ms. Whitney made the following comments:

- Span, voltage, easement widths, and noticing requirements were significant concerns with the proposed ordinance.
- Height restrictions should be based on the portion of the pole above ground.
- If the proposed ordinance was approved that night, then a date should be set to amend it to address some of the issues raised.

Ted Caldwell

Mr. Caldwell made the following comments:

Had a farm next to an existing transmission line and the proposed line.

- Most residents voted to preserve open space even if it was not next to their house.
- Burying the lines was as significant an issue as open space.
- Some members of the Council were elected to address the proposed transmission line.

Motion: Without objection, Mayor Johnson recessed the meeting at 8:05 p.m. She reconvened the meeting at 8:16 p.m.

Athina Koumarela

Ms. Koumarela made the following comments:

- Who would be the third party that reviewed proposed transmission lines? Would residents be included in the review?
- Would the financial impact be reviewed?
- What would be the cost to bury the proposed transmission line?
- Would the line benefit the entire valley?

Holly Bodily

Ms. Bodily made the following comments:

- Communities needed to be more active in the state legislative process regarding power companies and infrastructure.
- Everyone in the City should be noticed not just someone within 600 feet of the line.

Don Mustard

Mr. Mustard made the following comments:

- The City should bond to bury the proposed transmission line.
- Other states and communities were burying their power lines.
- A financial impact study should be required.

Darrin Wilcox

Mr. Wilcox made the following comments:

- Lived under an existing transmission line and the proposed line.
- The proposed ordinance did not address increasing the voltage.
- Utility rates should be increased to pay for burying lines. This would spread out the cost among more people and over more time. Mayor Johnson responded that she was on the HL&P Board and voted against the proposed line She also voted to increase rates to pay for burying it.

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

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

- The ordinance should require that the impact of transmission lines be minimized. It should not specify that they always had to be brown or a rust color. That decision could be made as part of the conditional use process.
- Because transmission lines were infrastructure they could not be completely denied.
- A power company should not have to get City approval to replace a pole for a distribution line.
- Current law obligated the City to pay the cost of burying power lines.
- The current Municipal Code did not require an application for transmission lines.
- Voltage should be addressed in the proposed code.
- There were studies that showed that buried transmission lines were just as harmful as overhead lines.
- RMP had a transmission line planned on the north side of the City. This could mean lines on both sides of the City.
- The City could not stop a transmission line.
- Some sort of regulations for transmission lines needed to be adopted.
- The proposed ordinance would require notification.
- Experts would be used for the third-party review.
- It would cost at least \$3.5 million to bury the proposed transmission line which included RMP paying 80% of the overhead cost.
- The power for Heber Valley came through communities that had transmission lines.
- The proposed transmission line would benefit the entire valley and other communities.
- RMP power had never paid for a transmission line to be buried.
- The community could be surveyed to see if they would pay or bond to bury the proposed transmission line.
- More poles would be needed if their height was reduced.
- The proposed ordinance needed to be revised.
- Items should be presented to the Council with enough time to consider public comment and make revisions before approval.
- Power companies should take more responsibility and communities should have more input.
- The City did not have any regulations that governed transmission lines. Adopting the proposed ordinance would give it something.
- The City should see if its residents were willing to pay to bury the proposed line.
- Health input studies should be required.
- The allowed pole height should be 45 feet above ground.
- Most poles were 60 feet long so 55 feet should be allowed above ground.
- The ordinance should allow other pertinent studies as required.
- Should the City have to notify each resident when a transmission line was proposed?

Motion: Council Member Van Wagoner moved to adopt the ordinance as submitted while addressing spacing between poles and knowing that it could be clarified in the future.

Council Member Simonsen asked if voltage needed to be addressed. Council Member Van Wagoner responded that was not included in his motion because it needed to be clarified by an

expert.

Second: Council Member Drury seconded the motion.

Discussion: None

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

Mayor Johnson Nay Council Member Drury Aye

Council Member Orme Excused from the Meeting

Council Member Probst Nay
Council Member Simonsen Nay
Council Member Van Wagoner Aye

Motion: Council Member Simonsen moved to adopt the ordinance with the following changes:

It addressed voltage and pole spacing.

• "Transmission lines that do not exceed 55 feet in pole height above grade shall not require a conditional use permit. Further, regarding" should be deleted from 16.13.47(B). That sentence should begin with "Existing transmission poles...".

Council Member Van Wagoner indicated that the voltage could be increased on the existing transmission lines. Council Member Drury asked how the City would know if the voltage was increased and how any related regulations would be enforced. Mayor Johnson thought that HL&P would notify the City. Council Member Simonsen responded that the health effects of voltage were a concern to the residents that spoke that evening.

Amended Motion: Council Member Simonsen moved to adopt the ordinance with the following changes:

- It addressed pole spacing.
- "Transmission lines that do not exceed 55 feet in pole height above grade shall not require a conditional use permit. Further, regarding" should be deleted from 16.13.47(B). That sentence should begin with "Existing transmission poles...".

Second: Council Member Van Wagoner seconded the amended motion.

Discussion: None

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

Council Member Drury Ave

Council Member Orme Excused from the Meeting

Council Member Probst Aye
Council Member Simonsen Aye
Council Member Van Wagoner Aye

10. Watts Remund Farms, Phase I / Amendment (Paul Berg – Approximately 10 minutes) –

Discuss and possibly amend the approval for Phase I of the Watts Remund Farms PUD located at 200 East and 600 North (Zoning is R-1-15). **Public Hearing**

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

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

Mr. Henke also made the following comments:

- The amendment would change the pad sizes to allow for house overhangs.
- The amount of open space would not change.
- Some pad sizes would increase while others would decrease.
- The amendment still had staggered setbacks.

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

Public Hearing

Mayor Johnson opened the hearing and asked if there were any comments from the public. She closed the hearing when no public comment was offered.

Motion: Council Member Van Wagoner moved to approve the amendment with the following findings:

- The proposed amendment would adjust the building pad sizes and shapes
- The open space in the PUD would remain the same
- No public street, right-of-way, or easement would be vacated or altered

Second: Council Member Simonsen seconded the motion.

Discussion: None

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

Council Member Drury Aye

Council Member Orme Excused from the Meeting

Council Member Probst Aye
Council Member Simonsen Aye
Council Member Van Wagoner Aye

11. Dutch Canyon Subdivision / Amendment (Paul Berg – Approximately 10 minutes) –

Discuss and possibly grant a plat map amendment for the Dutch Canyon Subdivision located at 600 East Saddle Drive. **Public Hearing**

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

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

Mr. Henke also made the following comments:

- Three lots would be combined into one which would reduce density and traffic.
- The property owner to the north wanted it made clear that there would be farming with noise at night.
- All the neighbors within 600 feet of the lots had been notified of the proposal.

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

Public Hearing

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

Harold Wilson, HL&P Company

Harold Wilson noted that effected utilities would have to be removed and utility easements vacated. Mr. Henke responded that the lot owners would have to work with HL&P regarding the issue.

Heather Whitney

Ms. Whitney asked the reason for the amendment. Mr. Henke responded that two lot owners wanted to increase the size of their lots.

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

Motion: Council Member Probst moved to grant the amendment as outlined with the lot owners working with HL&P to abandon the existing utilities.

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 Excused from the Meeting

Council Member Probst Aye
Council Member Simonsen Aye
Council Member Van Wagoner Aye

12. Reed Bezzant Subdivision / Amendment (Steven and Kala Francis – Approximately 5 minutes) – Discuss and possibly approve a plat map amendment for the Reed Bezzant Subdivision located at 95 South 700 East (Zoning is R-1-11). Recommended for denial by the Midway City Planning Commission.

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

- Land use summary
- Location of the development
- Original plat map
- Proposed plat map
- Possible recommendations
- Possible findings

Mr. Henke also made the following comments:

- The Council previously considered the item on 6 November 2018 and requested that the applicant get comment from the neighbors. All the neighbors indicated they supported the amendment.
- The subdivision plat map needed to be amended and then the lot needed to be subdivided.
- There had not been any lot splits in the City for ten years.
- The length of the existing cul-de-sac was an issue because it was longer than allowed by the City's construction standards.
- The amendment was discretionary.
- Suggested restricting cul-de-sacs to no more than eleven lots.

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

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

- The purpose of cul-de-sacs was to reduce traffic and serve a limited number of homes. They could be problematic if they were too long.
- The greater concern with cul-de-sacs was not length but car count. Larger lots created less traffic.
- The amendment would not be that different from a restriction to eleven lots.
- The cul-de-sac included a stub road that would connect in the future.
- The Council recently approved a development on a longer cul-de-sac which increased its length.

- The proposed amendment would not lengthen the cul-de-sac.
- The neighbors unanimously supported the amendment.
- The lot split would not impact snow plowing, etc.

Motion: Council Member Simonsen moved to approve the amendment to the Reed Bezzant Subdivision with the following findings:

- No public street, right-of-way, or easement would be vacated or altered.
- Although density would be slightly increased, it would not be a safety concern.
- The lot would meet the minimum requirements for the zone.

Second: Council Member Van Wagoner seconded the motion.

Discussion: None

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

Council Member Drury

Council Member Orme Excused from the Meeting

Aye

Council Member Probst Aye
Council Member Simonsen Aye
Council Member Van Wagoner Aye

13. Reed Bezzant Subdivision / Lot Split (Steven and Kala Francis – Approximately 5 minutes) – Discuss and possibly grant preliminary and final approval for a lot split in the Reed Bezzant Subdivision located at 95 South 700 East (Zoning is R-1-11). Recommended for denial by the Midway City Planning Commission.

Motion: Council Member Simonsen moved to grant preliminary and final approval for the lot split because it met the intent of the General Plan for the zone.

Second: Council Member Probst seconded the motion.

Discussion: None

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

Council Member Drury Aye

Council Member Orme Excused from the Meeting

Council Member Probst Aye
Council Member Simonsen Aye
Council Member Van Wagoner Aye

14. Ordinance 2019-03 / Transient Lodging as a Permitted Use (City Planner – Approximately 10 minutes) – Discuss and possibly adopt Ordinance 2019-02 amending Section 7.06.050 (Transient Lodging Unit Rental) to make all transient lodging units a permitted use in the transient rental overlay district.

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

- Land use map
- Locations of the Transient Rental Overlay District (TROD)
- Reasons for the ordinance
- Proposed code text
- Possible findings

Mr. Henke also made the following comments:

- The ordinance would affect the TROD.
- It would change transient rentals from conditional to permitted uses in the commercial zones in the TROD.
- Was finding and shutting down illegal transient rentals.
- Generally, transient rental owners complied with the City's transient rental regulations.

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

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

- Transient rentals as a conditional rather than a permitted use in the commercial zones was an oversight.
- Too many transient rentals could be problematic.
- They were a good fit for commercial but not residential zones.

Motion: Council Member Probst moved to adopt Ordinance 2019-03, amending Section 7.06.050 (Transient Lodging Unit Rental), as outlined with the following findings:

- The amendment would be limited to only the C-2 & C-3 zones.
- All rental units would still need to comply with the established criteria.
- All units would still need to be in the Transient Rental Overlay District.
- Transient rental units in the C-2, C-3 zones would be a permitted use.
- Transient rental units in any other zones but the aforementioned zones would continue to be conditional uses.

Second: Council Member Van Wagoner seconded the motion.

Discussion: None

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

Council Member Drury Aye

Council Member Orme Excused from the Meeting

Council Member Probst Aye
Council Member Simonsen Aye
Council Member Van Wagoner Aye

15. Impact Fee Report (City Recorder – Approximately 10 minutes) – Receive a report on the receipt and use of impact fees for Midway City for fiscal year 2018.

Brad Wilson gave a presentation on the impact fee report for FY 2018.

Note: Copies of the impact fee report and Mr. Wilson's presentation are contained in the supplemental file.

16. Parking / Main Street

Council Member Van Wagoner had received several complaints about parking on the corners of Main Street and 100 West, Main Street and 200 West and Main Street and 200 East. The Council discussed ways to prevent parking on corners. The Council disapproved of a suggestion from a resident to put flashing lights on no parking signs.

17. Adjournment

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

The meeting was adjourned at 9:55 p.m.

Celeste Johnson, Mayor

Brad Wilson, Recorder