

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

**Tuesday, 21 January 2020, 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.

Members Present:

Celeste Johnson, Mayor
Steve Dougherty, Council Member
Jeff Drury, Council Member
Lisa Orme, Council Member
Kevin Payne, Council Member
JC Simonsen, Council Member

Staff Present:

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

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 Orme gave the prayer and/or inspirational message.

2. Consent Calendar

- a. Agenda for the 21 January 2020 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 7 January 2020 City Council Regular Meeting
- d. Receive a Certification that the Midway Crest Annexation, containing 24.16 acres located at 600 South Fox Den Road, Meets the Requirements for Annexation

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

Council Member Simonsen asked about the warrants to Heber Light & Power Company (HL&P)

for the ice rink. Wes Johnson made the following comments:

- The warrants were the impact fee and installation costs for a larger transformer.
- The transformer was needed in 2014 for the new chiller.
- The previous mayor was going to ask HL&P to waive the charges.

Council Member Drury made the following comments:

- The charges resurfaced when the City asked for a rebate because it installed a power saving variable frequency drive (VFD). The VFD had cut in half the power costs for the chiller.
- Recommended that the two warrants not be paid, and the issue be further reviewed.
- Suggested that the City ask HL&P to waive the impact fee.

Council Member Simonsen asked about the warrants for Commercial Mechanical. Wes Johnson responded that they included the start-up cost for the chiller at the ice rink. Council Member Drury responded that they also included additional brine and addressing air gaps and a leak.

Council Member Simonsen asked about the \$1,000 warrant for a finish nailer. It was speculated that the charge was for more than a single piece of equipment.

Council Member Simonsen asked about the \$4,000 deposit for the office building renovation. Mayor Johnson responded that the deposit was for the entire project.

Council Member Dougherty asked that the sentence on page five of the minutes, regarding the equality of vendors, be stricken because it did not reflect what he said.

Motion: Council Member Simonsen moved to approve the consent calendar except for the two warrants for HL&P, so that they could be reviewed in detail, and striking the sentence about the equality of vendors from the minutes.

Second: Council Member Drury seconded the motion.

Discussion: None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

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

Mayor Johnson asked if there were any comments from the public for items not on the agenda. No comments were offered.

4. Council Assignments (Mayor Johnson - Approximately 15 minutes) – Discuss and possibly approve the assignments for the Midway City Council.

Mayor Johnson gave a presentation of the assignments as discussed in the recent strategic planning meeting and made the following comments:

- Council Member Payne would serve on the Wasatch County Housing Authority Board but not the Midway Water Advisory Board.
- Council Member Drury would serve on the Midway Water Advisory Board along with Council Member Dougherty.
- Animal control would be part of public works.

Note: A copy of Mayor Johnson’s presentation is contained in the supplemental file.

Motion: Council Member Simonsen moved to approve the assignments as discussed.

Second: Council Member Orme seconded the motion.

Discussion: None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

5. Parking Agreement / 70 East Main Street (City Attorney – Approximately 10 minutes) – Discuss and possibly approve an agreement to use property at 70 East Main Street for public parking.

Corbin Gordon reviewed the agreement and indicated that it had been signed by the property owner.

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

- It was for four years and could be renewed.
- It allowed the property to be used for public parking in exchange for the City paying the property taxes.
- Since the parking lot would be gravel it could not be striped and the exact number of parking spaces could not be determined.
- It would cost \$25,000 to prepare the lot for parking.
- The City would work with UDOT so that it could use the two existing entrances to the property.
- The Council had not seen the agreement.
- Snow would be pushed to the back of the lot in the winter. The snow could not be

- plowed down to the gravel, but salt could be used.
- The gravel would absorb any runoff.
- It could be difficult to exit the lot in the winter because it was sloped.
- Could the taxes be waived if the property was used by the City for municipal purposes?

Motion: Council Member Simonsen moved to continue consideration of the agreement, to use property at 70 East Main Street for public parking, for the following reasons:

- To determine if the property taxes could be waived.
- To meet with UDOT regarding the entrances.
- To determine how many parking spots there would be.
- So that the Council could review the actual agreement.

Second: Council Member Dougherty seconded the motion.

Discussion: Council Member Dougherty indicated that UDOT might impose a charge if it gave anything to the City as part of the lot.

Council Member Simonsen recommended that the City not sign the agreement if UDOT failed to approve the entrances.

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

6. Outside Dining and Parking (City Planner – Approximately 30 minutes) – Discuss amending Section 16.13.39(A)(11) (Off-Street Parking and Loading) of the Midway City Municipal Code regarding outside dining and parking. The Midway City Planning Commission recommends no change to the current code.

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

- History of parking requirements for restaurants
- Outside dining
- Potential requirements for additional parking
- How other cities dealt with outside dining
- Parking requirements for outside dining from Westminster, California and how they would apply to The Corner Restaurant, The Midway Mercantile and Café Galleria.
- Current code
- Options for parking including non-code requirements

Mr. Henke also made the following comments:

- Parking requirements had been adjusted the previous year.
- The Planning Commission recommended not changing the code for outside dining.

- Any change could not be imposed on existing businesses.
- Too much parking could negatively impact the character of Midway.

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

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

- Businesses could meet their parking requirements with off-site public parking areas.
- The current code allowed for reductions based on the time of day that other businesses would use the parking area.
- The true problem should be identified before acting.
- Residents had complained about customers parking on side streets in front of their houses.
- Some drivers were parking in front of residential driveways.
- The City had not been proactive. It did not enforce its parking regulations and had not used signage to direct drivers to appropriate parking.
- The City needed to encourage business but protect residents.
- Parking along certain sections of Main Street regularly filled. 100 East and 100 West has a lot of commercial parking.
- Drivers wanted to park as close to a business as possible.
- There was ample parking on the opposite side of Main Street from restaurants like the Mercantile, but drivers would not use it.
- Some businesses would not come into the City or historic structures would be razed if parking requirements were increased.
- The current parking requirements did not account for outside dining.
- The proposal would encourage businesses to use off-site parking areas.
- The recent code text amendment increased a new business's required parking by 66%.
- Shared parking agreements worked better in high density areas.
- The issue of parking for outside dining still needed to be addressed.
- Should several council members and staff meet and return with a recommendation?
- Taxpayers should not be burdened with providing parking.
- Code changes would not resolve all problems.
- Each property and business were different.
- An ombudsman could help with parking.
- Non-code options should be considered.
- Taxpayers should not fund private businesses through the City paying for public parking.
- The City should encourage a walkable and vibrant commercial area.
- Some businesses provided more parking than was required.
- The Municipal Code should be precise and unambiguous.

7. Malmrose Subdivision / Annexation Agreement Amendment (Berg Engineering – Approximately 90 minutes) – Discuss and possibly amend the annexation agreement for the Malmrose Subdivision, formerly known as the Murano Subdivision, located at approximately 1600 North Interlaken Road (West side) (Zoning is RA-1-43). **Public Hearing**

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

- Reasons for holding a public hearing
- Location of the development
- Zenger annexation
- Previously approved master, streets, trails, open space, and landscaping plans
- Open space
- Preliminary Plan #1
- Preliminary Plan #2
- Discussion points.

Mr. Henke also made the following comments:

- The request was a discretionary decision.
- The City built a trail connection instead of the developer.
- The development, approved with the annexation, was a subdivision with one acre lots.
- The required agreement for the use of Interlaken Drive had lapsed.
- There was a new access arrangement between the developer and Interlaken.
- A master plan had to be approved if the proposed development would be phased.
- The preliminary plan presented in 2019 would increase the number of units and the amount of open space.
- Another preliminary plan would include limited common area so each unit in the PUD could have a yard. The City would have to enforce the use of these areas. Some existing PUD's had sections of limited common area tied to each unit, but they were significantly smaller.
- The proposed open space was private, but it would benefit the community because it was visible.
- The amount of impervious surface in the approved subdivision would depend upon the size of the houses.
- The development did not include nine acres to the south which had been included in the annexation.
- The proposed PUD had two points of access.

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

Paul Berg, Berg Engineering Resource Group and representing the applicant, reviewed the following items:

- Elements of the General Plan which he said supported the PUD proposal
- Development vision
- Transitions between area developments
- Definition of a PUD
- Side by side comparison of the proposals

Mr. Berg also made the following comments:

- The zoning for the property allowed up to 126 units.
- Watts Enterprises, the previous developer, originally proposed a subdivision so that it would not compete with its Valais PUD. At the time Dutch Fields, another one of its

projects, was in its final phase.

- The Valais PUD had since been completed.
- A PUD was more compatible with the developments to the south and similar to the lots in Interlaken.
- The PUD would have over 50% open space.
- The General Plan encouraged reducing density when appropriate.
- The Municipal Code preferred PUDs.
- The PUD was a better plan because it had less roads and water lines, a greater buffer with Interlaken, more open space, and less than the allowed density.
- The proposal was based on the General Plan and the Municipal Code.
- The additional 16 units would not change the level of service for the roads, etc.
- The PUD would have more secondary homes than the subdivision.
- Some members of the Planning Commission suggested that the PUD be approved but the number of units be reduced. Could continue those discussions with the Council and staff. Additional trails, etc. could be discussed.
- The increased density was important but could be slightly adjusted.
- A Midway Irrigation Company water line would be moved.
- The proposed PUD would have some private yard space like what was in Watts Remund Farms.
- Was only asking if the Council would consider an amendment to the annexation agreement. If it was willing, then more meetings and approvals were needed.
- Small homes would not be built on one acre lots.
- School busses could use Canyon View Road.

Public Hearing

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

Julie Button

Ms. Button made the following comments:

- Lived in Scotch Fields.
- Could the road between the proposed development and her neighborhood be gated?
- What would the property tax difference be between the subdivision and the proposed PUD?
- Would the developer compensate Scotch Fields for use of its roads?
- Which trails in the proposal were public and which were private?

Michael Henke explained which trails would be public and made the following comments:

- Canyon View Road, through Scotch Fields, was public because it was a connector road.
- The taxes would depend upon how many of the units were second homes. Generally, PUDs had more second homes.
- The City did not allow any gated public roads.

Woody Woodruff

Mr. Woodruff made the following comments:

- Was not speaking as a member of the City's open space committee.
- The most significant issue was the proposed increase in density.
- Density should be reduced.
- The Council should not change the development approvals granted during annexation.
- Most of the open space in the proposed PUD was in the interior of the project.
- Any approval should benefit the residents of Midway.

Tasha Lingos

Ms. Lingos made the following comments:

- Lived in Interlaken.
- Would Lucerne Road be moved with the proposed PUD and where would any units be in relation to the road?

Mr. Berg responded that the proposed plan would not move the road and there would be an open space area without units above it.

Edward Swapp

Mr. Swapp did not want more visible density but preferred the buffer with Interlaken in the proposed PUD.

Jack Zenger, Applicant

Mr. Zenger made the following comments:

- It would be nice to leave the property undeveloped and had done so for 25 years.
- He was 88 years old and did not want to leave the property to his children to figure out.
- Met with the Interlaken Mayor and thought that he had addressed Midway City's concerns.
- The proposed PUD had more open space, green area and a greater buffer with Interlaken.
- Tried to be a good citizen and wanted to meet the desires of Interlaken and Midway.
- Had owned an acre lot and did not maintain all of it.
- People took better care of smaller lots.
- The project would include a community garden.
- There would not be fences between the units.
- Wildlife would move more freely in a PUD.

Claire Osborne

Ms. Osborne wondered why the City would amend an already approved agreement. She

thought that an amendment would set precedence. She asked if an environmental impact study had been done.

Krista Clark

Ms. Clark made the following comments:

- It was hard to see fields developed.
- Had seen elk herds and other animals go away.
- Appreciated the greater buffer with Interlaken.
- The units should be grouped to create wildlife corridors.
- The proposal would increase demand on services, schools, etc.
- What were the setbacks for the original development?
- Were there enough water rights for the project?

Michael Henke explained the various setbacks. Mr. Berg responded that a study had been done and there was no critical wildlife habitat in the project, but modifications could be made for wildlife corridors.

Mr. Henke indicated that additional water rights would be needed for greater density. Mr. Berg responded that there were enough water rights for the original project.

Steve Wilson

Steve Wilson made the following comments:

- Was not speaking as a member of the Interlaken Planning Commission.
- The proposal should not create light pollution.
- Wildlife should be protected.
- Would the developer save money with less infrastructure?
- Was there a limit on secondary structures?

Mr. Henke responded that there could be secondary structures in certain circumstances.

Becky Stookey

Ms. Stookey asked what would be in the open space? Mr. Berg responded that most areas would be manicured landscaping and the rest would be a natural grass.

Tiffany Gillespie

Ms. Gillespie made the following comments:

- Had lived in Atlanta and saw the damage of development.
- The City should determine what legacy it wanted and make sustainable decision.
- She and a lot of people wanted to live in Midway because of the views and the atmosphere.

Stacey Farrer

Ms. Farrer made the following comments:

- Would build in Interlaken.
- The proposal would affect her views.
- The flow of the wildlife would be impacted.
- Were fences allowed in the subdivision proposal?
- Did not like more density but favored the PUD because of the buffer with Interlaken and the green space.

Mr. Henke responded that fencing was not addressed in the annexation agreement. He added that the HOA could prohibit it.

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

Motion: Without objection, Mayor Johnson recessed the meeting at 9:05 p.m. She reconvened the meeting at 9:14 p.m.

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

- The proposal would hurt the City's efforts to continue imposing the Resort Communities Tax. Could the developer do something on or off site to address this concern?
- The increased density required more laterals and meters.
- The proposed limited common area or private yard spaces were larger than the building pads. They were significantly larger than the spaces in Watts Remund Farms.
- The open space in the PUD was nice but the "wall" of houses should be broken up.
- PUDs created a row housing effect and did not add to the rural character of Midway.
- Open space in PUDs should benefit the entire community.
- The Cascades at Soldier Hollow did not have fences, and this added to a rural feel.
- One acre lots had a rural feel.
- Dutch Fields had an open space feel.
- It was financially risky for a property owner to build a small house on a large lot.
- Large houses did not create an open feel.
- House sizes needed to be discussed. Necessary data should be obtained from the City's building safety department.
- Several requirements in the annexation agreement had been done by other parties. The developer should offer something more to the community in exchange for the density. It was not the City's responsibility to say what that should be.
- The developer could do a glamping facility or extend the trail along Homestead Drive.
- Density should decrease the further you went from the center of a community.
- PUDs should not be allowed in the half or one-acre zones.
- The proposal was not being denied.

Mr. Berg made the following comments:

- A glamping facility was a lot to ask in exchange for 16 units.
- The City was turning down a lot of open space.
- If the Council did not want PUDs with this amount of density around the exterior of the City, then it should change its Municipal Code which allowed it.
- Had taken notes and might or might not come back.

Motion: Council Member Drury moved to table the item indefinitely pending the applicant’s review of the guidance and direction given at the meeting.

Second: Council Member Simonsen seconded the motion.

Discussion: Council Member Dougherty asked if the staff should prepare a list of projects the developer could do in exchange for the increased density. Mayor Johnson and Council Member Drury recommended against such a list. Council Member Drury indicated that the applicant could always talk to staff about possible projects.

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

8. Ordinance 2020-02 / Festival Market Business Licenses and Parking (City Planner – Approximately 30 minutes) – Discuss and possibly adopt Ordinance 2020-02 amending Section 7.05.010 (Festival Market Business Licenses) of the Midway City Municipal Code regarding parking.

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

- Revised map
- Revisions to the ordinance

Mr. Henke also made the following comments:

- An updated ordinance had not been prepared.
- The proposal provided free public parking.
- The proposal would apply to a specific area of the City. Adjustments to this area were discussed at the previous council meeting.
- It would apply just to commercial properties along Main Street.

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

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

- Should the area of the proposal be squared off? Should it match the commercial zones?

Would this include larger properties that would have too many booths or parking that would not be useful? Should it include 200 East to 300 East along Main Street? This area could be expanded in the future. It was related to Swiss Days so it should remain close to the Town Square. Limiting the area would help emergency services.

- The proposal should not encourage razing homes for parking.
- The lot at 70 East Main Street, which the City wanted to lease for public parking, would qualify for the proposal.
- The proposal was not an exaction because it was an option and not a requirement.
- It needed to be roughly proportional.
- It provided consistency.
- The property owner not the vendors would obtain the permit.
- Grandfathered and nonconforming businesses could use the proposal if they met all the requirements. There were not a lot of these businesses in the proposed area.

Motion: Council Member Simonsen moved to continue consideration of the ordinance because a copy had not been provided to the Council.

Second: Council Member Dougherty seconded the motion.

Discussion: None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

9. Closed Session to Discuss Pending or Reasonably Imminent Litigation.

Motion: Council Member Dougherty moved to go into a closed meeting to discuss pending litigation.

Second: Council Member Payne seconded the motion.

Discussion: None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

Note: Closed meeting minutes are sealed and strictly confidential. Access to such minutes must

be obtained through a court of law.

Motion: Council Member Drury moved to go out of the closed meeting.

Second: Council Member Dougherty seconded the motion.

Discussion: None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

10. Adjournment

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

The meeting was adjourned at 10:58 p.m.



Celeste Johnson, Mayor



Brad Wilson, Recorder