



Memo

Date: 12 September 2019
To:
Cc:
From: Brad Wilson, City Recorder/Financial Officer
RE: Minutes of the 3 September 2019 City Regular Meeting

Please note that the following minutes are awaiting formal approval and are in draft or unapproved form.

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

**Tuesday, 3 September 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. Council Member Van Wagoner gave the prayer and/or inspirational message.

2. Consent Calendar

- a. Agenda for the 3 September 2019 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 20 August 2019 City Council Regular Meeting
- d. Release the construction bond, minus 10%, and begin the one-year warranty period for Phase I of the Watts Remund Farms PUD located at approximately 200 East 600 North

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

Wes Johnson indicated that \$60,000 for landscaping also needed to be retained in the construction bond for Watts Remund Farms.

Motion: Council Member Van Wagoner moved to approve the consent calendar with \$60,000 also retained in the Watts Remund Farms bond for landscaping.

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 for items not on the agenda. No comments were offered.

4. Department Reports

Swiss Days / Restrictions on Alcohol Permits

Council Member Drury reported that restrictions on certain alcohol permits, during Swiss Days, might be suggested in the future.

Ice Rink / Management Agreement

Council Member Drury reported that a management agreement, for the upcoming season, was being prepared for the City's ice rink.

Open Space Committee / Notices of Interest

Council Member Drury reported that the Midway City Open Space Committee was discussing notices of interest submitted by landowners.

Center Street and Michie Lane / School Crossing

Council Member Drury asked if a school crossing was needed at the intersection of Center

Street and Michie Lane. The following comments were made regarding the question:

- The Midway Elementary School committee, which had to make a recommendation on any school crossings, was neutral on a crossing at the intersection.
- There was a school crossing at Center Street and 100 South. This was too close to the proposed crossing.
- There were strict UDOT standards for school crossings at its roads.
- There had been several incidents at existing school crossings.
- Should cameras be installed at school crossings and the videos of violators be given to the Sheriff's Department?
- Parents should not guide children across a street where there was not a crosswalk.
- Safety was the City's primary concern.
- All relevant parties needed to support any new school crossing.
- The City, representatives of the School and its committee and UDOT should meet to discuss the crossing.
- The Sheriff's Department should be asked to spend more time at school crossings when school was starting and ending.

Transmission Line Replacement

Mayor Johnson reported that the request, to replace the transmission line in the south section of the City, would be considered by the City Council on October 15th at the soonest. She added that there were a lot of questions that needed to be answered regarding the request.

Swiss Days / Dogs

Council Member Simonsen asked if dogs were allowed at Swiss Days. Mayor Johnson responded that year dogs were allowed on the Town Square, during Swiss Days, because there was a miscommunication between the City and the Midway Boosters.

- 5. Ordinance 2019-07 / Small Wireless Communications** (City Planner – Approximately 15 minutes) – Discuss and possibly adopt Ordinance 2019-07, amending Section 16.22 (Wireless Telecommunications) of the Midway City Municipal Code, to regulate small wireless facilities and related improvements. Recommended for approval by the Midway City Planning Commission.

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

- Comparison of cellular tower types
- Federal regulations
- State regulations
- Pictures and examples of 5G cellular towers
- Design criteria
- Code text amendment
- What cities could regulate
- Proposed code

- Changes since the last council meeting

Mr. Henke also made the following comments:

- The ordinance had been previously considered by the Planning Commission and the City Council.
- The changes requested by the Council had been made.
- The application fee was established by the State and should not be included in the Municipal Code.

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

Council Member Simonsen indicated that directional poles still needed to be defined.

Motion: Council Member Simonsen moved to adopt Ordinance 2019-17, for small wireless communications, with directional poles defined and State Code referenced for the amount of the application fee.

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

- 6. Haven Farms / Preliminary & Final Approval** (Stephen Quesenberry – Approximately 30 minutes) – Discuss and possibly grant preliminary and final approval for the Haven Farms Rural Preservation Subdivision located at approximately 1170 South Center Street (Zoning is RA-1-43). Recommended with conditions by the Midway City Planning Commission.

Public Hearing

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

- Overview of rural preservation subdivisions
- Land use summary
- Location of the proposed development
- Proposed site plan
- Flood plain
- Trail easement
- Proposed plat map
- Water Board recommendation
- Possible findings

- Proposed conditions

Mr. Henke also made the following comments:

- The development was a rural preservation subdivision.
- It would have shared private driveways that were maintained by the HOA.
- The developer would build the trail along Center Street.
- There was an existing home on one of the lots. It would have to be converted to a structure with no living space if another home was built on the lot.
- No other structures on a lot could have living space if there was also a home on the lot.
- The applicant had received a variance from the Board of Adjustments because of state requirements.
- The Water Board recommended removing the bridge, to the existing house, when the new driveway was built.

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 City needed to protect rural preservation subdivisions from further development to defend the open space and the rural feel that they provided.
- The private driveways should not be longer than allowed by the Wasatch County Fire District.

Public Hearing

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

Sharm Whittry

Ms. Whittry asked if the existing home could be preserved. Mr. Henke responded that the City could not require its preservation. Council Member Simonsen added that the City could encourage an owner to preserve a home.

Athina Koumarela

Ms. Koumarela asked that the Municipal Code allow more time for citizens to organize to preserve a home.

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

Motion: Council Member Probst moved to grant preliminary and final approval for the Haven Farms Rural Preservation Subdivision with the following conditions and findings:

- The proposed lot met the minimum requirements for the RA-1-43 zoning district.
- The proposal met the intent of the General Plan for the RA-1-43 zoning district.
- The proposal complied with the requirements for the Rural Preservation Subdivision code.
- The subdivision helped comply with the vision stated in the General Plan to preserve open space and a rural atmosphere.
- All 13 lots would be deed restricted so they would never be further subdivided
- The developer would build a public trail that would help complete the master trail plan which would make pedestrians safer by allowing them a place to recreate off of Hwy 113.
- Deed restrictions that would be recorded towards all 13 lots would be submitted to the City for review.
- A note on the plat map would eliminate the ability to subdivide any of the 13 lots.
- 199.85-acre feet of water would be tendered to the City before the plat map was recorded.
- UDOT approved the new location for the south driveway before the plat could be recorded.
- The HOA would plow the snow off the public portion of the north driveway.

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

7. Resolution 2019-26 / Haven Farms Development Agreement (City Attorney – Approximately 5 minutes) – Discuss and possibly approve Resolution 2019-26 adopting a development agreement for the Haven Farms Rural Preservation Subdivision located at approximately 1170 South Center Street (Zoning is RA-1-43).

Corbin Gordon reviewed the proposed development agreement and necessary changes.

Motion: Council Member Simonsen moved to approve Resolution 2019-26 adopting a development agreement for the Haven Farms Rural Preservation Subdivision with the following changes:

- Update the amount of required water rights.
- Require that the bridge be removed at the specified time.
- Snow on the public portion of the north driveway would be removed by the HOA.
- The developer would build the trail along Center Street.

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

8. Watts Remund Farms PUD / Master Plan Amendment (Berg Engineering – Approximately 30 minutes) – Discuss amending the master plan for the Watts Remund Farms PUD located at approximately 200 East 600 North (Zoning is R-1-15). Recommended with conditions by the Midway City Planning Commission. **Public Hearing**

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

- Land use summary
- Location of the PUD
- Amending a master plan
- Master plan approval
- Proposed amendments
- Approved master plan and phasing plan
- Proposed amended master plan
- Proposed phasing plan reviewed by the Planning Commission
- Proposed phasing plan (Revised)
- Updated open space plan
- Pad #84
- Proposed plat map note for the new private areas
- Items to consider
- Proposed findings
- Possible reasons for phasing
- Tax liability for the City and other entities
- Infrastructure and maintenance
- Comparison with the proposed ordinance regarding multiple plat maps per phase

Mr. Henke also made the following comments:

- The order of recording phases was not important unless there were access issues.
- Private areas behind some units were being requested. This would allow unit owners to have a pergola, garden boxes, etc. A specific type of fence would be allowed around the area.
- The existing off-site open space would still be included in the project.
- The City should not be the one who enforces the private areas.
- The roads in the project were private.
- The applicant would have to accept any changes to the request by the Council.
- It would be November or December before a code amendment, regarding phasing, could be considered by the Council.

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 Municipal Code should be amended to limit the minimum number of units per phase.
- Not restricting the minimum number of units had advantages.
- Multiple meetings could be a good thing.
- The public was not as involved with an amendment as they were during the original master plan approval.
- Should someone be allowed to build in the wetlands buffer?
- Should someone be allowed to increase the dimensions of already approved building pads?

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

- The proposal would reduce the amount of open space, but the project would still have the required 50%.
- The Municipal Code allowed going into the wetlands buffer with approval. The City Engineer had already given such approval in another location.
- The applicant agreed to changes, requested by the City Council, when the master plan was originally approved.
- The proposed private areas all backed up to open space or spaces with large setbacks.
- Pad #84 would not be any closer to the neighbors.
- Some of the units were being adjusted to improve views.
- The Valais PUD had amendments with each of its phases.
- Was following the process in the Municipal Code.
- Was the Council setting an unwritten rule that it would not approve any master plan amendments? This could encourage applicants to request more phases during the initial approval.
- The applicant wanted four pads, which were in demand, in an earlier phase.
- The economy might be headed for uncertain times.
- More phases reduced the initial costs for the developer and left vacant ground undisturbed.
- Some developments turned into weed patches during the last recession. Some developers did not pay taxes for years on those projects.

Public Hearing

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

Athina Koumarela

Ms. Koumarela made the following comments:

- There were a lot of compromises by the public when the master plan was approved. Now the applicant was asking for more compromises.
- Had paid taxes for 40 years on her buildable lots.
- The residents would pay for any taxes deferred by the applicant.
- A lot of staff time would be used to approve more phases.
- The pads could be smaller to avoid going into the wetlands buffer.

Cristine Tuttle

Ms. Tuttle asked about the taxes that would be paid by the applicant. Mr. Henke explained increases in taxes from greenbelt to recorded units.

Sharon Hart

Ms. Hart said that going into the wetlands buffer took away from the spirit of the original approval. She also indicated that the applicant had piled construction material against her fence.

Mike Wittry

Mr. Wittry made the following comments:

- His house was the only one with a unit, in Watts Remund Farms, right next to it.
- Bought his home when the property was a dairy.
- The view from his house would be eliminated.
- Asked that the portable toilets for the project be moved.

Ron Meik

Mr. Meik said a ridge of dirt had been left in front of his house and the City had failed to fix it. Wes Johnson said that he would meet with him to resolve the issue.

Mr. Meik stated that the applicant should pay taxes like everyone else.

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

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

- The applicant always paid his taxes and was not stealing from the public. The issue was the sequencing of the taxes.
- Heber City had allowed development amendments to reduce a developer's tax burden.
- Decisions should be based on the Municipal Code and not public opinion.
- A previous encroachment into the wetlands buffer allowed for a greater setback from

neighbors.

Mayor Johnson made the following comments:

- The developer was trying not to pay higher taxes for several years.

Council Member Probst made the following comments:

- The Council had rejected a proposal to allow multiple plat maps per phase.
- The Council should listen to the neighbors.
- The master plan approval process was arduous, and the applicant should stay with that approval.
- The request was a benefit to the developer and not the City.
- Did not like houses built in a row.

Council Member Van Wagoner made the following comments:

- Concerned that approving the request would encourage other developments with ten or more phases.
- Understood the increased taxes paid when agricultural property was developed.
- Stalled developments had weeds that then spread to other properties.
- Smaller phases kept unused ground from being disturbed.
- Liked having a covered deck behind a house so that patio furniture did not have to be moved inside during bad weather.
- Having a garden spot was nice.
- Those who did not own the property could not tell the applicant to protect their views.

Council Member Drury made the following comments:

- The Council's job was to fairly interpret the Municipal Code, which it did with the original approval.
- The existing agreement was fair.
- Was hesitant changing an agreement.
- If the applicant wanted larger pads, then that should have been done with the original approval.
- There was not a benefit to the City to adjust the phasing.

Council Member Simonsen made the following comments:

- Did not oppose the addition of the private areas.
- The wetlands should be protected.
- Questioned how many cranes used the wetlands.
- No additional units were being added.
- Was most concerned about the change to the phasing.
- There should not be a negative tax impact to the City.

- Concessions could be made to improve a development.

Mr. Berg asked if the Council would consider just moving the four units to the second phase? Council Member Simonsen was concerned with moving the units. Council Member Van Wagoner did not have any concerns.

9. 2019 Midway Trails Project / Award Contract (City Engineer – Approximately 15 minutes)
– Discuss and possibly award a contract for the 2019 Midway Trails Project.

Wes Johnson distributed a memo regarding the project (Contained in the supplemental file) and made the following comments:

- The low bid was \$488,000 but the budget for the project was \$370,000.
- Negotiated with the low bidder and reduced the cost to \$412,000. This included a perforated drainpipe for \$33,000 which was not related to the trails. The pipe would help address high groundwater near a home. The basement of the house had flooded because of the groundwater and a water leak.
- A pothole to check the level of the groundwater was also included in the bid.
- The reduction in the cost would not affect the quality of the trails.
- The bidder would use the same quantity prices for a change order as was in their original bid.

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

- Where would the additional money come from for the perforated pipe?
- Why was the budget being changed so soon in the fiscal year?
- The pothole could be done and then a decision made on the perforated pipe.
- Change orders significantly increased the cost of the public works vehicle building.
- Solving the flooding problem was more important than the trails.
- The perforated pipe should remain in the contract and then eliminated later if it was not needed.
- The cost for the pipe would have to come from capital reserves.

Motion: Council Member Van Wagoner moved to award a contract to BD Bush for \$412,992.25 with the following conditions:

- The pipe would be eliminated from the project if it would not fix the water problem.
- If it would fix the problem, then the budget would be amended at a future meeting. The additional funds, above the current budget, would be taken from the \$1.8 million in capital reserves.
- The Mayor was authorized to sign the contract documents.

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

10. Parking / Main Street (Mayor Johnson – Approximately 15 minutes) – Discuss parking along Midway Main Street.

Mayor Johnson made the following comments:

- This issue of parking would be on all council agendas.
- Would send a contract to a parking lot owner so the lot could be used for public parking.

11. Closed Meeting to Discuss the Purchase, Exchange, or Lease of Real Property and to Discuss the Character, Professional Competence, or Physical or Mental Health of an Individual.

Motion: Council Member Simonsen moved to go into a closed meeting.

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

Note: Closed meeting minutes are sealed and strictly confidential. Access to such minutes must be obtained through a court of law.

Motion: Council Member Van Wagoner moved to go out of the closed meeting and adjourn the regular meeting.

Second: Council Member Probst seconded the motion.

Discussion: None

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

Council Member Drury	Aye
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Council Member Orme
Council Member Probst
Council Member Simonsen
Council Member Van Wagoner

Excused from the Meeting
Aye
Aye
Aye

12. Adjournment

The meeting was adjourned at 9:25 p.m.

Celeste Johnson, Mayor

Brad Wilson, Recorder

DRAFT