

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

**Tuesday, 1 March 2022, 6:00 p.m.
Midway Community Center, 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, 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 Pro Tempore Drury called the meeting to order at 6:04 p.m. He excused Mayor Johnson.

Members Present:

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
Shane Owens, Public Works Assistant Crew
Chief/Cemetery Sexton
Nancy Simons, Accounting
Brad Wilson, Recorder

Members Excused:

Celeste Johnson, Mayor

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

Mayor Pro Tem Drury led the Council and meeting attendees in the pledge of allegiance. Council Member Dougherty gave the prayer and/or inspirational message.

2. Consent Calendar

- a. Agenda for the 1 March 2022 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 15 February 2022 City Council Work Meeting
- d. Minutes of the 15 February 2022 City Council Closed Meeting
- e. Minutes of the 15 February 2022 City Council Regular Meeting
- f. Resolution 2022-05 approving compensation for council members serving on various boards
- g. Resolution 2022-11 adopting an updated pre-disaster mitigation plan for Midway City

- h. Resolution 2022-13 urging sustained and increased support in the annual state budget for the LeRay McAllister Fund.

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

Michael Henke explained that the mitigation plan was just a draft and should not be adopted that evening. He added that the City should have its own disaster mitigation plan.

Council Member Simonsen noted that he made the motion, electing a mayor pro tempore, at the 15 February 2022 council regular meeting. He indicated that Council Member Drury seconded the motion.

Motion: Council Member Simonsen moved to approve the consent calendar as listed with the following changes:

- Item “g” not be adopted because it was a draft.
- The 15 February 2022 council regular meeting minutes be corrected to show that Council Member Simonsen made the motion electing a mayor pro tempore with Council Member Drury seconding it.

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

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

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

4. Department Reports

Representative Kohler / Questions

Council Member Orme reported that State Representative Mike Kohler would be at the next council meeting to discuss the recent legislative session.

Community Center / Roof

Council Member Orme reported that the community center roof would be temporarily fixed until a final plan was approved for the Town Square.

Wasatch Issues Conference

Council Member Dougherty reported that important items were discussed at the Wasatch Issues Conference.

Biathlon Youth & Jr. World Championships

Council Member Drury reported that the Youth & Jr. Biathlon World Championships, held at Soldier Hollow, were successful.

Southfield Park / Additional Pickleball Courts

Council Member Simonsen reported that additional pickleball courts had been proposed for the Southfield Park. The Parks, Trails, and Trees Committee recommended that the City contribute to the project. A \$40,000 contribution, which could be split over two years, was requested

Parks Committee / Trail Maintenance Plan / Parks Maintenance Standards

Council Member Simonsen reported that the Parks, Trails, and Trees Committee was preparing a trails maintenance plan and parks maintenance standards.

Valais Park / Name Change

Council Member Simonsen reported that the name of the Valais Park had been changed to Burgi Hill Park.

Planning / Meeting and Survey

Council Member Drury reported that a public meeting would be held, and a survey could be taken, regarding future planning for the Midway.

Alpenhof Park / Improvements

Council Member Simonsen reported that the City was continuing work on improvements to the Alpenhof Park.

HVRR / Events

Council Member Drury reported on events to be held by the Heber Valley Railroad.

5. Farmers' Market / Report (Athina Koumarela – Approximately 10 minutes) – Receive a report on the Midway Farmers Market.

Chris Piper gave a presentation on the farmers' market and reviewed the following items:

- Recap of the 2021 season
- Vendors
- Pictures
- Products
- Community support
- Updates for the 2022 season

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

6. Financial Statements / Audit Report (Approximately 15 minutes) – Receive a presentation on the fiscal year 2021 financial statements (Ryan Child) and audit (Ben Probst).

The item was not considered.

7. Resolution 2022-12 / Budget Amendment (Financial Officer – Approximately 20 minutes) – Discuss and possibly approve Resolution 2022-12 amending the Fiscal Year 2022 Budget for Midway City. **Public Hearing**

Nancy Simons gave a presentation regarding the proposed budget amendment. She specifically reviewed the anticipated revenue in the General Fund and the Water Fund. She also reviewed the reserves in the Capital Improvement Projects (CIP) Fund.

Note: A copy of Ms. Simons' presentation is contained in the supplemental file.

Council Member Simonsen wanted to see the following items:

- The amount in the CIP Fund reserves before and after excess funds were transferred from the General Fund.
- What brought the amount down since that transfer.
- The five-year reserve balance in the CIP Fund.

Public Hearing

Mayor Pro Tem Drury opened the hearing and asked if there were any comments from the public. He closed the hearing when no public comment was offered.

Motion: Council Member Orme moved to approve Resolution 2022-12 amending the FY 2022 Budget.

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

8. The Village, Phases 1 – 3 / Preliminary Approval & Conditional Use Permit (Dan Luster, Midway Heritage Development LLC – Approximately 2 hours) – Discuss and possibly grant preliminary approval and a conditional use permit for The Village, Phases 1 – 3 located at 541 East Main Street (Zoning is C-2). **Public Hearing**

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

- Phasing
- Conditional use permits and mitigation
- Land use summary
- Location of the project
- Surrounding area
- Layout
- Sensitive lands map
- Site plan
- Open space
- Access
- Changes
- Setbacks
- Unit landscaping
- Main Street traffic signal
- Trails
- Roads
- Discussion items
- Water rights
- Traffic study
- Roads & traffic circulation
- Main Street improvements
- Density
- Parking
- Architectural theme
- Drawings
- Required commercial square footage
- Maximum height of structures
- Property owners' association (POA)
- Geotechnical report

- Location of mailboxes
- Transient Rental Overlay District (TROD)
- Transient rental units
- Commercial area landscaping
- Residential area landscaping
- Lighting plan
- Automotive shop property
- Traffic signal at Main Street & River Road
- Entry planter islands
- Private street profiles
- Snow storage plan
- Letter from the City Engineer
- Letter from the Wasatch County Solid Waste Special Service District
- Solid waste collection
- Water board recommendation
- Possible findings
- Proposed conditions
- Letter from the Wasatch County Fire District and issues that still needed to be addressed.
- Garages
- Trees

Mr. Henke also made the following comments:

- This would be the only time the conditional use permit was considered.
- Any additional water and parking for the commercial uses would have to be provided to the City.
- The applicant now owned Midway Automotive.
- More detail was needed on the boundary landscaping.
- Public access would only be allowed on the main roads and not the alleys.
- The Midway Irrigation Company had not yet approved the piping plan for the irrigation ditch. Steve Farrell, Irrigation Company President, said this could be done by phase. The ditch should be left open as much as possible.
- The required water rights were in escrow. Two of the rights needed change orders. Did not know what the reduction would be from the State Engineer.
- The signal light at Main Street and 400 East would have to be installed before the plat map for Phase Three could be recorded or construction begun.
- The units allowed as transient rentals were noted in an exhibit in the master plan agreement.
- Snow plowed from the streets would be hauled to designated areas.
- Wanted to include a wall on the west boundary and parking.

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

Wes Johnson reviewed the possible improvements to Main Street along the front of the project. He made the following comments:

- The landscaping strip could taper out and then back in for the signal light. A standard

- UDOT design would be used. The location of the taper could vary.
- Last heard from UDOT that the road would be widened from 300 East to the Hamlet Park.

Dan Luster, applicant, reviewed the history, architecture, and streetscape for the project. He indicated that he spent a lot of money making it the best project possible. He wanted to do the first and second phases together.

Public Hearing

Mayor Pro Tem Drury opened the hearing and asked if there were any comments from the public.

Quinn Calder

Mr. Calder made the following comments:

- Requested that no more traffic be diverted by his house.
- Appreciated the Council trying to keep Midway rural.
- The intersection of 300 North and River Road would be a problematic corner.
- How much fill would be brought in for the project?

Wes Johnson responded that the 300 North and River Road intersection met sight and code requirements. He added that there would be an island at the entrance.

Michael Henke responded that the units in the project could not be taller than 35 feet from natural grade.

Kim Loertscher

Mr. Loertscher liked the most recent plan for the project. He requested that it have sufficient visitor parking.

Athina Koumarela

Ms. Koumarela asked about the units and open space on Memorial Hill. Mr. Henke responded that the units would be below the irrigation ditch.

She asked how tall the walls would be. Mr. Henke responded that they would be from four to six feet.

Mayor Pro Tem Drury closed the hearing when no further public comment was offered.

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

- The density of the project was less than half of what was allowed.

- There would be 8.32 acres of open space.
- The alleys would have two parking spaces per unit.
- Street parking would be for guests.
- The traffic signal was nonnegotiable.
- The improvements on Main Street would match those further west along the road. Did not know if all the improvements would be done with Phase One.
- Was waiting for UDOT to approve the light design.

Motion: Without objection, Mayor Pro Tem Drury recessed the meeting at 8:12 p.m. He reconvened the meeting at 8:22 p.m.

Dan Luster made the following additional comments:

- The trail on Memorial Hill would be used more if it went through the open area instead of going directly from the parking lot.
- The development company would include a builder who would construct the commercial buildings.
- Wanted to eliminate any structures next to the pond.
- The City requested the bulb-outs on Main Street.
- Wanted to retain flexibility by not designating which commercial buildings would have two stories.

Paul Berg made the following additional comments:

- The pond would be filled with irrigation water and have an aerator or pump for circulation. The irrigation ditch would not flow into the pond.
- Areas were designated for snow storage.
- The Planning Commission recommended that all the units be in the TROD. The applicant was not making that request.
- Phases One and Two would be connected with pavers under the grass. This would be an emergency access and not an invitation for public use.
- The project would again be considered by the Water Board before final approval. Issues like water for the bump-outs on Main Street would be addressed at that time.
- Pointed out the reduction in open space because that was not shown to the Council prior to the meeting.
- There would be a small space for additional parking on the east side of the project.
- The Postal Service wanted one location for mailboxes. The mailboxes would be next to the POA office and not part of the commercial square footage.
- The issue of selling commercial space could be addressed at final approval.

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

- The open area going from Main Street to the Memorial Hill should not be blocked with trees.
- Parking on Main Street would depend on UDOT.
- Access to Memorial Hill including trails should be controlled.
- Vegetation softened open areas.
- Detail was needed on accessing the storm drains.

- The commercial buildings could be sold.
- The commercial buildings had to be approved by the Vision Architecture Committee (VAC).
- The setbacks met or exceeded what was required.
- Parking on Main Street was a concern. UDOT would accept input on the road.
- There would be room for parking on Main Street even with a center turn lane.
- The available width for a full road profile, including in front of the Granary, should be verified.
- Approval from UDOT was required before final approval could be considered by the City.
- Main Street from 300 East to 400 East would be improved when the signal light was installed. At that time the road should also be improved to the Granary.
- UDOT did not need to approve the River Road access.
- Main Street would not be improved from the Granary to Michie Lane.
- The Midway Irrigation Company water shares, turned over to the City, would cover the first two phases and maybe the third.
- The amount of water needed would vary depending on the commercial uses.
- No plat map would be recorded without sufficient water.
- Piezometers had been installed but no data had been submitted.
- The geotechnical firm hired by the applicant had not found any additional ground water.
- The garbage dumpsters should not inhibit parking. The garbage should be emptied more often rather than having more dumpsters.
- The City could only limit the hours of operation for a business using its nuisance ordinance or the alcohol permit.
- The conditional use permit (CUP) was for the mixed-uses throughout the project. Additional CUPs might be needed depending on the eventual uses.
- More information was needed on the landscaping.
- The CUP should be tabled until final approval.

Motion: Council Member Simonsen moved to continue the CUP, until final approval was sought for any phase and the associated details included, with the applicant addressing the discussed issues including the following items:

- The wall along the Inez Wilde property and extending to the north were there was a parking area.
- The berm on the west extending north of the parking area and along the alleyway.
- The wall along the eastern side including the parking area.
- The berm along the Steven's property.
- The berm on the northeast.
- These barriers were to mitigate the impact of light and noise from vehicles.
- An updated lighting plan which complied with the pending ordinance.
- The impacts of noise off the façade of the building on Main Street.
- Everything else discussed that evening.

Second: Council Member Dougherty seconded the motion.

Discussion: Council Member Payne asked if the proposal was vested under the current code. Michael Henke responded that it was. Council Member Simonsen indicated that the items in his motion were mitigating issues related to the CUP.

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

Motion: Council Member Simonsen moved to grant preliminary approval for The Village, Phases One through Three as presented 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 were rented on a short-term basis.
- The developer appeared to meet the commercial parking requirements but was 17 stalls short of meeting the residential stall requirements for Phase One through Three. They would need to meet this requirement for final approval.
- The proposal appeared to comply with the requirement for 20% of the square footage being commercial as required by the mixed-use code.
- The infrastructure plan for the Midway Irrigation Company ditch, that crossed the property, would be approved before final approval was granted.
- The River Road entrance planter would be included on the plans for final approval.
- Show for final approval that the dumpster locations would not interrupt any parking.
- All the issues discussed would be addressed for final approval.

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

9. Ordinance 2022-07 / Cemetery Regulations (City Attorney – Approximately 10 minutes) – Discuss and possibly adopt Ordinance 2022-07 amending Chapter 2.16 (Cemetery) of the Midway City Municipal Code regarding cemetery regulations.

Corbin Gordon gave an overview of the proposed regulations. He indicated that the City was addressing problems with the right to be buried on burial spaces. He noted that the proposed ordinance had been discussed in detail at the work meeting that evening.

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

- Should a purchase be limited to four spaces? Should this be increased if the purchase

- fee was increased?
- Should the number of spaces be limited by individual rather than household? The number of people in a household was transitory. Enforcement by household would be difficult.
- People usually bought burial spots in pairs.
- The City did not buy back burial rights, but they could be sold to someone else.
- The goal should be to conserve burial spaces for residents.

Motion: Council Member Orme moved to approve Ordinance 2022-07, regarding cemetery regulations, with the following changes and findings:

- Four burial spaces may be purchased by each adult resident.
- The ordinance would start the adjudication process.
- It would help resolve the ownership of burial spaces purchased years earlier.

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

10. Resolution 2022-06 / Cemetery Fees and Policies (City Attorney – Approximately 10 minutes) – Discuss and possibly approve Resolution 2022-06 amending the Midway City Fee Schedule regarding cemetery fees and the Midway City Policies and Procedures regarding cemetery policies.

Motion: Council Member Orme moved to continue the item until the next council meeting.

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

11. Ordinance 2022-08 / Water Rights for Lots of Record (City Attorney – Approximately 15

minutes) – Discuss and possibly adopt Ordinance 2022-08 amending Title 10 (Water) of the Midway City Municipal Code regarding water rights for lots of record.

Michael Henke gave a presentation regarding the proposed ordinance and made the following comments:

- The Municipal Code did not address water rights for lots of record.
- The minimum amount of water would need to be turned in for the minimum required acreage in the zone. The rest of the property would only be irrigated if there were sufficient water rights.
- The current practice would be codified.

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

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

- Why not require the same amount of water as if a subdivision was being built on the property?
- Would the proposal allow someone to sell water rights and leave a portion of a property dry?
- It would allow someone to build a large house without developing the property.
- Water was only required for a lot of record if the owner wanted a water connection.
- The ordinance was adjusted to remove redundancies.
- Some lots of record already had water as part of the Provo River Decree.

Motion: Council Member Dougherty moved to table the item.

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


12. Closed Meeting to Discuss Pending or Reasonably Imminent Litigation and the Purchase, Exchange, or Lease of Real Property

A closed meeting was not held.

13. Adjournment

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

The meeting was adjourned at 10:11 p.m.



Celeste Johnson, Mayor
Jeff Duvy, Mayor Pro Tem



Brad Wilson, Recorder