



Memo

Date: 25 May 2023

To:

Cc:

From: Brad Wilson, City Recorder

RE: Minutes of the 16 May 2023 City Council Regular Meeting

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

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

**Tuesday, 16 May 2023, 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 Johnson called the meeting to order at 6:00 p.m.

Members Present:

Celeste Johnson, Mayor
Steve Dougherty, Council Member
Jeff Drury, Council Member (Arrived at 7:30
p.m.)
Kevin Payne, Council Member
JC Simonsen, Council Member

Staff Present:

Michael Henke, Planning Director
Wes Johnson, Engineer
Brad Wilson, Recorder

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 Simonsen gave the prayer and/or inspirational message.

2. Consent Calendar

- a. Agenda for the 16 May 2023 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 2 May 2023 City Council Work Meeting
- d. Minutes of the 2 May 2023 City Council Regular Meeting

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

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

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	Excused
Council Member Orme	Excused
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.

HL&P / Report

Jared Wright, Heber Light & Power Company (HL&P), gave a report and reviewed the following items:

- Time of use rates
- Seasonal power usage
- On-peak and off-peak usage
- Solar power
- Distributed generation
- Voltage regulation
- Protecting equipment
- Circuit boundaries

Mr. Wright also made the following comments:

- The time of use rates would replace net metering.
- HL&P wanted to avoid more expensive energy.
- It wanted to avoid reaching the capacity of its system.

Council Member Dougherty made the following comments:

- Time of use rates would be optional for most users then become mandatory in 2025.
- HL&P purchased most of its power. The cost had increased dramatically.
- It would implement power cost adjustments to recoup or return differences in the cost of power and the amount billed to customers. This would avoid rate changes.

Wood Carving Event

Craig Simons thanked the Council for the use of the Midway Town Hall for the recent wood carving event. He noted that local hotels and restaurants benefited from the event.

No further comments were offered.

4. Department Reports

Affordable Housing / Fees

Council Member Payne reported that the Wasatch County Housing Authority was no longer able to collect fees for affordable housing and its funds were decreasing. He indicated that its costs might have to be allocated to local governments. He added that the Housing Authority was seeking the help of the Mountainland Association of Governments (MAG) until it could hire a director.

Drought

Council Member Dougherty reported that the drought had lessened. He noted that the City received most of its water from wells and springs.

Pressurized Irrigation / Turn On

Council Member Dougherty reported that the pressurized irrigation system was being turned on by areas. He recommended that residents clean their sprinkler system filters to help maintain pressure.

Midway Business Alliance / Attendance

Council Member Dougherty hoped for better attendance at the Midway Business Alliance's meetings.

HL&P / Second Point of Interconnect

Council Member Dougherty reported that HL&P was constructing a second point of interconnect.

5. Health Department / Annual Report (Sara Simonsen – Approximately 15 minutes) – Receive an annual report from the Wasatch County Health Department.

Jay Eckersley, Wasatch County Board of Health, and Jonelle Fitzgerald, Wasatch County Health Officer, presented the annual report for the Wasatch County Health Department and covered the following items:

- Medical direction
- Scientists
- Vital records
- Staff
- Mission
- Improving community health status
- Partners
- Image and identity
- Programs and services
- Budget
- Public health indicators
- County health rankings
- Highlights from 2022
- Funding
- State audit
- Health insurance and immigrants

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

6. Tentative FY 2024 Budget / Public Hearing (Budget Officer – Approximately 30 minutes) – Receive public comment on and discuss the adopted tentative FY 2024 Budget for Midway City. **Public Hearing**

Council Member Simonsen reported that the cost for improving Alpenhof Park might be higher than expected.

Mayor Johnson reported that the cost to repair the tennis courts at Burgi Hill Park was also higher than expected.

Council Member Payne reported that the seed money budgeted for small open space parcels might be sufficient for just one parcel.

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.

7. Meadows at Dutch Canyon / Plat Amendment (Berg Engineering – Approximately 20 minutes) – Discuss and possibly deny, continue, or grant a plat amendment for the Meadows at Dutch Canyon Subdivision located at 787 East Dutch Mountain Drive. **Public Hearing**

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

- Land use summary

- Location of the development
- Existing plat map
- Proposed plat map
- Irrigation ditch
- Possible findings
- Proposed condition

Mr. Henke also made the following comments:

- The amendment would combine two lots.
- Mike Kohler, Midway Irrigation Company Manager, requested that the irrigation ditch easement be shown on the plat map. The Company needed the easement to maintain the ditch.
- Driveways were not limited on local roads.

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 prescriptive irrigation easement should not be dedicated on the plat map, or it should at least be identified as a prescriptive easement.
- A prescriptive easement had greater rights.
- The City Attorney should give an opinion on the easement issue.
- A plat map for the property to the west had notes regarding the easement.
- Easement abandonment for nonuse was not allowed in Utah.
- Lot owners needed to know how to maintain the ditch.
- The house on the property might be large and not provide more open space.
- The irrigation easement was wider than the public utility easement.

Public Hearing

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

Lynn Russell

Mr. Russell made the following comments:

- Owned the property north of the amendment.
- Mike Kohler said that he would maintain the ditch.
- The Irrigation Company had dug out the ditch.
- Supported the lots being combined.

Nathan Lord, Applicant

Mr. Lord made the following comments:

- The house proposed for the lots would be 4,000 square feet.
- Would apply for an urban farming assessment for the property.

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

Motion: Council Member Simonsen moved to approve the plat amendment with the following findings and conditions:

- Potential trips per day generated from the two lots would be reduced.
- Density in the subdivision would be reduced.
- The area would feel more open because one lot was eliminated, and the applicant stated that only a 4,000 square foot house would be built.
- No public street, right-of-way, or easement would be vacated or altered.
- Legal staff would review the best way to note the irrigation easement on the plat map to the satisfaction of the Midway Irrigation Company, and to preserve the most authoritative easement which in this case was prescriptive.

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	Excused
Council Member Orme	Excused
Council Member Payne	Aye
Council Member Simonsen	Aye

8. Mountain Spa Subdivision / Plat Amendment (Berg Engineering – Approximately 45 minutes) – Discuss and possibly deny, continue, or grant a plat amendment for the Mountain Spa Rural Preservation Subdivision located at 12 East Burgi Lane. **Public Hearing**

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

- Land use summary
- Location of the development
- Current plat map
- Proposed driveway
- Aerial photo of Midway Farms No – 2, Lot 5 with the access
- Letter from the owner of Lot 6 which was just north of the proposed access
- Photographs of the lot
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- The City could not stop someone from using their property as an access.
- The question was what the address would be for emergency services.
- The owner of Lot 6 was concerned about vehicle headlights and noise.
- The sewer would remain on the property line.
- The applicant wanted to connect the culinary water through the proposed access which would be a shorter distance.
- The existing home on Lot 5 would remain.
- The Municipal Code did not prohibit the access.
- The amendment did not have to meet the current frontage requirements.
- Applied the requirements for a rural preservation subdivision.
- The amendment allowed the City to impose conditions.
- Mountain Spa Subdivision, Lot 3 was still in the transient rental overlay district (TROD).

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

Note: Council Member Drury arrived at 7:30 p.m.

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

- The access complied with the fire code.
- The access could be on Burgi Lane and meet the current frontage requirements.
- The proposed plat map did not include Lot 5 where the access was proposed.
- Eliminating the access onto Burgi Lane would protect open space.
- Landscaping could be added along the boundary until the proposed driveway curved.
- There was not enough room for a berm to shield Lot 6.
- The current fence between Lot 5 and 6 was appealing but could be replaced with a sight obscuring fence.

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

- Approving the plat amendment would eliminate the access on Burgi Lane.
- Normally residents would not expect a new access in an existing subdivision.
- The location of the access prevented landscaping on Lot 5 to shield Lot 6. It could be moved a little to the south to allow some landscaping.
- The plat map should not include a private easement. The easement would not be in the subdivision that was being amended.
- The access on Burgi Lane was problematic because it came out onto a road going downhill.
- The City should not be responsible for the easement.
- A snow storage easement was needed on Lot 5.
- Lot 5 could be sold.
- The proposed access was not safe because of its layout and orientation to the existing house.
- An access agreement was needed. The shared driveway agreement for the access to Burgi Lane could be transferred to the proposed access.
- Lot 5 could not be subdivided because of the frontage.

- The agreement should address the parking of broken-down vehicles.
- Moving the access to the south could be too close to the existing house.
- The neighbor who owned Lot 6 should be protected.
- There should be five feet of land between the access and the north property line.
- Should a fence be installed between the existing house on Lot 5 and the driveway?
- The safety of children living in the existing house was a concern.

Public Hearing

Mayor Johnson opened the hearing and asked if there were any comments from the public. She read the letter sent by the owner of Lot 6.

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

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

Motion: Without objection, Mayor Johnson recessed the meeting at 8:22 p.m. She reconvened the meeting at 8:30 p.m.

Mr. Berg made the following comments:

- The driveway could be moved further to the south.
- Landscaping would be installed along the north side of the driveway until it turned.
- A fence would not be installed at that time on the north side of the driveway and a fence would not be installed on the south side.
- The shared driveway agreement would be updated.
- There would be a private water and hydrant agreement.
- The easement would be recorded separately.

Joel Clark, applicant, did not know if there was a door on the north side of the house on Lot 5. He noted that the house was angled which provided more space.

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

- The Mountain Spa developer did not oppose the amendment.
- Whoever lived in the house on Lot 5 had the obligation to oversee their children.
- Deliveries might need to be left at the street at the beginning of the access.
- The access should be as far north as possible to provide room and visibility next to the house.
- Drivers exiting the garage on Lot 5 needed to be aware of drivers using the driveway.
- The Ameyalli Resort could be used for construction access.

Motion: Council Member Payne moved to approve the Mountain Spa Subdivision plat map amendment with the following findings and conditions:

- The driveway and utility access for Mountain Spa Rural Preservation Subdivision, Lots 3 and 4 would be removed from Burgi Lane and instead would access from 100 West.
- Mountain Spa Rural Preservation Subdivision, Lots 3 and 4 would have addresses based on 100 West.
- The driveway access that crossed the conservation easement on Lot 4 would be removed.
- No public street, right-of-way, or easement would be vacated or altered.
- If the plat amendment was approved, then a driveway was not allowed in the conservation easement area of Lot 4 to help keep the area as open and undisturbed as possible.
- Landscaping would be installed along the boundary line of Midway Farms No - 2 Subdivision Lots 5 and 6, along the driveway, to help mitigate lights and noise from vehicular traffic.
- The driveway, until it curved, would be five feet from the north boundary line and be pinched down next to the garage to prevent the transmission of nuisance light and noise from vehicles.
- The developer and bond provider of the Mountain Spa Rural Preservation Subdivision agreed to the infrastructure change and the bond and plans were amended to cover the new infrastructure plans.
- Evidence would be provided of a private easement agreement which included a snow storage provision.
- The plat map would describe the easement as private.

Second: Council Member Dougherty seconded the motion.

Discussion: Council Member Dougherty asked if a survey would be attached to the agreement showing the location of the easement. Mr. Berg responded that it would be attached as an exhibit.

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

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

Council Member Drury directed staff to begin the process of removing the two lots, in the Mountain Spa Subdivision, from the TROD. Mayor Johnson added that the lots being in the TROD was contrary to the spirit of the related conservation easement.

9. Ordinance 2023-08 / Building Heights (City Planner – Approximately 30 minutes) – Discuss and possibly deny, continue, or adopt Ordinance 2023-08 amending Section 16.13.100 (Maximum Height Provisions For All Buildings) of the Midway City Municipal Code. **Public Hearing**

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

- Current code
- Height examples
- Examples based on the current code
- General Plan
- Lighting concerns
- Possible findings

Mr. Henke also made the following comments:

- The Municipal Code allowed extra tall buildings in Midway.
- Two portions of the code were contradictory.
- Proposed removing Subsection 16.13.100 (E) of the Municipal Code.
- The proposal would make increased heights a legislative request.
- What was the height of the church house on south Center Street?
- The ordinance could be changed to allow heights up to 40 to 45 feet.
- A building with a lower pitched roof could be 35 feet high or less.

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 Payne moved to approve Ordinance 2023-08, amending Section 16.13.100 (Maximum Height Provisions For All Buildings) of the Midway City Municipal Code, with the following findings:

- The proposed amendment would limit the height of all structures to 35’ except in the Recreation Resort Zone.
- The proposed change would eliminate potential future lighting issues that might occur because of the lighting requirements for taller structures.
- The proposed amendment would help preserve view corridors and viewsheds as described in the General Plan.
- The proposed change would ensure that public and religious buildings were the same height scale as other structures in Midway.

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	Excused
Council Member Payne	Aye

10. Adjournment

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

The meeting was adjourned at 9:08 p.m.

Celeste Johnson, Mayor

Brad Wilson, Recorder

DRAFT