



Memo

Date: 13 September 2023
To:
Cc:
From: Brad Wilson, City Recorder
RE: Minutes of the 15 August 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, 15 August 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 6:08 p.m. She excused Council Member Payne.

Members Present:

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

Staff Present:

Corbin Gordon, Attorney
Michael Henke, Planning Director
Wes Johnson, Engineer
Katie Villani, Planner
Brad Wilson, Recorder

Members Excused:

Kevin Payne, 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 Dougherty gave the prayer and/or inspirational message.

2. Consent Agenda

- a. Agenda for the 15 August 2023 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 18 July 2023 City Council Work Meeting
- d. Minutes of the 18 July 2023 City Council Regular Meeting
- e. Minutes of the 18 July 2023 City Council Closed Meeting
- f. First One Year Extension of the Approval for the Reed Bezzant Subdivision, Lot 11 (Amended) Located at approximately 100 South 700 East (Zoning is R-1-11)

- g. First One Year Extension of the Approval for the Kim Bezzant Subdivision (Second Amendment) Located at approximately 100 South and 600 East (Zoning is R-1-11)
- h. Conclude the warranty period and release the remainder of the bond for the Indian Summer Subdivision, located at 300 East and 200 North, subject to the payment of all fees due to Midway City.

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

Motion: Council Member Drury moved to approve the consent agenda with all the items listed as part of the approval.

Second: Council Member Orme seconded the motion.

Discussion: Council Member Dougherty noted that certain requirements had to be met before the Bezzant subdivisions could be recorded. He asked if those requirements had been completed. Michael Henke responded that there were no outstanding issues.

Council Member Dougherty approved of the landscaping for the Indian Summer Subdivision.

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	Excused from the Meeting
Council Member Simonsen	Aye

Note: Council Member Simonsen abstained from voting on the minutes of the 18 July 2023 meetings because he was not in attendance.

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.

Rural Communities Opportunity Grant

Lori Haslam, outreach manager for the Governor’s Office of Economic Opportunity, gave a presentation on the Rural Communities Opportunity Grant.

No further comments were offered.

4. Department Reports

Roger Brooks / Presentation

Council Member Orme reported that Roger Brooks would give a presentation that week.

Town Hall / Retail Spaces

Mayor Johnson reported on the retail spaces in the Town Hall. She noted that the souvenir shop would move to the west side of the building.

Animal Control Services

Council Member Simonsen reported that animal control services in the area needed to expand. He indicated that various expansion options were being considered.

Homestead Trail and Utilities Project / Schedule

Council Member Simonsen reported that the project was on schedule.

Center Street Trail

Council Member Simonsen reported that a trail was being considered along the north section of Center Street.

Traffic Calming

Council Member Simonsen reported that traffic calming measures were being considered.

Road Striping / Change Order

Council Member Simonsen reported that road striping was being done as a change order.

Water System GIS / Bids

Council Member Simonsen reported that a geographic information system, for the City's culinary water system, had been let out for bid.

Law Enforcement / Other Municipalities

Council Member Simonsen reported that a staff member was contacting other small communities to see what they did for law enforcement.

Traffic Calming / Grant

Mayor Johnson reported that traffic calming could be part of a recent grant related to affordable housing and transportation.

Crosswalks

Council Member Simonsen reported that other local governments were using art to designate crosswalks and make them more visible. He also suggested that crosswalks be slightly raised.

Alpenhof Park / Improvements

Council Member Simonsen reported that he would get details on when the Alpenhof Park improvements would begin.

Parks / Playground Equipment

Council Member Simonsen reported that new playground equipment was being purchased for some of the City's parks.

Burgi Hill Park / Tennis Courts / Buck Rail Fence

Council Member Simonsen reported that the tennis courts at Burgi Hill Park were being replaced. He was also working on installing a buck rail fence on the east side of the park.

Town Square / Plan

Council Member Simonsen reported that the improvement plan for the Town Square was still being prepared.

Town Hall / Transformer / Smoke Detectors

Council Member Simonsen reported that the installation of a transformer for the Town Hall should be reviewed.

Mayor Johnson reported that smoke detectors and fire hardware were being installed in the Town Hall.

Ameyalli / Plan for Public Area

Council Member Simonsen reported that a plan was needed for the public area in the Ameyalli Resort.

Trails & Bike Paths / Cleaning

Council Member Dougherty reported that the trails and bike paths needed to be cleaned.

Main Street / Lights

Wes Johnson reviewed the installation of new streetlights along Main Street. He indicated that half of them would be eliminated.

Family Dinner in the Park

Mayor Johnson reported that the Family Dinner in the Park would be held on September 11th.

HVRR / Trail Project / Lawsuit

Mayor Johnson reported that the trail project, being done in conjunction with the Heber Valley Railroad, had been delayed because of a lawsuit.

HVSSD / Odor / Committee

Mayor Johnson reported that the Heber Valley Special Service District (HVSSD) would form a community involvement committee to address the odor from its sewer treatment facility.

MSD / Odor

Mayor Johnson reported that the Midway Sanitation District tested for odors coming from its manholes. She noted that the tests indicated minimal odor.

Suicide Prevention

Council Member Dougherty gave a presentation on suicide prevention. He specifically reviewed suicide rates in Utah, suicides by firearms, training, and available discounts on gun safes for attending a related class. He noted that the time of a suicide crisis was brief.

Note: A copy of Council Member Dougherty's presentation is contained in the supplemental file.

- 5. Farmstead Off Main Density Reduction Subdivision / Preliminary and Final Approval** (Summit Engineering – Approximately 30 minutes) – Discuss and possibly grant preliminary and final approval for the Farmstead Off Main Density Reduction Subdivision located at 101 West 100 South (Zoning is R-1-9). Recommended with conditions by the Midway City Planning Commission. **Public Hearing**

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

- Land use summary
- Location of the development
- Proposed plat map
- Utility plan

- Discussion items
- Water board recommendation
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- The parcel did not qualify for duplexes even though they were allowed in the zone.
- Kelly Lane was not a public street. Access would have to be from 100 South.
- The third proposed condition was not needed.
- The proposed lot with the existing house would be conforming.
- Neither of the two proposed lots would be flag lots.
- The shed on the northwest corner of the property did not have to be removed.
- A garage next to the existing house had to be removed to comply with setbacks.
- The proposal could have had greater density.
- Access on Kelly Lane was a matter between the property owners. The City was not opposed to it being used as a second access for the proposed lots.

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.

Lynette Wilson

Ms. Wilson made the following comments:

- She lived near the proposed development.
- Her neighborhood was under siege.
- The City approved four transient rentals in the area. She opposed the approvals.
- Could the houses on the proposed lots become nightly rentals? How many guests could be in the houses? Mr. Henke responded that the transient rental overlay district would have to be expanded to include the lots. He added that a transient rental could have up to 14 guests.
- People developing their property were selling other people's views of Timpanogos, etc.
- The property should be left as one lot.
- Did not want to lose more of the feel of the community.
- The existing house was historic.

Michelle Kelly

Ms. Kelly made the following comments:

- How would the property be accessed? Michael Henke responded that it could be accessed anywhere along its 100 South frontage.

- Her house was being squeezed on both sides.
- Could someone say that her house was no longer compliant?
- Why was the City not preserving rural Midway?

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

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

- Would the home on the new lot be out of place for the area?
- The proposal complied with the Municipal Code and had to be approved.
- The neighbors and the City did not own the property proposed for development. They could plead for its preservation or try to use bond funds to purchase it for open space.
- 100 South was not a high traffic road where driveways should be limited.
- The shed on the northwest corner was not an allowed nonconforming use because the proposal was a new application.
- The City had preserved many acres as open space.
- Owners should not be vilified because they wanted to use their land.

Motion: Council Member Simonsen moved to approve the Farmstead Off Main Density Reduction Subdivision, located at 101 West 100 South, for preliminary and final approval with the following findings and conditions:

- The proposed lots met the minimum frontage and width requirements for the R-1-9 zoning district.
- The proposal met the intent of the General Plan for the R-1-9 zoning district.
- The proposal complied with the requirements for the Density Reduction Subdivision code.
- The subdivision helped comply with the vision stated in the General Plan to preserve open space and a country/rural atmosphere.
- The lots would be deed restricted so they would never be further subdivided.
- The duration of Preliminary/Final Approval would be for one year from the date of approval of the development by the City Council.
- The deed restrictions that would be recorded on the lots would be submitted to the City for review and recorded immediately after the plat map was recorded.
- A note on the plat map was included with language that clearly stated that subdividing the lots was prohibited.

Second: Council Member Drury seconded the motion.

Discussion: Council Member Orme asked if the deed restrictions and the note on the plat map were redundant. Michael Henke responded that the deed restrictions would be found in a title search.

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

Council Member Dougherty	Nay
Council Member Drury	Aye
Council Member Orme	Aye

Council Member Payne
Council Member Simonsen

Excused from the Meeting
Aye

Council Member Dougherty indicated that he voted against the request because he felt the structure on the northwest corner was not allowed.

6. Resolution 2023-20 / Farmstead Off Main Density Reduction Subdivision Development Agreement (City Attorney – Approximately 5 minutes) – Discuss and possibly approve Resolution 2023-20 adopting a development agreement for the Farmstead Off Main Density Reduction Subdivision located at 101 West 100 South (Zoning is R-1-9).

Corbin Gordon indicated that the proposed agreement matched what had just been approved.

Motion: Council Member Orme moved to approve Resolution 2023-20 adopting the Farmstead Off Main Density Reduction Subdivision Development Agreement.

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	Excused from the Meeting
Council Member Simonsen	Aye

7. Wayne's Pond Rural Preservation Subdivision / Preliminary and Final Approval (Probst Family Trust – Approximately 30 minutes) – Discuss and possibly grant preliminary and final approval for the Wayne's Pond Rural Preservation Subdivision located at 378 West 500 South (Zoning is RA-1-43). Recommended with conditions by the Midway City Planning Commission. **Public Hearing**

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

- Land use summary
- Sensitive lands
- Location of the development
- Access
- Proposed plat map
- Wetlands map
- Discussion items
- Water board recommendation
- Proposed conditions
- Areas on the property where a house could be built.

Mr. Henke also made the following comments:

- There was a recorded access easement from 500 South to the property.
- A septic system would be required.
- The application was submitted when sensitive lands could still be counted as open space.
- The wetlands study still needed to be approved by the US Army Corp of Engineers.
- A shared driveway maintenance agreement was required.
- The pond could be filled in because it was manmade.
- The City Engineer could allow construction in the sensitive lands buffer zone.
- The Midway Irrigation Company had not yet provided a will-serve letter.
- The irrigation ditches on the property might need easements for the Irrigation Company.

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

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

- A fire hydrant on a city line and with a city easement might be needed depending upon the location of the house.
- The boundary of the sensitive lands should be fenced during construction.
- It should be noted that no irrigation water would be dedicated for the development.

Public Hearing

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

Ben Probst, Applicant

Mr. Probst indicated that he proposed the project to limit development and preserve the pond which his father built.

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

Motion: Council Member Simonsen moved to approve the Wayne's Pond Rural Preservation Subdivision, located at 378 West 500 South (Zoning was RA-1-43), with the following findings and conditions:

- 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.
- The lot would be deed restricted so it would never be further subdivided.

- The development would be subject to a shared driveway maintenance plan.
- The duration of Preliminary/Final Approval would be for one year from the date of approval of the development by the City Council.
- The deed restriction that would be recorded towards the lot would be submitted to the City for review and recorded immediately after the plat map was recorded.
- A note on the plat map would be included with language that clearly stated that subdividing the lot would be prohibited.
- A fire hydrant would need to be located within 500' of the future dwelling, measured by the route of a fire hose from the fire hydrant to the future home site.
- The Bio-West wetland study would be approved by the US Army Corps of Engineers before the plat map would be recorded.
- A shared driveway maintenance agreement would be submitted to the City that included the Nelson and Bonner properties.
- The related development agreement would be approved with the items required by the Council.

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	Excused from the Meeting
Council Member Simonsen	Aye

8. Resolution 2023-21 / Wayne's Pond Rural Preservation Subdivision Development Agreement (City Attorney – Approximately 5 minutes) – Discuss and possibly approve Resolution 2023-21 adopting a development agreement for the Wayne's Pond Rural Preservation Subdivision located at 378 West 500 South (Zoning is RA-1-43).

Corbin Gordon made the following comments regarding the proposed agreement:

- A requirement would be added to install a debris fence around the wetlands.
- It would be noted that no water needed to be dedicated for the wetlands.
- A will serve letter would be required from the Midway Irrigation Company.

Motion: Council Member Drury moved to approve Resolution 2023-21 adopting a development agreement with the items listed by the City Attorney.

Second: Council Member Orme seconded the motion.

Discussion: None

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

Council Member Dougherty	Aye
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Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Excused from the Meeting
Council Member Simonsen	Aye

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

Motion: Council Member Drury moved to go into a 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	Excused from the Meeting
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 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	Excused from the Meeting
Council Member Simonsen	Aye

10. Adjournment

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

The meeting was adjourned at 8:38 p.m.

Celeste Johnson, Mayor

Brad Wilson, Recorder

DRAFT