

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

**Tuesday, 5 December 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 6:11 p.m.

Members Present:

Celeste Johnson, Mayor
Steve Dougherty, Council Member
Jeff Drury, Council Member
Lisa Orme, Council Member (Participated electronically. She stopped participating during the meeting.)
Kevin Payne, Council Member
JC Simonsen, Council Member

Staff Present:

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

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 Calendar

- a. Agenda for the 5 December 2023 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 7 November 2023 City Council Work Meeting
- d. Minutes of the 7 November 2023 City Council Regular Meeting
- e. First One Year Extension of the Final Approval for the LaBarge Subdivision Located at 922 North Pine Canyon Road (Zoning is R-1-15 and R-1-22).

Note: Copies of items 2a through 2e are contained in the supplemental file.

Motion: Council Member Payne moved to approve the consent agenda as proposed.

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.

Crossroads: Change in Rural America

Courtland Nelson gave a presentation on the Smithsonian's exhibit *Crossroads: change in Rural America* which was at the Wasatch County Library. He indicated that Utah Humanities and the Center for Advanced Professional Studies (CAPS) also assisted with the exhibit.

2034 Winter Olympics

Mr. Nelson reported that Utah would likely host the winter Olympics again in 2034. He indicated that the event would be an opportunity for Midway with mutual benefits. He suggested that a conversation begin on the City's role during the event.

Soldier Hollow / Biathlon World Cup Event / Nordic Center

Mr. Nelson reported that a world cup biathlon event would be held at Soldier Hollow that winter. He also invited the Council to tour the new building at the Soldier Hollow Nordic Center when it was completed.

No further comments were offered.

4. Department Reports

Cemetery / Fence

Mayor Johnson reported that work began on the fence on the west side of the City's cemetery.

Animal Services / Restructuring

Council Member Simonsen reported that area animal control would be restructured for increased flexibility. He added that the issue would be brought back to the Council for feedback.

Homestead Trail / Paved / Snow Removal

Council Member Simonsen reported that the next section of the Homestead Trail had been paved. He indicated that an additional layer of asphalt would be laid the following year. He hoped that the trail could be plowed that winter.

North Center Street Trail / Grants

Council Member Simonsen reported that grant money was needed to quickly build a trail along the north section of Center Street. Wes Johnson responded that the road was being surveyed for the trail.

HVRR / North Pole Express

Mayor Johnson reported that the Heber Valley Railroad's (HVRR) North Pole Express was sold out for the season.

HVSSD / Website / Advisory Board / General Manager

Mayor Johnson reported that the Heber Valley Special Service District (HVSSD) was regularly updating its website. She also reported that HVSSD had formed a community advisory board. She added HVSSD's general manager resigned, and Wes Johnson was serving as the acting manager.

Ice Rink / Leak / Ice Making Process

Council Member Drury explained the ice making process for the City's ice rink. He reported that the ice had not been made for the season. He further explained that Commercial Mechanical had found and repaired a leak and completed its other work. He hoped that ice would be made the following week.

Boundary Commission / Member

Council Member Dougherty reported that the Wasatch County Boundary Commission would meet again on January 29th. He added that his replacement on the Commission should be appointed before then.

Irrigation Company / Member

Council Member Dougherty reported that the Midway Irrigation Company would hold its annual meeting and leadership elections on January 6th. He added that his replacement on the Company's board should be appointed before then.

5. The Market at Midway / Conditional Use Permit to Dispense Alcohol (Mike Holm, CJM Limited Liability Partnership – Approximately 10 minutes) – Discuss and possibly deny, continue, or approve a conditional use permit, to dispense alcohol, for The Market at Midway (formerly Ridley's Family Market) located at 42 West Main Street (Zoning is C-3). **Public Hearing**

6. Market Express / Conditional Use Permit to Dispense Alcohol (Mike Holm, CJM Limited Liability Partnership – Approximately 10 minutes) – Discuss and possibly deny, continue, or approve a conditional use permit, to dispense alcohol, for the Market Express (formerly Ridley's Express) located at 51 West Main Street (Zoning is C-2). **Public Hearing**

Mayor Johnson indicated that the conditional use permits would be the next items considered.

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

- Summary of the applications
- Locations of the businesses
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- Off premise liquor licenses were allowed near parks.
- The new owner would not make any significant changes to the businesses.
- No complaints were received regarding the businesses.
- Only management not ownership of the properties would change.
- The proposed conditions were the same as for the previous three alcohol-related conditional use permits.
- The findings were requirements by the State.

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

Council Member Dougherty indicated that there were problems with access to The Market at Midway and parking on north Center Street. He further indicated that parking along the street eliminated the site triangle. He noted that the applicant could not correct the problems but the City should. Michael Henke responded that no parking areas could be marked on the road. Council Member Simonsen requested an effective response from the City.

Public Hearing

Mayor Johnson opened the hearing, regarding the two conditional use permits, and asked if there were any comments from the public. She closed the hearing when no public comment was

offered.

Motion: Council Member Simonsen moved to approve the request for a conditional use permit to dispense alcohol at The Market at Midway with the following findings and condition:

- The proposed use was conditionally permitted within the Land Use Title and would not impair the integrity and character of the intended purpose of the subject zoning district and complied with all applicable provisions of the Municipal Code. In other words, the proposal would not have a significant impact on the neighborhood. The proposal simply extended a conditional use that was granted to the prior grocery store operator at the same location for the same use.
- The proposed use was consistent with the General Plan. No issues to the contrary had been identified.
- The approval of the conditional use or special exception permit for the proposed use complied with the requirements of state, federal, and Midway City or other local regulations. The applicant would obtain approval of the CUP, Local Consent, Business License, Alcohol License, and would obtain and comply with all applicable state licensing requirements of the Department of Alcoholic Beverage Services (DABS).
- There would be no potential, significant negative effects upon the environmental quality and natural resources that could not be properly mitigated and monitored. No issues had been identified, nor were any identified under the prior conditional use granted to Ridley's for the same operation (grocery store) at the same location. The design, location, size, and operating characteristics of the proposed use were compatible with the existing and future land uses with the general area in which the proposed use would be located and would not create significant noise, traffic, or other conditions or situations that might be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare of the City. The proposed use and associated traffic were consistent with the commercial uses in the commercial zone of the City and consistent with the prior use at this location.
- The subject site was physically suitable for the type and density/intensity of the proposed use. It appeared that the proposal was suitable based upon the existing approved use and was consistent with the prior equivalent use at the same location, formerly operating as Ridley's. There were adequate provisions for public access, including internal and surrounding traffic flow, water, sanitation, and public utilities, and services to ensure that the proposed use would not be detrimental to public health and safety. No detrimental impacts had been identified or became apparent under the prior equivalent use at the same location (Ridley's) under the CUP and local consent granted.
- The proposed conditional use permit would allow the selling of closed container alcohol at The Market on Main for consumption off the premises.
- The State did regulate this type of license and approval from the DABS was required. No alcohol-related signage would be visible on the exterior of the building or on the inside, visible from the outside.

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

Motion: Council Member Simonsen moved to approve the conditional use permit to dispense alcohol for the Market Express with the following findings and condition:

- The proposed use was conditionally permitted within the Land Use Title and would not impair the integrity and character of the intended purpose of the subject zoning district and complied with all applicable provisions of the Municipal Code. In other words, the proposal would not have a significant impact on the neighborhood. The proposal simply extended a conditional use that was granted to the prior convenience store operator at the same location for the same use.
- The proposed use was consistent with the General Plan. No issues to the contrary had been identified.
- The approval of the conditional use or special exception permit for the proposed use complied with the requirements of state, federal and Midway City or other local regulations. The applicant would obtain approval of the CUP, Local Consent, Business License, Alcohol License, and obtain and comply with all applicable state licensing requirements of the DABS.
- There would be no potential, significant negative effects upon the environmental quality and natural resources that could not be properly mitigated and monitored. No issues had been identified, nor were any identified under the prior conditional use granted to Ridley's for the same operation (convenience store) at the same location.
- The design, location, size, and operating characteristics of the proposed use were compatible with the existing and future land uses with the general area in which the proposed use was to be located and would not create significant noise, traffic, or other conditions or situations that might be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare to the City. The proposed use and associated traffic were consistent with commercial uses in the commercial zone of the City and consistent with the prior use at this location.
- The subject site was physically suitable for the type and density/intensity of the proposed use. It appeared that the proposal was suitable based upon the existing approved use and was consistent with the prior equivalent use at the same location, formerly operating as Ridley's Express.
- There were adequate provisions for public access, including internal and surrounding traffic flow, water, sanitation, and public utilities, and services to ensure that the proposed use would not be detrimental to public health and safety. No detrimental impacts had been identified or became apparent under the prior equivalent use at the same location (Ridley's Express) under the CUP and local consent granted.
- The proposed conditional use permit would allow the selling of closed container alcohol at the Market Express on Main for consumption off-premises.
- The State did regulate this type of license and approval from the DABS was required.
- No alcohol-related signage would be visible on the exterior of the building or on the inside, visible from the outside.

Discussion: Council Member Dougherty asked if there would be a restaurant in the Market Express. He also asked if the motion was clear that the conditional use permit did not apply to

the restaurant. Michael Henke responded that the permit did not apply to the restaurant. He added that a separate permit would be needed for the restaurant.

Revised Motion: Council Member Simonsen moved to approve the conditional use permit to dispense alcohol for the Market Express with the following findings and condition:

- The proposed use was conditionally permitted within the Land Use Title and would not impair the integrity and character of the intended purpose of the subject zoning district and complied with all applicable provisions of the Municipal Code. In other words, the proposal would not have a significant impact on the neighborhood. The proposal simply extended a conditional use that was granted to the prior convenience store operator at the same location for the same use.
- The proposed use was consistent with the General Plan. No issues to the contrary had been identified.
- The approval of the conditional use or special exception permit for the proposed use complied with the requirements of state, federal and Midway City or other local regulations. The applicant would obtain approval of the CUP, Local Consent, Business License, Alcohol License, and obtain and comply with all applicable state licensing requirements of the DABS.
- There would be no potential, significant negative effects upon the environmental quality and natural resources that could not be properly mitigated and monitored. No issues had been identified, nor were any identified under the prior conditional use granted to Ridley's for the same operation (convenience store) at the same location.
- The design, location, size, and operating characteristics of the proposed use were compatible with the existing and future land uses with the general area in which the proposed use was to be located and would not create significant noise, traffic, or other conditions or situations that might be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public interest, health, safety, convenience, or welfare to the City. The proposed use and associated traffic were consistent with commercial uses in the commercial zone of the City and consistent with the prior use at this location.
- The subject site was physically suitable for the type and density/intensity of the proposed use. It appeared that the proposal was suitable based upon the existing approved use and was consistent with the prior equivalent use at the same location, formerly operating as Ridley's Express.
- There were adequate provisions for public access, including internal and surrounding traffic flow, water, sanitation, and public utilities, and services to ensure that the proposed use would not be detrimental to public health and safety. No detrimental impacts had been identified or became apparent under the prior equivalent use at the same location (Ridley's Express) under the CUP and local consent granted.
- The proposed conditional use permit would allow the selling of closed container alcohol at the Market Express on Main for consumption off-premises.
- The State did regulate this type of license and approval from the DABS was required.
- No alcohol-related signage would be visible on the exterior of the building or on the inside, visible from the outside.
- The CUP did not apply to the section of the Market Express where a restaurant was located.

Second: Council Member Drury seconded the motion.

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

7. Ordinance 2023-14 / Boundary Line Adjustments (City Planner – Approximately 30 minutes) – Deny, continue, or adopt Ordinance 2023-14 amending Title 16 (Land Use) of the Midway City Municipal Code regarding boundary line adjustments, affecting open space and common area, in standard subdivisions and planned unit developments. **Public Hearing**

Katie Villani gave a presentation regarding the proposed ordinance and reviewed the following items:

- Code amendment
- Current language
- Proposed language
- Discussion items
- Possible findings

Ms. Villani asked that the ordinance be adopted that night because a notice of pending ordinance would expire before the next council meeting.

Note: A copy of Ms. Villani’s presentation is contained in the supplemental file.

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

- Common area and open space could be different. Once that designation was made then the proposed ordinance would apply.
- There were two kinds of open space. The general open space in a development and the open space preserved with a conservation easement. Residents assumed the two were the same. The record should clarify the difference between the two. A future council could alter the first type. The Municipal Code did distinguish between the two.
- According to the proposal, the size of a lot in a development could be reduced but not increased to reduce open space or common area.
- Could the sale of open area affect an internal boundary line? The second line in the proposal should apply to both internal and external boundary lines.

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.

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

- The proposal required that open space be maintained as such. It would allow an HOA to build a clubhouse, pool, or similar structure. in the open space.
- An HOA should be allowed to lease the open space for uses like grazing.

Motion: Council Member Payne moved to approve Ordinance 2023-14 regarding boundary line adjustments with the following findings and conditions:

- The proposed amendment clarified the language of Section 16.16.070.A.16 by eliminating a fragmented sentence without changing the intent and meaning of the provision.
- The provision continued to prohibit the sale of designated open space or common area that would alter the boundary line of the subdivision or PUD, but the language now read as a stand-alone sentence rather than a sentence fragment.
- The provision continued to prohibit boundary line adjustments that would affect designated open space or common area within the subdivision or PUD, but the language now read as a stand-alone sentence rather than a sentence fragment.
- Language had been added to provide an example of prohibited actions to further clarify the intent of the provision.
- The language continued to reflect the intent and importance to the City of Midway of protecting its green spaces and contractually protected open space and common areas both for the benefit of its citizens generally and the homeowners who purchased land in subdivisions and PUDs relying upon plats and development agreements as recorded.
- Line two would say "...neither shall the sale alter an external or internal boundary line...".

Second: Council Member Dougherty seconded the motion.

Discussion: None

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

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

Note: Council Member Orme was no longer available electronically.

8. 2023 General Election / Canvass Ballots (City Recorder – Approximately 10 minutes) – Canvass the Ballots for the 2023 Municipal General Election.

Brad Wilson gave a presentation regarding the election results and reviewed the following items:

- Precincts

- Precincts reporting
- Registered voters
- Ballots cast
- Overvotes
- Undervotes
- Number of votes received by each candidate.
- Each candidate's percentage of the votes.

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

Motion: Council Member Simonsen moved to approve the 2023 general election results.

Second: Council Member Dougherty seconded the motion.

Discussion: None

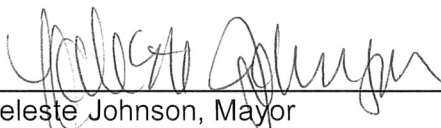
Vote: The motion was approved with the Council voting as follows:

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

9. Adjournment

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

The meeting was adjourned at 7:35 p.m.


 Celeste Johnson, Mayor


 Brad Wilson, Recorder