

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

**Tuesday, 6 February 2024, 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, 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 6:04 p.m. She excused Council Member Drury.

Members Present:

Celeste Johnson, Mayor
Lisa Orme, Council Member
Kevin Payne, Council Member
Craig Simons, 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
Katie Villani, Planner
Brad Wilson, Recorder

Members Excused:

Jeff Drury, 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 Payne gave the prayer and/or inspirational message.

2. Consent Agenda

- a. Agenda for the 6 February 2024 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 16 January 2024 City Council Work Meeting
- d. Minutes of the 16 January 2024 City Council Regular Meeting
- e. Conclude the warranty period and release the remainder of the bond for Phase 1 of The Reserve at Midway, located at 285 West Luzern Road (Zoning is RA-1-43), subject to the payment of all fees due to Midway City.

- f. Conclude the warranty period and release the remainder of the bond for Phase 2 of The Reserve at Midway, located at 285 West Luzern Road (Zoning is RA-1-43), subject to the payment of all fees due to Midway City.
- g. Conclude the warranty period and release the remainder of the bond for the Saddle Creek Subdivision, Phase 1 located at 970 South 250 West subject to the payment of all fees due to Midway City.
- h. Conclude the warranty period and release the remainder of the bond for the Saddle Creek Subdivision, Phase 2 located at 970 South 250 West subject to the payment of all fees due to Midway City.
- i. Conclude the warranty period and release the remainder of the bond for the Saddle Creek Subdivision, Phase 3 located at 970 South 250 West subject to the payment of all fees due to Midway City.
- j. Conclude the warranty period and release the remainder of the bond for the Saddle Creek Subdivision, Phase 4 located at 970 South 250 West subject to the payment of all fees due to Midway City.

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

Mayor Johnson reported that the purchase of the property, located at 70 East Main Street, needed to be included on the warrant list.

The City Engineer recommended that \$100,000 for landscaping and \$35,700 for a slurry seal be retained from The Reserve at Midway, Phase 2 bond.

Motion: Council Member Simonsen moved to approve the consent agenda items as listed with the following additions:

- The purchase of the 70 East Main Street property be added to the warrant list.
- The amounts for landscaping and slurry seal be retained from The Reserve at Midway, Phase 2 bond.

Second: Council Member Payne seconded the motion.

Discussion: None

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

Council Member Drury	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	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.

Several individuals, who were participating online, made comments regarding the slave trade, the Jewish community, the black community, The Church of Jesus Christ of Latter-day Saints community, and free speech. Mayor Johnson ended the online portion of the meeting when the comments became threatening.

Council Member Payne explained that he went on wilderness treks where he met all kinds of people with different beliefs. He noted how the trekkers got along, helped each other, and did not use labels.

No further comments were offered.

4. Department Reports

70 East Main Street / Parking Lot / Purchase

Mayor Johnson reported that the purchase of the parking lot at 70 East Main Street closed. She indicated that the process was fair and positive.

North Center Street Trail

Council Member Simonsen reported that plans were being prepared for a trail along north Center Street. He was also working on the budget for the project.

Ice Rink Building

Council Member Orme reported that the City was working on expanding the Community Center to provide space that would replace the existing ice rink ticket and warming trailers.

5. SCADA System / Award Contract (Shane Owens – Approximately 15 minutes) – Discuss and possibly award a contract for a Supervisory Control and Data Acquisition (SCADA) system for Midway City's water system.

Shane Owens made the following comments:

- The current SCADA system needed to be upgraded and updated.
- Recommended that the contract be awarded to Delco Western which was the low bidder at \$68,940. Had worked with them on other water repairs and liked their work. They also had employees that lived in the area.
- \$135,000 was included in the current budget for the project.
- The system could be expanded to include the sewer system.

Motion: Council Member Payne moved to award the SCADA contract to Delco Western in the amount of \$68,940 and authorized the Mayor to sign it.

Second: Council Member Simonsen seconded the motion.

Discussion: Council Member Simons asked why there was a significant cost difference in the bids. He asked if the City would be receiving less with Delco Western. Mr. Owens responded that Delco Western would use some of the existing infrastructure, which reduced the cost.

Wes Johnson added that he was also comfortable with Delco Western's work.

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

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

6. Mayor Pro Tempore (Mayor Johnson – Approximately 10 minutes) – Discuss and possibly continue or elect a member of the Midway City Council to be mayor pro tempore.

7. Council Assignments (Mayor Johnson – Approximately 10 minutes) – Discuss and possibly continue or approve assignments for the Midway City Council.

Mayor Johnson indicated that the two items should be continued until Council Member Drury was present.,

Motion: Council Member Simonsen moved to continue items six and seven as requested by the Mayor.

Second: Council Member Orme seconded the motion.

Discussion: None

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

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

8. Caring Coalition / Dinner in the Park (Trudy Brereton - Approximately 10 minutes) – Receive a presentation regarding Midway City's participation in Dinner in the Park.

Trudy Brereton and Cathrine North gave a presentation regarding the Caring Coalition and the Dinner in the Park. They made the following comments:

- The organization was data driven and focused on the youth.

- It facilitated networking and sharing information.
- The Dinner in the Park fed and brought families together.

They presented Mayor Johnson with a plaque for the City's contribution.

9. Michel and Kissell Properties / Open Space – (City Planner – Approximately 15 minutes)
 – Receive more information regarding preserving open space on properties owned by the Michel and Kissel families at approximately 1130 North River Road.

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

- Location of the properties
- Development potential for the parcels with houses.
- Wasatch County Code

Mr. Henke also made the following comments:

- Two to four lots were possible on the parcels with the houses.
- The proposed trail was not being considered because it could hinder federal funding.

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

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

- Could the trail be reconsidered if the federal funding was already awarded? The question would be posed to Utah Open Lands who was facilitating the project.
- A memorandum of understanding could be signed indicating that a trail would be pursued if the funding changed.

10. Resolution 2024-01 / Homestead Resort C-PACE Documents / (Scott Jones – Approximately 30 minutes) - Discuss and possibly deny, continue, or approve Resolution 2024-01 adopting various documents for the Homestead Resort, located at 700 North Homestead Drive, to utilize Commercial Property Assessed Clean Energy (C-PACE) financing.

Note: Council Member Simons explained that he had a relationship with the Homestead Resort. He recused himself from consideration of the item and left at 6:51 p.m.

Corbin Gordon reported that the lender was willing to be subordinate to the City and that provision had been added to the agreement. He indicated that the agreement was ready to be approved by the Council.

Scott Jones, applicant, indicated that no other changes had been made to the agreement.

Motion: Council Member Orme moved to approve Resolution 2024-01, adopting various documents for the Homestead Resort to utilize C-PACE financing, and authorized the Mayor to sign the documents.

Second: Council Member Simonsen seconded the motion.

Discussion: None

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

Council Member Drury	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Recused
Council Member Simonsen	Aye

Note: Council Member Simons returned at 6:56 p.m.

11. Ordinance 2024-02 / Cottage Industries (City Planner – Approximately 30 minutes) – Discuss and possibly deny, continue, or adopt Ordinance 2024-02 amending Title 16 (Land Use) of the Midway City Municipal Code regarding cottage industries.

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

- Proposed language
- Home occupations
- Proposed businesses

Ms. Villani also made the following comments:

- Eliminating cottage industries had been discussed.
- The Council suggested that the Municipal Code state which businesses were recommended.
- Preferred an absolute list of businesses allowed as cottage industries. This list could be amended as needed.

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

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

- Home occupations did not allow clients to come to the house.
- The list should not be too limited but should not include unwanted businesses.
- Accountants and architects should be included on the list.
- Business owners should be notified what type of license they need during renewal.
- A cottage industry should not affect the character of the neighborhood.

- Businesses that had more than one employee should be in commercial zones.
- Everyone living at the house should be able to work at the business.
- An entire family could come to a cottage industry to have a family picture taken.
- Should cottage industries be limited to one or two cars for clients?
- Computer repair and attorneys should be included.

Motion: Council Member Payne moved to approve Ordinance 2024-02 with the following findings and conditions:

- The Cottage Industry classification allowed an avenue for residents to work from home while ensuring consistency with the residential character of neighborhoods by requiring uses to be secondary and subservient to residential use, that structures looked residential, that work was restricted to residents, and limited customer traffic.
- As more building occurred in Midway and density increased, deviations from residential uses in residential zones logically might become more pronounced and bothersome to residents in these zones.
- Add the language as discussed for the additional cottage businesses.
- Update the definitions.
- Cottage industries be limited to a specific list of allowed businesses.

Second: Council Member Orme seconded the motion.

Discussion: Council Member Simonsen suggested that staff be authorized to work with the Council to finalize the list of uses.

Mayor Johnson suggested that fees to amend the list be waived for two years.

Amended Motion: Council Member Payne moved to approve Ordinance 2024-02 with the following findings and conditions:

- The Cottage Industry classification allowed an avenue for residents to work from home while ensuring consistency with the residential character of neighborhoods by requiring uses to be secondary and subservient to residential use, that structures looked residential, that work was restricted to residents, and limited customer traffic.
- As more building occurred in Midway and density increased, deviations from residential uses in residential zones logically might become more pronounced and bothersome to residents in these zones.
- Add the language as discussed for the additional cottage businesses.
- Update the definitions.
- Cottage industries be limited to a specific list of allowed businesses.
- Staff were authorized to work with the Council to finalize the list of businesses.
- The fees to amend the list were waived for two years.

Second: Council Member Orme seconded the amended motion.

Discussion: Council Member Simons asked if a cottage industry required a license or a permit. Michael Henke responded that cottage industries were businesses that required a license and not conditional use permits.

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

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

12. Ordinance 2024-04 / Commercial Drive-Throughs (City Planner – Approximately 30 minutes) – Discuss and possibly deny, continue, or adopt Ordinance 2024-04 amending Section 16.13.39 (Off Street Parking and Loading) regarding commercial drive-throughs.

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

- Background
- Issues with drive-throughs
- Advantages of drive-throughs
- Examples of local drive-throughs
- Planning commission motion.
- Proposed code
- Possible findings

Mr. Henke also made the following comments:

- The stacking of cars, etc. would have to be addressed if drive-throughs were not eliminated.
- Midway had a total of six drive-throughs with three being actively used.
- Menu boards created lighting and noise problems.

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

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

- Existing drive-through windows should be allowed.
- Limiting drive-throughs would limit franchises.
- A successful business using the drive-through at The Market Express would be a problem.
- A speaker was not necessarily needed with a menu board.
- A drive-through should no longer be allowed if it stopped being used.
- A drive-through should be allowed if it made a business viable.
- The planning commission recommended the ordinance because they wanted Midway to be a walkable village and to avoid cars backing up onto streets.
- Mom and pop businesses should be supported.
- Walkability between businesses should also be supported.

Motion: Council Member Simonsen moved to approve Ordinance 2024-04 regarding

commercial drive-throughs, with the following findings and conditions:

- New commercial drive-throughs would be prohibited in all zones.
- Lawfully existing drive-throughs would be considered non-conforming and would be allowed to continue as outlined elsewhere in the land use code.
- Prohibiting drive-throughs might discourage certain commercial uses that relied upon them for convenience.
- Existing and active drive-throughs would be permitted.
- An owner of an existing but inactive drive-through would have to come to the Council to request that it be used.

Second: Council Member Simons seconded the motion.

Discussion: Council Member Orme asked the cost to request an amendment to the Municipal Code. Michael Henke explained the cost and the process. Mayor Johnson indicated that the ordinance showed how seriously the Council took the issue.

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

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

13. Donations (Mayor Johnson – Approximately 20 minutes) – Discuss and possibly deny, continue, or approve donations to various charitable organizations.

Mayor Johnson made the following comments regarding donations and reviewed the individual requests:

- The budget included money for charitable organizations and 501c3s.
- These organizations helped Midway residents even if they were not located in the City.
- Reached out to each organization and asked them to provide information.
- Suggested giving each organization the same amount except the Children’s Justice Center, which the City supported through its gingerbread house fundraiser.
- Many of these organizations did not directly receive tax dollars.
- The Peacehouse served Midway and was well run.
- CAPS was a good program.
- A donation should be given to A Horse of Many Colors which assisted cancer patients and their families.

Note: A copy of the information provided by the charitable organizations is contained in the supplemental file.

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

- 38% of The People’s Health Clinic’s patients were from Wasatch County. Council

Member Simonsen's wife donated time at the Clinic. It provided health care to those who were uninsured and lived below the poverty line.

- The Justice Center should be given the same amount of money as the other organizations:
- The FY 2024 Budget named specific organizations that should receive donations.
- Encircle was a safe place for LGBTQ+ youth and their families.

Motion: Council Member Orme moved to approve the donations listed with the addition of The Childrens' Justice Center and A Horse of Many Colors. Each organization would receive \$4,000 with the Justice Center receiving \$2,000 in addition to the gingerbread house fundraiser.

Second: Council Member Simons seconded the motion.

Discussion: None

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

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

Motion: Without objection, Mayor Johnson recessed the meeting at 8:03 p.m. She reconvened the meeting at 8:13 p.m.

Note: Council Member Simons left at 8:13 p.m. because he had requested TAP tax funds.

14. TAP Tax / Awards (Mayor Johnson – Approximately 10 minutes) – Discuss and possibly deny, continue, or approve awarding Trails, Arts, and Parks (TAP) tax revenue to various entities.

Mayor Johnson made the following comments regarding the awards:

- The Council adopted an application process for TAP funds.
- Two applications were received.
- The City reserved the right to keep any or all the TAP taxes that it received.
- \$87,000 in TAP taxes had been received thus far.

Council Member Simonsen indicated that the recipients should not have to be 501c3s. Council Member Orme agreed.

Motion: Council Member Simonsen moved to approve the request for the Rocky Mountain Carvers Roundup with them reporting back on the use of the money. He further moved to approve the request from the Swiss Bell Ringers subject to council members' names not being engraved on a bell. He suggested that deceased residents or bellringers be given the honor.

Second: Council Member Payne seconded the motion.

Discussion: None

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

Council Member Drury	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Recused
Council Member Simonsen	Aye

Note: Council Member Simons returned at 8:32 p.m.

15. Ice Rink Building Design / Award Contract (Mayor Johnson – Approximately 10 minutes)
– Discuss and possibly deny, continue, or approve a contract for the design of a building on the Town Square for the Midway City Ice Rink and other uses.

Mayor Johnson made the following comments regarding the building design:

- A request for qualifications had been released for the design of a building for the ice rink.
- Presentations were given by each submitter.
- Recommended that a contract be approved with inForm Architecture. Liked their approach and having the City help guide the process.
- A mandatory meeting for potential contractors would be held that Thursday.
- Supported what the committee working on the building had done.
- A contract to build the building would be awarded on February 29th.

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

- Council Member Payne had a background in architecture and could help with the design review.
- The building differed from the proposed master plan for the Town Square.
- The construction timeline should not dominate the process.
- The project would not affect the master plan.
- Surprised that the building was no longer attached to the Community Center.
- The skating ribbon was just a suggestion and not part of the project.
- The option of covering the ice rink should be left open.
- The ice rink would not be resurfaced that year because the operator felt it was not necessary. A new surface should not be damaged by constructing the building.
- The person operating the ice rink should not be dictating to the City.
- A master plan should be adopted before the building was constructed.
- Access and parking needed to be considered.
- The building might not fit well in a master plan.
- The building should be considered and then if needed built in 2025.
- The Council agreed, when preparing the current budget, that the focus and first part of the master plan should be constructing the building and repairing the ice rink.

- The building was not outside of the proposed master plan.
- The design had not yet been done. The contractor would be part of the design process.
- The timeline was tight to complete the building before Swiss Days and the next ice rink season.
- The project would be based on time and materials.
- A guaranteed maximum price contract (G-MAX) would be used.
- The design should be brought back to the Council and other stakeholders for approval.
- Should a special meeting be held to finalize the issue?
- A master plan needed to be approved for the Town Square.
- A master plan was a high-level view that should be flexible over time.
- Any approval should allow the committee to award a construction contract and the Council to ratify the award afterwards.
- Good input was needed for a successful design.

Motion: Council Member Simons moved to ratify the decision made by the committee regarding the ice rink building.

Second: Council Member Orme seconded the motion.

Discussion: None

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

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

Council Member Simons asked when the master plan would be considered. Mayor Johnson responded that it could be considered as part of the budgeting process.

16. Vehicle Towing / Award Contract (Mayor Johnson – Approximately 10 minutes) – Discuss and possibly deny, continue, or approve a contract for towing of illegally parked vehicles in Midway City.

Mayor Johnson made the following comments:

- The Wasatch County Sheriff's Department was no longer assisting with towing vehicles.
- Recommended entering into a contract with Heber Valley Towing.
- The price was based on the standard UDOT rate.
- The City Attorney and Katie Villani reviewed and approved of the proposed contract.

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

- An indemnity clause was added.
- The City needed to be held harmless including for damage done during towing. Such a clause might not be legally binding.

- Should there be a three-day review process?

Motion: Council Member Simons moved to approve the contract and authorized the Mayor to sign it with the added language that the City was not responsible for damage to vehicles that had been noticed.

Second: Council Member Orme seconded the motion.

Discussion: Council Member Simons noted that an owner could not get their towed vehicle until they paid the towing company.

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

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

17. Main Street Lights / Award Contract (City Engineer – Approximately 10 minutes) - Discuss and possibly deny, continue, or approve a contract for the replacement of the decorative streetlights along Main Street.

Wes Johnson made the following comments regarding the streetlights:

- The City purchased 32 new streetlights for Main Street.
- A request for proposals was issued to remove the old lights and install the new ones.
- Four bids were received.
- Kesko, who was the City's electrical contractor, submitted the low bid. Recommended that they be given the contract.

Mayor Johnson reported that the plaques would be removed from each light pole and returned to the donors. A collage of plaques could also be created that would hang in the City Office Building.

Motion: Council Member Orme moved to award the Main Street lights contract to Kesko and authorized the Mayor to sign it in the amount of \$39,137.

Second: Council Member Payne seconded the motion.

Discussion: None

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

Council Member Drury	Excused from the Meeting
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye

Department Reports (Continued)Ameyalli Resort / Height Increase

Michael Henke reported that the developer wanted to increase the height of some of the buildings in the Ameyalli Resort to 48 feet instead of the 35-foot limit in the approved agreement. He indicated that balloons would be flown that Friday to show the heights. He requested that the council members visit the project that day to see the heights.

Council Member Payne asked why the developer requested the change. Michael Henke responded that the ground could not be excavated as deep as needed because of instability. He added that therefore the basements could not be as deep. Council Member Simons questioned why the Council would allow the height increase. Mr. Henke responded that the request was discretionary.

Judge Transmission Line / CUP

Council Member Orme asked about the correspondence from Karl Dodge questioning the conditional use permit issued for improvements to the Judge Transmission Line. Mayor Johnson responded that the permit was issued based on the information given to the Council. She added that if the information was not accurate or the project would be constructed differently then they could not proceed.

18. Adjournment

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

The meeting was adjourned at 9:35 p.m.



Celeste Johnson, Mayor



Brad Wilson, Recorder