

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

**Tuesday, 6 August 2024, 6:00 p.m.
Midway Community Center, Council Chambers
160 West Main Street, Midway, Utah**

Note: Notices/agendas were posted at 7-Eleven, The Market 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 6:06 p.m. She indicated that the items for the Homestead Resort and the Probst Meadows Subdivision would not be considered that night.

Members Present:

Celeste Johnson, Mayor
Jeff Drury, Council Member
Lisa Orme, Council Member
Kevin Payne, Council Member (Participated Electronically)
Craig Simons, 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 Simons gave the prayer and/or inspirational message.

2. Consent Agenda

- a. Agenda for the 6 August 2024 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 16 July 2024 City Council Regular Meeting
- d. First one-year extension of the preliminary and final approval for the Springer Homestead One Lot Subdivision located at 250 West Main Street (Zoning is R-1-7)
- e. Conclude the warranty period and release the remainder of the bond for the Lower Burgi Hill Subdivision, located at 1218 North Interlaken Drive, subject to the payment of all fees due to Midway City.

- f. Appoint Chuck James as a full member of the Midway City Historic Preservation Committee.

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

Motion: Council Member Simonsen moved to approve the consent agenda as listed.

Second: Council Member Orme seconded the motion.

Discussion: None

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

Council Member Drury	Aye
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.

Homestead Resort / Compliance / Trail / Irrigation Water / Water Rights

Mark Austin made the following comments:

- The Homestead Resort was out of compliance with several items. Work on the property should be stopped or conditions imposed.
- The Homestead had not built the required trail along Homestead Drive. Deadlines in October 2021 and 1 August 2024 had been missed. That section of trail not being complete was a safety issue.
- Over 200 residents received their irrigation water through the Homestead's system. They had been without irrigation water while the Homestead repaired its system.
- The Homestead should comply with all requirements before receiving any approvals.
- The Homestead's water rights were in question. Wasatch County required water rights before they granted approval.
- The City needed to take leadership.
- When would the City require compliance?

Mayor Johnson responded with the following comments:

- The Homestead assured the City that the trail would be completed by September 15th of that year.
- The Midway Irrigation Company not the City was responsible for the irrigation system.
- A plat map could not be recorded until the necessary water right were provided to the City.

Mr. Austin made the following additional comments:

- The recording of a plat map would be too far along in the process.
- Midway citizens and taxpayers were affected by the lack of irrigation water.
- The City should care and work with all parties to resolve the issues.
- What incentive did the Homestead have to complete the trail by September 15th?

North Center Street Trail / Public Comment Forum

Roland Griffith made the following comments:

- Requested another forum for public comment regarding the planned trail along the north section of Center Street.
- A promised update on the project should be provided.
- It was never too late to do the right thing.
- The forum should be held even though it had not been done for other projects.
- The proposed design was not the safest or most fiscally sound.
- The electrical poles should be buried, and the trees protected.
- A public forum would help find a better solution.

Homestead Resort / Trees / Historic Building

Randy Lundin made the following comments:

- Most of the trees removed by the Homestead were in the State's right-of-way for Homestead Drive.
- Did they have a permit to remove the trees?
- This issue should have been addressed before they were removed.
- Some of the trees were 150 years old.
- They were removed at 5 a.m.
- How was the historic building on the property razed without the City's approval? Would the Homestead be fined?
- The workers did not want to raze the building but were threatened that they would be fired if they didn't.
- Large companies could break the law without consequences.
- The Homestead had noxious weeds on its property which were not cut down until they went to seed.

Mayor Johnson responded that the trees would be replaced with healthier ones.

Council Member Drury indicated that Section 16.14.110 of the Municipal Code dealt with trees and vegetation. He added that one tree removed had to be replaced with two of a certain size. He asked if the Homestead violated this section. Michael Henke responded with the following comments:

- The Homestead supplied a landscaping plan to the City. This plan did not include retaining the trees.

- They wanted a different presentation for the resort.
- The final approval from UDOT did not include the existing trees.
- It was uncertain if the City could prohibit removing existing trees.

Mayor Johnson responded with the following comments:

- The historic structure would be rebuilt.
- The lower third of the structure had rotted.
- Razing it was a violation.
- The signage on it would be increased.
- A fine would cost less than rebuilding the structure.
- The City held everyone accountable for violations.

Trees / Borers and Beetles

Glenn Baudley warned that trees in the area needed to be treated because borers and beetles were killing them.

No further comments were offered.

4. Department Reports

Ice Rink / Maintenance

Council Member Drury reported that maintenance issues at the City's ice rink were being discussed.

HVRR / Management / North Pole Express

Mayor Johnson reported that the Heber Valley Railroad (HVRR) was well managed. She indicated that its North Pole Express was almost sold out and an additional small train had been added.

HVSSD / Protection Zones

Mayor Johnson reported that the Heber Valley Special Service District (HVSSD) had applied for protection zones around its sewer treatment facility. She added that the application process would take several months.

MSD / Odors

Mayor Johnson reported that the Midway Sanitation District (MSD) continued testing for and resolving odors from its manholes.

Caring Coalition / Dinner in the Park

Mayor Johnson reported on the Caring Coalition and its Dinner in the Park event which the City helped sponsor.

HB 476 / Development Agreements

Mayor Johnson reported that a provision in House Bill 476 prohibited many development agreements. The provision was effective 1 May 2024.

SB 174 / Sign Ordinance / Employee Handbook / E-bikes / Annexation Boundary

Katie Villani reported that the Planning Department was working on the following items:

- Code amendments required by Senate Bill 174.
- New sign regulations
- New employee handbook
- E-bike regulations
- Expanding the City's annexation boundary.

5. Potential Grants / Presentation (Nancy O'Toole – Approximately 10 minutes) – Receive and discuss a presentation on potential grants.

Mayor Johnson indicated that Nancy O'Toole was not in attendance and the presentation would be given at another meeting.

6. Ordinance 2024-12 / Old Trace Hollow Annexation (Jared Hutchings – Approximately 20 minutes) – Discuss and possibly deny, continue, or adopt Ordinance 2024-12 approving the Old Trace Hollow Annexation located at 1221 North Pine Canyon Road. Recommended for approval 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
- Land use map
- Sensitive lands map
- Wetlands area
- Annexation plat map
- Master trails plan
- Items to consider
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- The Planning Commission recommended approval.

- The property would have one lot instead of three or a resort.
- The lot could not be further subdivided.
- The petitioner should help pay for the trail along the property.
- The property would have more density if it was developed in the County.

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

Council Member Drury noted that the roads in the area were used by a lot of cyclists.

Public Hearing

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

George Reed

Mr. Reed indicated that developing the property would block the view from The Lodges at Snake Creek. He asked the requirements for elevation and the location of the house and other buildings. Mr. Henke responded that any structures had to meet the required setbacks and be out of any wetlands and wetlands buffers. He added that the elevations and building site had not yet been determined. He indicated that all structures would have to be 35 feet high or less from natural grade.

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

Motion: Council Member Simons moved to adopt Ordinance 2024-12 approving the Old Trace Hollow Annexation with the following findings and conditions:

- The proposal was a legislative action.
- The proposed annexation complied with the intent of the annexation code.
- The City would gain control over land use and zoning if the area was annexed.
- The proposal would increase density and traffic to the area, but the density of the project was relatively low at a single-family dwelling on 3.5 acres. This would help promote the vision of the general plan to preserve more open areas and a rural atmosphere.
- Annexation would promote connectivity of trails and bike lanes set forth in the Midway City General Plan.
- All required water rights would be dedicated to the City, before the subdivision plat was recorded, as recommended by the Midway Water Advisory Board.
- A deed restriction was recorded on the lot that in perpetuity restricted the lot from being further subdivided and a note was included on the subdivision plat map that explained this limitation on the lot.
- The owners would dedicate the remaining portion of the right-of-way needed for Pine Canyon Road (which would include use as a bike lane). The owners would also dedicate a 20' public trail easement along the east side of the property. The dedications were required as part of the subdivision plat map.
- Funds to build the bike lane along Pine Canyon Road were added to the general trails fund. Those funds would be used as part of a larger improvement project that would

- complete the bike lane along the entirety of Pine Canyon Road.
- The driveway to the lot, which accessed Pine Canyon Road, would have a turn around so that no vehicles would back into Pine Canyon Road.
- A park donation fee of \$2,061.89 was required prior to the recording of the annexation plat map. A trail fee of \$4,950.50 would be paid by the applicant prior to recording the annexation plat map.
- The applicant would comply with all Midway City, Midway Sanitation District, and Midway Irrigation Company requirements for water and sewer.

Second: Council Member Payne seconded the motion.

Discussion: None

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

- 7. Resolution 2024-23 / Old Trace Hollow Annexation Agreement (City Attorney – Approximately 5 minutes) – Discuss and possibly deny, continue, or approve Resolution 2024-23 adopting an annexation agreement for the Old Trace Hollow Annexation located at 1221 North Pine Canyon Road.**

Corbin Gordon indicated that there were no changes to the proposed agreement.

Motion: Council Member Drury moved to approve Resolution 2024-23 adopting the Old Trace Hollow Annexation Agreement as provided.

Second: Council Member Orme seconded the motion.

Discussion: None

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

- 8. MC Midway Acquisitions / Conditional Use Permit (Mickey Carusillo – Approximately 20 minutes) – Discuss and possibly deny, continue, or grant a conditional use permit for a mixed-use development located at 203 East Main Street (Zoning is C-2). Recommended for approval with conditions by the Midway City Planning Commission. **Public Hearing****

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

- Land use summary
- Location of the property
- Pictures
- Floor plan
- Possible findings
- Recommended conditions

Mr. Henke also made the following comments:

- The request was for a mixed-use development.
- Currently the property was completely commercial.
- The north building would be converted back into a residence.
- The south building would remain commercial.
- There would be a hard surface driveway and parking stalls for the residence. The rest of the driveway going around the house and then to the south would not be paved and was not required to be a hard surface. It could remain so long as it was used once a year.
- The first proposed condition had been met.
- A deed restriction was required on the property and not others because the Municipal Code had changed.

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.

The applicants indicated that the planned residence was over 100 years old and had been moved to the property. They would live in the residence.

Motion: Council Member Drury moved to approve the conditional use permit for MC Midway Acquisitions at 203 East Main Street with the following findings and conditions:

- The proposed use was a conditional use in the C-2 zone.
- The proposal was consistent with the vision of the General Plan for Main Street.
- A commercial deed restriction would be provided to the City for review and approval. The deed restriction would be recorded before the Certificate of Occupancy was issued for the dwelling.

Second: Council Member Simons seconded the motion.

Discussion: None

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

9. Resolution 2024-25 / Special Bond Election (Bond Counsel – Approximately 15 minutes)
 – Discuss and possibly deny, continue, or adopt Resolution 2024-25 providing for a Special Bond Election to be held on 5 November 2024, for the purpose of submitting to the qualified electors of Midway City, Utah, a proposition regarding the issuance of not to exceed \$5,000,000 general obligation bonds to finance all or a portion of the costs to preserve open space and related improvements.

Brad Wilson gave a presentation regarding the proposed resolution and reviewed the following items:

- Important dates in the bond election process.
- 2018 ballot language
- Proposed 2024 ballot language
- Voter information pamphlet
- Argument selection for the information pamphlet.

Mr. Wilson also made the following comments:

- The resolution could not include a not to exceed amount for the tax impact.
- Suggested a condition allowing the tax impact to be updated before the resolution was provided to the Lieutenant Governor’s office.

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

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

- Bond funds should only be used to preserve open space within the annexation boundary of the City at the time of the bond fund commitment for a particular project.
- Once a resolution was approved the City had to be an impartial party in the bond election. This included elected officials, staff, and committee members. None of the City’s resources could be spent advocating for or against the bond.
- The results of a bond election could be jeopardized if the City or anyone affiliated with the City advocated regarding the issue.
- Private citizens or organizations like Preserve Midway would have to be the advocates.
- Existing signs noting the open space that had been preserved would not violate the impartiality restriction.
- City staff could provide information regarding the proposed pond.

Motion: Council Member Drury moved to approve Resolution 2024-25 authorizing a special bond election and adopting the ballot language as provided with the following changes:

- The bond funds could be used for properties in the Midway City growth boundary as it existed at the time of the property owner applying for the funds.
- The tax liability could be updated to the most current and accurate amount.

Second: Council Member Payne seconded the motion.

Discussion: None

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

Mark Austin asked why the bond would only be \$5 million. Mayor Johnson responded that a recent survey showed that most residents supported that amount. She also indicated that the City needed to be respectful to those who opposed a greater amount.

Courtland Nelson, Midway City Open Space Advisory Committee Chair, asked if the professor from Utah Valley University, who oversaw the survey, should attend the public hearing. It was agreed that the professor should attend.

10. 2024 Road and Utility Improvements Project / Award Contracts (Wes Johnson – 5 minutes) – Discuss and possibly deny, continue, or award a contract for the 2024 Road and Utility Improvements Project.

Wes Johnson made the following comments regarding the project bids:

- They had been opened and BD Bush was the low bidder at \$1.3 million.
- A portion of the project would be paid for by the Midway Sanitation District.
- Recommended that a contract be awarded to the low bidder and that the Mayor be authorized to sign the documents.

Motion: Council Member Orme moved to award the contract to BD Bush for \$1.3 million and authorize the Mayor to sign the related documents.

Second: Council Member Simons seconded the motion.

Discussion: None

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye

Council Member Simons Aye
Council Member Simonsen Aye

Department Reports (Continued)

River Road / Replacement

Council Member Drury noted that a section of River Road, recently rebuilt by a developer, was failing. He asked the status of replacing it. Wes Johnson responded with the following comments:

- Spoke with the developer who was trying to reach his contractor.
- The replacement should be done before the trail was built along Center Street.
- Construction on River Road and Center Street should not be done at the same time.
- The replacement would not take that long but needed to happen that year.
- Money from the developer's warranty bond could be used if necessary.
- October 15th was the deadline for the project.

The project needed to start soon so that the City could step in if needed.

Heber Valley Corridor / Letter

The Council, staff, and meeting attendees made the following comments:

- What was the status of the proposed letter, regarding the Heber Valley Corridor, discussed at the last council meeting?
- No changes to the letter had been provided by the Council.
- Staff should draft a letter that could be amended by the Council.
- The letter was just restating what had been discussed for ten years.
- The Council could disapprove of the five proposed routes and suggest one that hugged the existing highway. This would better preserve the North Fields. This would not work because Heber City was extending its downtown along the highway.

Motion: Without objection, Mayor Johnson recessed the meeting at 8:08 p.m. She reconvened the meeting at 8:16 p.m.

11. Closed Meeting to Discuss Pending or Reasonably Imminent Litigation

Motion: Council Member Orme moved to go into a closed meeting.

Second: Council Member Simonsen seconded the motion.

Discussion: None

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

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
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 Simonsen moved to go out of the closed meeting.

Second: Council Member Drury seconded the motion.

Discussion: None

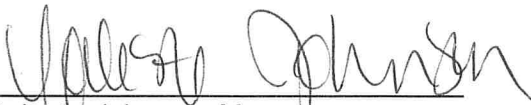
Vote: The motion was approved with the Council voting as follows:

Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simons	Aye
Council Member Simonsen	Aye

12. 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 8:25 p.m.



Celeste Johnson, Mayor



Brad Wilson, Recorder