Memo

Date: 27 November 2023

To:

Cc:

From: Brad Wilson, City Recorder

RE: Minutes of the 7 November 2023 City Council Regular Meeting

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

75 North 100 West, P.O. Box 277
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MINUTES OF THE
MIDWAY CITY COUNCIL

(Regular Meeting)

Tuesday, 7 November 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 6:17 p.m.

Members Present:

Celeste Johnson, Mayor
Steve Dougherty, Council Member
Jeff Drury, Council Member
Lisa Orme, Council Member
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. She gave the prayer and/or inspirational message.

2. Consent Calendar

- **a.** Agenda for the 17 November 2023 City Council Regular Meeting
- **b.** Warrants
- **c.** Minutes of the 27 April 2023 City Council Meeting
- **d.** Minutes of the 3 October 2023 City Council Work Meeting
- **e.** Minutes of the 3 October 2023 City Council Regular Meeting
- **f.** Minutes of the 3 October 2023 City Council Closed Meeting
- **g.** Third one-year extension of the final approval for the Pack Subdivision, formerly the Howland Subdivision, located at 600 West 200 North (Zoning is R-1-15).

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

Council Member Dougherty noted that the staff report for the Pack Subdivision said further extensions were possible, which was incorrect.

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

Second: Council Member Payne seconded the motion.

Discussion: None

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

Council Member Dougherty	Aye
Council Member Drury	Aye
Council Member Orme	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.

HVA / MAC

Sue Waldrip with High Valley Arts (HVA) made the following comments:

- Thanked the Council for participating in past HVA events.
- 2000 people attended HVA's production of Beauty and the Beast.
- Residents would receive a flyer in the mail promoting the Midway Arts Center (MAC). It would help them understand what the facility would look like.
- The MAC had been redesigned to soften the view.
- Theater provided people an opportunity to develop their talents and entertain.
- A handout from the State explained the revenue received from the arts.
- HVA could hold a fundraiser, with a famous artist, for the City.

Council Member Drury asked if HVA had any applications before the City. Michael Henke responded that they had a zone change application. Ms. Waldrip responded that HVA was not pursuing the application at that time.

Pedestrian Accidents

Council Member Simonsen indicated that an increasing number of pedestrians were being hit or even killed in Utah. He added that 90% of those accidents were preventable. He asked drivers to pay more attention.

No further comments were offered.

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4. Department Reports

Open Space Committee / Bond

Council Member Payne reported that the Open Space Advisory Committee might come before the Council and recommend a second open space bond. He noted that most of the funds from the first bond had been exhausted.

Culinary Water System / Smell or Discoloring

Council Member Dougherty advised residents to call the Public Works Department if their culinary water smelled or was discolored. He indicated that flushing the main line would help.

PI System / Blow Out Sprinklers

Council Member Dougherty reported that the pressurized irrigation system had been turned off. He recommended that residents blow out their sprinkler systems.

Local Businesses / Trick or Treat

Council Member Dougherty reported on the trick or treat held by local businesses.

HL&P / Financial Statements / Dividends

Council Member Dougherty reported that Heber Light & Power Company (HL&P) showed a deficit on its financial statements because of depreciation. He noted that HL&P had enough cash but would not provide dividends for several quarters.

HL&P / Net Metering

Council Member Dougherty indicated that a new substation would rectify the issue with all customers in Midway not being able to net meter.

HL&P / Budget Hearing

Council Member Dougherty reported that HL&P would hold a public hearing on its proposed 2024 budget on November 15th.

EV Chargers

Council Member Orme asked if faster electric vehicle chargers could be installed in the area. Council Member Dougherty responded that HL&P received a grant to install the current

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chargers. Council Member Drury added that faster chargers were installed by electricity infrastructure companies based on need. Council Member Dougherty explained a rebate the owners could receive for installing chargers in their garages.

HL&P / Irrigation Company / Boundary Commission / Replacement

Council Member Dougherty asked the Council to think about who should replace him on the HL&P Board, Midway Irrigation Company Board, and the Wasatch County Boundary Commission.

5. **Ice Rink / Presentation of Check** (Midway Boosters – Approximately 10 minutes) – Presentation of a check for a portion of the revenue collected at the Midway Ice Rink for the 2022 – 2023 season.

Reed Beck, Midway Boosters President, and Steve Hardy, Midway Boosters Treasurer, presented a check for $12,000 to the City. They asked that it be held in reserve for future capital expenditures at the ice rink. They indicated that the Boosters had put together a committee to help in the management of the ice rink. Council Member Drury expressed appreciation for the many hours of work that the Boosters contributed to the ice rink.

Wes Johnson reported on the header and other piping being replaced at the rink.

Corbin Gordon reported that the management agreement with the Boosters had been completed. Brad Wilson indicated that several exhibits were still needed for the agreement.

6. **Whitaker Farm Subdivision / Amendment** (Tom Wardle – Approximately 20 minutes) – Discuss and deny, continue, or approve an amendment to the plat map for the Whitaker Farm Subdivision located at 455 North River Road (Zoning is RA-1-43). **Public Hearing**

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

- Location of the effected lots
- Recorded plat map
- Possible findings
- Proposed note language.

Mr. Henke also made the following comments:

- The amendment was minor and did not go to the Planning Commission.
- It would remove the fourth note on the plat map that prohibited driveways on Whitaker Farm Way. The street was no longer a collector road so driveways would not be an issue.
- Wanted to limit driveways across trails.
- It was difficult to access Lot 1, from Waters Edge Road, because of an island in the road.
- Recommended that the lots be limited to one instead of multiple access.
- Staff suggested that the note be modified instead of removed.

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- The owner of Lot 1 requested the amendment.
- Had spoken to the previous but not the current owner of Lot 50.

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

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

- The note should include the bullet points from the presentation to justify why the amendment was allowed.
- The access for Lot 1 should be as far north as possible.
- The accesses should not align with the driveways in White Acres to avoid vehicles coming out at the same time. If they aligned, then other vehicles would be easier to see and headlights would not shine into windows.
- Lot 50 should only access Waters Edge Road and not Whitaker Farm Way. It could be either/or because Whitaker Farm Way was no longer a collector road.
- Midway would suffer because of the lack of through roads.
- Whitaker Farm Way could become a through road.

Tom Wardle, applicant, made the following comments:

- Requested the amendment because his lot was for sale and access had become an issue.
- The owner of Lot 50 was not part of the application.
- Wanted flexibility with his lot.
- Agreed with the note modification suggested by staff.
- The amendment would not negatively impact the owner of Lot 50.

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:

- Different criteria for the two lots was a concern.
- White Acres should not have been approved as proposed.
- The owner of Lot 50 should be able to choose which road the driveway accessed.
- Whitaker Farm Way could effectively become a collector road in the future.
- There should only be one curb cut on either lot.

Motion: Council Member Drury moved to approve the amendment for the Whitaker Farm Subdivision with the following findings and conditions:

- Only lots 1 and 50 would be affected by the proposed amendment.
- The proposal was a legislative action, and the City Council could remove or amend the

plat map note.
- Limiting driveway crossings across the trail created a safer trail and pedestrian experience.
- No public street, right-of-way, or easement would be vacated or altered.
- The plat note for lots 1 and 50 would say that each lot would be allowed to have a single driveway access from either Whitaker Farm Way, Salazar Springs Road, or Waters Edge Road. No horseshoe driveways would be allowed because of the trails along the roads.

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

7. **Rocky Mountain Power / Conditional Use Permit** (Travis Jones – Approximately 10 minutes) – Discuss and possibly deny, continue, or approve a conditional use permit for Rocky Mountain Power to rebuild the existing Judge transmission line located along the west boundary of Midway City.

Michael Henke gave a presentation regarding the proposed conditional use permit (CUP) and made the following comments:

- Had communicated with Wasatch County regarding the rebuilding of the transmission line.
- Only a small portion of the line was in the City.
- The impact on residents should be limited.
- The equipment that would be used would not be much larger than that used for maintenance.
- Any cuts in hillsides would be revegetated.
- Rocky Mountain Power (RMP) was also going through the approval process with the County.
- Any approval should be conditioned upon the back county access plan provided by RMP.

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

Corbin Gordon made the following comments:

- Worked with Council Member Payne regarding the proposal.
- Any approval should be conditioned upon a limit of one 46 kV circuit.

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Travis Jones, a business manager with Rocky Mountain Power, made the following comments:

- Emailed Mr. Henke the requested documents regarding wildfire protection for transmission lines. They included House Bill 66, a letter of support from the Wasatch Mountain State Park, and a letter of approval from the United States Forest Service. Mr. Henke responded that he did not receive the documents. The meeting record should include all these documents.
- The line was designed for 138 kV but would only carry 46 kV. RMP would need City approval to increase the voltage to 138 kV.
- The line would have to be redesigned to carry another circuit.
- Steel poles were specifically designed for the location.
- Transmission lines would have to be redesigned and probably the metal poles replaced to accommodate another circuit.
- Wasatch Mountain State Park allowed its property to be used for staging and supporting the project.
- The Forest Service approved the project via email.

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

- An identical pole, to what was used on 970 South to carry one circuit, was used on Midway Lane to carry two circuits. Why was RMP telling the Council that the pole could only carry a single circuit? Another RMP engineer who worked on the line indicated that the 970 South pole could carry two circuits. The pole on 970 South was used to span a greater distance and to cross a road, which meant that it could only carry one circuit. This was confirmed by the engineer who designed the line. The difference in spans for the two lines was approximately 35 feet.
- The 970 South transmission line was always proposed for two 138 kV circuits. Then it was quickly reduced to one circuit when a settlement was reached. The poles used for the line did not look like those in the specifications. The applicants were not forthcoming. The line was not compliant with the settlement agreement. The poles could have been designed and purchased before the settlement agreement. Additional city approval would be needed to install another circuit. The poles would have to be replaced to carry another circuit.
- Any proposed changes after a CUP was granted would have to come back to the Council for approval.
- It was difficult for the Council to question RMP's intentions when they were not engineers.
- The 970 South transmission line was within the scope of the settlement agreement.
- An issue could be raised if something violated an agreement.
- The 970 South line was a separate issue from the Judge line.
- The Judge Line was being rebuilt to mitigate fire hazards.

Motion: Council Member Simonsen moved to approve the conditional use permit requested by Rocky Mountain Power with the following conditions:

- All the information discussed that night was on the record.
- The approval was subject to the backcountry plan provided by the applicant and that they adhere to that plan.
- The applicant would adhere to all the proposed engineering including limiting the line to

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one 46 kV circuit and a pole for pole replacement along the existing line.
- The project would have a stormwater pollution prevention plan.
- A consistent plan with Wasatch County.

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	Nay
Council Member Simonsen	Aye

8. **Appenzell PUD / Appeal of Administrative Decision** (City Attorney – Approximately 45 minutes) – Discuss and deny, continue, or approve an appeal by the Appenzell PUD HOA of an administrative decision to not process an application because of a pending ordinance.

Council Member Dougherty disclosed that he received a call from Tyler Lamarr, an attorney representing the Appenzell HOA, and told him that he could not talk to him because it would be exparte communication.

Corbin Gordon reported that the HOA withdrew its application, and the appeal was no longer valid.

9. **Adjournment**

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

The meeting was adjourned at 8:04 p.m.

Celeste Johnson, Mayor

Brad Wilson, Recorder

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