



# Memo

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**Date:** October 14, 2026  
**To:** Mayor, City Council, and Staff  
**Cc:** File  
**From:** Brad Wilson, City Recorder  
**RE:** Minutes of the October 6, 2026, City Council Meeting

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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, October 6, 2026, 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 at Midway, the United States Post Office, the Midway City Office Building, and the Midway Community Center. Notices/agendas were provided to the Mayor, City Council, City Engineer, City Attorney, and Community Development Director. The public notice/agenda was published on the Utah State Public Notice Website and on the City's website. A copy of the public notice/agenda is contained in the supplemental file for the meeting.

### **1. Call to Order; Pledge of Allegiance; Prayer and/or Inspirational Message**

Mayor Simons called the meeting to order at 6:00 p.m.

#### **Members Present**

Craig Simons, Mayor  
Andy Garland, Council Member  
Lisa Orme, Council Member  
Andrew Osborne, Council Member  
Kevin Payne, Council Member  
JC Simonsen, Council Member

Michael Henke, Community Development  
Director  
Wes Johnson, Engineer  
Camille Palmer, Mayor's Assistant  
Jennifer Sweat, Treasurer  
Brad Wilson, Recorder

#### **Staff Present**

Corbin Gordon, Attorney

**Note:** A copy of the meeting roll is contained in the supplemental file for the meeting.

Mayor Simons 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 October 6, 2026, City Council Regular Meeting
- b. Warrants
- c. Minutes of the September 14, 2026, City Council Meeting
- d. Minutes of the September 14, 2026, City Council Closed Meeting
- e. Resolution 2026-18 authorizing the Mayor to sign a perpetual easement permitting the Utah Department of Transportation to replace and maintain a culvert under SR 113 at approximately 1250 South.

- f. Reappoint Cathy Philpot to a second and final term as a member of the Midway Historic Preservation Committee
- g. Reappoint Athina Koumarela to a second and final term as a member of the Midway Historic Preservation Committee
- h. Reappoint Diann Glenn to a second and final term as a member of the Midway Historic Preservation Committee
- i. Reappoint Mike Glenn to a second and final term as a member of the Midway Historic Preservation Committee
- j. Reappoint Jim Kohler to a second and final term as a member of the Midway Historic Preservation Committee
- k. Reappoint Kelli Lineback to a second and final term as a member of the Midway City Planning Commission
- l. Reappoint Steve Stevens to a third term as a member of the Midway Open Space Committee
- m. Second one-year extension of the final approval for the Probst Meadow Small Scale Subdivision located at 305 West Main Street (Zoning is R-1-9)

**Note:** Copies of items 2a through 2c and 2e through 2m are contained in the supplemental file for the meeting.

Mayor Simons read the consent agenda.

Council Member Garland asked that Kelli Lineback's name be spelled correctly on all documents.

**Motion:** Council Member Garland moved to approve the consent agenda with the name correction.

**Second:** Council Member Simonsen seconded the motion.

**Discussion:** None

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

|                         |     |
|-------------------------|-----|
| Council Member Garland  | Aye |
| Council Member Orme     | Aye |
| Council Member Osborne  | Aye |
| Council Member Payne    | Aye |
| Council Member Simonsen | Aye |

### 3. Public Comment – Comments were taken for items not on the agenda.

Mayor Simons asked if there were any comments from the public about items that were not on the agenda.

Candidate / County Council Seat A

Shawn Taylor, a Charleston resident, introduced himself to the City Council and announced that he is running as a write-in candidate for County Council Seat A, which includes representation of areas within Midway. He expressed his interest in meeting City Council members and engaging with residents attending the meeting.

No further comments were offered.

#### **4. Department Reports**

##### JC Simonsen, Council Member

Council Member Simonsen provided updates on Animal Services and the Parks, Trails, and Trees Advisory Committee.

Regarding Animal Services, Council Member Simonsen reported that Heber City Police Chief Parker Sever has evaluated the existing facility and developed a plan to reconfigure and improve the building rather than pursue a costly new facility. Some improvements are already underway, and the proposed changes are expected to provide a longer-term solution at significantly less expense. Animal Services will bill municipalities based on estimated costs this year, with any remaining funds applied toward facility improvements. Additional funding needs may be discussed as the project progresses. Council Member Simonsen also indicated that a proposed code amendment addressing an Animal Services issue would be brought before the Council within the next few months to promote consistency with neighboring municipalities.

Regarding the Parks, Trails, and Trees Advisory Committee, Council Member Simonsen reported changes in committee leadership following the departure of the previous chair. The committee continues reviewing planned trail projects, future parks and trails goals, and short- and long-term signage improvements. Priorities include park development in the Hamlet area and completing the remaining improvements at Burgi Hill Park. Cleanup work at the park has progressed with the assistance of BD Bush Excavation, which remains committed to helping, and donated topsoil has been received. Final landscaping improvements, including additional trees, are anticipated for next spring.

Council Member Simonsen also recognized Nancy O'Toole for her continued volunteer contributions and grant-writing efforts supporting Animal Services, parks, trails, and other City projects.

##### Craig Simons, Mayor

Mayor Simons provided updates on several City departments and regional organizations. He also recognized Nancy O'Toole for her continued contributions to City projects, including the Town Square, and noted that the City's contribution toward her salary has been a valuable investment.

The Public Works Department has successfully implemented Asset Essentials, a Siemens system used to manage work orders, preventive maintenance, inventory, City assets, and fleet operations. The system has exceeded expectations and improved operational efficiency.

Midway Irrigation Company reported that pressurized irrigation water would be shut off on October 15. Despite limited water availability, the company successfully managed the irrigation season. Mayor Simons commended Brad Kohler and Chris Epperson for improving operations and incorporating technology, including a new website.

Heber Light & Power has moved into its new facility, and the Heber Valley Railroad is conducting its seasonal Halloween and Christmas events. The Heber Valley Special Service District has contracted with an engineering firm to conduct additional studies, including state-required sampling wells, to help guide future operations. Midway Sanitation District continues to represent the City's interests effectively.

Mayor Simons also reported that the Water Advisory Board has not needed to meet recently because there have been no matters requiring discussion.

**5. Ordinance 2026-23 / Legislative Development Agreement for 41 West Main Street**  
(Cooper Jenkins, Applicant – Approximately 30 minutes) – Discuss and possibly adopt Ordinance 2026-23 approving a legislative development agreement (LDA) for workforce housing located at 41 West Main Street (Zoning is C-2). Recommended without conditions by the Midway City Planning Commission.

Michael Henke presented a proposed legislative development agreement for workforce housing at 41 West Main Street, submitted by applicant Cooper Jenkins. The proposal would convert the unfinished basement of an existing commercial building into six residential apartments, each less than 900 square feet. Current commercial zoning permits only one residential unit in a mixed-use development, requiring an agreement to increase the allowable density to six units.

Mr. Henke explained that the agreement is authorized by state law and supports the City's General Plan and Midway Mobility Study, both of which identify a need for affordable housing near employment, services, and transportation. The proposal is intended to provide housing opportunities for local workers while reducing commuting distances and costs.

The proposed agreement includes a minimum 30-year deed restriction, with rents based on 65% of Wasatch County's area median income (AMI), adjusted annually and inclusive of utilities. Estimated rents would be approximately \$1,300–\$1,400 per month. Housing preference would be given first to individuals working in Midway, followed by workers in Wasatch County. To encourage development, the City would increase allowable residential density, waive certain development and building fees, and provide leased municipal and industrial (M&I) water for the six units.

Corbin Gordon clarified that the M&I water would remain under City ownership, with the property owner paying the City's associated lease costs. The water lease would terminate when the agreement ends, requiring the owner to then provide the necessary water rights.

Mr. Henke outlined incentives encouraging the property owner to extend the agreement to at least 40 years. If the agreement ends after the required 30 years but before reaching 40 years, previously waived fees must be repaid, the water lease would terminate, and the required water rights would need to be dedicated to the City. Extending the agreement to 40 years or longer would allow the owner to retain the fee waivers and continue the water lease.

The discussion emphasized balancing the need for workforce housing with appropriate long-term affordability restrictions and protection of City resources. Mr. Henke noted that the City Council has discretion to modify, approve, or deny the proposed agreement.

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

Council Member Simonsen requested clarification regarding the 65% area median income (AMI) rental calculation. Council Member Payne explained that, based on 2026 Wasatch County figures, maximum monthly rents at 65% AMI would be approximately \$1,550 for a studio and \$1,661 for a one-bedroom unit, compared to \$1,312 and \$1,406 at 55% AMI. Council members emphasized the importance of accurately representing rental costs, including utilities, and confirmed that future rents would be adjusted using annually published AMI figures. It was also clarified that the City's municipal and industrial (M&I) water lease could continue beyond 40 years if the agreement remained in effect.

Council Member Garland raised concerns regarding the amount of water allocated to the project and the inability to distinguish residential and commercial water usage through the building's existing single meter. Staff explained that the six units would require approximately 3.72 acre-feet of water under current City standards. Council Member Garland questioned whether the allocation was excessive and whether it could inadvertently subsidize commercial uses. The Council discussed reviewing historical water consumption, evaluating metering and billing arrangements, and potentially adding language to address these concerns. Staff noted that a new water study is underway to determine required amounts of water for development. Corbin Gordon clarified that the final water allocation would be documented before issuance of the first certificate of occupancy.

Council Member Payne expressed support for creating workforce housing but raised concerns about the proposed 65% AMI restriction. He recommended reducing it to 55%, citing another proposed development offering lower rents despite significantly higher construction costs. Council Member Orme emphasized that developments should be evaluated individually because of differing financial circumstances. Applicant Cooper Jenkins questioned the change from earlier discussions supporting 65% AMI, and Council Member Payne explained that the comparison with the other development influenced his position.

Council Member Payne also recommended several revisions to the agreement, including extending the minimum rental term from 30 days to six months or one year, establishing rents using published AMI figures rather than individual tenant incomes, setting maximum tenant income qualifications, and coordinating annual rent adjustments and income certifications. He further proposed structuring the City's financial incentives as a low-interest loan repayable from available project cash flow. Council members discussed these recommendations and the need to ensure the housing benefits qualifying local workers while remaining manageable for the property owner.

Council Member Garland identified additional agreement language requiring correction including a reference to a city manager.

Council Member Simonsen made the following comments:

- Midway City is using a legislative development agreement (LDA) because it is learning how to encourage affordable housing.

- The project is relatively small, in a good location, and in an existing building.
- It is a good learning project.
- An LDA allows the city to address and fine tune certain things that may or may be applicable to the next affordable housing project. The city might do something different with the next project.
- The city needs a standardized LDA which is not yet prepared.

**Motion:** Council Member Simonsen moved to approve Ordinance 2026-23 approving a legislative development agreement for 41 West Main Street, regarding the property and proposal by Cooper Jenkins the applicant, with the following findings and modifications assuming the applicant and the city could make the adjustments:

- The LDA helps provide needed workforce housing and further develops Midway City's affordable housing goals.
- The term in Section 2.4 is changed from 30 days to one year to better meet long term housing goals.
- Subsection (a) of Section 7.2 is removed so the section focuses on the AMI requirement.
- The LDA states that the units could only be leased to tenants who fundamentally require affordable housing.

**Discussion:** Council Member Payne suggested that the maximum household income be capped at 60% of AMI based on the actual household size. Council Member Simonsen asked if it should be 75%. Council Member Payne disagreed and responded that it would typically be 55%. He thought 60% gave the applicant more leeway and room than he needed. Council Member Simonsen wanted to match the AMI percentage in the agreement.

Council Member Simonsen said there needed to be a cap on AMI and it should be in a new section of the agreement.

Council Member Payne indicated that the agreement also needed to base the rent off the size of the unit. He suggested a subsection (d) in Section 7.2.

Council Member Simonsen said that Sections 16.1 and 16.2 should not refer to a non-existent city administrator or other position. Corbin Gordon clarified that Section 16.1 only required someone to be appointed by the city to administer the agreement. He added that the reference to a city manager would be removed.

Council Member Payne asked that the annual rent increase occur at the same time as the annual certification.

Council Member Simonsen stated that the agreement should address a possible difference in commercial and residential water rates.

Council Member Simonsen indicated that there were multiple opinions regarding the percentage of AMI. He thought the best way to deal with disagreement was to compromise. He suggested 60%. He was comfortable with that number because the project was small and not comparable to other possible affordable housing projects. He noted that 60% was close to 55% which had been discussed.

**Amended Motion:** Council Member Simonsen moved to approve Ordinance 2026-23 approving

a legislative development agreement for 41 West Main Street, regarding the property and proposal by Cooper Jenkins the applicant, with the following findings and modifications assuming the applicant and the city could make the adjustments:

- The LDA provides needed workforce housing and further develops Midway City's affordable housing goals.
- The term in Section 2.4 is changed from 30 days to one year to better meet long term housing goals.
- Subsection (a) of Section 7.2 is removed so the section focuses on the AMI requirement.
- The LDA states that the units are only leased to tenants who fundamentally require affordable housing.
- The LDA states that the rent is also based on the size of the unit.
- The reevaluation of the rent and the certification process occurs at the same time once a year.
- Exhibit C is updated to tie to the AMI.
- The reference to a city manager is removed.
- The landlord would have 60 days after the change in AMI to notify tenants of any change in the rent amount.
- The issue of commercial versus residential water rates is addressed before the agreement is signed.
- The percentage of AMI is 60%.

**Discussion:** Council Member Orme said she would second the motion if the percentage of AMI was 65%. She expressed the following concerns:

- The cost of the utilities is unknown.
- The applicant's actual costs for renting the units are unknown.
- 60% would not leave enough margin to address these concerns.
- She did not want the landlord to have to pay renters to live in the units after the 30 years.

Cooper Jenkins made the following comments:

- The 65% in the agreement was negotiated with the city.
- Was unable to accept a lower percentage.
- The project worked for him at 65%.

Council Member Payne made the following comments:

- Had built affordable housing.
- Knows what the numbers need to be.
- Is amazed that another affordable housing project, which proposes new construction versus building out an existing basement, includes a lower percentage of AMI.
- New construction is far more expensive.
- The applicant for the other project might now request a higher percentage.

Council Member Garland said that the city needed to consider each affordable housing project individually and separately.

**Second:** The motion died for lack of a second.

**Motion:** Council Member Payne moved to approve Ordinance 2026-23 approving a legislative development agreement for 41 West Main Street, regarding the property and proposal by Cooper Jenkins the applicant, with the following findings and modifications assuming the applicant and the city could make the adjustments:

- The LDA provides needed workforce housing and further develops Midway City's affordable housing goals.
- The term in Section 2.4 is changed from 30 days to one year to better meet long term housing goals.
- Subsection (a) of Section 7.2 is removed so the section focuses on the AMI requirement.
- The LDA states that the units are only leased to tenants who fundamentally require affordable housing.
- The LDA states that the rent is also based on the size of the unit.
- The reevaluation of the rent and the certification process occurs at the same time once a year.
- Exhibit C is updated to tie to the AMI.
- The reference to a city manager is removed.
- The landlord would have 60 days after the change in AMI to notify tenants of any change in rent.
- The issue of commercial versus residential water rates is addressed before the agreement is signed.
- The percentage of AMI is 55%.

**Second:** Council Member Simonsen seconded the motion.

**Discussion:** None

**Vote:** The motion was not approved with the Council voting as follows:

|                         |     |
|-------------------------|-----|
| Council Member Garland  | No  |
| Council Member Orme     | No  |
| Council Member Osborne  | No  |
| Council Member Payne    | Aye |
| Council Member Simonsen | Aye |

**Motion:** Council Member Orme moved to approve Ordinance 2026-23 approving a legislative development agreement for 41 West Main Street, regarding the property and proposal by Cooper Jenkins the applicant, with the following findings and modifications assuming the applicant and the city could make the adjustments:

- The LDA provides needed workforce housing and further develops Midway City's affordable housing goals.
- The term in Section 2.4 is changed from 30 days to one year to better meet long term housing goals.
- Subsection (a) of Section 7.2 is removed so the section focuses on the AMI requirement.
- The LDA states that the units are only leased to tenants who fundamentally require affordable housing.
- The LDA states that the rent is also based on the size of the unit.
- The reevaluation of the rent and the certification process occurs at the same time once a year.

- Exhibit C is updated to tie to the AMI.
- The reference to a city manager is removed.
- The landlord would have 60 days after the change in AMI to notify tenants of any change in rent.
- The issue of commercial versus residential water rates is addressed before the agreement is signed.
- The percentage of AMI is 65%.

**Second:** Council Member Garland seconded the motion.

**Discussion:** None

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

|                         |     |
|-------------------------|-----|
| Council Member Garland  | Aye |
| Council Member Orme     | Aye |
| Council Member Osborne  | Aye |
| Council Member Payne    | Nay |
| Council Member Simonsen | Nay |

- 6. Conditional Use Permit / Nightly Rental** (Darin Heckel, Applicant – Approximately 10 minutes) – Discuss and possibly approve a conditional use permit for a nightly rental located at 60 West 100 South (Zoning is R-1-7, C-2, and TROD). Recommended for approval with conditions by the Midway City Planning Commission. **Public Hearing** - Public comment must be related to this item on the agenda.

Michael Henke presented a conditional use permit (CUP) application submitted by Darin Heckel to operate a short-term rental on 100 South. Although the City Council recently removed the property from the Transient Rental Overlay District (TROD), the application was complete before the zoning amendment and is therefore vested under the regulations in effect at the time of submission. Mr. Henke clarified that the CUP must be acted upon within one year of approval unless otherwise authorized by the City Council. If the approval expires, the applicant would be unable to reapply because the property is no longer within the TROD.

Mr. Henke reviewed the City's short-term rental requirements, including a maximum of two visible vehicles outside the garage and occupancy limits of two people per bedroom plus two additional occupants. Based on the home's five bedrooms, the maximum occupancy would be 12 people or a lower limit established by the building official or fire marshal. He emphasized that conditional uses are generally considered permitted uses and can only be denied under limited circumstances when reasonable conditions cannot adequately mitigate potential impacts.

Mr. Henke also addressed neighborhood concerns regarding traffic, noting that short-term rentals generally generate fewer daily vehicle trips than permanent residences. The City received four written letters opposing the application and several inquiries from neighbors. The Planning Commission's recommendation was included in the Council's packet. He confirmed that the property is currently used as a full-time residence.

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

## **Public Hearing**

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

### **John Clarkson**

Mr. Clarkson, a nearby resident and licensed civil engineer specializing in transportation, expressed concerns regarding the three adjacent short-term rental applications being considered. He requested that the City Council evaluate the combined impact of the proposed rentals on traffic, parking, and pedestrian safety, while also making individual findings for each property. He noted existing traffic congestion, vehicles searching for parking, mid-block U-turns, obstructed sightlines, and the use of private driveways near 100 South and State Route 113. He emphasized potential conflicts between rental driveway access and sidewalks used by schoolchildren, as well as existing flooding concerns near the school crossing.

Mr. Clarkson questioned the documentation establishing when the applications were deemed complete and requested consistent occupancy limits, clearly defined vehicle restrictions, and enforceable prohibitions on street parking. He noted that the three properties could accommodate a combined maximum of approximately 34 occupants and 10 vehicles, potentially increasing activity along the same corridor. He recommended a field review by the City Engineer to evaluate traffic, pedestrian safety, parking, and sight-distance conditions. Mr. Clarkson urged the Council to deny the applications if the required findings could not be made, continue consideration if significant questions remained unresolved, or impose clear and enforceable conditions if approved.

### **David Poskoski**

Mr. Paskoski, a resident of 100 South directly across from the three proposed short-term rental properties, expressed opposition to all three conditional use permit applications. He stated that increased traffic and activity associated with Midway Bakery and Ballerina Farm have already significantly affected the neighborhood. He expressed concern that additional nightly rentals would further alter the residential character of the area, replacing permanent residents with transient visitors. He emphasized the importance of preserving neighborhood stability and community values and questioned whether tourism was being prioritized over residents' quality of life. He urged the City Council to consider the cumulative impact on the neighborhood and deny all three applications.

### **Lynnette Wilson**

Ms. Wilson, a resident of 100 South, reiterated her opposition to short-term rentals in residential neighborhoods and expressed appreciation for the recent removal of properties from the TROD. She emphasized that the neighborhood should remain primarily residential, with long-term occupants who contribute to the community. She noted that the existing residents have not caused problems and expressed concern that converting these homes to nightly rentals would displace permanent residents and reduce potential housing opportunities. She suggested that the three properties could instead provide up to six long-term residential units if converted into apartments. She also questioned the consistency of promoting affordable housing while allowing existing homes to become short-term rentals. She noted that Midway already has hotels, inns, and expanding resorts to accommodate visitors and urged the Council to prioritize

neighborhood preservation and residents' quality of life.

#### Sharka Fabian

Ms. Fabian, a resident of 100 South directly across from the proposed short-term rental properties, expressed support for maintaining long-term residential rentals rather than converting the homes to nightly rentals. She spoke positively of the current tenants, particularly the Heckel family, noting their contributions to the neighborhood and willingness to assist neighbors. Fabian emphasized the value of having long-term residents who establish relationships and contribute to the community. She expressed her preference for preserving the existing residential character of the neighborhood through long-term rentals rather than short-term accommodations.

#### Linda Weinstein

Ms. Weinstein, a longtime neighborhood resident, expressed concerns about existing traffic congestion and pedestrian safety along 100 South. She described frequent vehicles turning around near her driveway, particularly on weekends, and reported a recent incident in which two young bicyclists were nearly struck by a vehicle making a U-turn. She emphasized the neighborhood's efforts to preserve its residential character and maintain shared amenities, including the irrigation ditch. She expressed concern that additional short-term rentals would increase vehicle traffic and worsen existing safety issues. She urged the City Council to observe weekend traffic conditions firsthand and address the ongoing problems before allowing additional rental activity in the neighborhood.

#### Leslie Miller

Ms. Miller, a Midway resident and former Park City Council member, expressed opposition to introducing short-term rentals into established residential neighborhoods. Drawing on her experience with rapid growth and land-use planning, she emphasized the City Council's responsibility to protect residents' health, safety, and welfare. She characterized short-term rentals as a commercial or quasi-commercial use that could undermine neighborhood character and raised concerns about spot zoning and its implications for sound planning practices. Referencing concerns raised by Mr. Clarkson, she questioned potential inconsistencies in the application and review process, including the information presented to the Planning Commission. She encouraged the Council to thoroughly review the applications, procedural records, and prior recommendations before making a decision. She commended residents for their involvement and urged the Council to prioritize neighborhood preservation and residents' quality of life.

#### Darin Heckel

Mr. Heckel, the applicant and longtime resident of 60 West 100 South, spoke in support of his conditional use permit application for a short-term rental. He emphasized that he has lived in the home since 2005, intends to remain on the property, and would personally manage the rental rather than rely on an outside management company. He explained that the rental would utilize space no longer occupied by his children and provide supplemental income for future personal goals. Citing his experience in the hospitality industry, Mr. Heckel stated that he would carefully

screen guests and promptly address any concerns. He noted that the property's proximity to Main Street would encourage guests to walk to nearby businesses, potentially reducing parking demands while supporting the local economy. He acknowledged neighborhood concerns and expressed willingness to accept reasonable conditions to minimize potential impacts.

### John Clarkson

Mr. Clarkson questioned Mr. Heckel's stated intention to remain on the property while operating a short-term rental, noting that the application requested approval for up to 12 occupants. Mr. Clarkson expressed concern that the approval could allow the entire home to be rented to 12 guests regardless of the owner's current plans. He suggested that a smaller occupancy and vehicle limit would be more appropriate if only a basement unit were intended for rental. He also emphasized the need for a designated local contact to address potential code violations and neighborhood concerns.

Michael Henke clarified that, under the City's short-term rental regulations, the entire rental unit must be rented, and the owner cannot occupy that same unit during the rental period. He distinguished this requirement from a bed-and-breakfast operation.

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

**Note:** Council Member Orme recused herself from discussion and voting on the item. She left at 7:44 p.m.

The City Council discussed concerns raised by residents regarding the proposed short-term rental CUP, particularly traffic congestion, pedestrian safety, parking restrictions, and neighborhood impacts. Council Member Payne asked staff whether the public's concerns warranted additional conditions. Wes Johnson acknowledged that traffic on 100 South has increased and reduced the roadway's level of service but stated that traffic volumes remain within the capacity of a rural roadway. He also indicated that the proposed rental did not present an identifiable safety hazard beyond typical residential street conditions.

Michael Henke and City Attorney Corbin Gordon clarified that the applications were vested under the zoning regulations in effect when submitted, despite the subsequent removal of the properties from the TROD. They explained that conditional use permits are administrative approvals and generally cannot be denied unless significant impacts cannot be reasonably mitigated. Mr. Gordon emphasized that the Council's authority is primarily to impose reasonable conditions rather than deny an otherwise permitted use.

The Council reviewed existing short-term rental regulations, including occupancy limits of two people per bedroom plus two additional occupants, subject to fire marshal approval, and restrictions allowing no more than two visible vehicles outside the garage, with no renter street parking. Mr. Henke explained that each rental must have a licensed property manager responsible for compliance. Violations are subject to a two-strike enforcement process, with license revocation following a second documented violation. Because the properties are no longer within the TROD, a revoked license could not be reinstated through a new application under current zoning. He also clarified that an approved CUP would expire if not acted upon within one year, and the rental must be used at least once annually to maintain its status.

Residents continued to express concerns. Mr. Clarkson questioned whether the City's required conditional use findings adequately addressed traffic, intersection safety, and pedestrian hazards. Mr. Henke stated that staff had addressed the required findings in the staff report and that the Council could accept, modify, or continue consideration of the findings if additional review was necessary. Ms. Wilson reiterated concerns about neighborhood character and the loss of long-term housing opportunities. She also questioned whether short-term rental properties would receive residential property tax benefits. Staff clarified that the Wasatch County Assessor determines property tax classifications based on actual use and residency requirements, and that the City regularly provides business licensing information to the County.

Council members acknowledged the public's concerns but generally agreed that existing regulations provide substantial safeguards and that there was insufficient legal justification to deny the application. Council Member Garland noted that nearby commercial activity contributes to existing traffic and parking problems, which would not necessarily be resolved by denying the rental. Mayor Simons confirmed that the City was already addressing sidewalk and related infrastructure concerns. Council Member Payne encouraged residents to report future violations and explained that neighborhood concerns had contributed to the Council's recent decision to reduce the TROD boundaries. The discussion concluded with general agreement that the application must be evaluated under existing law and that compliance with established conditions would be essential.

**Motion:** Council Member Garland moved to approve a conditional use permit for Darin and Nancy Heckel, owners of the property located at 60 West 100 South, to use the property for nightly rentals with the following findings:

- The property is in the R-1-7 and C-2 zones
- It falls within the transient rental overlay zone
- The proposed use is 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 complies with all the applicable provisions of this Code.
- The proposed use is consistent with the General Plan.
- The approval of the conditional use or special exception permit for the proposed use appears to comply with the requirements of state, federal and Midway City or other local regulations.
- There appear to be no potential, significant negative effects upon the environmental quality and natural resources that could not be properly mitigated and monitored.
- The design, location, size, and operating characteristics of the proposed use appear compatible with the existing and future land uses within the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may 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 subject site is physically suitable for the type and density/intensity of the proposed use.
- There are adequate provisions for public access, including internal and surrounding traffic flow, water, sanitation, public utilities, and services to ensure that the proposed use would not be detrimental to public health and safety.
- The property falls within Midway's Transient Rental Overlay District (TROD)
- Because the property is in the TROD, but not within the C-2, C-3, or RZ zones, the proposed use is a conditional use pursuant to Midway City Code Section 7.06.050(A).

- The rental of the property for transient lodging purposes is subject to and conditioned upon compliance with Midway City Code including, but not limited to, licensing, nuisance, light and sign ordinances, as well as required inspections.
- Limit occupancy to a maximum of 12 persons or the maximum determined appropriate by the City Building Official/Fire Marshall, whichever is less.

**Second:** Council Member Simonsen seconded the motion.

**Discussion:** None

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

|                         |         |
|-------------------------|---------|
| Council Member Garland  | Aye     |
| Council Member Orme     | Recused |
| Council Member Osborne  | Aye     |
| Council Member Payne    | Aye     |
| Council Member Simonsen | Aye     |

- 7. Conditional Use Permit / Nightly Rental** (Mark Nelson, Applicant – Approximately 10 minutes) – Discuss and possibly approve a conditional use permit for a nightly rental located at 70 West 100 South (Zoning is R-1-7 and TROD). Recommended for approval with conditions by the Midway City Planning Commission. **Public Hearing** - Public comment must be related to this item on the agenda.

Michael Henke presented the conditional use permit application for the Nelson property, located immediately west of the previously discussed Heckel property. He explained that the proposed short-term rental would have a maximum occupancy of 12 people based on the number of bedrooms and would be subject to the City's existing parking restrictions, allowing no more than two visible vehicles outside the garage. Council Member Garland asked about the property's current use. Mr. Henke confirmed that owner Mark Nelson does not reside at the property and indicated that it was likely used as a long-term rental, although he could not confirm its current occupancy.

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

### **Public Hearing**

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

### **John Clarkson**

Mr. Clarkson reiterated his concerns regarding the cumulative impacts of the three adjacent short-term rental applications on traffic, parking, and pedestrian safety along 100 South. He argued that the City's analysis was too general and did not adequately address conditional use findings related to compatibility and traffic, physical suitability, public access, and traffic flow. He requested updated traffic and speed studies to evaluate changes resulting from nearby commercial development, particularly increased congestion, illegal parking, restricted sight distances, and vehicle queuing near the bakery and State Route 113. He also emphasized

safety concerns involving schoolchildren using the sidewalk and crossing the state highway. He cautioned that unfamiliar short-term rental guests could further complicate existing traffic conditions and suggested involving the Utah Department of Transportation (UDOT) if the issues remained unresolved.

Mayor Simons acknowledged the concerns and confirmed that a traffic study was planned. He stated that the City had already evaluated parking and congestion near the bakery and that the Public Works Department was investigating sidewalk conditions along 100 South. He also indicated that the City would coordinate with UDOT regarding sight-distance concerns and the pedestrian crossing on the state-controlled roadway. Council Member Simonsen acknowledged the increased traffic and parking difficulties and assured Mr. Clarkson that his concerns were understood.

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

**Motion:** Council Member Garland moved to approve a conditional use permit for Mark Nelson, to use the property located at 70 West 100 South for nightly rentals, with the following findings:

- The property is in the R-1-7 zone.
- It is in the TROD.
- The proposed use is 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 complies with all the applicable provisions of this Code.
- The proposed use is consistent with the General Plan.
- The approval of the conditional use or special exception permit for the proposed use appears to comply with the requirements of state, federal and Midway City or other local regulations.
- There appears to be no potential, significant negative effects upon the environmental quality and natural resources that cannot be properly mitigated and monitored.
- The design, location, size, and operating characteristics of the proposed use appear compatible with the existing and future land uses within the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may 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 subject site is physically suitable for the type and density/intensity of the proposed use.
- There are 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.
- The property falls within Midway's Transient Rental Overlay District (TROD)
- Because the property is in the TROD, but not within the C-2, C-3, or RZ zones, the proposed use is a conditional use pursuant to Midway City Code Section 7.06.050(A).
- The rental of the property for transient lodging purposes is subject to and conditioned upon compliance with Midway City Code including, but not limited to, licensing, nuisance, light and sign ordinances, as well as required inspections.
- Limit occupancy to a maximum of 12 people or the maximum determined appropriate by the City Building Official/Fire Marshall, whichever is less.
- The property needed to be used as a nightly rental within one year or the CUP would lapse.

**Discussion:** Michael Henke clarified that the property was in the TROD when the CUP application was submitted. It has since been removed from the TROD.

**Second:** Council Member Simonsen seconded the motion.

**Discussion:** None

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

|                         |         |
|-------------------------|---------|
| Council Member Garland  | Aye     |
| Council Member Orme     | Recused |
| Council Member Osborne  | Aye     |
| Council Member Payne    | Aye     |
| Council Member Simonsen | Aye     |

**Note:** Council Member Orme returned at 8:22 p.m.

- 8. Conditional Use Permit / Nightly Rental** (Scot and Jan Lythgoe, Applicants – Approximately 10 minutes) – Discuss and possibly approve a conditional use permit for a nightly rental located at 85 South 100 West (Zoning is R-1-7 and TROD). Recommended for approval with conditions by the Midway City Planning Commission. **Public Hearing** - Public comment must be related to this item on the agenda.

Michael Henke presented the property, located at 100 West and 100 South, for consideration as a short-term rental. He explained that the restored historic home has a maximum occupancy of 10 guests based on its bedrooms and is limited to two vehicles because it does not have a garage. The property includes a parking pad on the northwest corner. Council members confirmed that the property is currently used as a long-term rental and that the owners do not reside there. Mr. Henke clarified that the property's short-term rental eligibility would expire if it were not converted to a nightly rental within one year.

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

### **Public Hearing**

Mayor Simons opened the hearing and asked if there were any comments from the public. He closed the hearing when no public comment was offered.

**Motion:** Council Member Garland moved to approve the conditional use permit, for a nightly rental at a property owned by Scott and Jan Lythgoe located at 85 South 100 West, with the following findings:

- The property is in the R-1-7 zone.
- The property was in the TROD when the application was submitted but has since been removed.
- The proposed use is 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 complies with all the applicable provisions of this Code.

- The proposed use is consistent with the General Plan.
- The approval of the conditional use or special exception permit for the proposed use appears to comply with the requirements of state, federal and Midway City or other local regulations.
- There appears to be no potential, significant negative effects upon the environmental quality and natural resources that cannot be properly mitigated and monitored.
- The design, location, size, and operating characteristics of the proposed use appear compatible with the existing and future land uses within the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may 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 subject site is physically suitable for the type and density/intensity of the proposed use.
- There are adequate provisions for public access, including internal and surrounding traffic flow, water, sanitation, public utilities, and services to ensure that the proposed use would not be detrimental to public health and safety.
- The property falls within Midway's Transient Rental Overlay District (TROD)
- Because the property is in the TROD, but not within the C-2, C-3, or RZ zones, the proposed use is a conditional use pursuant to Midway City Code Section 7.06.050(A).
- The rental of the property for transient lodging purposes is subject to and conditioned upon compliance with Midway City Code including, but not limited to, licensing, nuisance, light and sign ordinances, as well as required inspections.
- Limit occupancy to a maximum of 10 people or the maximum determined appropriate by the City Building Official/Fire Marshall, whichever is less.

**Second:** Council Member Simonsen seconded the motion.

**Discussion:** None

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

|                         |     |
|-------------------------|-----|
| Council Member Garland  | Aye |
| Council Member Orme     | Aye |
| Council Member Osborne  | Aye |
| Council Member Payne    | Aye |
| Council Member Simonsen | Aye |

## **Department Reports (Continued)**

### Law Enforcement

Sergeant Josh Weishar of the Heber City Police Department provided an update on law enforcement activities in Midway, reporting that Swiss Days went smoothly with no significant complaints. Mayor Simons praised the officers' efforts during the event, particularly their assistance with parking enforcement, vendor compliance, and the successful use of crossing guards at several intersections.

Sergeant Weishar explained that officer rotations provide a variety of enforcement expertise, with continued emphasis on traffic safety along South Center Street, Burgi Lane, River Road, Main Street, and school zones. He noted that additional speed limit signs have helped reinforce the new 25 mph speed limit on Burgi Lane. Mayor Simons confirmed that the 25-mph limit would remain in effect from the River Road roundabout to Homestead Drive and that an additional speed limit sign would be installed.

Council Member Garland questioned whether officers assigned to Midway also respond to incidents in Heber City and whether this affects the City's law enforcement costs. Sergeant Weishar explained that officers from both cities provide mutual backup and occasionally assist with significant incidents outside their assigned jurisdictions. He was unable to clarify why Heber City incidents sometimes appear in Midway's reports.

Mayor Simons also clarified that a stop sign near the top of Swiss Alpine had been intentionally removed by the Public Works Department following consultation with the City Engineer to improve traffic flow. The discussion concluded with appreciation for law enforcement's continued service and coordination with the City.

#### **9. Conditional Use Permit and Local Consent / Alcohol Dispensing Establishments**

(Hector Moreno, Alpenhaus Resort, LLC – Approximately 10 minutes) – Discuss and possibly approve conditional use permits and grant local consent for alcohol dispensing establishments at the Zermatt Resort located at 784 West Resort Drive (Zoning is Resort). Recommended for approval with conditions by the Midway City Planning Commission.

**Public Hearing** - Public comment must be related to this item on the agenda.

Michael Henke presented a request for alcohol permit approvals at the Zermatt Resort due to a change in ownership. He explained that the Planning Commission recommended approval and that staff identified no concerns. The request would maintain the resort's existing alcohol licenses and conditions, including compliance with Midway City Code regarding alcohol-related signage. If local consent is granted, the new ownership would complete the required state application, background checks, and training.

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

#### **Public Hearing**

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

#### **Hector Moreno**

Mr. Moreno, representing Zermatt Resort, discussed plans to improve the resort, restore its connection with the community, and undertake a major rebranding next year. Council Member Osborne expressed interest in bringing community events, such as the ski swap, back to the resort, and Moreno indicated support for restoring past activities.

Council Member Osborne also noted that Provisions appeared to be missing from the list of businesses holding alcohol licenses in the staff report. Mr. Henke agreed to review and update the list for future reports.

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

**Motion:** Council Member Garland moved to approve a conditional use permit and grant local consent for alcohol dispensing establishments, requested by Hector Moreno agent for Alpenhaus Resort, LLC owned by Mark Harris, with the following findings and conditions:

- The CUP is required because of an ownership change.
- The alcohol licenses otherwise remain the same for the Zermatt Resort.
- The Zermatt Resort currently has a bar, restaurant, and banquet liquor licenses.
- Zermatt Resort is located at 784 West Resort Drive and is in the resort zone.
- No alcohol-related signage is visible on the exterior of the building or on the inside, visible from the outside, including from Resort Drive and Homestead Drive.
- Signage complies with Midway City Code.

**Second:** Council Member Osborne seconded the motion.

**Discussion:** None

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

|                         |     |
|-------------------------|-----|
| Council Member Garland  | Aye |
| Council Member Orme     | Aye |
| Council Member Osborne  | Aye |
| Council Member Payne    | Aye |
| Council Member Simonsen | Aye |

**Motion:** Without objection, Mayor Simons recessed the meeting at 8:35 p.m. He reconvened the meeting at 8:43 p.m.

**10. Ordinance 2026-21 / C-2 and C-3 Zones** (Michael Henke, Community Development Director – Approximately 20 minutes) – Discuss and possibly adopt Ordinance 2026-21 amending Section 16.05 (Commercial C-2 and C-3 Zones) of the Midway City Municipal Code regarding the C-2 and C-3 zones. Recommended for approval without conditions by the Midway City Planning Commission. **Public Hearing** - Public comment must be related to this item on the agenda.

Michael Henke presented a proposed zoning map amendment to expand the C-3 commercial zone and reduce the C-2 zone, consistent with the City's General Plan. The proposal would rezone approximately 12 acres involving 20 property owners, primarily around Town Square and portions of Main Street, to establish a more unified, compact, and walkable town core. He explained that the C-3 zone generally allows reduced setbacks and different development standards compared to the C-2 zone, which requires greater setbacks and landscaping.

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

Council members questioned how the proposed rezoning relates to upcoming amendments addressing setbacks, impervious surfaces, and other commercial development standards. Mr. Henke clarified that the current proposal addresses only zoning boundaries, with the related code amendments scheduled for October 20. He confirmed that affected property owners had been notified twice and that those who contacted staff were informed of the potential changes. Council members emphasized the importance of ensuring property owners understand that additional C-3 regulations remain under consideration.

The discussion also addressed outdated zoning map information, including the Transient Rental Overlay District (TROD) boundary. Mr. Henke indicated that an updated map would be posted if the amendment is approved. He also presented conceptual illustrations intended to guide future development toward Midway's distinctive small-town character, emphasizing smaller building masses, spacing between structures, greenery, and a pedestrian-friendly environment rather than continuous storefront development. Council members expressed support for the visual examples and their consistency with the Town Square improvements.

Mr. Henke concluded that the proposed amendment is a legislative decision within the Council's discretion and presented potential findings for approval or denial.

### **Public Hearing**

Mayor Simons opened the hearing and asked if there were any comments from the public. He closed the hearing when no public comment was offered.

**Motion:** Council Member Osborne moved to adopt Ordinance 2026-21 amending the zone map that affects portions of the C-2 and C-3 zones with the following findings:

- The proposed amendment rezones certain properties currently within the C-2 zone as marked and the C-3 zone.
- The affected area extends south of Main Street from 100 East to 200 West and down to 50 South including the Kringles property at 200 West and 6<sup>th</sup> South.
- The proposed zone map amendment complies with and implements the specific goals and guidelines of the Midway City General Plan, specifically Main Street Goals and Guidelines (page 69).
- The map amendment satisfies the General Plan's mandate to "consider Main Street as two distinctly designed areas" (Goal 1, Guideline 7) by formalizing the geographic boundaries between the compact town center and the surrounding rural corridor.

**Second:** Council Member Payne seconded the motion.

**Discussion:** None

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

|                         |     |
|-------------------------|-----|
| Council Member Garland  | Aye |
| Council Member Orme     | Aye |
| Council Member Osborne  | Aye |
| Council Member Payne    | Aye |
| Council Member Simonsen | Aye |

**11. Resolution 2026-21 / Cemetery Operational Suspension** (City Attorney – Approximately 10 minutes) – Discuss and possibly approve Resolution 2026-21 continuing an operational suspension of the sale of cemetery plots in the Midway City Cemetery located at 700 West 500 South.

Corbin Gordon explained that the existing cemetery moratorium can be extended beyond six months because it is not a land use ordinance. The extension will allow staff additional time to resolve ongoing cemetery issues, including record cleanup, repairs, and planning for future expansion.

Mayor Simons recognized Cemetery Sexton Travus Jensen and Tracy Larson for their extensive efforts in managing cemetery operations and addressing existing issues. Council Member Orme clarified that the current restrictions would remain in place, allowing the purchase of a burial plot and a companion plot when a death occurs.

**Motion:** Council Member Payne moved to approve Resolution 2026-21 continuing an operational suspension as presented.

**Second:** Council Member Simonsen seconded the motion.

**Discussion:** None

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

|                         |     |
|-------------------------|-----|
| Council Member Garland  | Aye |
| Council Member Orme     | Aye |
| Council Member Osborne  | Aye |
| Council Member Payne    | Aye |
| Council Member Simonsen | Aye |

**12. Resolution 2026-22 / Cemetery Forms** (City Attorney – Approximately 10 minutes) – Discuss and possibly approve Resolution 2026-21 adopting forms for the operation of the Midway City Cemetery located at 700 West 500 South.

Corbin Gordon explained that the City Attorney's Office and Cemetery Sexton Travus Jensen have been working to update cemetery forms to address deficiencies in previous documentation. Mr. Jensen presented a revised burial rights claim form designed to provide clearer instructions and establish a more thorough process for individuals seeking to claim burial plots, particularly those purchased several generations ago. He explained that historical records often lack sufficient detail, creating confusion regarding ownership and inheritance rights. Mayor Simons clarified that the updated form allows for multiple methods of establishing ownership or a legitimate claim to burial rights, depending on individual circumstances.

Council Member Simonsen asked whether forms for new purchases were also being revised, and Mr. Gordon indicated that current purchase documentation is generally adequate, with most issues involving older records. Council Member Orme noted that historical purchases often relied on simple cards rather than formal deeds. Mr. Jensen further explained that older family plots were sold by overall dimensions rather than individual grave spaces, creating discrepancies when applying modern mapping standards. Mayor Simons emphasized that

investments in GIS and GPS technology, along with staff training, are improving cemetery recordkeeping and will support future expansion.

**Motion:** Council Member Orme moved to approve Resolution 2026-22 adopting the cemetery form changes and updates that are needed.

**Second:** Council Member Payne seconded the motion.

**Discussion:** None

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

|                         |     |
|-------------------------|-----|
| Council Member Garland  | Aye |
| Council Member Orme     | Aye |
| Council Member Osborne  | Aye |
| Council Member Payne    | Aye |
| Council Member Simonsen | Aye |

**13. Ordinance 2026-22 / Vision Architectural Committee** (Michael Henke, Community Development Director – Approximately 15 minutes) – Discuss and possibly adopt Ordinance 2026-22 amending Chapter 2.07 (Vision Architectural Committee) of the Midway City Code.

Corbin Gordon and Michael Henke presented a proposed code amendment to provide the City Council with final review authority over recommendations from the Visual Architectural Committee (VAC) for new commercial buildings and qualifying major remodels, rather than having those decisions made by staff. The amendment would also formally establish two alternate committee members who could vote when regular members are absent, improving consistency with other City committees and helping maintain a quorum. Mayor Simons emphasized that the changes reflect previous Council direction.

Mr. Henke also discussed plans to appoint one or two consulting architects to review commercial proposals before they reach the VAC, creating a three-step review process involving professional architectural review, VAC recommendations, and final City Council consideration. Signage approvals would remain with staff and the VAC.

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

Council Member Simonsen questioned committee term limits, and Mr. Henke clarified that regular members may serve two four-year terms, with the possibility of reapplying after leaving the committee. Council Member Payne expressed concern about the limited pool of qualified architectural professionals in a small community and suggested considering longer terms to retain expertise.

Council members also emphasized the importance of continuity and consistency in architectural decisions, particularly given the subjective nature of design standards. Mr. Henke indicated that term limits could be reconsidered if necessary.

**Motion:** Council Member Payne moved to adopt Ordinance 2026-22.

**Second:** Council Member Simonsen seconded the motion.

**Discussion:** None

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

|                         |     |
|-------------------------|-----|
| Council Member Garland  | Aye |
| Council Member Orme     | Aye |
| Council Member Osborne  | Aye |
| Council Member Payne    | Aye |
| Council Member Simonsen | Aye |

**14. Closed Meeting** (As needed) - Closed Executive Session to Discuss Pending or Reasonably Imminent Litigation, Purchase, Exchange or Lease of Property and/or the Character, Professional Competence or Physical or Mental Health of an Individual.

A closed meeting was not held.

## **15. Adjournment**

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

The meeting was adjourned at 9:09 p.m.

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Craig Simons, Mayor

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Brad Wilson, Recorder