



# Memo

---

**Date:** 17 January 2018  
**To:**  
**Cc:**  
**From:** Brad Wilson, City Recorder/Financial Officer  
**RE:** Minutes of the 10 January 2018 City Council Regular Meeting

---

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

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

**Wednesday, 10 January 2018, 6:00 p.m.  
Midway Community Center, City Council Chambers  
160 West Main Street, Midway, Utah**

**Note:** Notices/agendas were posted at 7-Eleven, Ridley's Express, the Midway City Office Building, and the Midway Community Center. Notices/agendas were provided to the City Council, City Engineer, City Attorney, Planning Director, Public Works Assistant Crew Chief, 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.

**Members Present:**

Celeste Johnson, Mayor  
Lisa Christen, Council Member  
Jeff Drury, Council Member  
Bob Probst, Council Member  
JC Simonsen, Council Member  
Ken Van Wagoner, Council Member

**Staff Present:**

Corbin Gordon, Attorney  
Michael Henke, Planning Director  
Wes Johnson, Engineer  
Brad Wilson, Recorder/Financial Officer

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

Kris Ward gave the prayer and/or inspirational message. Mayor Johnson led the Council and meeting attendees in the pledge of allegiance.

**2. Mayor Pro Tempore – Discuss and possibly elect a member of the Midway City Council to be mayor pro tempore.**

**Motion:** Council Member Christen nominated Council Member Van Wagoner to be the mayor pro tempore.

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

**Discussion:** None

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

Council Member Christen	Aye
Council Member Drury	Aye
Council Member Probst	Aye
Council Member Simonsen	Aye
Council Member Van Wagoner	Aye

### 3. Consent Calendar

- a. Agenda for the 10 January 2018 city council regular meeting.
- b. Warrants
- c. Minutes of the 13 December 2017 city council regular meeting.
- d. Minutes of the 13 December 2017 appeal board hearing.
- e. Ordinance 2018-01 - Prescribing the time and place of the regular meetings of the Midway City Council.
- f. The bond for the Midway City mayor.
- g. Conclude the warranty period and release the remainder of the bond for the Wright Subdivision, located at 131 West 970 South, subject to the payment of all fees due to Midway City.
- h. Resolution 2018-01 - Compensation for Service on the Heber Light & Power Company Board of Directors

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

Mayor Johnson read the consent calendar.

**Motion:** Council Member Christen moved to approve the consent calendar with Ordinance 2018-01 including work meetings at 10:00 a.m. on the second and fourth Wednesdays of each month.

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

**Discussion:** None

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

Council Member Christen	Aye
Council Member Drury	Aye
Council Member Probst	Aye
Council Member Simonsen	Aye
Council Member Van Wagoner	Aye

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

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

#### Lundin Annexation

Randy Lundin made the following comments:

- Requested that the Council either approve or deny his family's annexation petition.
- Had given a final offer to the City regarding the conditions for annexation. Understood that the offer did not include everything that the City wanted.
- Asked that a vote on the petition be on the agenda for the next council meeting.
- The annexation was small with 3.9 acres.
- Originally the City did not require a second access for the family's subdivision.
- The access was required when Saint-Prex Estates, on the other side of Swiss Alpine Road, was proposed by someone else.
- The access requirement was not fair to his family.
- Part of the access would be a single lane until Robert Fuller's property was developed.
- The access would not work for school buses.
- A requirement to landscape, between Swiss Alpine Road and the Swiss Heights Mobile Home Park, should have nothing to do with the annexation. The land was part of the family's farm and not the Mobile Home Park.
- Tom Whitaker had not been required to landscape Memorial Hill as part of his annexation.
- Moving the open space in their proposed subdivision, as required by the City, would make it difficult to access the northern lots.
- Recommended that the second access follow the route of the old irrigation ditch through Sunburst Ranch, Phase III to Lime Canyon Road. It was a good time to use this route because the needed property in Lime Canyon was being developed.

Mayor Johnson confirmed that the annexation would be reviewed at the next work meeting and considered for action at the regular meeting the same day. She cautioned that the Council's decision might not be favorable because several issues were still unresolved.

Nora Lundin read the following statement:

I am part of the fourth generation of Lundins to own the land west of Homestead Drive including the trailer park and extending to the ridgeline going west (Approximately 130 acres west of Midway City). The Lundins bought the original piece in 1893. Since then the Lundins have paid taxes, tried to be good neighbors and good stewards of the land. The Lundins predate the founding of Midway and of Wasatch County.

About a year ago the Lundin family started the process of annexing some property into Midway in order to build a subdivision for myself and three brothers to have house lots. During this process it was explained to us, that in order for us to build our subdivision, we would have to provide a second access to Swiss Alpine for the safety of the people already living in the hundreds of houses currently in the subdivisions along Swiss Alpine Road. We have worked very hard for months to come up with a plan that would provide this second access and also further our goal of having homes on our property. After many months of negotiations, we were told by Michael Henke that Midway City was unable to make the road a condition of our subdivision but could make it a condition of our annexation.

In addition to providing the land for the road, Midway would require us to do landscaping along the southern edge of the mobile home park which is a separate parcel of land and not connected to the proposed piece to be annexed. We are also to pay into the parks

fund and reconfigure our landscaping for our proposed subdivision.

None of these things had ever been discussed as part of the annexation until late summer. Several more months of negotiation ensued. In December a meeting was held with Mr. Henke and the Mayor, at that time Colleen Bonner. At the end of the meeting Mr. Henke told us that if we wrote an email, detailing our final terms, he would get us on the agenda for January 10<sup>th</sup> for a final vote. On December 11<sup>th</sup>, I wrote an email detailing what we would agree to and what we would not, stating very clearly that this was our final offer and that we needed to have a yes or no vote from the Council so that we could move forward whatever plan we needed to do. Instead of placing us on the agenda, Mr. Henke emailed me last week and said that my email was unclear to what we were going to do, and more meetings were needed to get our annexation on the agenda. My email of December 11<sup>th</sup> could not have been more simple and explicitly stated as to what we were willing to accept and weren't. I feel this was a stalling technique being used for Midway to force us into complying with every condition they have put forth for annexation.

In conclusion, I feel that we have tried to be the solution to the problem from the beginning and that Midway has kept adding on more conditions in order for us to simply live on the property that we have owned for 120 years. It honestly feels a lot like extortion. All that we are asking for is to be put on the agenda and the Council to vote yes or no. No more negotiating. We would really like to move forward with either plan "A" or plan "B".

Mayor Johnson reviewed the new process to put an item on a council agenda. She wanted to give everyone an opportunity to come before the council. She also wanted as much information as possible given to the Council before its meetings.

#### Swearing in Ceremony / Pure Midway Board

Clint Coleman said that he was disappointed the Mayor and new members of the Council chose to hold a private ceremony instead of being sworn in at a public meeting.

Mr. Coleman said that it was a conflict of interest for Mayor Johnson and Council Member Simonsen to be on the board of Pure Midway.

Mayor Johnson responded that the ceremony was not private. She added that the date accommodated some of her family that was in town. She stated that she and Council Member Simonsen were no longer on the Pure Member Board.

Council Member Simonsen responded that he was only concerned that the swearing in be done as soon as possible. He apologized for any error in judgement.

No further comments were offered.

- 5. Appoint Treasurer and Recorder** (Approximately 5 minutes) – Discuss and possibly appoint Jennifer Sweat as the Midway City treasurer and Brad Wilson as the Midway City recorder.

**Motion:** Council Member Van Wagoner moved to appoint Jennifer Sweat to continue as the Midway City treasurer and Brad Wilson to continue as the Midway City recorder.

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

**Discussion:** None

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

Council Member Christen	Aye
Council Member Drury	Aye
Council Member Probst	Aye
Council Member Simonsen	Aye
Council Member Van Wagoner	Aye

Mayor Johnson thanked all the City's employees and recognized them for their dedication.

**6. Ordinance 2018-02 / Development Moratorium** – A proposed ordinance enacting a moratorium on new development applications.

Corbin Gordon made the following comments:

- The Council discussed the proposed moratorium at a work meeting.
- Prepared a memorandum regarding the issue.
- Thought that it was legally questionable to adopt one moratorium right after another.
- The State Code did not specify how much time there needed to be between moratoriums.
- Recommended adopting a notice of pending ordinance instead.
- This would allow the City to work on code text amendments that would apply to development applications submitted within six months after the notice was adopted.

Council Member Simonsen thought that Mr. Gordon's work was thorough and supported a notice of pending ordinance.

Council Member Drury said that the intent of the original moratorium was to codify the recommendation from the general plan revision. He thought that a notice of pending ordinance was a good course of action. He recommended that the amendments be prioritized.

Michael Henke indicated that the most important amendments were almost completed.

Council Member Probst stated that a notice of pending ordinance was the most reasonable option.

**Motion:** Council Member Christen moved to deny Ordinance 2018-02.

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

**Discussion:** None

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

Council Member Christen	Aye
Council Member Drury	Aye
Council Member Probst	Aye
Council Member Simonsen	Aye
Council Member Van Wagoner	Aye

Council Member Probst noted that a lot of residents wanted another moratorium. He said that the City needed to inform them that a notice of pending ordinance was a more reasonable option. Mayor Johnson responded that more information would be posted on the City's website. She also noted that additional notices could be adopted that covered other amendments.

Mayor Johnson asked if there was any public comment on the issue. There were no comments.

**7. Resolution 2018-02 / Pending Ordinance** - Discuss and possibly adopt resolution 2018-02 notifying the public of a pending ordinance regarding planned unit developments, lot size and frontage requirements when open space is required, open space requirements, required setbacks along collector roads in certain specified zones and other related issues.

Corbin Gordon asked that the proposed resolution, noticing a pending ordinance, cite the specific sections of the Municipal Code to be amended. Mayor Johnson reviewed the amendments included in the resolution.

Council Member Drury asked if additional amendments should be added to the resolution. Mr. Gordon responded that other resolutions, noticing additional amendments, could be adopted in the future.

Mayor Johnson asked if there was any public comment on the issue. There were no comments.

Michael Henke indicated that Sections 16.16.8, 16.16.12 and 16.16.9 would be affected by the amendments proposed in the resolution.

**Motion:** Council Member Simonsen moved to adopt Resolution 2018-02, notifying the public of a pending ordinance, specifying that Sections 16.16.8, 16.16.12 and 16.16.9 would be amended.

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

**Discussion:** None

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

Council Member Christen	Aye
Council Member Drury	Aye
Council Member Probst	Aye
Council Member Simonsen	Aye

- 8. Carpentry and Woodworking Workshop / Conditional Use Permit** (Approximately 25 minutes) – Discuss and possibly grant a conditional use permit for a carpentry and woodworking workshop proposed at 30 East 100 South. Recommended by the Midway City Planning Commission. Public hearing required.

**Presentation / Discussion**

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

- Land use summary
- Proposed location of the workshop
- Site plan and building layout
- Setbacks
- Water Advisory Board recommendations
- Building elevations
- Pictures of sample buildings
- VAC recommendations
- Planning Commission recommendations
- Possible findings

Mr. Henke also made the following comments:

- All property owners within 600 feet of the proposed conditional use had been mailed a notice.
- There was room for additional parking spaces.
- Any future use of the building would have to meet parking requirements.
- A landscaping plan had to be approved by the Vision Architecture Committee (VAC) before a building permit would be issued.
- The parking should be hidden by landscaping.
- The VAC reviewed the design of the building. It recommended approval with the addition of certain architectural elements. It recommended giving the applicant one year to install the elements, since he would build them himself.
- The impact of the business on the neighbors could be considered and mitigated with reasonable conditions.
- The Planning Commission recommended that the woodworking area be insulated for noise.
- If the business created a nuisance, then the City could work with the owner to resolve it.
- The business would be more of a hobby for the applicant.
- Secondary water would be used for landscaping and not inside the building.

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

Bill Chaney, applicant, made the following comments in response to questions from the Council:

- Any smell from the business would be reduced because he would rub on rather than spray lacquers, etc.
- His work would be custom rather than production.
- The dust collection system would be self-contained, use sealed bags and be completely housed inside the building.
- The second story would be a mezzanine and not living quarters. He indicated that it might be used for storage or an office.
- The building would be metal.
- He would sell his products over the internet and through word-of-mouth.
- He would deliver or ship his products.

Council Member Christen expressed concern that the business would be on a road with a sidewalk that was used by a lot of children.

Council Member Christen asked if potential problems like smell could be readdressed if the property was sold. Mr. Henke responded that they could be readdressed.

Council Member Simonsen asked how smell would be measured. Mr. Henke responded that smell was regulated in the Municipal Code but there was not a quantitative measurement.

Mr. Henke indicated that normally the City would not want a metal building.

Corbin Gordon was concerned about there being only one parking space. He recommended a note and restriction specifying that future owners would have to evaluate the parking. Mr. Henke responded that evaluation could occur when a business license was requested.

Council Member Simonsen pointed out that, according to the City's parking requirements, only three spaces were required for six employees.

Mayor Johnson thanked Mr. Chaney for visiting the neighbors regarding the proposal.

### **Public Hearing**

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

#### **Phillip Douglas**

Mr. Douglas, who would build the workshop, appreciated working with the City. He said that Mr. Chaney would be a local artisan that made cool things. He also noted that there would be space in the building to pick up items.

#### **Maggie Fugitt**

Ms. Fugitt asked if large trucks would deliver materials to the business. Mr. Chaney responded that he would bring in his own materials with a truck and trailer.

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

**Action**

Mr. Henke pointed out that on-street parking would be available. He said that the business would not have a showroom.

**Motion:** Council Member Probst moved to grant a conditional use permit, for a carpentry and woodworking workshop, subject to the recommendations of the Planning Commission, Water Advisory Board and the VAC.

**Second:** Council Member Van Wagoner seconded the motion.

**Discussion:** None

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

Council Member Christen	Aye
Council Member Drury	Aye
Council Member Probst	Aye
Council Member Simonsen	Aye
Council Member Van Wagoner	Aye

**9. Midway Art Association / Lease Agreement** (Approximately 10 Minutes) – Discuss and possibly approve an agreement, with the Midway Art Association, to lease space in the Midway Town Hall located at 140 West Main Street.

Corbin Gordon explained that the original approval of the agreement did not require that it come back to the Council for review. He indicated that the Art Association was reviewing the agreement and it would be reconsidered by the Council if there were changes.

**Motion:** Council Member Christen moved to table consideration of the lease agreement.

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

**Discussion:** None

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

Council Member Christen	Aye
Council Member Drury	Aye
Council Member Probst	Aye
Council Member Simonsen	Aye
Council Member Van Wagoner	Aye

**10. Impact Fee Report** (Approximately 10 Minutes) – Receive a report on the receipt and use of impact fees for Midway City for fiscal year 2017.

Brad Wilson presented the impact fee report for fiscal year 2017. He explained impact fees,

reviewed the impact fees on hand on 30 June 2017, and reviewed projected expenditures for the fees. He also explained that road impact fees, which had been held longer than six years, were encumbered for the construction of Michie Lane.

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

The Council and staff reviewed the Alpenhof Park. Wes Johnson reported that the new Alpenhof-Weber well was in the park. He said that a landscaping company would be hired to re-landscape now that the well construction had finished.

Council Member Christen reviewed needed repairs and maintenance to the park. She also reviewed safety issues that needed to be addressed.

Council Member Probst asked if the wellhouse needed to be fenced. It was decided that did not need to be fenced.

Mr. Johnson explained how impact fees were used when improving existing roads and infrastructure.

Michael Henke explained the importance of Michie Lane and that it was one of a limited number of east to west connecting roads.

## **11. Department Reports**

### Celeste Johnson, Mayor

**Work Meetings** – Mayor Johnson reported that the City Council would hold work meetings on the second and fourth Wednesday's of each month at 10:00 a.m. She invited the public to attend.

### Ken Van Wagoner, Council Member

**Public Works Building / Expansion** – Council Member Van Wagoner reported on the expansion of the City's public works building. He indicated that the structure had been purchased.

### Lisa Christen, Council Member

**Ice Rink / Skates** – Council Member Christen reported that new skates needed to be purchased for the City's ice rink.

**Ice Rink / Zamboni** – Council Member Christen reported that the Zamboni for the ice rink kept breaking down. She said that another Zamboni, which was the same model, was available in Park City for \$9,500. She recommended that it be purchased before the next meeting.

Council Member Simonsen asked why the current Zamboni kept breaking down. Council

Member Christen responded that it had not been properly maintained.

Council Member Simonsen supported purchasing the additional Zamboni if it passed an inspection. He liked that parts for the two machines were interchangeable.

Brad Wilson noted that the operator and operating agreement had changed since the budget for the ice rink was adopted. He asked to review the agreement and the budget to ensure that funds were available for the additional purchases.

**Commercial Zones / Parking** – Council Member Christen reported that parking was a problem along 100 West, between Main Street and 100 South, because a new restaurant had opened. She indicated that customers were parking in private driveways, etc. Mr. Henke responded that the new restaurant met the City's parking requirements.

Mayor Johnson asked if parking needed to be delineated along the road. She suggested that the issue be considered at the Council's next work meeting.

Mr. Henke noted that the City rebuilt the road in part to address parking issues.

Mr. Henke suggested hiring a consultant to review parking needs and requirements in and around the commercial zones.

## 12. Adjournment

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

The meeting was adjourned at 8:05 p.m.

---

Celeste Johnson, Mayor

---

Brad Wilson, Recorder