

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

**Tuesday, 20 October 2020, 6:00 p.m.  
Midway Community Center, City Council Chambers  
160 West Main Street, Midway, Utah**

**Note:** Notices/agendas were posted at 7-Eleven, Ridley's Express, the United States Post Office, the Midway City Office Building, and the Midway Community Center. Notices/agendas were provided to the City Council, City Engineer, City Attorney, Planning Director, 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 6:10 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  
Brad Wilson, Recorder/Financial Officer

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 20 October 2020 City Council Regular Meeting
- b. Warrants

**Note:** Copies of items 2a and 2b are contained in the supplemental file.

Council Member Drury asked about the warrant for Wasatch Property Maintenance. Wes Johnson reviewed the warrant and indicated that it was for road surface treatments. He noted that the company also worked under the name Wasatch Asphalt Preservation.

**Motion:** Council Member Dougherty moved to approve the consent calendar.

**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	Aye
Council Member Simonsen	Aye

Wes Johnson indicated that the warranty bond was ready to be released for the Appenzell PUD, Phase 1. He asked that it be on the agenda for the next meeting.

**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. No comments were offered.

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

##### Town Hall / Olympic Display / Benches

Council Member Orme reported that the Olympic display and the benches in the Town Hall had been refurbished.

##### Cemetery / Branches

Council Member Orme reported that the fallen branches at the cemetery had been cleaned up.

##### Community Center / Roof

Council Member Orme reported that the City was trying to get lower bids to replace the roof on the Community Center.

##### Town Hall / Shingles

Council Member Simonsen asked if anything needed to be done with the curling shingles on the Town Hall.

##### HVTED / Rebranding

Council Member Orme reported that Heber Valley Tourism and Economic Development (HVTED) wanted to rebrand.

#### Trails, Parks, and Trees Committee / Subcommittees / Tree Roll

Council Member Simonsen reported that the Midway Trails, Parks, and Trees Advisory Committee was creating subcommittees and a tree roll.

#### Culinary Water System / Capacity

Council Member Dougherty recommended that culinary water system capacity be considered when calculating the required water rights for a development.

#### Open Space Committee / Projects

Council Member Dougherty reported that the Midway Open Space Advisory Committee was discussing open space projects.

#### Midway Business Alliance

Council Member Dougherty reported that local businesses were pushing along during the pandemic.

#### HL&P / Division of Ownership

Council Member Dougherty reported that Midway City owned the same percentage of the Heber Light & Power Company (HL&P) as Charleston Town but had usage comparable to Heber City.

#### HL&P / 970 South Transmission Line

Council Member Dougherty reported that HL&P was anxious to move the 970 South transmission line forward.

#### COVID-19 Pandemic

Mayor Johnson reviewed hospital capacity and mask wearing related to the pandemic. She said that no indoor social events were allowed.

5. **CAPS Presentation** (Approximately 45 minutes) – Receive a presentation from the Wasatch Center for Advanced Professional Studies (CAPS) regarding a Town Square master plan, Community Center exterior renovation, and a souvenir shop.

Mayor Johnson indicated that the item would be considered at the next council meeting.

**6. Cascades at Soldier Hollow, Phase 2 / Plat Amendment** (Derek Kohler – Approximately 15 minutes) – Discuss and possibly approve an amendment to the plat map for Phase 2 of the Cascades at Soldier Hollow Subdivision, combining lots 85 and 86, located at 503 West Meadowbrook Circle. **Public Hearing**

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

- Land use summary
- Location of the subdivision
- Recorded plat map
- Proposed plat map
- Possible findings

Mr. Henke also made the following comments:

- The public utility easement (PUE) between the two lots, being combined, would be removed.
- There were no recommended conditions.
- Enough water rights had been turned in to irrigate the entire subdivision.

**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 first staff finding was not accurate because a larger house could have just as many trips as two houses. The law of averages indicated that two houses usually had more trips.
- Should there be a limit on the size of houses?
- The size of a house was already regulated by setbacks and height restrictions.
- Some limits in other communities were based on the size of the lot.
- Owners maximizing the size of their house decreased the feel of open space.
- Setbacks should increase with the size of the lot.

**Public Hearing**

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

**Eldon Hacky, Applicant**

Mr. Hacky made the following comments:

- The lots in Phase 2 were smaller than those in Phase 1.
- The proposed lot would be similar in size to the lots in Phase 1.
- The HOA set standards including greater setbacks.

- Other lots had been combined in the phase.

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

**Motion:** Council Member Payne moved to approve the Cascades at Soldier Hollow, Phase 2 amendment combining lots 85 and 86, located at 503 West Meadowbrook Circle, with the following findings:

- Potential trips per day generated from the two lots would be reduced.
- Density in the subdivision would be reduced.
- The area would feel more open because of the reduction of one lot.
- No public street, right-of-way, or easement would be vacated or altered.

**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	Aye
Council Member Simonsen	Aye

**7. Resolution 2020-28 / FY 2021 Budget Amendment** (City Recorder – Approximately 15 minutes) – Discuss and possibly approve Resolution 2020-28 amending the Midway City FY 2021 Budget. **Public Hearing**

Brad Wilson gave a presentation on the proposed amendment and reviewed the changes in detail.

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

Council Member Drury asked that \$15,000 be allocated for the Midway Booster's fireworks and beautification.

Mr. Wilson would contact HVTED to see if restrictions had been loosened on the use of CARES Act funds for businesses.

**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.

Council Member Drury asked if the \$1 million in open space funds, allocated for Kem Gardner's property and that he wanted to return to the City, could be put into a fund for parks maintenance. Mr. Wilson was concerned that the bond money was authorized by the voters for a specific purpose and using it otherwise could be problematic. Council Member Drury said that if the money had restrictions then it should be used to pay back the bond. Mr. Wilson recommended that the City's bond counsel review the issue and the transaction with Mr. Gardner.

**Motion:** Council Member Drury moved to approve Resolution 2020-28 amending the Midway City FY 2021 Budget with the changes as discussed.

**Second:** Council Member Dougherty 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

- 8. Cozens Subdivision / Transfer Water Right** (Glen Lent – Approximately 20 minutes) – Discuss and possibly approve transferring to Midway City a water right from an existing well in the Cozens Subdivision located at 840 South Stringtown Road.

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

- Location of the subdivision
- Recorded plat map
- Overview
- Water Board recommendation

Mr. Henke also made the following comments:

- The request would transfer the water rights into the Alpenhof/Weber well.
- The applicant wanted to also transfer the excess water rights from his well into the City's well and receive a credit. The City did not have a system for such credits. Told the applicant that the City would have to be given all the rights.
- The Council was not obligated to accept the water rights.
- The subdivision was in the city limits.
- Generally, such requests, for water rights in the city limits, had been approved.
- If the City accepted the excess water rights, then they could be sold by the applicant.
- The applicant wanted to escrow water shares so that he could record the amendment prior to the water rights transfer being completed.

**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 well would have to be capped if all the water rights were transferred out of it.
- The State periodically asked if the well was still capped.
- There was excess capacity in the Alpenhof/Weber well if the water rights were transferred.
- The amount of the water right would be reduced by the State Engineer.

**Motion:** Council Member Payne moved to approve transferring to Midway City a water right from an existing well in the Cozens Subdivision, located at 840 South Stringtown Road, subject to the following conditions and findings:

- The actual right transferred be equal to or greater than 0.4-acre feet.
- The applicant could provide 0.4-acre feet of rights as security to record the plat map otherwise the map had to be recorded after the transfer was approved by the State Engineer.
- The City did not have a system to give credits for excess water rights.
- The City had generally approved similar request for water rights within its limits.
- An escrow agreement would be needed if water rights were used as security.

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

**Discussion:** None

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

Council Member Dougherty	Nay
Council Member Drury	Aye
Council Member Orme	Aye
Council Member Payne	Aye
Council Member Simonsen	Aye

**Motion:** Without objection, Mayor Johnson recessed the meeting at 7:55 p.m. She reconvened the meeting at 8:03 p.m.

**9. Cross-Parking Agreement / Café Galleria** (Andy Jenkins / Brian Larney – Approximately 15 minutes) – Discuss and possibly approve a cross-parking agreement between the Café Galleria, located at 101 West Main Street, and the parking lot located at 125 West Main Street.

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

- Overview
- Cross parking agreement

Mr. Henke also made the following comments:

- Café Galleria wanted to expand and needed nine additional parking stalls.
- The expansion would eliminate an existing stall.
- Considered the domes at the restaurant as outside dining.
- Did not know if Brian Larney, who owned the parking lot with the proposed additional stalls, had entered into any other cross parking agreements.
- The applicant would have to come back to the Council if the agreement ended or the parking was moved.
- The Café's business license could be revoked if the needed parking was eliminated.
- The business would be short seven stalls if it did not expand and had to meet the existing regulations.
- The additional stalls would be in a private parking lot and would not be supervised by the City.
- The agreement would be finalized before the building permit was issued.
- Considered the domes as temporary.

**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 agreement should require that the City be notified if it was terminated.
- The stalls would be marked so that they could not be leased to multiple parties.
- Would someone leasing stalls have to have a business license?
- There were already people leasing stalls that did not have a license.
- The stalls would have to remain open for the Café even during Swiss Days.
- Should the domes be considered outside or inside dining? Would there be sufficient parking with the domes?
- It was good to keep businesses busy during the winter.
- Businesses should have bicycle parking.
- ADA requirements would be verified with the building permit.

**Motion:** Council Member Simonsen moved to approve a cross-parking agreement based on the terms presented subject to the following conditions:

- The agreement needed to be provided to staff.
- It needed to match what was approved that night.
- It should include a diagram and have specific stalls designated for the Café.
- It should include a requirement that both parties notify the City if it was terminated.
- The stalls would be marked on site for the Café.

**Second:** Council Member Dougherty 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

**10. Cascade View Subdivision / Potential Annexation** (Doug Dance – Approximately 15 minutes) – Discuss annexing the property, located at 900 West 1180 South, planned for the Cascade View Subdivision.

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

- Location of the proposed development
- Zoning map
- Highlands at Soldier Hollow
- Area view with proposed developments
- Culinary water access policy
- Discussion items

Mr. Henke also made the following comments:

- Doug Dance wanted to develop a property just outside of the city limits.
- A county road extended to the property.
- There were no state code issues with annexing it.
- Mr. Dance wanted to connect to the City's culinary water system.
- He wanted to know if the Council would entertain the annexation.
- The Council was not obligated to approve an annexation request.
- The Highlands at Soldier Hollow, west of the proposal, would be developed in the County.
- It was debatable if the proposal had two access points that met the City's code.
- Wards Lane did not have the needed right-of-way for a road, but it could be used for an emergency access. The City did not have a separate standard for an emergency access.
- Cascade Springs Drive was too long for a cul-de-sac.
- The property would initially be one lot then increase to four in the future. The zone allowed six lots.
- The cul-de-sac would not connect to any city streets.
- The property would have to develop after the Highlands at Soldier Hollow, or the cul-de-sac measured from where it connected to Cascade Springs Drive.

**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 road to the Soldier Hollow Golf Course maintenance building did not have an exit and could not be used as a second access for the proposal.

- The current developer did not plan to gate the Highlands at Soldier Hollow Subdivision.
- An agreement should memorialize the accesses.
- Saint Prex Estates was approved with one access prior to the current access restrictions.
- The specifications were the same for private and public streets.
- Culinary water was accessible from the Cascades at Soldier Hollow Subdivision. Mr. Dance preferred accessing the water on the west side of the Subdivision.
- The Highlands at Soldier Hollow Subdivision would get its water from 26 wells and have septic tanks. The City needed to decide if it wanted to protest the wells. A test well on the property had good flow.
- The City was working with a consultant to determine the effect of the wells on the City's Indian Springs water source.
- The septic systems on the property would have to meet county requirements.
- The proposal's development potential would be limited without access to the culinary water system.
- Would annexing the property encourage surrounding properties to be annexed?
- The Council should not consider an access that did not meet its requirements.
- The Council should accommodate the proposal because it had less density.
- Could the existing road to the property be considered a private driveway?
- The property should be developed at the same time as the Highlands.
- Wards Lane should remain rural.
- All the residents in that area would use the City's streets.
- Properties should not be annexed just to access culinary water.
- How much of the existing roads did the County plow in the winter?
- Residential development did not provide enough revenue to cover the services provided.
- The City should have input on the Highlands.
- A property usually was not annexed into the city after it was developed.

Mr. Dance made the following comments:

- Did the temporary cul-de-sac have to be considered a new road?
- He wanted to develop the property so his children could live there.
- If the Ward property was not developed, then the proposal would remain one lot.
- He added that he had the necessary water rights and access to sewer and pressurized irrigation.

Mr. Henke was uncomfortable not calling the cul-de-sac a new road because it added density.

**11. Proclamation 2020-01 / Arbor Day** (Council Member Simonsen – Approximately 10 minutes) – Discuss and possibly adopt Proclamation 2020-01 proclaiming 30 April 2021 as Arbor Day in Midway City.

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

- Tree City, USA
- Steps to be a Tree City

Mr. Henke also made the following comments:

- The Council could choose the date for Arbor Day or use the date set by the State.
- The City could do a joint event with the Wasatch Mountain State Park.
- The City needed to budget but not spend a certain amount of money to qualify.

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

**Motion:** Council Member Simonsen moved to adopt Proclamation 2020-01 proclaiming a certain day, as determined by the Mayor and staff, as Arbor Day in collaboration with the Wasatch Mountain State Park.

**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	Aye
Council Member Simonsen	Aye

## **12. Law Enforcement / Contract** (City Attorney – Approximately 60 minutes) – Discuss a revised contract for law enforcement.

Corbin Gordon gave a presentation regarding the contract and reviewed the following items:

- Base level of service
- Obligated and unobligated time
- Addendum "A"
- Recent billing

Mr. Gordon also made the following comments:

- The Mayor, Council Member Drury and he met with the Wasatch County Sheriff.
- The guiding principle in the discussion was fairness.
- Other communities were not paying their share of law enforcement costs.
- Midway was happy to pay its share if the other communities also paid their share.
- Base level of service and additional services had to be defined.
- The City would not pay any more for base level services.
- Special events would pay for law enforcement through the permitting process.
- Addendum "A" would be renegotiated annually.
- Midway used 6% of the Sheriff's Department services but was paying for 13%.
- Midway had 15% of the County's population but was using 6% of the Departments services.
- The Council needed to decide what it wanted in Addendum "A".

- The City was receiving 20 to 30 hours of additional service each month.

**Note:** A copy of the proposed contract is contained in the supplemental file.

Mayor Johnson made the following comments:

- The Sheriff agreed to what qualified as a base level of service.
- He did not want to provide labor intensive reports.
- The proposed contract gave the City more service for less money.

Council Member Drury made the following comments:

- The Sheriff said that most of his Department's time was obligated with less and less time being unobligated.
- Patrol was an additional service.
- The Department did not have enough officers to provide all the additional services that the City wanted. The Sheriff said that if the City wanted that level of service then it should have its own department.

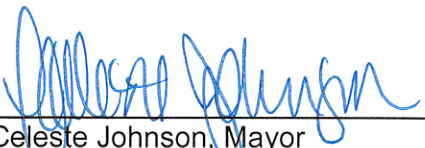
The Council, staff and meeting attendees discussed the following items:

- Could the City pay for the equivalent of an extra deputy? The Sheriff said that there was an economy of scale and the situation was more complex than just adding an additional deputy.
- The City needed an additional 40 to 60 hours for traffic control, etc.
- Should the contract state that the City would only pay for the hours that it received?
- Additional services were usually required during the day.
- The City received a lot of complaints about speeding.
- If the City provided certainty in what it paid then it should get certainty in the hours that it received.
- The contract could be for five years to provide additional certainty for the Department.
- The Department determined where its officers worked.
- No other communities were asking for additional service.
- Hideout Town was renegotiating its contract.
- The City was receiving at least the base level of service.
- It was creating a process that could be used by other communities.
- It needed to work with the County Manager because he and the County Council set the Department's budget.
- It was not receiving much additional service.
- It should get what it paid for.

### 13. Adjournment

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

The meeting was adjourned at 10:25 p.m.



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Celeste Johnson, Mayor



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Brad Wilson, Recorder