

MINUTES OF THE MIDWAY CITY COUNCIL

(Regular Meeting)

Wednesday, 10 June 2015, 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 Administrative Lead, and The Wasatch Wave. The public notice/agenda was published on the Utah State Public Notice Website. A copy of the public notice/agenda is contained in the supplemental file.

1. Call to Order; Opening Remarks or Invocation; Pledge of Allegiance

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

Members Present:

Colleen Bonner, Mayor
Dick Hines, Council Member
Danny Hofheins, Council Member
Ken Van Wagoner, Council Member
Karl Dodge, Council Member
Kent Kohler, Council Member

Staff Present:

Michael Henke, Planning Director
Kraig Powell, Attorney
Wes Johnson, Engineer
Brad Wilson, Recorder/Financial Officer

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

Mayor Bonner asked if a Midway City resident in attendance would like to give the opening remarks or invocation. Kraig Higginson gave the opening remarks or invocation. Mayor Bonner led the Council and meeting attendees in the pledge of allegiance.

2. General Consent Calendar

- a. Agenda for the 10 June 2015 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 13 May 2015 City Council Regular Meeting
- d. Minutes of the 13 May 2015 City Council Closed Meeting
- e. Minutes of the 27 May 2015 City Council Work Meeting
- f. Minutes of the 27 May 2015 City Council Regular Meeting
- g. Minutes of the 27 May 2015 City Council Closed Meeting
- h. Resolution 2015-08 Establishing the Certified Property Tax Rate for Midway City

- i. Ordinance 2015-10 Restricting the Discharge of Fireworks within Specific Areas of Midway City

Note: Copies of items 2a, 2b, 2c, 2e, 2f, 2h, and 2i are contained in the supplemental file.

Motion: Council Member Hines moved to approve the general consent calendar.

Second: Council Member Hofheins seconded the motion.

Discussion: None

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

Council Member Hines	Aye
Council Member Hofheins	Aye
Council Member Van Wagoner	Aye
Council Member Dodge	Aye
Council Member Kohler	Aye

3. **Public Comment** – Comments will be Taken on Any Item not Scheduled for a Public Hearing, as Well as on Any Other City Business. Comments are Limited to Two Minutes per Speaker. The Council Cannot Act on Items not Listed on the Agenda, and Therefore, the Council may or may not Respond to Non-Agenda Issues Brought up Under Public Comment. Those Wishing to Comment Should use the Podium, State Their Full Name and Address, Whom They Represent and the Subject Matter to be Addressed. Total Time Allocated to Public Comments will be no More than 10 Minutes.

Mayor Bonner asked if there were any comments from the public for items not on the agenda. No comments were offered.

4. **Ordinance 2015-07/Agricultural Greenhouses (Kraig and Jeanette Higginson)** – A Proposed Ordinance Amending the Midway City Municipal Code to Change the Category of Commercial Greenhouses to Agricultural Greenhouses. Recommended without Conditions by the Midway City Planning Commission.

4a. Presentation – Receive Presentations on the Proposed Ordinance from Staff and the Applicants

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

- Proposed code text amendment
- Land use map

- Current code
- Eligible parcels
- Greenhouse ordinance history
- Agricultural greenhouse definition
- Personal greenhouses
- Commercial greenhouses
- Proposed agricultural greenhouses
- Questions to consider

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

Council Member Hines asked Kraig Higginson why he wanted to change the commercial designation to agricultural. Mr. Higginson responded that the current designation created problems with the County Assessor and the Building Code. He said that greenhouses were agriculture and should be designated as such.

A video was shown of a test greenhouse partially owned by Mr. Higginson.

Mr. Higginson explained that trout, fresh water bass and koi could be legally raised in Utah.

4b. Public Hearing – Receive Public Comment on the Proposed Ordinance

Mayor Bonner opened the public hearing.

Jeanette Higginson, 773 Potrock Road

Ms. Higginson made the following comments:

- Her family had been planning the greenhouse for years.
- It was designed for her children and grandchildren to work somewhere away from technology.
- It was a learning experience and the accumulated knowledge would be shared.
- Wanted her family to be self-reliant.

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

4c. Action – Discuss and Possibly Adopt the Proposed Ordinance

Mayor Bonner thought that the Higginson’s greenhouse was a unique idea and a “wave of the future.” She also thought that it was a more efficient way to use land and water. She recommended that the ordinance be approved.

Council Member Hofheins worried that a future proposal for greenhouses would be 28 acres of Plexiglas. He asked how the City would prevent that from happening. Mayor Bonner responded that most greenhouses were a conditional use. Michael Henke added that the City had already set a high standard with the required open space and setbacks. He indicated that Plexiglas could be prohibited.

Council Member Kohler noted that glare had been a concern. Mr. Henke noted that the previous two conditional use permits, for the project, were subject to the windows being tinted if needed.

Mayor Bonner said that the proposed ordinance could be adopted with changes to prevent industrial looking greenhouses. Council Member Hofheins added that the design could be regulated. Mayor Bonner suggested barn like greenhouses with the design reviewed by the Vision Architectural Committee (VAC). Council Member Hofheins agreed.

Motion: Council Member Hines moved to adopt Ordinance 2015-07 which amended the Midway City Municipal Code, to change the category of commercial greenhouses to agricultural greenhouses, with all personal greenhouses over 1,000 sq. ft. and agricultural greenhouses reviewed by the VAC and the construction material tinted if necessary.

Council Member Van Wagoner asked if all greenhouses should be reviewed by the VAC. Mr. Henke pointed out that personal greenhouses under 1,000 sq. ft. were a permitted use.

Second: Council Member Hofheins seconded the motion.

Council Member Van Wagoner asked who would determine if a greenhouse needed to be tinted. Mr. Henke recommended that staff make that decision so one person, such as a neighbor, could not stop a project.

Discussion: None

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

Council Member Hines	Aye
Council Member Hofheins	Aye
Council Member Van Wagoner	Aye
Council Member Dodge	Aye
Council Member Kohler	Aye

Council Member Hines explained that all of the tomatoes sold at Costco stores were grown in greenhouses.

Mr. Higginson asked if the approval process was complete. Mr. Henke indicated that a conditional use permit for an agricultural greenhouse, to include aquaponics, was still needed.

Mr. Higginson asked if he could do the greenhouse and then come back for the permit. Mr. Henke responded that he could.

5. Ordinance 2015-08/Amendments – A Proposed Ordinance Deleting Section 16.26.11 (Amendments to Ordinance and Map) of the Midway City Municipal Code to Eliminate Redundancy. Recommended without Conditions by the Midway City Planning Commission.

5a. Presentation – Receive a Presentation on the Proposed Ordinance from Staff

Michael Henke gave a presentation regarding the request and reviewed the code text amendment and the redundant sections in the Municipal Code.

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

5b. Public Hearing – Receive Public Comment on the Propose Ordinance

Mayor Bonner opened the public hearing. She closed the hearing when no public comment was offered.

5c. Action – Discuss and Possibly Adopt the Proposed Ordinance

Motion: Council Member Dodge moved to adopt Ordinance 2015-08 which deleted Section 16.26.11 (Amendments to Ordinance and Map) of the Midway City Municipal Code to eliminate redundancy.

Second: Council Member Van Wagoner seconded the motion.

Discussion: None

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

Council Member Hines	Aye
Council Member Hofheins	Aye
Council Member Van Wagoner	Aye
Council Member Dodge	Aye
Council Member Kohler	Aye

6. Ordinance 2015-09/Sewage Disposal – A Proposed Ordinance Amending Section 16.13.19 (Sewage Disposal) of the Midway City Municipal Code Regarding the Required Distance to Connect to a Sewer System. Recommended without Conditions by the Midway City

Planning Commission.

6a. Presentation – Receive a Presentation on the Proposed Ordinance from Staff

Michael Henke gave a presentation regarding the ordinance and reviewed the current and proposed language. He indicated that the current language required a sewer connection if a building was within 300 feet of the sewer system. He said the proposed language, which would match that of the State Code and the Midway Sanitation District (MSD), would require a connection if the property line was within 300 feet of the sewer system.

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

6b. Public Hearing – Receive Public Comment on the Propose Ordinance

Mayor Bonner opened the public hearing. She closed the hearing when no public comment was offered.

6c. Action – Discuss and Possibly Adopt the Proposed Ordinance

Motion: Council Member Van Wagoner moved to adopt Ordinance 2015-09 which amended Section 16.13.19 (Sewage Disposal) of the Midway City Municipal Code as recommended by staff to meet the State Code.

Second: Council Member Kohler seconded the motion.

Discussion: None

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

Council Member Hines	Aye
Council Member Hofheins	Aye
Council Member Van Wagoner	Aye
Council Member Dodge	Aye
Council Member Kohler	Aye

7. Valais PUD, Phase IX/Amendment – A Request to Amend the Plat Map for Phase IX of the Valais PUD Located at 1500 North Montchapel Lane (Approximately 200 East).

7a. Presentation – Receive Presentations on the Request from Staff and the Applicant

Michael Henke gave a presentation regarding Phase IX and reviewed the following areas:

- Location
- Master plan
- Characteristics
- Approved location of parking spaces
- Recorded plat map
- Proposed plat map amendment

Mr. Henke also made the following comments:

- This was the last phase of the Valais PUD.
- Eight parking spaces were required for the phase.
- The applicant was requesting seven spaces.
- 133 spaces were required for the entire PUD. There would be a total of 148 spaces.
- It could be argued that the parking needed to be considered for each phase and not for the project as a whole.
- The plat map for the phase had been recorded.
- Did the amendment include adequate parking for the 15 units in the phase?
- There was a significant slope down to the four parking spaces on the west side. These spaces were not useful for the phase.
- With the proposed amendment there would be units that would not have nearby parking.
- Three of the six spaces on the north side were redundant.
- Received a call from a Valais resident who requested that all approved parking be retained.
- Received an email from another Valais resident that opposed the amendment and indicated that the developer had not fulfilled other obligations.

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

Mayor Bonner pointed out that the road in the phase had been narrowed to 27 feet. She noted that it would be just a one-way street if vehicles were parked on the road.

Council Member Hines asked why the parking spaces needed to be removed. Paul Berg, Berg Engineering Resource Group and representing the applicant, made the following comments:

- The road through the phase was steep.
- Had put parking spaces where he could.
- That was the first time that someone had complained about too much parking.
- The large retaining wall in the phase squeezed out one or two of the spaces.
- A buyer on the north side required that three of the north spaces be eliminated. If these were removed then the applicant wanted to reduce the rest of the spaces.
- The current 15 spaces were double what were required.
- The units next to the west parking spaces could be accessed through walkout basements.

This would mitigate the steep slope.

Mayor Bonner stated that the proposed amendment would remove visitor parking for a number of units. She thought it was a poor practice to eliminate parking. She did agree that the three spaces on the north, which were on the south side of the road, could be eliminated.

Wes Johnson agreed that the parking spaces next to the retaining wall and on the south side of the phase were necessary.

Council Member Hines, who lived in Valais, reported that parking was a problem at the development during holidays. He noted that there was no visitor parking on his cul-de-sac.

7b. Public Hearing – Receive Public Comment on the Request

Mayor Bonner opened the public hearing. She closed the hearing when no public comment was offered.

7c. Action – Discuss and Possibly Approve the Request

Mayor Bonner thought that some people, who bought homes in the phase, would expect the approved parking to be built. She said the parking throughout the project was done well and was not noticeable.

Council Member Kohler said the width of the road had been reduced to increase safety because of the retaining wall. He thought that removing parking decreased safety.

Council Member Dodge indicated that he had lived in a PUD and parking was a constant problem.

Motion: Council Member Kohler moved to approve the request to amend the plat map, for Phase IX of the Valais PUD located at 1500 North Mountchapel Lane, with only the three parking spaces between Unit #397 and Unit #398 removed. He further moved to accept the staff findings.

Second: Council Member Hofheins seconded the motion.

Discussion: None

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

Council Member Hines	Aye
Council Member Hofheins	Aye
Council Member Van Wagoner	Aye
Council Member Dodge	Aye
Council Member Kohler	Aye

- 8. The Sages PUD, Phase I/Final Approval (Paul Berg)** – Discuss and Possibly Grant Final Approval for Phase I of The Sages PUD, Formerly the Warm Springs PUD, Located West of the Valais PUD (Located in the RA-1-43 Zone). Recommended for Approval with Conditions by the Midway City Planning Commission.

Mayor Bonner reported that the applicant requested the item be considered at a later date.

- 9. Resolution 2015-06/The Sages PUD Development Agreement (Paul Berg)** – Discuss and Possibly Approve Resolution 2015-06 Adopting a Development Agreement for The Sages PUD, Formerly the Warm Springs PUD, Located West of the Valais PUD (Located in the RA-1-43 Zone).

Mayor Bonner reported that the applicant requested the item be considered at a later date.

- 10. High Valley Arts/Temporary Use Permit** – Discuss and Possibly Approve a Temporary Use Permit for High Valley Arts to Exceed the Allowed Sound Levels for a Musical Production at 100 South and 400 East for the Months of June and July of 2015.

Michael Henke gave a presentation regarding the production and reviewed the following areas:

- Location
- History
- Layout
- Decibel reading locations
- Decibel readings
- Allowed decibel levels

Mr. Henke also made the following comments:

- There were now more homes in the area.
- No residents had complained about the previous year's production.
- The applicants worked with the neighbors to alleviate their concerns.
- The decibel readings taken in the past fell within the required limits.
- The applicants were asking for a variance in case the sound levels went over by a couple of decibels.
- There had been no major problems in the past.

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

Council Member Dodge noted that the applicants also requested a waiver of the application fee.

Mr. Henke responded that the fee had been waived in the past and the productions increased economic activity.

Council Member Kohler suggested that the fee be waived for all organizations with a 501(C)(3) designation. Mayor Bonner noted that processing an application took staff time. Council Member Kohler responded that if it was waived for one non-profit organization it should be waived for all such organizations.

Motion: Council Member Kohler moved to approve the temporary use permit, for High Valley Arts to exceed the allowed sound levels for a musical production at 100 South and 400 East for the months of June and July of 2015, and waive the \$100 application fee. He further moved to consider changing the City's fee schedule to waive the fee for all organizations with a 501(C)(3) designation.

Second: Council Member Hofheins seconded the motion.

Discussion: None

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

Council Member Hines	Aye
Council Member Hofheins	Aye
Council Member Van Wagoner	Aye
Council Member Dodge	Aye
Council Member Kohler	Aye

Council Member Van Wagoner asked Mr. Henke to take decibel readings that year next to the closest home being built in Bowden Fields.

11. 2016 Road and Utilities Improvements/Award Contract – Discuss and Possibly Award a Contract for the 2016 Road and Utilities Improvements to Include Lime Canyon Road and Center Street

Wes Johnson made the following comments:

- Seven bids had been received.
- KW Robinson was the low bidder.
- The project would include work on Lime Canyon Road and Center Street.
- Part of the project cost would be reimbursed by the Midway Sanitation District (MSD) and the Swiss Oaks HOA.
- Had not received final approval from the HOA. That portion of the project would not be done if approval was not granted.
- Recommended that a contract be awarded to the low bidder and the Mayor sign the associated documents.

- Lime Canyon Road was the only point of access for Lime Canyon. A lot of residents would be upset with the roadwork.
- Work would start in July.
- The sewer line in Lime Canyon Road had to be replaced because it had hard water deposits and failing manholes.
- There had been problems with the water line for Swiss Oaks. As part of the project it would be connected to the water line at the entrance to the development and a new meter installed.

Motion: Council Member Dodge moved to accept the bid from KW Robinson, as shown in the materials presented that night, and authorize the Mayor to sign the contract subject to the participation of MSD and the Swiss Oaks HOA. He further moved that if the HOA did not participate then that portion of the project would not be done.

Second: Council Member Van Wagoner seconded the motion.

Discussion: None

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

Council Member Hines	Aye
Council Member Hofheins	Aye
Council Member Van Wagoner	Aye
Council Member Dodge	Aye
Council Member Kohler	Aye

12. Resolution 2015-07/Fiscal Year 2016 Budget – Discuss and Possibly Approve Resolution 2015-07 Adopting the Final Fiscal Year 2016 Budget

Brad Wilson gave a presentation on the adopted tentative budget for FY 2016.

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

Motion: Council Member Van Wagoner moved to approve Resolution 2015-07 adopting the final Fiscal Year 2016 Budget.

Second: Council Member Hines seconded the motion.

Discussion: None

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

Council Member Hines	Aye
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Council Member Hofheins	Aye
Council Member Van Wagoner	Aye
Council Member Dodge	Aye
Council Member Kohler	Aye

13. CDRA Meeting – A Meeting of the Community Development and Renewal Agency for Midway City (Please See Separate Agenda)

Motion: Council Member Van Wagoner moved to convene as the governing board of the Community Development and Renewal Agency of Midway City.

Second: Council Member Hines seconded the motion.

Discussion: None

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

Council Member Hines	Aye
Council Member Hofheins	Aye
Council Member Van Wagoner	Aye
Council Member Dodge	Aye
Council Member Kohler	Aye

Note: Minutes of the Agency are maintained separately.

Motion: Board Member Hines moved to adjourn the board meeting of the Community Development and Renewal Agency and to continue the City Council meeting.

Second: Board Member Hofheins seconded the motion.

Discussion: None

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

Board Member Hines	Aye
Board Member Hofheins	Aye
Board Member Van Wagoner	Aye
Board Member Dodge	Aye
Board Member Kohler	Aye

14. Department Reports

Karl Dodge, Council Member

Valais Park Sign – Council Member Dodge asked that the sign for the Valais Park, which indicated that it was a public facility, be installed. Mayor Bonner responded that the City was waiting for a Boy Scout to build a frame and install it as an Eagle Scout project. She did not think that would happen and said the Public Works Department would install it instead.

Midway Sanitation District/Midway City – Council Member Dodge asked the status of combining the Midway Sanitation District and the City. Kraig Powell responded that the State Code required that 100% of the residents in a district had to approve dissolution.

Council Chambers/Light & Audio Switches – Council Member Dodge asked that a switch, for the lights in the council chambers, be installed where staff sat. He asked that the foyer sound switch also be moved to where the staff sat.

Colleen Bonner, Mayor

Main Street Flowers – Mayor Bonner reported that the Midway Boosters hung the flower baskets along Main Street.

Derelict Home at 250 North Homestead Drive/Homestead Trail – Mayor Bonner asked about the derelict home on Homestead Drive. Kraig Powell explained that the contractor, who would raise the home, was applying for an environmental permit. He said that the City Engineer was insuring that the utilities were capped. He added that the agreement with the owner had been signed.

Mr. Powell indicated that the trail easement, which the City wanted, had been separated from the project and the negotiations.

100 South/Speeding – Mayor Bonner reported that a resident contacted her about drivers speeding and a lot of traffic on 100 South between Center Street and 200 West. The resident requested east and west stop signs at the intersection with 100 West.

Wes Johnson indicated that according to the MUTC Manual a stop sign should not be used for speed control. He said that a stop sign could be unsafe in a non-typical location. He also noted that there were already stop signs on the road at Center Street and 200 West.

Council Member Van Wagoner indicated that traffic and engineering studies should be done to determine the locations of stop signs. He also indicated that vehicle speed seemed higher than it was on a narrow street.

Mayor Bonner suggested that an article, in the City's next newsletter, remind residents that the speed limit was 25 mph in residential areas.

Mayor Bonner suggested that the City review the placement of all of its stop signs, to ensure

consistency, as part of the general plan review the following year.

Danny Hofheins, Council Member

Town Square/Homestead Trail – Council Member Hofheins asked when the trail would be built on the west side of the Town Square. Wes Johnson responded that it would be done as part of the Homestead Trail which had encountered a number of obstacles. He said the project was progressing.

Corners of Intersections/Paving – Council Member Hofheins noted that some of the corners of the intersection, at Center Street and 100 North, had been paved. He wondered if the same thing could be done to other intersection corners. He specifically suggested the corner of Pine Canyon Road and Mountain Springs Drive. Wes Johnson responded that paving corners increased vehicle speed, but he would look at any corners suggested by the Council.

Wes Johnson, Engineer

Midway Highlands/Construction – Mr. Johnson reported that Midway Highlands would begin construction.

Midway Highlands/Homestead Trails - Mayor Bonner asked about the fill for the Homestead Trail along Midway Highlands. She asked that the fill not include large rocks. Michael Henke indicated that there was quite a separation from the road and the trail through the project. He also indicated that the developer wanted a certain slope from the road.

Improvement of Cari Lane – Council Member Dodge asked when Cari Lane would be improved. Wes Johnson responded that it would be improved in the summer of 2016. He added that the grade would also be improved at that time.

Michael Henke, Planning Director

North Fields/Transfer of Development Rights – Mr. Henke reported that several entities would help pay for a study regarding the transfer of development rights (TDR's) from the north fields. He asked if the City wanted to also participate. He said that \$5,000 had been suggested.

Mr. Henke was not convinced that the program would be beneficial. He even thought that it would add more density to the area. He recommended that the County maintain the current zoning for the north fields.

Council Member Van Wagoner suggested that if the City allowed TDR's that it should be from areas within Midway. He pointed out that would protect open space within Midway.

Mr. Henke noted that TDR's were included in the City's general plan.

Council Member Dodge indicated that the study would be done even without the City's participation. He recommended that the City not help fund it.

Mayor Bonner supported the current zoning for the north fields. She said the residents should know the Council supported that zoning.

Kraig Powell reported that TRD's had to be transferred between jurisdictions as part of an interlocal agreement.

Council Member Van Wagoner recommended reviewing the program after the study was completed. He also recommended that the City not help fund it.

Council Member Hofheins did not think that any residents wanted to increase the density in Midway.

The Council agreed that Mr. Henke could continue to attend the TDR meetings if he had the time.

Brad Wilson, Recorder

2015 Municipal Elections – Mr. Wilson reviewed the city council candidates for that year's election. He explained that the General Election would be administered by the County and held by mail. He asked the Council if they objected to Midway including its candidates on the same ballot. The Council did not object.

15. Closed Executive Session to Discuss Pending or Reasonably Imminent Litigation and the Character, Professional Competence, or Physical or Mental Health of an Individual

Motion: Council Member Van Wagoner moved to go into a closed executive session.

Second: Council Member Hines seconded the motion.

Discussion: None

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

Council Member Hines	Aye
Council Member Hofheins	Aye
Council Member Van Wagoner	Aye
Council Member Dodge	Aye
Council Member Kohler	Aye

Note: Closed executive session minutes are sealed and strictly confidential. Access to such

minutes must be obtained through a court of law.

Motion: Council Member Dodge moved to go out of the closed executive session.

Second: Council Member Van Wagoner seconded the motion.

Discussion: None

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

Council Member Hines	Aye
Council Member Hofheins	Aye
Council Member Van Wagoner	Aye
Council Member Dodge	Aye
Council Member Kohler	Aye

16. Adjournment

Motion: Council Member Hofheins moved to adjourn the meeting. Council Member Kohler seconded the motion. The motion passed unanimously.

The meeting was adjourned at 10:01 p.m.



Colleen Bonner, Mayor



Brad Wilson, Recorder