

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

**Wednesday, 8 July 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 6:01 p.m. She excused Council Member Dodge.

**Members Present:**

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

**Staff Present:**

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

**Members Excused:**

Karl Dodge, Council Member

**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. Bob Adams 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 8 July 2015 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 24 June 2015 City Council Regular Meeting
- d. Minutes of the 24 June 2015 City Council Closed Executive Session Meeting

- e. The Mecham Annexation, Located at Approximately 1100 South Stringtown Road, for Further Consideration

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

Wes Johnson asked that a pay request be added to the warrant list.

**Motion:** Council Member Hines moved to approve the general consent calendar with the warrants removed for further consideration.

**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	Excused from the Meeting
Council Member Kohler	Aye

## **2b. Warrants**

Wes Johnson asked that a payment to KW Robinson Construction for \$239,663.99 be added to the warrant list. He said that he received the invoice that day and it was for work on the 2015 road and utilities improvements.

**Motion:** Council Member Hines moved to approve the warrants with the addition of the payment to KW Robinson Construction.

**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	Excused from the Meeting
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. **C-2 & C-3 Zones/Ordinance 2015-04** – Discuss and Possibly Adopt Ordinance 2015-04 Amending Section 16.5.2 (Permitted and Conditional Uses) of the Municipal Code Regarding the C-2 and C-3 Zones. Recommended without Conditions by the Midway City Planning Commission.

Michael Henke gave a presentation on the changes made to the proposed ordinance since the previous council meeting.

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

Mr. Henke asked if the Council wanted to allow warehousing and ministorage as a conditional use in the C-2 Zone. He also asked if there should be specific requirements for such uses.

Council Member Hines asked the process for the Visual Architectural Committee (VAC) to review storage facilities. Mr. Henke explained the process and noted that both the Planning Commission and the City Council reviewed all conditional use permits.

Mr. Henke noted that the ordinance, as proposed that evening, would allow the City Council to adjust commercial setbacks on a case by case basis.

Council Member Hofheins asked what a 20 unit per acre mixed use development would look like. Mr. Henke thought it would fill the entire acre and be up to the allowed 35 feet in height. Council Member Van Wagoner doubted that 20 units could be on an acre if parking was included.

Council Member Hines asked the number of units in a mixed use development preferred by lenders. Mr. Henke responded that lenders did not like to lend money on such developments that were more than 20% commercial.

Council Member Van Wagoner suggested that site obscuring fencing be required for storage facilities. Council Member Hofheins recommended that any fencing be secure and high quality. Council Member Kohler said the City was not responsible for securing businesses. He did think that proper fencing would make a business more attractive.

Council Member Van Wagoner asked if walls or wrought iron fencing should be allowed. Mr. Henke responded that the Municipal Code included fencing standards for commercial zones. He added that the fencing needed to be approved by the VAC and wrought iron had been used for some business fencing.

Mayor Bonner suggested landscaping along with fencing.

**Motion:** Council Member Van Wagoner moved to adopt Ordinance 2015-04 with the recommendations of the staff and the requirements for landscaping and fencing.

**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	Excused from the Meeting
Council Member Kohler	Aye

**5. Ordinance 2015-11/Bed and Breakfasts** – A Proposed Ordinance Amending Section 16.13.15 (Bed and Breakfast Establishments) of the Midway City Municipal Code to Limit the Locations of Bed and Breakfasts. Recommended for Approval without Conditions by the Midway City Planning Commission.

**5a. Presentation** – Receive a Presentation on the Proposed Amendment from Staff

Michael Henke gave a presentation on the proposed ordinance and reviewed the following areas:

- Current ordinance
- Proposed options
- Proposed language

Mr. Henke also made the following comments:

- A number of concerns had been raised by neighbors when the Hiking Inn was approved. This prompted the City to review its regulations for bed and breakfasts.
- Many residents did not want commercial uses in residential areas. They felt such uses negatively affected property values, traffic and safety.
- The recommended proposal would allow bed and breakfasts in the Transient Rental Overlay District, parcels that were at least 2 acres, or homes that were 75 years or older.

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

**5b. Public Hearing** – Receive Public Comment on the Proposed Amendment

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

**5c. Action** – Discuss and Possibly Approve the Proposed Amendment

Council Member Hines asked if there were homes in the City, which were at least 75 years old, that were large enough to be a bed and breakfast. Mr. Henke responded that there were several in the original section of the City. Council Member Hines thought that bed and breakfasts could be a significant business in the City.

**Motion:** Council Member Kohler moved to adopt Ordinance 2015-11 which amended Section 16.13.15 (Bed and Breakfast Establishments) of the Midway City Municipal Code, to limit the location of bed and breakfasts, including the staff report and as discussed that evening.

**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	Excused from the Meeting
Council Member Kohler	Aye

**6. Sunburst Ranch PUD, Phase II/Final Approval (Derek Moser)** – Discuss and Possibly Grant Final Approval for Phase II of the Sunburst Ranch PUD Located on North Olympic Way (Located in the R-1-22 Zone). Recommended for Approval with Conditions by the Midway City Planning Commission.

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

- Land use summary
- Landscaping plan
- Location
- Master plan

- Plat map
- Visitor parking
- Renderings of proposed units
- Possible findings

Mr. Henke also made the following comments:

- Had worked with the president of the Sunburst Ranch HOA regarding the request.
- Wanted Phase II to integrate well with the existing phases.
- Most open space would be in Phase III.
- The building pads were larger than in previous phases to accommodate eaves, decks, etc.
- The proposed units did not match what was in the CCR's and the previously built units. More porches and decks would be added to compensate.
- The HOA would enforce standards in the phase.
- The original developer, Crystal Springs Land and Cattle Company, was required to pay \$1,000 to the HOA for each new unit in the project. This would reimburse the HOA for landscaping it did several years earlier.
- The HOA approved of the new phase.

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

Mike Anderson, Sunburst Ranch HOA President, asked if the new units would match those already in the development. Mr. Henke responded that he spoke with the architect and they would match.

Mr. Anderson asked what would happen if the units did not match. Mr. Henke responded that requirement would be met during the building permit approval process.

Council Member Hines was concerned about the open space being in the last phase. Mr. Henke responded that the Municipal Code now required the open space at the beginning of a project. He said there was no such requirement when the development's master plan was originally approved.

Wes Johnson indicated that the temporary turnaround in the phase would be asphalt.

**Motion:** Council Member Van Wagoner moved to approve Phase II of the Sunburst Ranch PUD, located on North Olympic Way, with the staff report, staff findings and the recommendations of the Planning Commission.

**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	Excused from the Meeting
Council Member Kohler	Aye

**7. Resolution 2015-11/Sunburst Ranch Amended Development Agreement – Discuss and Possibly Approve Resolution 2015-11 Adopting an Amended Development Agreement for the Sunburst Ranch PUD Located at North Olympic Way (Located in the R-1-22 Zone).**

Kraig Powell explained that the development agreement included the major items in the development approval.

Mike Anderson asked that the HOA not be responsible for the common area in Phase II during construction. Mr. Henke responded that the developer would have to provide a landscaping bond and that should be held in full until all landscaping was completed. He agreed that the developer should be responsible for weed control until the landscaping was installed.

Mr. Henke noted that a building pad could be sold by the developer. He said the property owner would then be responsible for weed control in the pad.

Mr. Powell suggested that the agreement include a landscaping and weed control bond. He also suggested that the HOA not be responsible for weed control until a certificate of occupancy was issued.

**Motion:** Council Member Van Wagoner moved to approve Resolution 2015-11 with the suggested language by the City Attorney.

**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	Excused from the Meeting
Council Member Kohler	Aye

**8. Killowen Village, Phase III/Final Approval (Paul Berg) – Discuss and Possibly Grant Final Approval for Phase III of the Killowen Village Subdivision Located at 305 West and 500 South (Located in the R-1-22 Zone). Recommended for Approval with Conditions by the**

Midway City Planning Commission.

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

- Land use summary
- Location
- Master plan map
- Plat map
- Temporary turnaround
- Pictures of the project and the surrounding area

Mr. Henke also made the following comments:

- The development received master plan approval several years earlier.
- Phase II had been approved but the plat map had not been recorded. The developer said it would be recorded with Phase III.
- The developer was required to upgrade 250 West as part of the project's development agreement.
- The developer agreed to install a field fence between Phase II and a neighbor. That neighbor now wanted a fence along Phase III. The City could not require such fencing.
- A right to farm clause would be included on the plat map.

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

Mayor Bonner asked if the power poles along 250 West would be moved by the developer. Mr. Henke responded that was not required when the master plan or the other phases were approved. He noted that there was only one pole along the subdivision.

Mayor Bonner asked if 250 West could be widened for a trail. Wes Johnson responded that it could not because of the power poles. Council Member Van Wagoner asked if the trail could be on the other side of the road. Mr. Henke responded that a trail, along that road, was not in the City's trails plan.

Council Member Hines asked who owned the property to the south of the project. Mr. Henke responded that it was owned by the developer and his two brothers.

Council Member Kohler noted that section of 250 West was in poor condition. Wes Johnson responded that the developer was not responsible to replace the entire road. He suggested that the developer partially pay for a surface treatment. Council Member Kohler said the road was in too bad of condition for a surface treatment. Mayor Bonner suggested that the developer pay to the City the cash equivalent. Mr. Johnson responded that would be an accounting problem.

Council Member Van Wagoner stated that three homes had been built in the project and the developer had not done any public improvements. Mr. Johnson responded that improvements should not be done while a project was under construction. He also indicated that Saddle Creek Ranch, which was further down the road, still needed to be built. Mr. Henke added that several subdivisions, which were approved while they were in the County, were on the road and were

not required to do any improvements like widening the road or moving the power poles.

Mr. Henke thought that the City would have to upgrade 250 West at some point.

Council Member Hines asked the cost for the developer to put a surface treatment on his portion of the road. Mr. Johnson estimated \$1,700. He suggested that it be installed when the developer put the required slurry seal on the road in the project.

**Motion:** Council Member Kohler moved to approve Phase III of the Killowen Village Subdivision subject to the staff report and the developer putting some type of seal coat on 250 West prior to the conclusion of the warranty period.

**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	Excused from the Meeting
Council Member Kohler	Aye

**9. Resolution 2015-12/Killowen Village Amended Development Agreement** – Discuss and Possibly Approve Resolution 2015-12 Adopting an Amended Development Agreement for the Killowen Village Subdivision Located at 305 West and 500 South (Located in the R-1-22 Zone).

Kraig Powell indicated that he would add the seal coat requirement to the amended agreement.

Council Member Van Wagoner asked if the agreement should also require the developer to control weeds until the property was sold or developed. Mr. Powell agreed and said that requirement should also be added to the landscaping bond.

**Motion:** Council Member Hines moved to adopt Resolution 2015-12 adopting an amended development agreement for the Killowen Village Subdivision to include the road surface treatment and weed control requirements discussed that evening.

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

**Discussion:** Council Member Van Wagoner asked if the temporary cul-de-sac would be asphalt. Mr. Powell responded that he would add into the agreement that it would be a hard surface.

**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	Excused from the Meeting
Council Member Kohler	Aye

Wes Johnson reviewed the retention basin for the project. He said that the lot owner could landscape it but not modify its slope or depth. He added that there was an easement so that the City could clean it.

### **Sunburst Ranch PUD, Phase II/Final Approval and Resolution 2015-11/Sunburst Ranch Amended Development Agreement**

Kraig Powell asked to reconsider the approval and agreement for Sunburst Ranch to include some of the items brought up with Killowen Village.

**Motion:** Council Member Van Wagoner moved to reconsider the approval and amended agreement for Phase II of Sunburst Ranch.

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

**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	Excused from the Meeting
Council Member Kohler	Aye

Mr. Powell recommended that the agreement include a requirement that the temporary turnaround have a hard surface. He also recommended that the plat map include a right to farm clause.

**Motion:** Council Member Van Wagoner moved to approve Resolution 2015-11 with the addition of a hard surface requirement for the temporary cul-de-sac. He also moved to grant final approval for Phase II of Sunburst Ranch to include a right to farm clause on the plat map.

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

**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	Excused from the Meeting
Council Member Kohler	Aye

**10. Financial Report** – Receive a Report on the Finances for Midway City

Brad Wilson gave a report on the City’s budget with 92% of the fiscal year having elapsed. He specifically reviewed revenue and expenditures for each department in the General Fund and the Capital Improvement Projects Fund. He also reviewed revenue and expenditures for the Water Fund and the Ice Rink Fund.

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

**11. Department Reports**

Ken Van Wagoner, Council Member

**Water System Problems** – Council Member Van Wagoner reported on a ten inch culinary water line that burst near the City’s cemetery. He indicated that the pipe burst again after the initial repair. He said that millions of gallons of water had been lost and went into the ground about 100 feet from the pipe.

Council Member Van Wagoner recommended that the City install valves that warned of high water flow.

Wes Johnson recommended that the City periodically acoustically trace water leaks in its system.

Mr. Johnson thought that the replacement of the water line, on Pine Canyon Road, could have created water hammers which exposed existing problems in the system.

Colleen Bonner, Mayor

**Party** – Mayor Bonner and the Council decided to have a summer party with the City’s employees on August 17<sup>th</sup> at the Town Square.

**New Website** – Mayor Bonner reported that the City’s new website would be live in a couple of weeks.

**Valais Park Master Plan/Pickle Ball Courts** – Michael Henke reported that there was some redundancy between the proposals for a master plan, for the Valais Park, and the construction of

pickle ball courts in the park. He reviewed the costs for each.

Council Member Hines asked the schedule for the projects. Mr. Henke responded that depended upon Berg Engineering Resource Group's schedule. Karl Berg indicated that the planning could be done over the next two months with design work done during the winter. He said that construction could begin in the spring.

The Council agreed to the proposals and asked that they be ratified at their next meeting.

Danny Hofheins, Council Member

**Midway Automotive/On Street Parking** – Council Member Hofheins asked if the City could do something about all of the cars parked on the street at Midway Automotive. Michael Henke responded that the street was a state highway and the City was limited in what it could do. He did say that the Utah Department of Transportation (UDOT) allowed Midway to enforce its regulations on state roads.

Mr. Henke reported that he previously spoke to the manager of the business and asked that vehicles not be parked on the sidewalk. He said it was hard for the manager to babysit where each car was parked. It was pointed out that one of the cars was most likely owned by an employee.

Council Member Van Wagoner suggested that any vehicles in violation be towed.

Council Member Hines thought that all of the vehicles looked bad at one of the entrances to the City.

Mayor Bonner did not want to penalize a business for being successful.

Kraig Powell indicated that the Municipal Code did prohibit a vehicle from being parked at the same location on a road for more than 48 hours.

Council Member Van Wagoner said the problem was parking on the sidewalk. He suggested that signs be installed stating no parking on the sidewalk and then review the issue again if necessary.

Kent Kohler, Council Member

**Independence Day Sunrise Program** – Council Member Kohler appreciated the sunrise program on Independence Day. He asked the Mayor to thank the Midway Boosters for organizing it.

Kraig Powell, Attorney

**250 North Homestead Drive** – Mr. Powell reported that the derelict home at 250 North

Homestead Drive had been raised and the site cleared.

Wes Johnson, Engineer

**2016 Road and Utilities Improvements** – Mr. Johnson reported that a preconstruction meeting would be held for the 2016 road and utilities improvements. He noted that Lime Canyon Road would be repaired as part of the project, and because it was the only access to Lime Canyon, would have to be flagged during the day.

Mayor Bonner cautioned against motorists using one of the Zermatt Resort's parking lots as a bypass road during the project.

Mayor Bonner asked if the barrow ditch, along the upper portion of Lime Canyon Road, would be continued down to Homestead Drive. Mr. Johnson said that there was not any runoff on that section of the road so a barrow ditch had not been planned.

Mr. Johnson asked if curb and gutter should be installed. Council Member Van Wagoner thought that was only needed if there was a problem.

Michael Henke, Planning Director

**Regional Trails Plan** – Mr. Henke reported on work on a regional trails plan. He indicated that a tour of trail systems would be held that Friday.

Brad Wilson, Recorder

**2015 Municipal Elections** – Mr. Wilson reported that the Wasatch County School District might not put a bond on the ballot for that year. He said if that was the case then the City would be responsible for the General Election.

**Motion:** Without objection, Mayor Bonner recessed the meeting at 8:41 p.m. She reconvened the meeting at 8:51 p.m.

## **12. Closed Executive Session to Discuss Pending or Reasonably Imminent Litigation**

**Motion:** Council Member Hines moved to go into a closed executive session.

**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	Excused from the Meeting
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 Hines moved to go out of the closed executive session.

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

**Discussion:** None

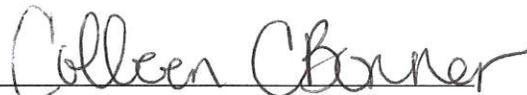
**Vote:** The motion was approved with the Council voting as follows:

Council Member Hines	Aye
Council Member Hofheins	Aye
Council Member Van Wagoner	Aye
Council Member Dodge	Excused from the Meeting
Council Member Kohler	Aye

### 13. Adjournment

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

The meeting was adjourned at 9:51 p.m.

  
\_\_\_\_\_  
Colleen Bonner, Mayor

  
\_\_\_\_\_  
Brad Wilson, Recorder