

# MINUTES OF THE MIDWAY CITY COUNCIL

## (Regular Meeting)

Wednesday, 26 August 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 and the City's 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. Council Member Dodge 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 26 August 2015 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 12 August 2015 City Council Regular Meeting
- d. Minutes of the 12 August 2015 City Council Closed Executive Session
- e. A One Year Extension of Final Approval for the Deer Creek Estates PUD, Formerly the High Valley Ranch Equestrian PUD, Located at 700 South Center Street

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

**Motion:** Council Member Van Wagoner moved to approve the general consent calendar.

**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

- 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. Resolution 2015-14/Comcast Franchise Agreement (Kraig Powell)** – Discuss and Possibly Approve Resolution 2015-14 Adopting a Franchise Agreement with Comcast of Utah II, Inc.

Kraig Powell reviewed the proposed franchise agreement and made the following comments:

- It covered cable television service provided by Comcast.
- It was regulated by federal law.
- The current agreement was in the Municipal Code. This section of the Code should be repealed if the proposed agreement was adopted.
- The proposed agreement gave Comcast the right to operate in the City and use its right-of-ways.
- Both the City Engineer and the Planning Director recommended changes including the depth of cable lines in the ground.
- The proposed agreement gave the City the 5% maximum tax rate.
- It was for a term of 10 years. The term was so short because Comcast wanted flexibility with ever changing technology.

- It required that Comcast provide service if requested to a group of at least 15 homes.

Mayor Bonner said the item would be tabled until the Comcast representative arrived at the meeting.

**5. Resolution 2015-13/Budget Amendment (Brad Wilson)** – Proposed Resolution 2015-13 Amending the Midway City Fiscal Year 2016 Budget to Replace the Boiler in the Midway Town Hall, Located at 120 West Main Street, and Include Contract Services Related to Water

**5a. Presentation** – Receive a Presentation on the Proposed Resolution

Brad Wilson gave a presentation on the proposed resolution and reviewed the following changes to the budget:

- \$50,000 increase to replace the boiler in the Town Hall. The expense would be budgeted in the CIP Fund – Buildings. The money would come from the general CIP reserve account which was at \$4,306,393.69.
- \$25,000 increase for legal counsel and a water audit. The expense would be budgeted in the Water Fund. The money would come from the general water reserve account which was at \$1,974,903.97.
- \$60,000 increase to upsize the Johnson Mill Road water line. The expense would be budgeted in the Water Fund. The money would come from the general water reserve account which was at \$1,974,903.97.
- \$20,000 increase to resurface Johnson Mill Road. The expense would be budgeted in the CIP Fund – Streets. The money would come from the general CIP reserve account which was at \$4,306,393.69.

Mr. Wilson also reviewed the location of Johnson Mill Road and the associated water line.

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

Council Member Van Wagoner explained that the Midway Irrigation Company would also expand the pressurized irrigation system when the City upsized the line. He said the upsizing would provide a fire hydrant at the end of the road and could loop with the water system on the other side of State Highway 113.

Wes Johnson estimated that the cost to resurface the road would be \$35,000. He estimated the cost to upsize the water line at \$65,000.

Mayor Bonner said she spoke with some of the property owners, who would benefit from the upsizing, about annexing into the City. She said their homes were on septic tanks and they did not want to connect to the sewer system. She indicated that they would not become part of the Midway Sanitation District if they were annexed. Council Member Van Wagoner recommended that the property be annexed into the City in exchange for upsizing the water line.

Kraig Powell noted that there were costs with annexation but they could be paid by the City.

Michael Henke recommended sending a letter to the property owners requesting that they annex their property.

**5b. Public Hearing** – Receive Public Comment on the Request

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

**5c. Action** – Discuss and Possibly Approve the Request

**Motion:** Council Member Van Wagoner moved to approve Resolution 2015-13 amending the Fiscal Year 2016 Budget with the revised amounts from the City Engineer.

**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

**Resolution 2015-14/Comcast Franchise Agreement (Continued)**

Kirk Nord, Comcast, said the proposed agreement was similar to the previous one. He explained that if 15 unserved homes were within ¼ mile of a node, then Comcast would extend its service to those homes at no charge. He said at further distances the homeowners would have to pay the cost of the expansion over five years.

Mr. Nord asked that the City notify Comcast prior to construction of a development. He said installing the infrastructure during development was 1/30 the cost. Michael Henke indicated that Comcast would be invited to be part of the Development Review Committee.

The Council reviewed several areas, including Valais and part of Dutch Fields, which did not have Comcast service.

**Motion:** Council Member Kohler moved to approve Resolution 2015-14 adopting a franchise agreement with Comcast of Utah.

**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

**6. Lisbeth Downs Subdivision, Lot #1/Culinary Water (Keven Jensen) – Discuss and Possibly Approve Connecting Lot #1, of the Lisbeth Downs Farm Preservation Subdivision, to the Midway City Culinary Water System**

Michael Henke gave a presentation on the request to connect to the City’s culinary water system and reviewed the following area:

- Location of the lot
- Neighborhood view
- Properties in the area
- Zoning map

He also made the following comments:

- Lot #1 was adjacent to the City’s boundary.
- This request was different from similar requests because the property had already been developed.
- Did the City want to supply culinary water to property that was outside its limits?
- If the Council required the lot to be annexed, to receive culinary water, then the other lots in the subdivision and the property to the southwest should be included.
- Wasatch County would have to approve the properties to the southwest not being included and being an unincorporated island.
- The existing home to the east was on a well.
- The property owner had Midway Irrigation Company water shares.
- Fire protection was not a consideration when the subdivision was approved. If a home

was built, either in the City or the County, then some type of fire protection would be required.

Keven Jensen, who owned all of the lots in the subdivision, agreed that they should all be included in an annexation.

Wes Johnson indicated that an eight inch water line with a fire hydrant at the end would be required.

Mr. Jensen asked if the lots would have to be annexed to connect to the City's culinary water. Mayor Bonner said that they would have to be annexed to connect. She said that the City should require all new connections to be within the City.

Mr. Jensen asked if he could submit a building permit to the City prior to the completion of the annexation. Mr. Henke responded that the City's building safety department recommended that the annexation be completed first or that an outside contractor review the permit. He also indicated that construction could not begin until there was fire flow in the subdivision.

Mr. Henke pointed out that easements to access the water meters would be needed because all of the property in the subdivision was private.

Mr. Jensen asked who would pay for the installation of the water line. Mr. Henke responded that Mr. Jensen would be responsible for that cost.

Mr. Jensen asked the benefits of annexation. Kraig Powell responded that there would be no benefit to him unless connecting to the City's system was cheaper than drilling a well, etc.

Mr. Jensen thanked the Council for its time and said he would consider his options.

## **7. Financial Report (Brad Wilson) – Receive a Report on the Finances for Midway City**

Brad Wilson gave a financial report for the month of June. He reviewed each major fund and made the following comments:

- 100% of the fiscal year had elapsed.
- The totals would change somewhat with the audit (Accruals, etc.).
- The report included all budget amendments
- Some revenue still needed to be received and would be accrued back into FY 2015.
- No departments went over budget.

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

## **8. Department Reports**

Christ of Latter-day Saints (LDS Church) regarding the needed right-of-way for Michie Lane. He said the City's request had moved up the organization in the Church.

**Michie Lane/School District Cable** – Mr. Henke reported that the property owned by the Wasatch County School District would be difficult to obtain. He noted that the City could not use eminent domain on school land.

Mayor Bonner thought that the City should work through the School Board.

Brad Wilson, Recorder

**General Election** – Mr. Wilson reported that the general election would be administered by Wasatch County, held by mail, and would include a bond request by the School District.

Colleen Bonner, Mayor

**Swiss Days** – Mayor Bonner reminded the Council that Swiss Days would be held the following week.

**Swiss Days Parade** – Mayor Bonner reminded the Council that they would be in the Swiss Days parade.

**Motion:** Council Member Van Wagoner moved to recess the meeting.

**Second:** Council Member Dodge 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

The meeting was recessed at 8:13 p.m. It was reconvened at 8:20 p.m.

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

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

Wes Johnson, Engineer

**Eldons Place** – Mr. Johnson reported on the construction of Eldons Place Subdivision.

**Killowen Village** – Mr. Johnson reported on the construction of Killowen Village Subdivision.

**Bowden Fields** – Mr. Johnson reported on the construction of Bowden Fields Subdivision.

**Midway Highlands** – Mr. Johnson reported on the construction of Midway Highlands Subdivision.

**Johnson Mill Road Water Line** – Mr. Johnson asked if the Council wanted the project, to upsize the water line on Johnson Mill Road, to be let out for bid or a change order give to KW Robinson. He explained that the contractor was currently repaving Center Street and Lime Canyon Road.

Mr. Johnson said that bidding would take six weeks but a change order would allow work to begin immediately. He noted that KW Robinson would have the time because the other projects were stopped for Swiss Days.

Mr. Johnson indicated that KW Robinson was the low bidder on the Pine Canyon and Lime Canyon work. He also indicated that they would have no mobilization costs.

Kraig Powell indicated that bidding versus a change order had to be considered on a case by case basis. He said which one to choose depended upon the scope of the work. He also said that the bidding laws and policies were instituted to protect the taxpayer not the bidders.

Mayor Bonner thought that upsizing the water line was somewhat of an emergency. She pointed out that indoor as well as outdoor service was now being affected. Council Member Van Wagoner added that asphalt had to be laid by October 15<sup>th</sup>.

Council Member Dodge asked if the Irrigation Company, which would install a pressurized irrigation line in the road, would help pay to asphalt the road. Mayor Bonner responded that the line would be in the shoulder. Wes Johnson said the Irrigation Company would normally pay for a four foot width of asphalt.

The Council agreed that the project should be a change order. They asked Mr. Johnson to notify the contractor only after the residents agreed to be annexed.

Michael Henke, Planning Director

**Verizon Cellular Tower** – Mr. Henke reported that Verizon Wireless would come before the Council, in the next couple of months, for a special use permit for the cellular tower in the Centennial Park.

**Michie Lane/LDS Church** – Mr. Henke reported that he met again with The Church of Jesus

**Second:** Council Member Dodge 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 Van Wagoner moved to go out of the 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

## 10. Adjournment

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

The meeting was adjourned at 9:48 p.m.



Colleen Bonner, Mayor



Brad Wilson, Recorder