

MINUTES OF THE MIDWAY CITY COUNCIL

(Regular Meeting)

Wednesday, 23 September 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 Assistant Crew Chief Leader, 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

Kraig Powell, Attorney
Wes Johnson, Engineer (Arrived at 6:09 p.m.)
Shane Owens, Public Works Assistant Crew Chief Leader (Arrived at 7:34 p.m.)
Brad Wilson, Recorder/Financial Officer

Staff Present:

Michael Henke, Planning Director

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. Lisa Christen 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 23 September 2015 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 9 September 2015 City Council Regular Meeting

- d. Minutes of the 9 September 2015 City Council Closed Executive Session
- e. Hold One Regular City Council Meeting in November on Tuesday the 10th
- f. Hold One Regular City Council Meeting in December on Wednesday the 9th
- g. Resolution 2015-18 Adopting a Water Agreement with Midway Village, LLC
- h. Begin the One Year Warranty Period for the Midway Highlands Subdivision Located on the Northeast Corner of Cari Lane and Homestead Drive
- i. Release the Construction Bond, Minus 10%, and Begin the One Year Warranty Period for the Farm Springs Subdivision Located at 550 North Center Street

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 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

- 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. Cosper Subdivision/Preliminary and Final Approval (Paul Berg)** – Discuss and Possibly Grant Preliminary and Final Approval for the Cosper Subdivision Located at 519 Cari Lane (Zoning is R-1-15). Recommended with Conditions by the Midway City Planning Commission.

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

- Land use summary
- Location
- Frontage
- Plat map
- Setbacks for the R-1-15 zone
- Analysis
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- The project had been continued from the previous council meeting because it had not been considered by the Water Advisory Board.
- Two parcels would be combined.
- One of the parcels had been illegally subdivided from a neighboring lot that had a home which was converted from a triplex.
- The easement for the property, to the south of the proposed subdivision, would be moved from the project's east boundary to its west boundary.
- This easement and the driveway for the subdivision would share an entrance from Cari Lane which was a collector road. Wanted this entrance to line up with the west entrance to The Lodges at Snake Creek, but it could be moved a little to the west.
- Existing outbuildings on the property would have to be moved or raised to meet the setbacks.

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

Note: Wes Johnson arrived at 6:09 p.m.

Council Member Dodge asked if the easement could be moved. Mr. Henke responded that the easement was tied to a metes and bounds description but could still be moved if access continued to be allowed through the property.

Council Member Dodge asked if the property owners, which used the easement, could contest the change. Mr. Henke said a letter had been sent to them regarding the project but they had not responded. Kraig Powell indicated that they could contest the change because the easement was tied to a metes and bounds description. Council Member Dodge indicated that the developer would have to address that problem if it arose.

Mr. Henke noted that the road to the property on the south boundary was not in the current or proposed easements.

Council Member Dodge did not want the City to be involved in a dispute over the easement.

Paul Berg, Berg Engineering Resource Group and representing the applicants, indicated that the plat map had been updated to address the Council's concerns from the previous meeting. He said

the easement had been widened to twelve feet, with an additional five feet to put snow from the road, and a radius on the corner so it could be use by large emergency vehicles.

Motion: Council Member Kohler moved to grant preliminary and final approval for the Cospers Subdivision with the conditions from the staff report and the recommendations from the Planning Commission and the Water Board.

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

5. Swiss Christmas/Food Trucks (Doug Jenkins) – Discuss and Possibly Allow Food Trucks at Swiss Christmas

Michael Henke made the following comments regarding the agenda item:

- The issue had been discussed at the previous council meeting.
- The Municipal Code did not allow food trucks except when authorized by the City Council for special city approved events.
- The Midway Boosters wanted food trucks for Swiss Christmas.
- The restrictions on food trucks were enacted to protect Swiss Days and permanent local businesses.
- The City's restrictions were similar to those of other communities.
- Salt Lake City's restrictions for food trucks were less stringent.
- The Council wanted local food trucks used as much as possible.

Doug Jenkins, chair of the Midway Booster's Swiss Christmas committee, said there would be three to four trucks. He said all local restaurants would be contacted to see if they wanted to participate. The food trucks would not duplicate food already offered by local restaurants.

Council Member Van Wagoner asked if the trucks needed a local business license. Mr. Henke responded that the City did not require licenses for Swiss Days vendors but could require them for food trucks.

Council Member Van Wagoner noted that the Boosters sponsored both Swiss Days and Swiss Christmas. He wondered if the same licensing should apply to both events. Mr. Jenkins indicated that the trucks would be sponsored by the Boosters and the Wasatch County Health Department

would be notified of their use. Mr. Henke indicated that they would be inspected by the Health Department.

Mr. Jenkins said that the trucks would be around a tent next to the Town Square pavilion. Mayor Bonner indicated that their location needed to be coordinated with the operator of the ice rink. Council Member Van Wagoner suggested that they be located on the east side of the Town Hall. Mr. Jenkins wanted a very visible location. Council Member Dodge suggested along Main Street in front of the Town Hall. Mr. Henke noted that Main Street was a state highway which could be a problem.

Mayor Bonner asked for a site plan showing the proposed location of the trucks.

Motion: Council Member Van Wagoner moved to allow food trucks or vendors during Swiss Christmas subject to a site plan presented to staff, staff determining that it was logistically possible to have them, they be insured, they have businesses licenses with the City or fall under the license for Swiss Christmas, the Health Department be informed of their use, and local restaurants be contacted first to see if they want to participate.

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

6. Resolution 2015-17/Ice Rink Operations Contract – Discuss and Possibly Approve Resolution 2015-17 Adopting a Contract with Fun Stuff, LLC to Operate the Midway City Ice Rink

Kraig Powell reviewed the proposed contract and made the following comments:

- The City issued a request for proposals to operate its ice rink.
- Fun Stuff submitted the only proposal.
- The proposal had been reviewed by the Mayor and staff.
- Bryce Johnson, the owner of the company, was in attendance that evening.
- The operator would be responsible for the operation and maintenance of the rink in consultation with the City and Commercial Mechanical.
- Bryce Johnson requested that the restrooms, in the Town Square shelter, be used instead of portable toilets. He would open, monitor and close them each day.
- The operator would pay \$20,000 to the City. \$10,000 of that could be used for the

settlement with Rink Management Services Corporation.

- The City would be responsible for all permanent ice rink items.
- Mayor Bonner recommended that the City spend no more than \$10,000 on the city expenditures recommended by the operator.
- The contract would be for a term of three years with two one year extensions.
- The contract could be cancelled and renegotiated at certain points in time.

Council Member Hines asked that the operator be required to provide financial statements to the City. Mr. Powell said he would add that requirement to the contract.

Council Member Dodge asked if the rink would break even in the future. Bryce Johnson responded that very few ice rinks ever made a profit. He said that he could not guarantee the City's rink would make a profit. He pointed out that the Zamboni was old and would need to be replaced. He said a used one would be \$60,000.

Council Member Dodge asked if the ice rink was worth the cost. Mayor Bonner responded that the City spend a lot of money building and maintaining its parks. She thought that that the rink was a similar community service.

Council Member Dodge noted that the City would lose the Resort Communities Tax.

Council Member Dodge said the City and the contractor needed an incentive to operate the rink.

Bryce Johnson thought that the rink was best used for public outdoor skating without hockey. He planned on have "icersize", adaptive programs and mom and tot sessions. He thought that more community members could use the rink. Council Member Dodge said the cost would be easier to justify if more residents used it.

Bryce Johnson thought that closing the rink would be a loss for the community. He said that other rinks had been proposed for the area but doubted they would be built as long as the City's was in operation.

Council Member Dodge noted that the rink did help local businesses. He stated that the City should share in the revenue as attendance grew.

Bryce Johnson pointed out that some other rinks charged as much as \$14 a person to skate. He said the City could raise its prices but thought there would be a backlash. Mayor Bonner wanted to increase the number of skaters rather than raise the prices.

Wes Johnson made the following comments about overlaying the concrete slab at the rink:

- Doug Grey, a local resident who sold concrete related products, estimated that the cost would be \$70,000 to \$75,000.
- \$80,000 had been budgeted for the project.
- Dragging a chain across the slab determined that 80% to 90% of the concrete was delaminated instead of the estimated 35%.
- The scope of the project was changed and let out for bid base on the new percentages.

- The low bid was \$113,000.
- The cost could be reduced to \$95,000 but the contractor could not guarantee the overlay would last more than five years.
- The product for the overlay would only adhere to areas that had been scraped off or the loose concrete had come off.

Council Member Dodge asked what would happen if an overlay was not done. Wes Johnson indicated that the concrete would continue to delaminate. He said eventually it would deteriorate down to the tubing.

Mayor Bonner noted that the current slab was slick when it was wet. She said the overlay would solve this problem by making the surface abrasive.

Council Member Van Wagoner asked if the tubing could be inspected. He worried that the tubes might have to be replaced after the overlay was done. Wes Johnson responded that the tubing could not be inspected by camera but only by pressure testing. He added that the tubing would not wear out.

Wes Johnson said there would be no disadvantage to waiting another year to do the overlay.

Council Member Hines asked if the terms of the contract could be changed from year to year. Mr. Powell responded that they could be renegotiated.

Council Member Dodge asked Bryce Johnson what he estimated the revenue being that season. Bryce Johnson estimated an increase from \$99,000 last season to \$115,000 that season.

Bryce Johnson said that consistency and expanding relationships would help the rink.

Bryce Johnson reviewed the sizes of new skates that he wanted to purchase.

Council Member Kohler asked if the residency of the skaters could be determined. Bryce Johnson responded that Lagoon asked visitors for their zip code. He thought the same thing could be done at the rink.

Council Member Dodge suggested a discount for locals. Bryce Johnson pointed out that Park City Mountain Resort gave a 30% discount at its rink to residents.

Motion: Council Member Van Wagoner moved to approve Resolution 2015-17 adopting the contract as amended by the City Attorney that evening.

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

7. Department Reports

Karl Dodge, Council Member

Impact Fee Survey – Council Member Dodge reported that a hotel was planned in Heber City but the developer was concerned about the impact fees. He said Heber Valley Tourism and Development did a survey and comparison of impact fees. He asked that Midway’s impact fees be added to the survey.

Michael Henke explained that he did a review of the City’s impact fees, several years prior, and they were in line with those of Alpine and Hyland. He said overall they were less than those for Park City.

Kraig Powell pointed out that the City’s commercial impact fees were determined on a case by case basis. Wes Johnson added that they were based on equivalent residential units (ERU’s).

Danny Hofheins, Council Member

Drones – Council Member Hofheins asked about recent events with drones and wildfires. Kraig Powell reported that he spoke with state and local officials and they indicated that there were no state laws governing their use around wildfires. He added that federal agencies were not able to provide enforcement.

Mr. Powell said he would work on the issue as a member of the state legislature.

Kent Kohler, Council Member

Cutting Raises in Sidewalks – Council Member Kohler reported that a company would come to the City and give a demonstration on cutting down the trip hazards in sidewalks. He said the company would also do a free survey of the City’s sidewalks.

Wes Johnson, Engineer

Lime Canyon Water/Sewer Lines – Mr. Johnson reported that the water line was under the sewer line going up Lime Canyon Road. He said the water line was cracked during excavating but was spraying water out at 150 psi. He said the line was closed and flushed. The state required

that area residents be notified. The water samples came back negative for contamination.

Michael Henke, Planning Director

New Fire Station – Mr. Henke reported that stucco would be applied to the new fire station that Saturday. He added that areas on the walls would be left for murals.

Heber Valley Bank Building – Mr. Henke reported that the plans, for the new building for Heber Valley Bank, were being reviewed by the Building Safety Department.

Brad Wilson, Recorder

2015 Election – Mr. Wilson reported on the 2015 election. He estimated that ballots would be mailed out the first couple of weeks in October.

8. 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 Hines moved to go into a 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

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 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

Department Reports (Continued)

Shane Owens, Public Works Assistant Crew Chief Leader

Community Center Restrooms – Mr. Owens reported that a bid had been accepted to redo the restrooms in the Community Center. He said the work would begin the following week.

Council Member Dodge asked if the bathrooms would comply with the Americans with Disabilities Act. Mr. Owens responded that two of the restrooms were too small but the family restroom would comply.

Town Hall Boiler – Mr. Owens reported that the bid from Neerings & Son to replace the Town Hall boiler had been accepted. He said that the new boiler was already on site.

Council Member Dodge asked if the spare parts for the old boiler could be returned. Wes Johnson said he would follow up to see if they could be returned. Mr. Owens added that he knew of a company that sold surplus government items that could be used.

9. Adjournment

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

The meeting was adjourned at 8:24 p.m.


Colleen Bonner, Mayor


Brad Wilson, Recorder