

# MINUTES OF THE MIDWAY CITY COUNCIL

## (Regular Meeting)

Wednesday, 14 October 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, 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. She excused Council Member Hines.

#### Members Present:

Colleen Bonner, Mayor  
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  
Shane Owens, Public Works Assistant Crew  
Chief (Left at 8:37 p.m.)  
Brad Wilson, Recorder/Financial Officer

#### Members Excused:

Dick Hines, 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. Dan Lowry gave the opening remarks or invocation. Mayor Bonner led the Council and meeting attendees in the pledge of allegiance.

### 2. Consent Calendar

- a. Agenda for the 14 October 2015 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 23 September 2015 City Council Regular Meeting
- d. Minutes of the 23 September 2015 City Council Closed Executive Session

- e. A One Year Extension of Preliminary and Final Approval for the Burgi Hill Subdivision Located at Approximately 1224 North Interlaken Drive

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

**Motion:** Council Member Van Wagoner moved to approve the 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	Excused from the Meeting
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. Midway Art Association/Town Hall Rental Discount (Pam Weilenmann)** – Discuss and Possibly Approve a Request by the Midway Art Association to Discount the Town Hall Rental Fees for an Artist’s Workshop on October 23<sup>rd</sup> and 24<sup>th</sup>

Ms. Weilenmann reviewed the history and activities of the Association and made the following comments:

- She was the president of the Association.
- Was grateful to the City for letting it use a room as a permanent studio.
- It was difficult to sustain an art association.
- The group sponsored a large fall workshop which was too big for its studio. It subsidized the workshop.
- It brought in artists which added to the community.
- It usually made about \$7,000 a year. This was just enough money to subsidize its

activities.

- Several cities subsidized their art associations. Eventually these associations would attract all of the artists.
- Made money with the larger events but lost money with the smaller ones.
- Requested that the rental fee for the Town Hall, for the first day of the fall workshop, be reduced from \$300 to at least \$75.

Council Member Dodge thought that the City should support the group, but he worried that other groups would want the same discount. He suggested that the fee for the first day remain the same but that the City donate \$225 to the group to defray the cost.

Council Member Van Wagoner approved of the donation and also worried about discounting for one group but not others. He suggested that the group could hold its workshop in the Community Center instead of the Town Hall which would be cheaper. Mayor Bonner reported that the Community Center was already rented on the same days. She added that the City could try to switch the events in the buildings.

Brad Wilson reviewed a PowerPoint slide that showed the utility costs for the Town Hall.

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

Council Member Hofheins also wanted to support the Association but worried that other organizations would want the same discount. He recommended switching the events and putting the art group in the Community Center.

Council Member Kohler supported the switch or donating money to the group to offset the cost.

Ms. Weilenmann said that the artist, who would instruct at the workshop, had lived in Midway and preferred to be in the Town Hall.

**Motion:** Council Member Dodge moved to check with the various groups to see if the workshop could be held in the Community Center, for the regular fee of \$75 for the first day, otherwise the City would sponsor the workshop with a \$225 donation.

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

**Discussion:** None

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

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

Ms. Weilenmann noted that the large room in the Community Center only had one light source which was not ideal.

**5. Ordinance 2015-15/Heritage Court Subdivision Vacation (Dan Lowry) – Discuss and Possibly Adopt Ordinance 2015-15 Vacating a Portion of the Heritage Court Subdivision Located at 240 West Main Street**

Michael Henke gave a presentation regarding the proposed ordinance and made the following comments:

- The ordinance vacated a small portion of the Heritage Court Subdivision.
- A previous mayor had approved the vacation but the County Recorder needed an ordinance from the City to complete it.
- There was an overlap with the subdivision and the property to the south.
- The vacated parcel would be attached to the property to the south.
- Normally the City would require that the plat map for the subdivision to be amended to reflect the vacation. However, the subdivision pre-dated that policy.

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

Dan Lowry indicated that he purchased the property that would be vacated.

Council Member Dodge asked if there was a reason not to vacate the land. Mr. Henke reiterated that a previous mayor had already signed a document approving the vacation.

**Motion:** Council Member Van Wagoner moved to adopt Ordinance 2015-15.

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

**Discussion:** None

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

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

**6. Local Consent/Zermatt Liquor Licenses Ownership Change (Kent King) – Discuss and Possibly Grant Local Consent for the Ownership Change of Two Full Service Restaurant**

Liquor License at the Zermatt Resort Located at Homestead Drive and Resort Drive (800 North)

Michael Henke gave a presentation on the request and explained that the City received applications to change the owners for the four liquor licenses at the Zermatt Resort. He added that the Utah Department of Alcoholic Beverage Control required local consent for an ownership change.

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

Kent King, representing Midway Properties Group, said that the group was leasing to purchase the resort, instead of buying it outright, until title on the property could be cleared. He asked that the Council consent to the change of ownership of the licenses.

Mayor Bonner indicated that there had not been any problems with Zermatt and the sale of alcohol.

**Motion:** Council Member Kohler moved to grant local consent for the ownership change for the four liquor licenses.

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

**Discussion:** None

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

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

Mr. King reviewed the planned activities for Zermatt and invited the Council and staff to the opening of the Wildfire restaurant at the facility.

**7. Magnuson Subdivision/ Preliminary and Final Approval (Diane Swensen)** – A Request for Preliminary and Final Approval for the Magnuson Subdivision Located at 79 East 100 South (Zoning is R-1-7). Recommend without Conditions by the Midway City Planning Commission.

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

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

- Land use summary
- Location
- Analysis
- Possible findings

Mr. Henke also made the following comments:

- Animals had been kept on the property.
- It had been split off with a metes and bounds description, rather than the required subdivision process, so it was not a legal building lot. The proposed subdivision would correct that problem.
- The property was for sale.
- The Water Advisory Board recommended that one acre foot of water be required.
- The sidewalk in front of the property was cracked. The Planning Commission recommended that two sections be replaced by the owner when the driveway was installed.

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

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

Mayor Bonner opened the public hearing.

Larry Bonner, 47 South 100 East

Mr. Bonner indicated that he owned the duplex on the northwest corner of 100 South and 100 East. He supported the proposed development and thought that it was a good use of the land.

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

#### **7c. Action** – Discuss and Possibly Approve the Request

Council Member Dodge asked where the house would be on the lot. The buyer of the property, who was at the meeting, responded that it would be a normal house about 50 feet from the front lot line.

**Motion:** Council Member Dodge moved to grant preliminary and final approval for the one lot small scale subdivision at 79 East 100 South with the findings and conditions of the staff and the Planning Commission.

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

**Discussion:** None

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

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

**8. Ordinance 2015-14/Agricultural Greenhouses/Processing Fish (City Planner) –**  
Proposed Ordinance 2015-14 Amending Section 16.13.45 of the Midway City Municipal Code to Prohibit the Processing and Packaging of Fish at Agricultural Greenhouses. Recommended without Conditions by the Midway City Planning Commission.

**8a. Presentation –** Receive a Presentation from Staff Regarding the Ordinance

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

- Proposed text
- Possible findings

Mr. Henke also made the following comments:

- The Higginson family, who were building a greenhouse in the City, wanted to process fish at the facility.
- The Municipal Code did not state if fish processing was allowed.
- Thought that the Council did not want such processing when the regulations were adopted for greenhouses.
- The smell and other impacts of fish processing could be a problem especially close to homes.
- The Planning Commission made some minor modifications to the proposed ordinance.
- The ordinance would prohibit processing for commercial uses but not for the private use of the greenhouse owner.
- All commercial greenhouses had to be approved by the Council.

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

**8b. Public Hearing –** Receive Public Comment Regarding the Ordinance

Mayor Bonner opened the public hearing.

Holly Kent, 1420 South 200 West

Ms. Kent made the following comments:

- Lived near the Higginson's greenhouse.
- Was not concerned about the plans for the facility because it was on a large parcel of land.
- Was more concerned that the property would be sold and 60 homes built on it.
- The homes would be worse than the fish processing.
- The Higginsons would not do large scale processing.
- The City should not deny the family its right to farm its property and put it in a conservation easement.

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

**8c. Action** – Discuss and Possibly Approve the Ordinance

Michael Henke explained that the proposed ordinance would apply to any greenhouse in the City. The last approval for the Higginson's greenhouse mentioned that fish might be processed in the future. This might allow them to circumvent the ordinance.

Council Member Van Wagoner questioned why processing should be prohibited. He indicated that future technology might eliminate the smell, etc. Mr. Henke responded that allowing processing as a conditional use was problematic.

Council Member Hofheins indicated that a fish processing facility in Twin Falls, Idaho smelled for miles.

Kraig Powell did not know if anyone would want to process fish, on a commercial scale, at a greenhouse in the City. He indicated that there had been no formal requests for commercial processing. He said the ordinance was a response to residents' concerns.

Council Member Dodge felt that fish processing should be in commercial facilities.

Mayor Bonner discouraged commercial fish processing in residential areas. She noted that the Municipal Code could be changed if new technology eliminated the concerns.

Council Member Kohler did not want to see 60 homes on the Higginson's property, but he felt that the City had made concessions to the family. He thought that the City had gone back to the starting point with the amendments to the greenhouse regulations. He approved of processing fish for the private use of the owners.

Kraig Powell pointed out that the City would get what was allowed in the Municipal Code. He said if something was prohibited then it could be denied. He agreed that the Code could be amended to accommodate new technology. He stressed that the conditions, for a conditional use permit, had to be clearly stated in the Code.

**Motion:** Council Member Hofheins moved to adopt Ordinance 2015-14 amending Section 16.13.45 of the Midway City Municipal Code to prohibit the processing and packaging of fish at agricultural greenhouses.

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

**Discussion:** None

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

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

**9. Resolution 2015-16/Budget Amendment (Financial Officer)** – Proposed Resolution 2015-16 Amending the Midway City Fiscal Year 2016 Budget to Hire an Additional Public Works Employee, Revise Revenues and Expenditures for the Midway City Ice Rink, and Other Miscellaneous Changes.

**9a. Presentation** – Receive a Presentation on the Proposed Resolution

Brad Wilson gave a presentation regarding the proposed budget amendment. He specifically reviewed the increase for an additional public works employee and the amended revenue and expenditures for the ice rink.

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

Mayor Bonner indicated that a four inch water line had to be run to the new fire station for fire suppression. Shane Owens added that Wasatch County would provide the equipment and labor if the City would provide the materials.

Mayor Bonner asked that \$2,500 be added to the budget for the water line.

**9b. Public Hearing** – Receive Public Comment on the Proposed Resolution

Mayor Bonner opened the public hearing.

Bob Adams, 836 Dutch Valley Court

Mr. Adams asked if the budget increase for the new employee was for a year or  $\frac{3}{4}$  of a year. Mr. Wilson responded that it was the annual cost.

Mr. Adams asked if the suppression system was part of the original design for the fire station. Mayor Bonner responded that it was part of the original design. Shane Owens added that the line not being installed originally was the contractor's fault. Mr. Adams asked if the contractor's errors and omissions insurance could pay for the water line. Mayor Bonner responded that the City would look into that question.

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

**9c. Action** – Discuss and Possibly Approve the Resolution

**Motion:** Council Member Van Wagoner moved to approve Resolution 2015-16 to include the new fire station water line at an amount not to exceed \$2,500.

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

**Discussion:** None

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

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

**10. Resolution 2015-19/Amended MSD Services Agreement (Mayor)** – Discuss and Possibly Approve Resolution 2015-19 Adopting an Amended Services Agreement between Midway City and the Midway Sanitation District

Mayor Bonner explained that the Sanitation District now had a treasurer to increase financial transparency. She said the City Treasurer would fill that position so the services agreement between the City and the District needed to be amended.

Kraig Powell also explained that the document was actually an interlocal agreement. He said that he wrote the original agreement and the proposed amendment. He said the change was recommended by the District's auditor and approved by its board.

**Motion:** Council Member Kohler moved to approve Resolution 2015-16 adopting an amended services agreement between Midway City and the Midway Sanitation District.

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

**Discussion:** None

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

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

**11. Calculating Irrigated Acreage (City Planner) – Discuss Possible Revisions to the Method of Calculating Total Irrigated Acreage for Subdivision**

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

- Current subdivision ordinance
- Current ordinance applied to the Midway Highlands Subdivision
- Current PUD ordinance
- Current PUD ordinance applied to the Valais PUD, Phase IX
- Proposed water calculation
- Average impervious surface for different lot sizes

Mr. Henke also made the following comments:

- Five months earlier the Council had adopted a notice of pending ordinance change regarding water requirements.
- Some progress had been made but the issues were complex and it would take more time to prepare the proposed changes.
- A lot of smaller lots required 1.5 acre feet of water. There needed to be a better way to calculate this requirement.
- The Midway Highlands Subdivision was a good example to use for water requirements because of the varied sizes of the lots. 15 acre feet would be required under the current requirements.
- Valais, Phase IX, would need 32.7 acre feet of water under the current requirements.
- Was considering apply the same calculation principle, used for PUD's, to subdivisions.
- Park strips should be included in the calculations.
- Some subdivisions would have to turn in more water under the proposed method.
- Impervious surface would be determined by lot size rather than the zoning.
- Using an average size would avoid developers saying the homes in their subdivision would be smaller and require less water to be turned in.

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

Council Member Dodge asked if the calculations should be considered before the water audit was completed. Mr. Henke responded that the audit would be completed before any new calculations were considered for adoption.

Council Member Dodge asked if individual usage could be used to determine the water requirements. Mr. Henke responded that it was difficult to determine how much water would be used in a given home especially as it was occupied by different people over time. Wes Johnson added that the Midway Sanitation District tried to base its quarterly fees on usage.

Kraig Powell indicated that the agenda item was only an update. He said that more information was needed. He also said if no changes were made, within six months of the notice of pending ordinance change, then the current requirements would remain in force. He thought that the changes would be recommended within a few months.

## **12. Financial Report (Financial Officer) – Receive a Report on the Finances for Midway City**

The financial reported was not given.

## **13. Department Reports**

### Kent Kohler, Council Member

**Sidewalk Trip Hazards** – Council Member Kohler reported that Precision Concrete gave a demonstration that day on cutting down the trip hazards in the City’s sidewalks. He wanted to do the sidewalks along Main Street and the City Office Building. He said there was enough money in the budget.

Council Member Kohler said the cuts met the requirements of the Americans with Disabilities Act and were encouraged by insurers.

Mayor Bonner asked if any sections of the sidewalks would be replaced. Council Member Kohler said that replacement was not included in the work by Precision Concrete.

It was pointed out that any work over \$5,000 needed to be let out for bid. Mayor Bonner asked that a couple of more companies be contacted to get bids to repair the trip hazards.

Wes Johnson indicated that the City had a contract with Wells Barker Construction that could be changed to replace the sections.

### Wes Johnson, Engineer

**Water Audit** – Wes Johnson reported that a meeting would be held that Friday to begin the water audit.

**Paving/Lime Canyon Road/Johnson Mill Road** – Mr. Johnson reported that Lime Canyon Road and Johnson Mill Road should be paved the following week.

**Lime Canyon Road/Accident** – Mr. Johnson reported that two flaggers had been hit on Lime Canyon Road.

Michael Henke, Planning Director

**Area Trails/Open House/Survey** – Mr. Henke reported that the open house regarding area trails was successful. He indicated that residents could complete an online survey regarding the trails.

Brad Wilson, Recorder

**Elections** – Mr. Wilson gave an update on the municipal elections.

**MSD Elections** – Mayor Bonner indicated that she received a phone call from Laren Gertsch, one of the candidates for the Midway Sanitation District (MSD) Board, and he indicated that he received the incorrect ballot. Mr. Wilson responded that Mr. Gertsch received a ballot that did not have the municipal or district candidates.

Mr. Wilson indicated that he and Becky Wood, the district manager, would contact residents around Mr. Gertsch and throughout the City to make sure that they received the correct ballots.

Shane Owens, Public Works Administrative Lead

**New Backhoes** – Mr. Owens reported that the Caterpillar backhoe had been replaced with two from John Deere.

**New Pick-up Truck** – Mr. Owens reported that the City received the last new pick-up truck that had been budgeted for in fiscal year 2016.

**Town Hall Boiler** – Mr. Owens reported that the boiler in the Town Hall had been replaced.

**Motion:** Without objection, Mayor Bonner recessed the meeting at 8:02 p.m. She reconvened the meeting at 8:15 p.m.

**Hunting within the City** – Brad Wilson gave a presentation on a request to hunt deer within the City.

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

Council Member Van Wagoner expressed concern with a deer being wounded and going onto someone else’s property. Mayor Bonner said that the Utah Department of Wildlife Resources would remove deer for a fee.

The Council decided not to encourage deer hunting in the City.

**Note:** Shane Owens left at 8:37 p.m.

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

**Motion:** Council Member Dodge 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	Excused from the Meeting
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	Excused from the Meeting
Council Member Hofheins	Aye
Council Member Van Wagoner	Aye
Council Member Dodge	Aye

**15. 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 8:55 p.m.



Colleen Bonner, Mayor



Brad Wilson, Recorder