

# MINUTES OF THE MIDWAY CITY COUNCIL

## (Regular Meeting)

Wednesday, 28 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 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. 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. Council Member Kohler 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 28 October 2015 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 14 October 2015 City Council Regular Meeting
- d. Minutes of the 14 October 2015 City Council Closed Executive Session

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

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

**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

- 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. Verizon Wireless/Special Use Permit (City Planner)** – A Request for a Special Use Permit for Verizon Wireless for a Wireless Tower and Antenna at the Centennial Park, Located at Approximately 50 West 100 North, and Variances for a Height Over 60 Feet and a Setback Less than 60 Feet.

- 4a. Presentation** – Receive Presentations from Staff and the Applicant Regarding the Request

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

- Municipal Code – Chapter 16.22: Wireless Telecommunications
- Proposed location of the wireless tower
- Site plan
- Photo simulations of the tower
- Photographs of other wireless towers in Utah
- Petitioned exemptions

- Possible findings
- Possible conditions

Mr. Henke also made the following comments:

- The proposed location did not have any sensitive lands, ridgelines, etc. It was the best location on public property because it was in the center of town, in a commercial zone and did not have any trees higher than the tower. It was also on the block with the least residences.
- The tower would look like a pine tree.
- The City's historic preservation committee was concerned about the proposed location because it would be near structures on the National Historic Register.
- Access to the location would be on the south and east sides of the new fire station.
- The wall around the tower and associated equipment would match the existing wall for the grocery store dumpsters. It could be up to eight feet high.
- There would be room for other wireless carriers.
- The tower, including the simulated tree branches, would be 80 feet high.
- Verizon Wireless, the applicant, requested that the tower exceed the permitted height.
- All property owners within 1,000 feet of the park had been notified of the request.
- Had received a lot of phone calls regarding the request.
- Had provided a lot of information regarding the request.
- The applicant requested that the required setbacks be decreased.
- Spoke with the property owner bordering the location on the west side. She wanted the planned wall to continue along the entire east boundary of her property.
- The tower would be the tallest structure in the City and would have an impact.
- A resident suggested that additional trees be planted to obscure the tower.

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

Pete Simmons, Technology Associates and representing the applicant, made the following comments:

- Had been working on the proposal for some time.
- The Municipal Code prohibited the applicant from upgrading a wireless tower on the central mound that it acquired from Qwest.
- Many cities preferred that wireless towers be on public property. This allowed the lease revenue to be shared by all residents.
- Other locations in the City on public property were blocked by natural obstructions.
- Trees interfered with a wireless signal.
- The site would include various types of equipment including a generator.
- Verizon wanted the City to consider outdoor equipment without a wall.
- The site would have 4G LTE service and provide that service to residents, businesses and emergency services.
- Verizon should not have to pay for the additional length of the wall along the property to

the west. The City could pay for that length if it wanted it installed.

- The City would need to maintain any additional trees planted around the tower.
- The tower needed to be above the natural tree line.

#### **4b. Public Hearing – Receive Public Comment Regarding the Request**

Mayor Bonner opened the public hearing.

##### Donovan Symonds, 134 North 100 West

Mr. Symonds supported better wireless reception but questioned the tower being in a city park. He liked the tower being designed as a pine tree but thought it should be 67 feet like the other examples presented that night.

##### Brian Jones, 108 West 200 North

Mr. Jones wanted to see an actual example of what the tower would look like. He did not want it to look like the wireless tower near University Avenue and 3700 North in Orem. He did not think that a simulated tree was attractive.

Mr. Jones asked if the Council was obligated to approve the request. Michael Henke responded that it had to be approved if all of the requirements in the Municipal Code were met. However, he noted that the applicant requested two exceptions to the requirements. He indicated that the tower could be denied at the proposed site but the applicant could then apply to put it on private property.

Mr. Jones asked how other carriers would collocate at the site. Mr. Henke responded that they would put their equipment on the proposed tower and at the site. He said they would pay rent to the City to use the site and pay rent to Verizon to use the tower.

Mr. Jones recommended that the City significantly increase whatever rent it would charge.

##### Dennis Damman, Mountain Springs HOA President

Mr. Damman supported the request because wireless service was poor where he lived. He said that improved reception was essential for elderly residents. He liked the proposed location and said that it was an unused portion of the park.

##### Cheryl Nelson, 101 Burgundy Lane

Ms. Nelson said that wireless service was also poor where she lived, and that she needed to receive calls from her sick daughter. She said that the service quality had diminished as the City

developed. She was in favor of the request. She asked if the proposed tower would improve the service where she lived. Jennifer Sedillo, Verizon Wireless and also representing the applicant, responded that the tower would improve service within two miles.

Ms. Nelson suggested Valais Park as an alternate location for the tower.

Carl Jones, former chair of the Midway City Historic Preservation Committee

Mr. Jones made the following comments:

- The tower would come under a 106 review because there were historic structures in the area.
- There were three historic properties within 500 feet of the proposed location.
- The Utah State Historic Preservation Office (SHPO) had not been notified by the applicant of the proposed location for the tower.
- The tower would stand out when visiting the historic structures. It would be a detriment to historic Midway.
- The City was focused on tourism which would be impacted by the tower.
- Recommended that the Council not make a decision until the 106 review was completed.
- Also suggested that a better site be found.
- The request could go to a national review committee which met sporadically.

Tammy Paxton, 362 West 1150 North

Ms. Paxton said that she had poor reception with Verizon. She said that the company sent her a unit, to place in her window, which improved the service.

Ms. Paxton was concerned about the height of the proposed tower.

Jacklyn Jackson, 140 North Center Street

Ms. Jackson said that the quality of the wireless service had decreased as the area grew. She supported the proposed tower.

Ms. Jackson noted that she worked for Midway City which used a number of wireless devices. She said those devices were sometimes unusable because of the poor service quality. She added that wireless reception was poor in the City's office building.

Ms. Jackson indicated that wireless service was unavailable during Swiss Days. She also indicated that a local business switched its wireless carrier because of the poor service.

Kathy Symonds, 134 North 100 West

Ms. Symonds said that the City should do some significant planning and find a balance between wireless service and protecting its parks and historic structures. She said the proposed tower should not just be hidden but should enhance the park.

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

#### **4c. Action** – Discuss and Possibly Approve the Request

Council Member Van Wagoner, who had worked in law enforcement, estimated that 80% of emergency calls were made with cellphones. He also noted that emergency services used wireless computers to get important information.

Council Member Van Wagoner asked several specific questions about the tower. Pete Simmons responded that it would be digital and communicate with the towers in Heber City and then Jordanelle. He said it would be a standalone tower and would keep operating if the other towers were not functioning. He added that it would connect via microwaves only if fiber optics was unavailable.

Council Member Hines asked about the lease payments to the City. Mr. Henke estimated that the City would be paid \$10,000 per year by each carrier.

Council Member Hines asked if the wall needed to be higher to hide the equipment. Mr. Simmons responded that the equipment could be 10 feet high. He added that chain-link fencing had been used at other locations so law enforcement could see into the facility.

Council Member Hines requested the best quality and best looking tower and equipment. He said that he received a lot of calls from residents requesting better wireless service.

Mr. Simmons said the facility was scheduled to be constructed in 2017.

Council Member Hofheins asked about the 106 review. Mr. Simmons responded that all wireless towers needed to go through the review. He said the site would be reviewed to see if the simulated pine tree was acceptable. He noted that wireless carriers avoided putting towers on historic properties.

Jennifer Sedillo added that the tower could not be at the location without SHPO's approval. Kraig Powell was concerned that a state agency could override a city council regarding what was best for a municipality.

Council Member Van Wagoner asked when the project would be submitted to SHPO. Mr. Simmons responded that the process had begun. He doubted that SHPO would prohibit the tower unless it was on property which was on the National Historic Register.

Council Member Kohler asked if the City would participate in the design of the tower and the facility. Mr. Simmons responded that the City would participate because it was the landlord and

issued the building permit.

Council Member Kohler asked if a solid wall would be a safety concern. Council Member Van Wagoner noted that someone could climb over a six foot wall but did not think it would be a significant concern. He noted that the facility would be next to a full-time fire station.

Council Member Van Wagoner agreed that the City should have input on the design of the facility.

Mr. Simmons asked if the City wanted to match the block wall, around the dumpsters, or make the equipment look like the existing shelter in the park. Mayor Bonner responded that both were needed.

Wes Johnson asked about sound attenuation. Mr. Simmons responded that the generator would be smaller and quieter than older models. He said that it would operate for 30 minutes on a Monday morning for testing.

Mr. Henke recommended that the City participate in the design and have to approve the landscaping, wall, structures and tower for the project.

**Motion:** Council Member Kohler moved to conditionally approve the request for a special use permit for Verizon Wireless for a wireless tower and antenna at the Centennial Park, located at approximately 50 West 100 North, with a height at 80 feet and an exception for a setback less than 60 feet as proposed in the site plan. He further moved to include the findings proposed by staff, that the landscaping, wall, structures, and tower come back to the Council for approval, and that Verizon install trees around the facility.

**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

**5. Resolution 2015-20/Lease Agreement (City Planner) – Discuss and Possibly Adopt Resolution 2015-15 Approving a Lease Agreement with Verizon Wireless for a Portion of the Centennial Park**

Kraig Powell explained that the lease agreement had been negotiated over the previous year. He said the term would be in increments of five years with automatic extensions. He indicated that

the lease amount would increase with each term. He also indicated that the terms, but not the standards, were negotiable.

Mr. Powell indicated that the lease amounts were just for Verizon and did not include any future carriers that might collocate at the site.

Mr. Powell recommended that approval of the lease be contingent on the other items included in the special use permit.

Mr. Powell asked when the lease would begin. Pete Simmons responded that the lease would begin when construction of the facility began.

Council Member Van Wagoner asked what would happen if Verizon did not build the facility for several years. He asked if the agreement could stipulate a deadline for construction. Mr. Powell and Mr. Simmons both indicated that the approval motion could include a deadline.

**Motion:** Council Member Van Wagoner moved to adopt Resolution 2015-20, approving a lease agreement with Verizon Wireless for a portion of the Centennial Park, with the conditions that construction begin by April 2017 and the lease not take effect until the City was satisfied with the conditions in the special use permit approval.

**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

**6. 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 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

**Note:** Minutes of the Agency are maintained separately.

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

**Second:** Board Member Hines 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	Excused from the Meeting
Board Member Kohler	Aye

## 7. Department Reports

### Brad Wilson, Recorder

**Financial Report** - Brad Wilson gave a financial report for the months of July through September. He reviewed each fund and department. He also reviewed budgeted capital expenditures and other significant items.

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

**Elections** – Brad Wilson gave an update of the municipal election. He indicated that vote totals would be reported election night and the day of the canvass.

### Michael Henke, Planning Director

**Developments** – Mr. Henke reported that he received a number of development applications. He said several were for large projects.

**Building Permits** – Mr. Henke reported that he and the Building Safety Department were still busy reviewing building permit applications.

Wes Johnson, Engineer

**2015 Road & Utilities Project/Lime Canyon Road** – Mr. Johnson reported on the progress of road and utilities work on Lime Canyon Road.

**2015 Road & Utilities Project/Johnson Mill Road** – Mr. Johnson reported that the water lines were being tied in on Johnson Mill Road.

Ken Van Wagoner, Council Member

**New Fire Station** – Council Member Van Wagoner reported on the construction of the new fire station. Council Member Hofheins expressed concern with the stonework being done on the building. He said the rock was poor quality and was not being tied in as required.

Colleen Bonner, Mayor

**Heber Valley Bank Branch** – Mayor Bonner reported that construction of the branch building, for Heber Valley Bank, was progressing quickly.

**Festival Markets** – Mayor Bonner reported that several local business owners wanted to know if the Council would again discuss the festival market regulations.

Mayor Bonner asked if a fee should be charged for each off-square vendor.

Mayor Bonner suggested that a committee review the regulations. Council Member Hofheins and Council Member Kohler volunteered to serve on the committee. Mayor Bonner asked Michael Henke to also participate.

**Valais Park/Master Plan** – Mayor Bonner reported that Carl Berg had finished the master plan for the Valais Park. She indicated that a work meeting would be held at 5:00 p.m. on 10 November 2015 to review it. She said the Council needed to figure out how to pay for the proposed work.

## **8. Adjournment**

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

The meeting was adjourned at 8:43 p.m.

*Colleen Bonner*

Colleen Bonner, Mayor

*Brad Wilson*

Brad Wilson, Recorder