



Memo

Date: 5 April 2016

To:

Cc:

From: Brad Wilson, City Recorder/Financial Officer

RE: Minutes of the 23 March 2016 City Council Regular Meeting

Please note that the following minutes are awaiting formal approval and are in draft or unapproved form.

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

**Wednesday, 23 March 2016, 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 6:01 p.m.

Members Present:

Colleen Bonner, Mayor
Ken Van Wagoner, Council Member
Karl Dodge, Council Member
Kent Kohler, Council Member
Lisa Christen, Council Member
Bob Probst, Council Member

Staff Present:

Michael Henke, Planning Director
Kraig Powell, Attorney
Wes Johnson, Engineer
Shane Owens, Public Works Assistant Crew Chief (Arrived at 6:36 p.m.)
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 Van Wagoner 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 23 March 2016 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 9 March 2016 City Council Regular Meeting

Note: Copies of items 2a, 2b and 2c 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 Van Wagoner	Aye
Council Member Dodge	Aye
Council Member Kohler	Aye
Council Member Christen	Aye
Council Member Probst	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.

Mountain Goat Apartments/Conditional Use Permit

Craig Roberson opposed the proposed apartments because they would be on a small lot and benefit just one family instead of the entire community.

Sarah Finley said that apartments were not intended for the area and would set a bad precedence.

Rachel Blackham also opposed the apartments because of the precedence they would set and the inadequacy of the site plan for children, trash collection, etc.

- 4. Wasatch Mountain State Park/Letter of Support (Tracy See)** – Discuss and Possibly Approve a Letter Supporting the Wasatch Mountain State Park’s Request for a Waypoint Grant from the Governor’s Office of Economic Development

Nancy O’Toole, board member of the Friends of Wasatch Mountain State Park, asked the Council to approve a letter of support for the grant. She said that the grant money would be used, along with money from the organization, to install and upgrade trail signs.

Tracy See, Wasatch Mountain State Park Manager, reported that \$100,000 of grant money had previously been received and was used on 17 miles of trails. She said that parking lots would be built at the trailheads for the Pine Canyon trail and that trail signage would be upgraded.

Motion: Council Member Van Wagoner moved to approve a letter of support for the grant and authorize the mayor to sign it.

Second: Council Member Kohler seconded the motion.

Discussion: None

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

Council Member Van Wagoner	Aye
Council Member Dodge	Aye
Council Member Kohler	Aye
Council Member Christen	Aye
Council Member Probst	Aye

- 5. Miss Utah Outstanding Teen Pageant/Use of City's Name (Kara Scott) – Discuss and Possibly Allow the Use of Midway City's Name in a Title to Be Used in the Miss Utah Outstanding Teen Pageant.**

Mayor Bonner reported that Kara Scott was unable to attend the meeting.

Council Member Christen explained that she spoke with the pageant organizers regarding the request. She said that the City could let Miss Scott or multiple girls use the City's name in a title without obligation. She said that the name's use did not imply that a pageant had been won.

Motion: Council Member Christen moved to allow Miss Scott to use the City's name in a title for the Miss Utah Outstanding Teen Pageant.

Second: Council Member Kohler seconded the motion.

Discussion: None

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

Council Member Van Wagoner	Aye
Council Member Dodge	Aye
Council Member Kohler	Aye
Council Member Christen	Aye
Council Member Probst	Aye

- 6. Mountain Goat Apartments/Conditional Use Permit (Jean Hoover) – Discuss and Possibly Approve a Conditional Use Permit for a Mixed Use Development, called Mountain Goat Apartments, located at 269 East Main Street (Zoning is C-2). Recommended with**

Conditions by the Midway City Planning Commission.

Council Member Christen recused herself from consideration of the item because she lived in the existing home on the property proposed for the development.

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

- Land use summary
- Location of the proposed project
- Revised site plan
- Conditional use permits
- Setbacks
- Elevations
- Floorplans
- Water Board recommendations
- Planning Commission recommendations
- Fencing
- Possible findings
- Proposed conditions

Mr. Henke also made the following comments:

- The rear setback for the apartments was increased to 15 feet as a compromise.
- Spoke with the applicant and neighbors several times since the previous meeting.
- The applicant kept the side setbacks at four feet.
- The landscaping strip, in the parking area, had been eliminated to allow for the greater rear setback.
- The required water had to be provided before a building permit could be issued.
- The Planning Commission recommended six-foot side setbacks.
- The proposal met the requirements of the General Plan for Main Street and affordable housing.
- Recommended that the bathtub and shower be removed, from the existing house, to insure that it would be used for only commercial uses.

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

Council Member Dodge asked the depth of the lot. Mr. Henke responded that it was 266 feet deep.

Wes Johnson noted that the proposal had not been considered by the Midway Sanitation District Board. He asked that any approval that might be subject to the Board's consideration and approval.

Council Member Van Wagoner expressed concern about the side setbacks and access to the rear of the apartments for fire protection. Council Member Probst, who was a volunteer firefighter,

said that the small side setbacks would be a safety hazard for personnel with a ladder and a pack. He recommended setbacks of at least eight to ten feet.

Council Member Dodge questioned how the Council could make an exception for the setbacks, for this project, and not make the same exception for other developments. He recommended that the Council be uniform in its decisions. He noted that past exceptions had been made with the consent of the neighboring property owners. He suggested that if the request was denied that the applicant apply to have the setback requirements changed. He was not sure if the setbacks should remain at 15 feet if they were changed.

Council Member Kohler also noted that the new bank building had small setbacks but the neighbor had consented to that exception. He pointed out that there was fire access to the back of the building and other businesses with minimal setbacks. He indicated that the proposal met all of the other requirements for a conditional use.

Note: Shane Owens arrived at 6:36 p.m.

Kraig Powell reviewed conditional use permits and indicated that reasonable conditions could be imposed to mitigate any detrimental impacts. He said that the conditions needed to be based on impacts specified in the Municipal Code.

Mayor Bonner expressed concern for the safety of firefighters.

Jean Hoover, applicant, made the following comments:

- Bought the property in 2009.
- It was in the C-2 zone which could allow 20 units per acre.
- Only wanted the existing home and the apartment building, with four units, on the lot.
- The apartment building only had a 2,000 sq. ft. footprint.
- Was told that there were no setbacks on the lot.
- There were no houses, etc. next to the rear of the lot where the apartment building would be built.
- Increased the rear setback to 15 feet as a concession to the neighbors.
- The neighbor on the west side had structures right on the property line.

Mayor Bonner agreed that the applicant was being penalized because of the setbacks. She noted that if the proposal was built, and the lot became a commercial use, then the boarding lots would have no setbacks.

Council Member Probst noted that the parking lot would have vehicles in it and it would be hard for firetrucks to move around. He thought that the neighboring properties might have to be used to fight a fire in the apartment building. He pointed out that there were other structures in the City where it would be difficult to fight a fire.

Council Member Van Wagoner stated that the Municipal Code encouraged 15-foot setbacks for

the project. He asked if the Municipal Code needed to be amended to set a certain setback with no exceptions. He said that 15-foot setbacks were justified because the proposal would put a mixed use next to residential uses. He stated that the four-foot side setbacks were too narrow and not safe.

Council Member Dodge agreed that the current setback requirements should be reviewed. However, he said that the 15-foot setbacks should be required until the restriction was amended or there was not any opposition from the neighbors.

Kraig Powell asked if the applicant had discussed or would consider altering the project to allow for the greater setbacks. Michael Henke responded that the applicant designed the project based on no setbacks and did not want to redesign it because of the expense.

Mayor Bonner asked if a multilevel building had to have fire sprinklers. Council Member Probst responded that sprinklers were required in buildings with three or more stories.

Council Member Kohler wanted to be fair but also thought that the four-foot setbacks were too small.

Ms. Hoover indicated that to meet the 15-foot setbacks the apartment building would be too small to meet the Building Code. She noted that there were PUD's in the City with units very close together.

Mayor Bonner asked if the apartment building could be redesigned for three units and have eight-foot setbacks on the sides and retain the 15-foot setback on the rear.

Mayor Bonner recommended that the setback requirements be change to something less than 15 feet.

Heidi Robertson, architect for the project, responded that the proposed side setbacks could be increased by one foot and still meet the Building Code requirements for the bedrooms. She added that the building would have one-hour fire walls and meet the requirements of the Building Code.

Mayor Bonner asked if Ms. Hoover could wait until the setback requirements were changed. Ms. Hoover responded that she wanted to take advantage of the lower interest rates prior to the election. Mr. Henke noted that such a change would take at least two months to complete.

Kraig Powell thought that the project had gone through one of the most detailed thought processes for a land use application. He explained that it was a discretionary decision by the Council to allow shorter setbacks, for the project, or to reduce them through a code text amendment. He pointed out to Ms. Hoover that the City considering an amendment did not guarantee that the setbacks would be shortened.

Mayor Bonner wanted Midway City to be a beautiful community. She recommended that the Council approve side setbacks less than 15 feet. She noted that the existing house met the setbacks. She thought that the discretion allowed by the Municipal Code was for situations like

the one being considered that evening. She said that everyone needed to compromise on the project.

Motion: Council Member Kohler moved to approve a conditional use permit for a mixed use development called the Mountain Goat Apartments, located at 269 East Main Street in the C-2 zone, subject to the following items:

- The conditions recommended by the Planning Commission with the exception that a 15-foot setback be required on the back of the lot and six-foot setbacks be required on the sides.
- Approval be granted by the Midway Sanitation District and the Utah Department of Transportation.
- The bathtub and shower be removed from the existing residence before occupancy would be granted for the apartment building.
- The commercial building be deed restricted to allow only permitted or conditional commercial uses and no residential uses.
- A solid six-foot fence be constructed along the north, west, and east boundaries but not encroach on the front setback.

Council Member Van Wagoner asked when the fence would drop down to four feet. Michael Henke indicated that the fence would not go to the front of the lot.

Jean Hoover asked that the fence on the west side go out to the road. Mr. Henke responded that the fence should be away from the street to avoid dividing the streetscape along Main Street. He said that the west fence would come out to the front of the home. He also said that it would drop down to four feet for one panel.

Second: The motion died for lack of a second.

Council Member Dodge asked if an eight-foot side setback was long enough. Council Member Van Wagoner thought that eight to ten feet was adequate and a good compromise.

Motion: Council Member Van Wagoner moved to approve a conditional use permit for a mixed use development, called the Mountain Goat Apartments, located at 269 East Main Street, subject to the following items:

- A 15-foot rear setback.
- Eight-foot setbacks on both sides because the proposed four-foot setbacks were not sufficient for firefighting and safety.
- A solid fence along the back and sides of the property up to the front of the existing house.
- The Vision Architectural Committee decide if and when the fence would drop down to four feet at the front of the house.
- Accept the staff findings for the C-2 and residential zone.

- Accept the staff report minus the specified changes.
- The bathroom and shower in the corner of the existing home be remove.
- The existing home be deed restricted to commercial.
- The proposal be approved by the Midway Sanitation District.
- The proposal also be approved in writing by the Utah Department of Transportation.

Second: Council Member Dodge seconded the motion.

Discussion: None

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

Council Member Van Wagoner	Aye
Council Member Dodge	Aye
Council Member Kohler	Nay
Council Member Christen	Abstained
Council Member Probst	Aye

7. Food Truck Fridays (City Planner) – Discuss Allowing Food Trucks in Midway City on Fridays.

Mayor Bonner explained that some ideas, for allowing food trucks in the City, had been included in the packet for the meeting. She asked the Council if they wanted to allow them under certain conditions.

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

- Current code
- Discussion items

Mr. Henke also made the following comments:

- The City Council allowed food trucks at the last Swiss Christmas.
- Some business owners had requested that they be allowed on a broader basis.
- They could increase sales for the hosting business.
- Existing restaurants needed to be considered and the input of local restaurant owners should be sought.
- Existing restaurants had invested more into the community than food trucks.
- Food trucks could be allowed on one or more Friday's each month.
- Doubted that the residents would support food trucks every day.
- The Utah Department of Transportation (UDOT) prohibited food trucks selling in its rights-of-ways which included Main Street and south Center Street.
- Food trucks would have to be on private property or a city street.
- They would use some of the parking at a business.
- They should not be allowed during Swiss Days.

- If they were allowed at a city event, then they should be prohibited during that time in other locations.
- The Council needed to decide how many if any food trucks should be allowed at a business at any one time.
- The application requirements would need to be determined.
- The locations and sales of the food trucks would have to be properly reported so that the City would receive the sales tax.

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

Council Member Christen indicated that a local food truck came to Heber Valley Artisan Cheese each Saturday. She said they drove business to businesses and would benefit the City’s tax base. She liked the idea of “Food Truck Fridays”.

Council Member Dodge asked if any input had been received from the existing restaurant owners. Mr. Henke responded that the owner of Café Galleria did not mind some competition. He had not spoken with the owners of the Timp Freeze or Taurahumara.

Council Member Van Wagoner opposed food trucks on city property, unless for a special event, and on city streets where customers would be in the road. Mr. Henke responded that Salt Lake City required serving towards the sidewalk. Council Member Van Wagoner said that people liked food trucks and did not have a problem with them being at local businesses.

Mayor Bonner agreed that food trucks had followers and drove business to businesses. She said that the City needed to be business friendly but also consider existing restaurants.

Council Member Kohler said that the City should consider allowing food trucks.

The Council agreed that food trucks should serve toward the sidewalk when along a city street.

Council Member Probst did not think that a local restaurant owner would approve of food trucks but could see where they would bring business to businesses. He wanted to hear the opinion of the local restaurant owners.

Mayor Bonner said that parking and safety issues could be resolved. She asked if the Council wanted staff to prepare an ordinance for consideration. She said that the ordinance would limit food trucks to certain days and a public hearing would be held before it was considered for adoption. The Council agreed to an ordinance being prepared.

Shane Owens asked that noise also be considered. He said that some food trucks had noisy generators.

8. 100 West Project (Mayor Bonner) – Discuss and Possibly Approve a Project to Install Curb, Gutter and a Landscaping Strip, on the West Side of the Road, from Main Street to 100 North then from 100 West to 150 West on the South Side of the Road.

Mayor Bonner reminded the Council that it previously talked about installing curb and gutter along 100 West and 100 North. She reported that Heber Light and Power and the Swiss Days Committee approved of the plan and the electrical being run underground. She said electrical boxes would be provided for the Swiss Days food booths. She wanted to put the project out for bid while construction was still slow.

Wes Johnson recommended that the proposal be added to the bid for other road and water projects that summer. He said that would reduce the project's cost.

Motion: Council Member Kohler moved to approve a project to install curb, gutter and a landscaping strip, on the west side of 100 West, from Main Street to 100 North then from 100 West to 150 West on the south side of 100 North.

Second: Council Member Probst seconded the motion.

Discussion: None

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

Council Member Van Wagoner	Aye
Council Member Dodge	Aye
Council Member Kohler	Aye
Council Member Christen	Aye
Council Member Probst	Aye

9. Department Reports

Wes Johnson, Engineer

100 West/Main Street to 100 South – Mr. Johnson reported that the Council still needed to decide on a design for 100 West from Main Street to 100 South.

Cari Lane Reconstruction – Mr. Johnson reported that he and Council Member Kohler met with Bill Kimball who owned the property to the south of Cari Lane. He said that Mr. Kimball refused to allow the shoulder of the road to slope down on to his property. Mr. Johnson said that the road could be reconstructed with a retaining wall on the south side or retaining the current elevation.

Council Member Dodge suggested that the retaining wall be approved but have Mr. Johnson talk to Mr. Kimball again before it was installed. Mr. Johnson said the cost of the wall would be \$80,000 to \$100,000. He added that the cost of the proposed slope would be \$30,000.

Mr. Johnson said Mr. Kimball thought that the slope would reduce the value of his property by

\$100,000. He noted that Mr. Kimball did not approve of the retaining wall either.

Mr. Johnson said that the improvements to the road would be bid with the reconstruction of 100 West, from Main Street to 100 South, but separate from Michie Lane and 100 West from Main Street to 100 North.

The Council agreed that Mr. Johnson should visit again with Mr. Kimball and let him know that a retaining wall would be installed.

New Alpenhof Well/Chlorination System - Mr. Johnson reported that a pre-bid meeting would be held that month for the installation of the new Alpenhof well infrastructure and chlorination system.

Michael Henke, Planning Director

Michie Lane – Mr. Henke reported that The Church of Jesus Christ of Latter-day Saints (LDS Church) was willing to donate a portion of its property, on the south side of Michie Lane, for the completion of the road. He said the LDS Church would sell a portion of its property on the north side of the road for the project.

Mr. Henke also reported that he, Mayor Bonner, and Kraig Powell met with the Wasatch County School Board regarding the needed right-of-way for Michie Lane. He said that they talked about them purchasing property from Matt Johnson, to the north of Midway Elementary, for the expansion of the school and to eliminate the portable classrooms to the south where the right-of-way was needed.

Mr. Henke indicated that Michie Lane would have to drop to the south if the School Board did not agree to the needed right-of-way.

Mr. Henke reviewed other parcels of property where right-of-way was needed including the northwest corner of Michie Lane and Fox Den Road.

Council Member Van Wagoner said the road needed to be completed as soon as possible because of the number of vehicles and the children going to and from the school. Mr. Henke agreed.

Kraig Powell recommended that the members of the School Board be contacted regularly regarding the needed right-of-way and property purchase from Matt Johnson.

General Plan Survey – Mr. Henke reported that over 200 people had taken the online survey regarding the update to the City's general plan. He said a lot of feedback had been received and many people wanted to preserve open space and were willing to pay for it.

Homestead Trail – Mr. Henke reported that UDOT would provide up to \$200,000 in matching funds that year for the planned Homestead Trail. He thought that the trail could be built from Main Street to Snake Creek with these funds and a matching amount from the City.

Brad Wilson, Recorder

Budget Meeting – Mr. Wilson reported that a budget meeting would be held with the Council and department heads on April 6th at 1:00 p.m.

Kraig Powell, Attorney

Ridley's/U-Haul Franchise – Mr. Powell reported that he was trying to set up a meeting with someone from Ridley's Family Markets regarding problems with its U-Haul franchise.

Ken Van Wagoner, Council Member

Dog Park – Council Member Van Wagoner reported that he received several emails regarding the dog park at the Valais Park. He said the dog park needed to be maintained with the grass cut and new sawdust laid down.

Speed Limit Sign/600 North – Council Member Van Wagoner reported that a speed limit sign on 600 North was faded and needed to be replaced.

Colleen Bonner, Mayor

Commercial Setbacks – Mayor Bonner asked if the City needed to revise its commercial setbacks.

Council Member Van Wagoner thought that they needed to be more specific. Michael Henke suggested a specified setback for a commercial or mixed use project next to a residential use.

Council Member Van Wagoner said the City needed to take safety into consideration if it wanted to allow residential uses, such as apartments, in a commercial zone.

Council Member Christen wondered if historic houses in the commercial zones should be protected. She said these houses maintained the charm of the City.

Mayor Bonner asked if the C-3 zone should be expanded because its uses were more limited.

Council Member Van Wagoner questioned the depth of the current commercial zones. Michael Henke responded that the depth could be reduced.

Council Member Van Wagoner suggested that the commercial setbacks be set with no exceptions. The Council agreed.

Council Member Probst asked if the Council set precedence that night with its approval of the apartments. Mr. Henke did not think that precedence had been set especially if the setbacks were

revised to be more concrete. Council Member Probst cautioned that the Council should not feel obligated to do something just because it had been done in the past.

Kraig Powell suggested that the Council adopt a notice of pending ordinance regarding the setbacks. He said this would give staff several months to review the issue. The Council agreed.

Kent Kohler, Council Member

Workers Compensation – Council Member Kohler said that he met with a representative of the Utah Local Governments Trust who provided the City’s workers’ compensation insurance. He said there would be a 5% rate decrease with the potential of a 40% decrease in the future. He said that he would work with the Public Works Department where most of the City’s claims originated.

Bob Probst, Council Member

Town Hall Stage – Council Member Probst reported that the stage in the Town Hall had too much slope. Shane Owens reported that it would cost \$120,000 to rebuild the stage or \$78,000 to simply change the slope.

Shane Owens, Public Works Assistant Crew Chief

Town Hall Boiler – Mr. Owens reported that the boiler in the town hall stopped working the previous night because of a power surge. He said that the boiler was still under warranty and it had been repaired. He added that a surge protector and battery backup would be installed to prevent the same thing from happening again.

10. Adjournment

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

The meeting was adjourned at 8:49 p.m.

Colleen Bonner, Mayor

Brad Wilson, Recorder