MINUTES OF THE
MIDWAY CITY COUNCIL

(Regular Meeting)

Wednesday, 22 June 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 6:00 p.m. She excused Council Member Kohler.

Members Present:

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

Staff Present:

Michael Henke, Planning Director
Kraig Powell, Attorney
Wes Johnson, Engineer
Brad Wilson, Recorder/Financial Officer

Members Excused:

Kent Kohler, 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 Van Wagoner 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 22 June 2016 City Council Regular Meeting
b. Warrants
c. Minutes of the 8 June 2016 City Council Work Meeting
d. Minutes of the 8 June 2016 City Council Regular Meeting

e. Resolution 2016-14 Establishing the Certified Property Tax Rate for Midway City
f. Rob Bouwhuis as a Member of the Midway City Vision Architecture Committee

Note: Copies of items 2a through 2f are contained in the supplemental file.

Motion: Council Member Dodger moved to approve the consent calendar.

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	Excused from the Meeting
Council Member Christen	Aye
Council Member Probst	Aye

3. **Public Comment** – Comments will be Taken on Any Item Not on the Agenda, 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.

Land Use and Growth – Mickey Oksner gave a presentation on land use and growth in Midway City. He reviewed the following items:

- General Plan update
- Reasons residents responded to the general plan survey
- How to perpetuate what people enjoyed about Midway
- Initiating a campaign to bring visitors to the City
- How to attract resort/recreational vehicle development to provide lodging for projected visitors
- An example of open space/commercial development that retained open space
- The book *Your Town – A Destination*

Note: A copy of the handout, given by Mr. Oksner to the Council and staff, is contained in the supplemental file.

Courtland Nelson gave a presentation that covered the following items:

- County trails plan
- Tourism
- Days of activities needed to be considered a destination
- Soldier Hollow
- The trail from Heber City to Soldier Hollow
- Resort targets
- Branding Midway
- Sub-committee to review signage issues

Mayor Bonner thanked Mr. Oksner and Mr. Nelson for their comments.

4. **Midway Ranches Subdivision/Preliminary and Final Approval (Paul Berg)** – A Request for Preliminary and Final Approval for the Midway Ranches Subdivision Located at 1200 South Center Street (Zoning is RA-1-43) – Recommended for Approval with Conditions by the Midway City Planning Commission.

4a. Presentation – Receive Presentations on the Request from Staff and the Applicant

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

- Land use summary
- FEMA flood plain maps
- Location of the project
- History of the greenhouse, and associated conditional use permit, on the property
- Proposed plat map
- Proposed cul-de-sac
- Parking problems
- Master trails plan
- Proposed findings

Mr. Henke also made the following comments:

- The proposed project was small scale but a lot of acreage.
- The applicant would provide additional property for the neighboring church house owned by The Church of Jesus Christ of Latter-day Saints (LDS Church). This would increase parking and safety at the building.
- Lot #2 would have the required frontage on Center Street but would be accessed through Lot #1.
- Paul Berg, Berg Engineering Resource Group and representing the applicant, had worked with the Utah Department of Transportation (UDOT) regarding access to the project.
- An agricultural greenhouse had been approved on the property. If the proposed

subdivision was also approved, then the greenhouse could only be used for private purposes. It also did not meet the required setbacks from the proposed adjoining lot.

- The Center Street trail would be eight feet wide, public and constructed by the applicant.
- The Snake Creek trail would not be built because the project's impact would be relatively low. The trail would remain on the master trails plan. It would be required if the property was further subdivided.
- The culvert under Center Street was undersized but did not need to be replaced by the applicant. A different FEMA flood plain map would be adopted if the culvert was replaced.
- The project had not been reviewed by the Midway Water Advisory Board.
- Recommended that it be reviewed by the Board before any action was taken by the Council.

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

Wes Johnson asked that the east entrance to the new parking lot, for the church house, be adjusted to allow several vehicles to line up to enter Center Street. Mr. Berg responded that issue was the LDS Church's responsibility rather than the applicant's.

Council Member Dodge thought that the greenhouse was already existing and should retain its agricultural designation because the flood plain provided a natural buffer with any home built on the adjoining lot. Mayor Bonner pointed out that the greenhouse was approved with the conditions that it be connected to the water and sewer systems. Mr. Henke said that it could be considered a legal non-conforming use.

Council Member Dodge approved of just three lots in the project.

4b. Public Hearing – Receive Public Comment on the Request

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

5c. Action – Discuss and Possibly Approve the Request

The Council discussed if the project needed to go before the Water Board before it took action. Kraig Powell indicated that it could go to the board and then be on the council meeting consent calendar.

Mr. Berg asked that the development be approved by the Council with the condition that it receive a positive recommendation from the Water Board. Mayor Bonner thought that this would set a bad precedence.

Steve Quesenberry, representing the applicant, said the applicant was under some time constraints because of the arrangement with the LDS Church. Mr. Henke did not think that the

arrangement was contingent upon council approval of the project.

Council Member Van Wagoner indicated that the Midway Irrigation Company might want the water tied to each lot because of their size.

Motion: Council Member Van Wagoner moved to table consideration of the item until it was considered by the Water Board.

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	Excused from the Meeting
Council Member Christen	Aye
Council Member Probst	Aye

5. **Resolution 2016-17/Budget Amendment (Financial Officer)** – Proposed Resolution 2016-17 Amending the Fiscal Year 2016 Budget

5a. Presentation – Receive a Presentation on the Proposed Resolution from Staff

Brad Wilson gave a presentation regarding the budget amendment and reviewed the following areas:

- Purpose of the amendment
- General Fund revenue
- Public works wage distribution
- Public works wages & benefits
- General Fund expenditures
- Other funds

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

Council Member Dodge asked if the amount being transferred out of the General Fund, to reduce the fund balance, should be less. He wanted to retain as much money as possible in the General Fund to prepare for the loss of the Resort Communities Tax. Mr. Wilson worried that transferring less could risk the fund balance being over the allowed 25%.

5b. Public Hearing – Receive Public Comment on the Proposed Resolution

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

5c. Action – Discuss and Possibly Approve the Proposed Resolution

Motion: Council Member Dodge moved to approve Resolution 2016-17 amending the FY 2016 Budget.

Second: Council Member Van Wagoner 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	Excused from the Meeting
Council Member Christen	Aye
Council Member Probst	Aye

6. **Seth Kelson Parcel/Will Server Letter (Seth Kelson)** – Discuss and Possibly Approve a Will Serve Letter Stating that Midway City Will Provide Culinary Water to a Parcel of Property, Owned by Seth Kelson, Located at 641 West 500 South.

Michael Henke gave a presentation regarding the request, reviewed the location of the parcel, and made the following comments:

- Seth Kelson owned property in the County next to the city limits.
- The property was next to two culinary water lines.
- Wanted to connect to the City's culinary system.
- He had already turned into the City a share of irrigation water.
- The City Council needed to approve the connection.
- Recently the Council had required land to be annexed into the City before culinary water would be provided.
- Mr. Kelson was not opposed to annexing his property.
- This might be an opportunity to also annex the City's cemetery. However, such an annexation would create a peninsula of unincorporated land.
- Mr. Kelson had been going through the building permit process with the County for a couple of months.
- Could Mr. Kelson build his home while going through the annexation process?
- Recommended that the culinary water rate be 1.5 times the standard charge if the property remained in the County.

- Recommended that the property be annexed into the City.

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

Council Member Dodge asked why annexing the cemetery would be a problem. Mr. Henke responded that state law had prohibited unincorporated peninsulas. Kraig Powell indicated that such peninsulas were now allowed if approved by both the city and the county.

Mr. Henke indicated that the County would want the City to annex all of 500 South which formed the city boundary and went in front of the Cemetery and Mr. Kelson's property.

Brad Wilson reported that Brandon Cluff, Wasatch County Public Works, asked him about 500 South. Mr. Cluff thought that the entire road was owned by the City until it passed the cemetery. Mr. Wilson thought that the City owned the north half and the County the south half.

Mr. Kelson wanted to annex the property but said timing was a factor. He was willing to pay the necessary fees and turn in the required water. He had owned the property for 12 years.

Mr. Kelson noted that he granted an easement, along his property, for a water line to the Cascades at Soldier Hollow.

Mr. Kelson explained that Wasatch County needed a will serve letter for culinary water, from the City, before it would issue his building permit.

Council Member Dodge recommended that a will serve letter be granted and then annexation be considered after 500 South was repaved.

Motion: Council Member Van Wagoner moved to grant a will serve letter for culinary water service, that the applicant or future property owners agree to sign an annexation petition at such time when the City was ready, and that the water rate be 1.5 times the standard rate while the property was in the County.

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	Excused from the Meeting
Council Member Christen	Aye
Council Member Probst	Aye

7. **Banking Services/Accept Bid (Financial Officer)** – Discuss and Possibly Accept a Bid for Banking Services.

Mayor Bonner reviewed a memo regarding the bids for banking services and made the following comments:

- Two bids were received.
- The criteria for the decision was cost (30%), yield (30%) and location (40%).
- Zions Bank had the lowest cost.
- Grand Valley Bank had the highest yield and a branch in Midway.
- Zions Bank could be considered a "local" bank because it had a branch in Wasatch County.
- Grand Valley Bank had a branch in Midway City and had a city business license.
- The Municipal Code granted preference to businesses that had a license in the City.
- She and staff recommended that the bid from Grand Valley Bank be accepted.
- The City could review the arrangement with Grant Valley Bank after three years.

Note: A copy of the memo regarding the bids is contained in the supplemental file.

Council Member Van Wagoner questioned why location was 40% of the decision criteria. He thought that this gave Grand Valley Bank a substantial advantage. Mayor Bonner responded that Grand Valley Bank also had the highest yield.

Council Member Van Wagoner was concerned that Zions Bank would not provide other services in the future, such as bonding, if its bid was not accepted. Mayor Bonner thought that Zions Bank would want the other business no matter the outcome of the bidding.

Council Member Dodge said that losing the bonding services was a consideration but leaned towards Grand Valley Bank because it had a branch in Midway.

Council Member Kohler said that Grand Valley could provide bonding services but they might have to be outsourced.

Council Member Van Wagoner said that he would abstain from voting because his wife worked for Zions Bank at its branch in the area.

Mayor Bonner suggested that the City could go to another institution if it was not happy with the service provided by Grand Valley Bank.

Council Member Dodge asked about the Public Treasurers' Investment Fund (PTIF) and if it was federally insured. Brad Wilson responded that it was not federally insured. He said that it offered a yearly interest rate of 0.4%. Council Member Dodge suggested looking at other options to invest the City's money.

Motion: Council Member Christen moved to accept the bid from Grand Valley Bank, for three

years, with the understanding that the City could go to another institution if it was not happy with the service provided.

Second: Council Member Probst seconded the motion.

Discussion: None

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

Council Member Van Wagoner	Abstained
Council Member Dodge	Aye
Council Member Kohler	Excused from the Meeting
Council Member Christen	Aye
Council Member Probst	Aye

8. Department Reports

Bob Probst, Council Member

Cemetery/Fence – Council Member Probst said that he would check the status of the cemetery fence.

Town Hall/Stage – Council Member Probst said that he was waiting to hear from the flooring contractor regarding which surface would be best for the Town Hall stage. Mayor Bonner added that the Midway Boosters would donate $5,000 to the project.

Community Center/Shingles – Council Member Probst expressed concern with some damaged shingles on the Community Center roof. Mayor Bonner asked him to inspect the damage.

Colleen Bonner, Mayor

Independence Day – Mayor Bonner reported on the Independence Day activities. She said that the Council was invited to set on the stand for the sunrise service.

General Plan/Open House – Mayor Bonner reported on the general plan open house. She said there was a good turnout.

General Plan/Implementation Timetable – Mayor Bonner reported that Mickey Oksner, Midway Planning Commission Chair, recommended a specific timetable to implement the updated general plan.

Food Trucks/Licensing – Mayor Bonner reported that a food truck was at a business that day which did not have the proper license. She said the truck moved to a business that had a food truck license.

Ken Van Wagoner, Council Member

Items in Right-of-Way – Council Member Van Wagoner reported that there were items, like portable toilets and storage containers, in the road right-of-ways. Michael Henke responded that they were supposed to be on private property. He would talk to the Building Safety Department to have them moved.

Lisa Christen, Council Member

Valais Park/Master Plan Revision – Council Member Christen reported that a revised master plan for the Valais Park had been prepared.

Karl Dodge, Council Member

Cari Lane/Fill Dirt – Council Member Dodge asked if the City had obtained the fill for Cari Lane. Wes Johnson responded that he was still working on getting the fill from property owned by Ken Patey. Mayor Bonner suggested that he work with Tom Whitaker who was purchasing the parcel.

Wes Johnson, Engineer

Projects – Mr. Johnson reviewed the projects being done that summer.

Water Audit – Mr. Johnson reported that the water audit should be completed in a couple of weeks. Mayor Bonner said that staff, the water audit team and then the Council needed to review it. The Council agreed that staff would review it on July 11th and the audit team would review it on July 15th.

Michael Henke, Planning Director

General Plan Update – Mr. Henke reported on the update of the City's general plan. He said hundreds of comments had been received from the public. He indicated that the various committees would draft recommendations that would then go to the Planning Commission and then the City Council.

Building Permits – Mr. Henke reported that the City was still issuing a lot of building permits.

Developments – Mr. Henke reported that he was receiving a lot of development concept plans.

Zoning Enforcement – Mr. Henke reported that he was receiving a lot of zoning complaints.

Weeds – Mr. Henke reported that he was receiving a lot of complaints about weeds. He sent those complaints to Shane Owens, Public Works Assistant Crew Chief.

Brad Wilson, Recorder

FY 2017 Budget – Mr. Wilson reported that he gave a copy of the FY 2015 Budget to the Council for their reference.

Colleen Bonner, Mayor

Dutch Canyon Subdivision/Begin Work – Mayor Bonner reported that Russ Watts, who was developing the Dutch Canyon Subdivision, wanted to begin grading for the project before final approval was considered by the Council.

Michael Henke listed the following advantages to granting the request:

- The project would create better access especially during the winter.
- Mr. Watts would bond to insure that the property could be restored to its current condition.
- A plan for erosion control had been prepared.
- It would be difficult to meet the deadline for paving without granting the request.

Mr. Henke listed the following disadvantages to granting the request:

- Construction on other projects had not begun until final approval was granted. This insured that the construction met the conditions of the approval.
- It would set a bad precedence which could be exploited by future developers.
- It would be difficult to change the plan for the project once work had begun.
- Neighboring property owners were closely watching the project and had given a lot of input during the approval process. They might be concerned about construction beginning before final approval was granted.

Mr. Henke made the following additional comments:

- If the request was granted, then there needed to be extensive findings stating why it was an exception to normal practice.
- Received a concept plan, from Jeremy Pope, for the property just to the east of Mr. Watts' property. Mr. Pope wanted to utilize the same contractor as Mr. Watts. Mr. Pope would rebuild Dutch Canyon Road.
- Consideration of Mr. Watts' project began the previous November. It had taken an abnormally long time because of the concerns of the neighbors.
- The City had the right to take time to consider a project.

Kraig Powell explained that property owners could dig on their property anytime they wanted so

long as they had the proper site disturbance permits. He suggested an agreement between Mr. Watts and the City stating that he would do the work at his own risk.

Wes Johnson made the following comments:

- Mr. Watts' project was a unique.
- Worried that granting the request would set a bad precedence.
- Did no like beginning construction before final approval was granted.
- Trusted Mr. Watts but might not trust the next developer that made a similar request.
- The next developer might request to begin construction earlier in the approval process.
- It was difficult to change a development once construction began.
- Waiting three weeks in June, to get final approval, was different from waiting three weeks in October to pave.
- There needed to be stringent conditions if the request was granted. There should also be a pre-construction meeting, signage, dust control, and an approved storm water pollution protection plan (SWPPP) permit.

Council Member Dodge said that the Council should not grant or deny the request because Mr. Watts had the right to dig on his property.

Council Member Christen made it clear that any work done would be at the risk of the developer. She added that any changes to the plan, made at final approval, would have to be done by the developer at his cost.

Mayor Bonner worried that there were different types of developers and granting early construction could be a problem with some of them.

Kraig Powell suggested holding a special meeting, to grant final approval, before the next regular meeting. Mayor Bonner and Mr. Henke both indicated that they would be gone for the following week. Mr. Henke said that notice should be given, especially to the neighbors, of any special meeting.

Wes Johnson noted that the City already had one subdivision where the roads were started and some other infrastructure was installed but the project was never completed.

Council Member Dodge asked how long it would take for Mr. Watt's contractor to mobilize. Wes Johnson estimated a couple of days.

Russ Watts made the following comments:

- Wanted to pave before the City's deadline in October.
- Weather could always be a problem in October.
- Was willing to post a bond to insure that the work was completed or the property returned to its current state.
- The SWPPP permit had been turned in.
- Wanted to start work that Monday.

- Would connect the project to Dutch Canyon Road.
- Wanted to avoid the mud in the winter.
- Had never gone bankrupt on a project.
- The neighbors approved of the current plan for the development.
- No pipe would be installed before final approval was granted.

Council Member Van Wagoner worried about the precedence that could be set by holding a special meeting. Mr. Watts responded that not many developers would know that they could request a special meeting.

Council Member Dodge noted that winter could come early. He said it was Mr. Watts that would take the risk of changes during final approval. Council Member Christen agreed.

Council Member Van Wagoner asked if construction would only occur on Mr. Watt's property. Mr. Watt's responded that would be the case except for the connection to Dutch Canyon Road which would be in a granted easement.

Council Member Van Wagoner noted that the request was not an item on that night's agenda. He suggested that Mr. Watts formally request, the following day, a special meeting.

Kraig Powell pointed out that a development agreement needed to be prepared for the project.

Mr. Powell questioned if the City had any authority to stop a property owner from working on their property. He noted that a SWPPP permit had been issued by the State. He recommended that the Council not take any action. Michael Henke agreed that the Municipal Code did not prohibit the request.

Mr. Powell again stated that Mr. Watts would be doing the work at his own risk.

Council Member Van Wagoner and Wes Johnson did not oppose not taking any action.

9. 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 8:18 p.m.

Colleen Bonner, Mayor

Brad Wilson, Recorder