

# MINUTES OF THE MIDWAY CITY COUNCIL

## (Regular Meeting)

Wednesday, 27 July 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 6:05 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  
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 27 July 2016 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 13 July 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 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

- 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 noted that no member of the public was present.

- 4. Ordinance 2016-14/Water Requirements (City Engineer)** – Discuss and Possibly Adopt Ordinance 2016-14 Amending Chapter 10.07 (Development within the City) of the Midway City Municipal Code Regarding the Dedication of Water Rights.

Wes Johnson explained that the City hired Van King, senior hydrogeologist with Loughlin Water Associates, to audit its water rights. Mayor Bonner added that Mr. King and staff met the previous week regarding his conclusions. She indicated that the same group also met with representatives of the Midway Irrigation Company regarding the conclusions. She thanked Mr. King for his work.

Mr. King gave a presentation and made the following comments:

- He had been working on the audit for ten months.
- Reviewed the City’s water portfolio.
- Wanted a final product that the City could have confidence in.
- Many people had been involved in the process.
- Certain data needed to be improved.
- The amount of water produced by each source needed to be monitored.
- The final report was in progress.

- Worked with the Midway Irrigation Company.
- The Irrigation Company continued to have concerns with the audit's indoor water recommendation.
- Reviewed the audit's conclusions with Teresa Wilhelmsen, Utah Division of Water Rights, and she agreed with his approach.
- Reviewed the conclusions with John Mabey, Mabey Wright & James, who had been hired by the City.
- Reviewed the conclusions with the City Attorney and City Engineer.
- Many meetings were held during the process.
- Was confident in the methodology used and the final recommendation.
- Recommended that the indoor water dedication go from 1 ac-ft to 0.8 ac-ft per equivalent residential unit (ERU).
- Recommended that the outdoor water dedication remain the same.
- There was a lot of work and science behind the recommendation.
- The recommendation was similar to the required dedications of other cities.
- The recommended dedication, for indoor use, was made up of the point of use demands, system loss and un-diverted return flow.
- The new rapid infiltration basins, at the sewer treatment plant, reduced the required amount of return flow.
- System loss included the watering of parks, fire flow, construction water, etc.
- The Irrigation Company felt that the indoor requirement should stay at 1 ac-ft. They felt that increasing the paper water rights would also increase the source capacity.
- Source capacity was an important issue but separate from the amount of indoor water needed per ERU.
- Inflating the indoor requirement would only create paper water that would not be used.
- Reviewed future water demand.
- Reviewed current, needed and projected water rights.
- The needed water rights would be obtained by the recommended water dedication.
- These water rights would be provided by future developers.
- An application would have to be submitted to change the use of the fee title water owned by the City.
- A joint application with the Irrigation Company would have to be filed for water shares.

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

Wes Johnson indicated that Mr. Mabey, who was the leading water rights attorney in Utah, said that he could defend in court the 0.8 ac-ft recommendation.

Council Member Kohler approved of the 0.8 ac-ft recommendation because it was based on the proper research and could be defended in court.

Council Member Van Wagoner stressed that the City's water sources needed to be monitored. He noted that Midway did not have accurate data on its system loss. He indicated that the recommended indoor water dedication was based on the system losses for other cities.

Mayor Bonner said that the audit was a starting point and should be reviewed every few years as the water sources and system were monitored. Mr. King added that other items, such as development density and water conservation, could change over time and support changing the dedication. Council Member Dodge noted that future changes would not take as much time as the audit.

Wes Johnson indicated that five of the six requirements, in the original contract with Loughlin Water Associates, had been completed. He said that a final report would be prepared after all of the requirements had been finished.

Council Member Dodge made the following comments:

- Mr. King also did an analysis for 0.75 ac-ft, for the indoor dedication, and determined that the difference from 0.8 ac-ft was not material. He said that the lower amount would still provide sufficient paper water.
- Mr. Mabey said that 0.75 ac-ft was more defensible than 0.8 ac-ft.
- The Irrigation Company only divided its shares into quarters. A developer would have to turn in more water than needed if 0.8 ac-ft was required.
- Some developers might be disappointed with the 0.8 ac-ft requirement.

Kraig Powell noted that some people asserted the requirement should be significantly lower than 0.8 ac-ft. He agreed with Council Member Dodge's statements. He thought that 0.75 ac-ft was more fair because of the reaction he had received from developers.

Mayor Bonner made the following comments:

- The Irrigation Company was closely watching the Council's decision and was nervous about the outcome. They wanted the indoor dedication to be no less than 0.8 ac-ft, but preferred that it remain at 1 ac-ft until the new Alpenhof well was fully functional.
- The amount approved would have an impact beyond Midway.
- Was concerned about approving something other than Mr. King's recommendation after all of the time spent on the audit.
- The next step would be to review the City's water sources.

Mr. King indicated that the audit was a snapshot in time, based on current state requirements, but that circumstances would change in the future. He recommended future reviews of the water dedications.

Wes Johnson explained that the State currently recognized 0.45 ac-ft as the indoor water consumption per ERU. He said that the State Legislature wanted a more accurate number. He thought that the number would go down in the future.

Mayor Bonner said that the Council needed to base its decision on the best information currently available.

Mr. King noted that the greatest water savings would come from outdoor rather than indoor use.

Council Member Christen asked if 0.75 ac-ft was easier for the Irrigation Company to administer. Mr. Powell responded that it did not make a significant difference except in a few cases. Michael Henke estimated that it would cost a developer an extra \$10,000 for every three lots.

Mr. Powell reviewed the proposed ordinance and indicated that it made the following changes:

- Lowered the indoor requirement to 0.8 ac-ft per ERU.
- Cleaned up some language.
- Specified the water requirement for lots 0.5 acres or less and over 0.5 acres to one acre.
- Specified the process to determine commercial water requirements.
- Repealed several sections in the Municipal Code regarding the leasing of water.
- A parcel of 0.8 acres or more, in the original 21 blocks of the City, would be entitled to one indoor water connection.

Mr. Henke asked if deleting the sections of the Municipal Code would affect the leasing of M&I water. Wes Johnson added that the City had excess M&I water that could be leased.

Mr. Powell indicated that the current language raised the question of who could and could not lease water.

Mayor Bonner asked if the remaining M&I water should be used only on the City's parks. Council Member Dodge noted that the City was paying for the water and should sublease it to recover those costs.

Mr. Powell recommended that the two sections on leasing remain in the Municipal Code and that issue be addressed at a later date.

**Motion:** Council Member Van Wagoner moved to adopt Ordinance 2016-14 setting the indoor requirement at 0.8 ac-ft but removing Section 3 and Section 4 which repealed sections of the Municipal Code.

**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

Council Member Van Wagoner asked if the Council needed to make a motion requiring the metering of its water sources. He indicated that no one knew how much water the sources were producing. He added that the information was needed to support the water dedication.

Wes Johnson thought that a motion could be made or direction given that all of the sources be metered before the end of the summer. Mayor Bonner suggested that the issue be discussed during the next water board meeting.

Mayor Bonner noted that some of the sources were shared with the Irrigation Company. She thought that the Company should share in the metering cost.

Council Member Van Wagoner recommended that the City take the lead in metering the sources.

Mr. Powell explained that the Irrigation Company's biggest concern was that there was not enough water for the agricultural users. He said that they were also concerned that the increased use of the springs for culinary water negatively impacted the farmers.

## **5. Department Reports**

### Bob Probst, Council Member

**Cemetery/Fence** – Council Member Probst reported that the fence at the Cemetery was being repaired.

**Town Square/Flag Poles** – Council Member Probst reported that he would lay rock around the bases of the new flag poles on the Town Square.

**Valais/Flag Poles** – Mayor Bonner reported that some of the flag poles, around the Town Square, had been moved to the Valais Park.

**Town Hall/Stage** – Council Member Probst reported that he was waiting to hear, from the flooring contractor, which surface would be best for the stage in the Town Hall.

### Kent Kohler, Council Member

**Burgi Lane/Micro Seal** – Council Member Kohler reported that a micro seal had been laid on Burgi Lane.

**Building Moratorium** – Council Member Kohler reported that he had been asked several times if the City was going to institute a building moratorium. Mr. Henke responded that he had been asked the same question. He recommended that any moratorium begin after the revised general plan was adopted.

Mr. Henke noted that the City could only place a moratorium on new developments and not

building permits. Mr. Powell noted that a compelling reason was needed to institute a moratorium.

Council Member Probst said that some residents wanted to slow down the growth in the City.

Colleen Bonner, Mayor

**Community Education Program** – Mayor Bonner reviewed a proposal by a resident for a community education program. She asked the Council to review the proposal and said that it would be considered at a future meeting.

**City Flag** – Mayor Bonner reviewed a proposal by a resident to design a new flag for the City. She asked the Council to think about the proposal and said that it would also be considered at a future meeting.

**County Fair/Parade** – Mayor Bonner reported that there had been a lot of controversy regarding the new time for the county fair parade. She said that Tom Bonner, Wasatch County Parks and Recreation Director, asked her if Midway would be willing to host the parade or allow diverted traffic to go through the city.

Council Members Dodge and Christen supported having the parade in Midway.

Council Member Van Wagoner noted that semi-trucks would have a difficult time going around the roundabout, at River Road and Burgi Lane, if traffic was diverted through Midway.

Council Member Probst thought that Heber City would oppose moving the parade.

**Heber Light & Power/Conservation** – Mayor Bonner reported that Heber Light & Power was struggling to provide power to all of its customers. She asked that residents conserve power.

**Grand Valley Bank/Midway Branch** – Mayor Bonner reported that a grand opening would be held that week for the Midway branch of Grand Valley Bank.

**100 North Power Poles** – Mayor Bonner reported that two power poles would be eliminated on 100 North. She said that power would be run underground and go from the City Office Building to the Centennial Park.

Ken Van Wagoner, Council Member

**New Fire Station/Newsletter/Ribbon Cutting** – Council Member Van Wagoner suggested that the Council have its picture taken in front of the new fire station. The Council agreed to meet at the station 30 minutes prior to its next regular meeting for the picture. The picture and an article would be in the next city newsletter.

Council Member Van Wagoner said that he would work with the Wasatch County Fire District

to organize a ribbon cutting.

**Town Square/Pickleball/Splash Pad** – Council Member Van Wagoner noted that few people used the Town Square, which was in the center of the City, and suggested that Pickleball courts be added. Mayor Bonner worried that any additional hard surfaces would conflict with Swiss Days.

Mayor Bonner suggested that a splash pad be added to the ice rink. Council Member Christen suggested a movie night with food trucks.

**Change Applications** – Council Member Van Wagoner asked the status of the change applications to transfer water rights into the new Alpenhof well. Van King responded that he was working on a draft application that would transfer the City's fee title water rights into the well.

Lisa Christen, Council Member

**Alpenhof Park/Watering** – Council Member Christen reported that she received a complaint that the Alpenhof Park was not being properly watered. Mayor Bonner responded that the City reduced the amount of water it was using on its parks.

Karl Dodge, Council Member

**Ice Rink/Tubing** – Council Member Dodge asked the status of inspecting the tubing underneath the City's ice rink. Wes Johnson responded that he would follow up on the project.

**Swiss Alpine Road/Slurry Seal** – Council Member Dodge asked about the slurry seal on Swiss Alpine Road. Wes Johnson responded that only the upper portion of the road was sealed.

Kraig Powell, Attorney

**Interlaken Drive/Dutch Canyon Subdivision** – Kraig Powell reported that he responded to Interlaken Town's letter regarding Interlaken Drive. He said in the response that Midway City was willing to work with the Town regarding the road. He also responded that the approval for the Dutch Canyon Subdivision was not contingent on the use of the road.

**Michie Lane** – Mr. Powell reported that he sent letters to the two remaining property owners, along Michie Lane, who had not responded to the City. He said the offer of the City improving the road, if the property owners dedicated the needed land, would end on August 31<sup>st</sup>.

**Michie Lane/School District** – Council Member Van Wagoner asked about the land that the Wasatch County School District needed to dedicate for the improvement of Michie Lane. Mr. Powell responded that the expansion of the school to the north was no longer an option. He said that the City would have to offer to move the portable classrooms to obtain the needed right-of-way.

Wes Johnson, Engineer

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

**Alpenhof Well** – Mr. Johnson reviewed the construction of the well house and piping for the new Alpenhof well.

**Maintenance Yard Clean-Up** – Mr. Johnson reported that he would talk to Lance Excavating to determine how to bid the clean-up of material in the City’s maintenance yard.

**River Road/Culvert** – Mr. Johnson reported that an irrigation culvert on River Road, south of the roundabout, had rusted through and needed to be replaced. He estimated the replacement cost at \$10,000 to \$25,000. The Council authorized a change order to the 1400 West catch basin project if the cost was reasonable.

Michael Henke, Planning Director

**General Plan Update** – Mr. Henke reported that three chapters of the revised general plan had been reviewed and recommended by the Planning Commission. He said that other chapters were being reviewed by the various committees.

**Jeremy Pope Subdivision/Preliminary Application/Dutch Canyon Road** – Mr. Henke reported that he received an application for preliminary approval for the Jeremy Pope Subdivision. He noted that Dutch Canyon Road would be improved with the project. He added that improving the road would discourage drivers from going through Dutch Fields to get to other developments.

Council Member Christen asked if the road would be improved north of the subdivision. Mr. Henke responded that it would not. Council Member Christen recommended working with the Wasatch Mountain State Park and Wasatch County to also improve that section of the road. She noted that a park access grant might be available for the work.

**Indian Summer Subdivision/Preliminary Application** – Mr. Henke reported that he received an application for preliminary approval for the Indian Summer Subdivision. He said that the alignment of 300 West, which would access the project, needed to be decided.

Mr. Henke said that there would be a stub road on the west side of the development. He added that the Max Johnson home would be raised to provide an access on River Road. He indicated that a traffic study would be done to determine if a turn lane was needed on River Road.

**Homestead Trail** – Mr. Henke reported that construction of the Homestead Trail would be let out for bid that fall. He said construction would begin the following spring.

**Warm Springs Trail** – Mr. Henke reported that the Wasatch Mountain State Park would build a

trail along Warm Springs Road. He said the City should work with them to expand its trail on Pine Canyon Road.

## 6. 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 8:28 p.m.

  
Colleen Bonner, Mayor

  
Brad Wilson, Recorder