

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

**Wednesday, 25 March 2015, 7:00 p.m.
Midway Community Center, City Council Chambers
160 West Main Street, Midway, Utah**

Note: Notices/agendas were posted at 7-Eleven, Ridley's Family Market Convenience Store, the Midway City Office Building, and the Midway Community Center. Notices/agendas were provided to the City Council, City Engineer, City Attorney, Planning Department, and Public Works Administrative Lead. The public notice/agenda was published on the Utah State Public Notice Website and a notice sent to The Wasatch Wave. 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 7:00 p.m.

Members Present:

Colleen Bonner, Mayor
Dick Hines, Council Member
Danny Hofheins, Council Member
Ken Van Wagoner, Council Member
Karl Dodge, Council Member
Kent Kohler, Council Member

Staff Present:

Michael Henke, Planning Director
Kraig Powell, Attorney
Wes Johnson, Engineer
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 Hines 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 25 March 2015 City Council Regular Meeting
- b. Warrants
- c. Minutes of the 11 March 2015 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 general consent calendar.

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	Aye
Council Member Kohler	Aye

- 3. Public Comment** – Comments will be Taken on Any Item not Scheduled for a Public Hearing, as Well as on Any Other City Business. Comments are Limited to Two Minutes per Speaker. The Council Cannot Act on Items not Listed on the Agenda, and Therefore, the Council may or may not Respond to Non-Agenda Issues Brought up Under Public Comment. Those Wishing to Comment Should use the Podium, State Their Full Name and Address, Whom They Represent and the Subject Matter to be Addressed. Total Time Allocated to Public Comments will be no More than 10 Minutes.

Mayor Bonner asked if there were any comments from the public for items not on the agenda. No comments were offered.

- 4. Burgi Hill Ranches/Plat Amendment (Mike Johnston)** – Discuss and Possibly Approve a Second Amendment to the Plat Map for the Burgi Hill Ranches Subdivision Located at Interlaken Road and Saddle Drive (Approximately 1650 North).

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

- Location
- Recorded plat map
- Proposed plat map
- Applicant's reasons for the amendment
- Site plan for Lot #43
- Elevations for the home planned on Lot #43
- Pictures of the property and area
- Items for consideration
- Possible findings

Mr. Henke also made the following comments:

- A home had to be 35 feet or less in height from natural grade.
- The home planned for Lot #43 would be no higher than 25 feet from natural grade.
- The owners of the lots on either side submitted letters of approval for the amendment.
- Had received letters of opposition from property owners on the north side of the development.
- A note could be added to the proposed plat map limiting the height of the home, on Lot #43, to 25 feet. Recommended that this be a condition of approval.
- The driveway for the lot was on a north slope and would be shaded in the winter.

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

Larry Halper, who lived at 340 East 1690 North, said that the proposed location of the home would eliminate 25% of his view of Mount Timpanogos.

Mike Johnston, Summit Engineering and representing the applicant, made the following comments:

- The current location of the building pad, for Lot #43, allowed eight feet for a driveway. 80 feet was needed to keep the driveway at a 10% grade.
- There was no way to lower the house because the main floor was already three feet below the ground on the south side.
- The plat amendment would only raise the house by one foot.
- The reason for the amendment was so that the driveway would work.
- No one thought about the slope and the driveway when the plat map was approved.
- The lot to the west would have a much higher home.
- The neighbors' views would change because of trees, etc. no matter what decision was made that night.

Council Member Hofheins pointed out that the neighbors would be looking at an entire house on the slope.

Council Member Kohler noted that it was difficult to visualize what the house would look like on the hill.

Jennifer Johnson, who lived at 365 East 1690 North, said that moving the building envelope would increase the height of the home. She stated that the home should be designed for the lot and not vice versa.

Council Member Hines asked what the property owner would do if the amendment was denied. Mr. Henke responded that the slope of the driveway could be over 10% and less than 15% if approved by the City Engineer.

Council Member Dodge asked if the garage could be lower into the hill. Mr. Johnston responded that the garage could be in a second basement but that was undesirable. He indicated that would

create two flights of stairs to the main floor.

Ben Dymond, Dymond Design and also representing the applicant, did not think that the amendment would affect the neighbors' view. Mayor Bonner disagreed.

Mr. Dymond indicated that moving the building envelope 30 feet to the west was what really allowed for an appropriate driveway.

Mr. Johnston stated that moving the building envelope up the hill would impact the views from Lot #42.

Council Member Van Wagoner asked if there were any legal consideration with the amendment. Kraig Powell made the following comments:

- Either side could bring a legal claim.
- The owner could say that the lot was unbuildable and should not have been approved by the City.
- The neighbors could claim that the negatives outweighed the positives and the amendment should not be approved.
- More engineering and legal analysis could be required.

Mayor Bonner asked what additional engineering analysis could be done. Wes Johnson responded that different site plans could be reviewed. He was reluctant to approve a driveway over a 10% grade if a different, or even more expensive, site plan would correct the problem. He added that the maximum elevation could be determined.

Council Member Dodge understood the slope problem and noted that he traveled a public street with a 13% grade to get to his house. He said it was difficult to approve the amendment, at the detriment of other property owners, just because the owner did not want extra stairs or to redesign the house plans.

Council Member Hines did not feel good about voting on the issue that night. He did say that he would vote against the amendment if he had to vote.

Council Member Hofheins indicated that no one owned their view, but the applicant could do a number of things to work with the current building envelope.

Council Member Kohler thought that someone would be upset no matter what was decided. He also thought that more problems would be caused by approving the amendment.

Motion: Council Member Van Wagoner moved to deny the plat map amendment.

Second: Council Member Hofheins seconded the motion.

Discussion: Kraig Powell noted that the lot owner could always reapply.

Note: 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	Aye
Council Member Kohler	Aye

Mr. Johnston indicated that other developments in the City ignored building envelopes and recommended that the City avoid them. Mr. Dymond stated that the original development should not have been approved by the City.

5. Use of City Parks for Inflatable Bounce Houses (Bryce Johnson) – Discuss and Possibly Allow a Business, which has Inflatable Bounce Houses, to Use the Midway City Parks.

Bryce Johnson gave a presentation regarding his proposed business and reviewed the following areas:

- Benefits for the community
- Benefits for municipalities
- Strategy
- Procedures including safety, operations, sanitizing, and cleaning
- How the business would make money
- Proposed locations
- What's next?
- Bounce houses that would be available
- Sponsorship program

He also made the following comments:

- Would rent the bounce houses privately.
- Would also like to partner with municipalities to have them at city parks.
- Was working with the Heber Valley Chamber of Commerce.
- Would like a letter of intent from Midway City that he could provide to potential lenders.
- Five bounce houses would be available but only four would be at a park at any one time.
- Would charge one price for all day access.
- Would use an area about half the size of the City's ice rink. A lot of room would be left for other uses.
- Wanted to use a Midway City park on Wednesdays. This was a slow time of the week and would bring people to the City.
- Other businesses would benefit from the bounce houses at a park.
- Would sell prepackaged food and soda.
- Proposed giving the City 15% of all door admissions.
- There would be an operator at each bounce house.

- Estimated that there would be 100 customers per day.

Note: A copy of Bryce Johnson's presentation is contained in the supplemental file.

Council Member Kohler indicated that the City would have to be listed as an additional insured on Bryce Johnson's insurance policy. He also indicated that the insurance limit needed to be the same as the City's. He recommended that the limit be at least one million dollars. Bryce Johnson responded that it would be at least one million dollars and each parent or guardian would have to sign a waiver. He noted that the invitations for parties would also include a waiver that needed to be signed.

Kraig Powell agreed that insurance and a hold harmless clause were important. He noted that other municipalities did not allow bounce houses at private functions on their property. He thought that Bryce Johnson's proposal was a somewhat different situation.

Mr. Powell preferred renting a park to Bryce Johnson rather than sharing in the profits which might create an additional tie to the City.

Mayor Bonner wondered how much the City should charge to use a park. She suggested 15% of the door admissions not to exceed a certain amount. Brad Wilson indicated that the City normally did not rent its parks, except for Swiss Days, and so a cost had never been determined. Mr. Powell noted that the City had rented part of the Town Square for ice castles.

Council Member Dodge asked if the proposal would violate the City's contract with Rink Management Services Corporation. He noted that Bryce Johnson worked for the company and was specifically prohibited from being hired by the City. Mr. Powell thought that the chances were small that the company would protest the arrangement. Council Member Dodge questioned if that would be the case.

Wes Johnson asked the amperage of the bounce house motors so that there electrical use could be determined.

Council Member Hofheins thought that the City should try the proposal. He did question if residents wanted the additional commotion.

Mayor Bonner and Council Member Hines also thought that the City should try the proposal.

Council Member Kohler agreed and said that residents complained there was not enough happening in the City.

Wes Johnson asked if it would be better to have the bounce houses at the Town Square or the Hamlet Park. Mayor Bonner and Council Member Dodge indicated that the Town Square would be better because it was closer to local businesses.

Motion: Council Member Kohler moved to approve a letter of intent allowing Bryce Johnson to use the City’s parks for bounce houses with the details still to be worked out.

Second: Council Member Dodge 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	Aye
Council Member Kohler	Aye

6. Transfer of Development Rights – Discuss a Proposal for the Transfer of Development Rights from the North Fields

Michael Henke gave a presentation regarding the transfer of development rights and reviewed the following items:

- Preservation of agriculture
- Elements of transferring development rights
- Density transfer areas
- Differences in agricultural character
- Various parcels in the North Fields by size
- Midway City Land Use Map
- Midway City’s participation

Mr. Henke also made the following comments:

- Transferring development rights would be an option for a landowner along with developing the property under the allowed zoning.
- Development rights could be transferred to several locations in Midway including just outside of the City’s boundaries.
- Heber City was considering a redevelopment of its city center.
- Currently the City did not limit the size of certain developments in its commercial zones.
- Heber City would receive most of the development rights.
- The price of the development rights would depend on the open market.
- Midway City might be asked to contribute to help pay for studies, etc.

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

Kraig Powell explained sending and receiving zones for development rights. He noted that if the receiving zones already allowed high density then the program would not work. He also noted that the density should not be changed in the sending zones.

Mr. Powell indicated that there was a balance because residents wanting to preserve the North Fields but did not wanting any additional density next to them.

Mr. Powell explained the recent rezone of the North Fields and the citizen petition that put the issue on the ballot in 2016. Mr. Henke added that Wasatch County was only accepting applications for 20 acre parcels because of the petition.

Mayor Bonner explained that the City was required to review its general plan in 2016. She suggested that transfer of development rights be included in that review. She asked if the Council was interested in the program.

Council Member Hofheins said that residents did not want more density in the area. Mr. Henke responded that the City would determine how much density it was willing to receive. He estimated that a 120 unit PUD might increase by twelve units.

Council Member Hines asked if there were other ways to preserve the North Fields. Mr. Henke responded that as space became limited the pressure to develop the North Fields would increase. He said that the program would give options to property owners.

Council Member Kohler liked having open space between Midway and Heber City.

Council Member Van Wagoner noted that any property needed to be maintained and not filled with noxious weeds, etc.

The Council agreed that Mr. Henke should continue to participate in the discussions regarding the program.

Council Member Van Wagoner asked if a similar program could be set up just within the City. He thought that residents would be more willing to participate if open space in the City was being protected.

7. Road Surface Treatments/Contract – Discuss and Possibly Award a Contract for Road Surface Treatments

Wes Johnson reviewed the bids for the road surface treatments. He recommended that a contract be awarded to Intermountain Slurry Seal who was the low bidder. He noted that the company did good work and had done a lot of surface treatments for the City.

Mr. Johnson indicated that the contract required the work to be done continuously and between May 1 and August 15. He also reviewed which roads would receive which type of treatment.

Mr. Johnson also indicated that part of the work would be a micro seal which the Utah

Department of Transportation used a lot.

Council Member Van Wagoner indicated that River Road, which would be treated, was starting to fall apart. He questioned if a surface treatment was practical for the road. Mr. Johnson responded that he had not seen that kind of damage on the road but would look again. He added that a surface treatment would work on a ¾ inch wide crack but not one that was four inches wide.

Council Member Dodge asked when it had been determined to treat these particular roads. Mr. Johnson responded that it was determined two years earlier to forgo work in 2014 and do these roads in 2015.

Motion: Council Member Dodge moved to award the contract to Intermountain Slurry Seal and authorize the Mayor to sign the associated documents.

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	Aye
Council Member Kohler	Aye

8. Open and Public Meetings Training – Receive Training on the Open and Public Meetings Act of the State of Utah

Brad Wilson gave training on the Open and Public Meetings Act of Utah. He reviewed the following items:

- Purpose of the Act
- Definitions
- Noticing
- Minutes and recordings
- Closed meetings
- Emergency meetings
- Penalties for violations

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

9. Department Reports

Kent Kohler, Council Member

New Fire Station – Council Member Kohler asked the status of the new fire station and if there was still opposition to its location. Mayor Bonner thought that the opposition had died down. Council Member Van Wagoner added that many of the opponents had been misinformed.

Michael Henke reported that the building permit was being reviewed by the City's building safety department.

Council Member Van Wagoner said that the fire station should be finished by the first of that July.

Kraig Powell, Attorney

Planning and Zoning Issues – Mr. Powell reported that he was working with Michael Henke on a lot of planning and zoning issues.

Derelict Home at 250 North Homestead Drive – Mr. Powell reported that an asbestos inspection had been done on the abandoned home at 250 North Homestead Drive. He indicated that the Midway Heritage Foundation was still raising money to demolish it which would cost \$13,000 to \$14,000. He added that Lance Excavating which would do the work wanted to be finished by May 1st.

Council Member Dodge asked if the property owner would grant a trail easement to the City. Mr. Powell responded that an easement would be allowed as part of the agreement letting the home be raised. He added that the property developer would build the trail or reimburse the City if it built it first. He noted that the developer could relocate the trail if needed.

Colleen Bonner, Mayor

City Clean-up – Mayor Bonner reminded the Council that the city clean-up would be on May 16th.

Wes Johnson, Engineer

2015 Road and Utilities Improvements – Mr. Johnson reported that the contractor, for the 2015 road and utilities improvements, was progressing about 100 feet a day on Pine Canyon Road.

Danny Hofheins, Council Member

Duplex at Approximately 240 North River Road – Council Member Hofheins asked if access to the duplex on River Road was safe. Michael Henke responded that the duplex was on a lot of record which included building rights. He said the building had been approved with hammerhead turnarounds on the driveways so that vehicles would not back out onto the road.

Michael Henke, Planning Director

Transient Rental at 501 West Rainbow Lane – Mr. Henke reported that there was a party the previous weekend at the transient rental located at 501 West Rainbow Lane. He said that there were fights, underage drinking and several people arrested.

Mr. Henke indicated that several neighbors wanted to come before the Council to request that the license for the rental be revoked.

Kraig Powell thought that the rental might be grandfathered because it had operated prior to the current transient rental regulations. He said that the Mayor could handle the issue administratively if the Council did not want it to be on the agenda.

Building Permits – Mr. Henke reported that a lot of building permits were being submitted to the City.

10. Closed Executive Session to Discuss Pending or Reasonably Imminent Litigation and the Purchase of Real Property

Motion: Council Member Van Wagoner moved to go into a closed executive session.

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	Aye
Council Member Kohler	Aye

Note: Closed executive session minutes are sealed and strictly confidential. Access to such minutes must be obtained through a court of law.

Motion: Council Member Van Wagoner moved to go out of the closed executive session.

Second: Council Member Hines seconded the motion.

Discussion: None

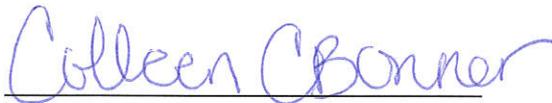
Vote: The motion was approved with the Council voting as follows:

Council Member Hines	Aye
Council Member Hofheins	Aye
Council Member Van Wagoner	Aye
Council Member Dodge	Aye
Council Member Kohler	Aye

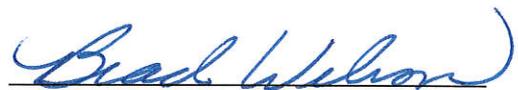
11. Adjournment

Motion: Council Member Kohler moved to adjourn the meeting. The motion passed unanimously.

The meeting was adjourned at 10:00 p.m.



Colleen Bonner
Colleen Bonner, Mayor



Brad Wilson
Brad Wilson, Recorder