



Midvale City
CITY COUNCIL MEETING
Minutes

Tuesday, September 15, 2015
Council Chambers
7505 South Holden Street
Midvale, Utah 84047

MAYOR: Mayor JoAnn Seghini

COUNCIL MEMBERS: Council Member Paul Glover
Council Member Paul Hunt
Council Member Quinn Sperry
Council Member Wayne Sharp
Council Member Stephen Brown

STAFF: Kane Loader, City Manager; Phillip Hill, Assistant City Manager/Community Development Director; Laurie Harvey, Assistant City Manager/Admin. Services Director; Rori Andreason, H.R. Director/City Recorder; Bob Davis, Public Works Director; Chad Woolley, City Attorney; Chief Tony Mason, UPD Midvale Precinct; Battalion Chief Scott McBride, UFA; Danny Walz, RDA Director; Lesley Burns, City Planner; Michelle Henderson, Court Administrator; and Matt Pierce, Systems Administrator.

Mayor Seghini called the meeting to order at 6:34 p.m.

I. INFORMATIONAL ITEMS

A. DEPARTMENT REPORTS

Chief Mason reported on a recent incidents regarding drugs and live hand grenades that were confiscated. Detective Paul and Detective Meono reported on the Good Landlord Program statistics.

Battalion Chief Scott McBride reported on an apartment fire in Midvale. He stated that two firefighters from Station 126 won awards for their services. He also reported on wildland fires throughout the state and nearby states.

Laurie Harvey said the new website should be up and running by the end of January or the latest February 15.

Phillip Hill said CHG will be having their ground breaking on September 28th at 9:00 a.m. He asked the Council who would be willing to sit on the General Plan Steering Committee. Councilmember Paul Glover said he could sit on the committee.

Bob Davis updated the Council on city projects that are being completed.

Councilmember Wayne Sharp said Oak Street looks great but residents are parking on the sidewalk because the street is so narrow. He asked if something could be done such as make one side of the street no parking. The same thing happens on Birch Street.

II. CITY MANAGER'S REPORT

Kane Loader, City Manager, updated the Council on the VECC CAD selection process. Intergraph is the system they have selected. They gave four presentations today and will be moving forward. He reported on a meeting he had with Mayor McAdams regarding the swimming pool. He said they have not made a determination as to what they will be doing. They did discuss conducting a feasibility study. He asked that they look at an alternate site in Midvale City. Mayor McAdams said he does not want to do anything contrary to what the City Council or the people want. He said unless they got rid of one of the ball diamonds they will not be able to fit the swimming pool there. He said those discussions will continue. He discussed a partnership with the County on the 700 East Park. He also discussed the funding for Fort Union Boulevard. If the City would agree to use half of the proposition 1 funding the first year and deduct that out of the project, then the remainder of the money for that project would come through S L County and the project could start next spring.

Mayor Seghini opened the regular meeting at 7:19 p.m.

III. GENERAL BUSINESS

A. Welcome and Pledge of Allegiance

B. Roll Call – Council Members Stephen Brown, Paul Hunt, Quinn Sperry, Wayne Sharp, and Paul Glover were present at roll call.

IV. PUBLIC COMMENTS

Representative Bruce Cutler discussed a bill he will be sponsoring that could impact cities and towns. He discussed a single point registration hub for businesses.

Sophia Hawes-Tingey said the residents on 6790 South say they have a lot of speeders in that area. Recently, a car fleeing from the police ran into a house. She asked what was being done in that area. The Council said there are speed humps on that street and the car was fleeing police so there was no stopping it. Kane Loader said there's not much more anyone can do.

V. COUNCIL REPORTS

A. Councilmember Quinn Sperry – reported that he's had more people talk to him about the water pressure on 1000 East, which he has talked with Bob Davis about. An individual on 1000 East and north of 7800 South is complaining about someone was burning their garbage. He too has smelled it but could not find the home.

B. Councilmember Stephen Brown – said the citizen’s academy started and it has been very interesting. He requested looking seriously at restriping Millennial Way so there is parking on one side only. He suggested red striping the north side of the street.

Chief Mason suggested passing an ordinance or something stating the parking there is for drivers staying at the hotel only. Kane Loader suggested giving passes to the hotel for the truck drivers staying there. Chad Woolley said he would look into this.

C. Councilmember Wayne Sharp – said he would be willing to allow someone else to serve on the Mosquito Abatement Board if they would like. He reported that there are three human cases of West Nile Virus in Utah and they are all in this valley.

D. Councilmember Paul Glover – had nothing to report.

E. Councilmember Paul Hunt– said a citizen thanked him for Officer Chad Ogden coming to his rescue when his son grabbed the key fob and locked himself in the car.

VI. MAYOR REPORT

Mayor JoAnn B. Seghini – reminded the Council of the ULCT Conference that week.

MOTION: Councilmember Paul Hunt MOVED to open a public hearing. The motion was SECONDED by Councilmember Quinn Sperry. Mayor Seghini called for discussion on the motion. There being none the Mayor called for a vote. The motion passed unanimously.

VII. PUBLIC HEARING(S)

A. CONSIDER A REQUEST TO VACATE AND PURCHASE A PORTION OF THE 6960 SOUTH PUBLIC RIGHT-OF-WAY ALONG THE FRONTAGE OF 635 WEST AND 665 WEST 6960 SOUTH

Lesley Burns said Midvale City has received a request to vacate an approximate 12 foot wide area of the public right-of-way adjacent to the property frontages at 635 West and 665 West 6960 South. This request has been made by HBB Properties LLC and David W. Major, the owners of each of the parcels. HBB Properties LLC has been constructing a new office building on the property at 635 West. This development required the construction of new curb, gutter and sidewalk along the property frontage on 6960 South. In an effort to improve the area, the developer worked with the adjacent property owner to the west and completed the last section of curb, gutter and sidewalk along the 665 West property frontage at the same time. Other improvements in the area placed these curb, gutter and sidewalk improvements approximately 12 feet from the front property lines. The applicants are requesting that this 12 foot area behind the inside edge of the sidewalk, currently part of the public right-of-way, be declared surplus property, vacated and sold to become part of their properties.

The existing public right-of-way for 6960 South in this area is 78 feet wide. The City does not anticipate ever utilizing this entire right-of-way width, thus establishing the current location of the curb, gutter and sidewalk improvements for these property frontages. The City Engineer has

established that a 66 foot right-of-way is adequate for this road and allows the required pavement width, curb, gutter and sidewalk within the right-of-way. It follows the recent improvements that have been reviewed and approved by the City. Vacating the 12 foot wide area behind the sidewalk will allow the property owners to own the area they will be expected to maintain. The area in question is shown on the attached map and photos.

All required City Departments have reviewed and recommended approval of this request, finding that vacating this portion of the right-of-way will not compromise City services now or in the future. Nor will it directly affect the other properties along 6960 South. 6960 South is not anticipated to ever be an arterial road as could be assumed by the current right-of-way width. The General Plan encourages commercial and industrial development along this road; however, it is precluded from tying into a larger transportation system to the east because of the existing rail line and I-15.

Vacating City owned property requires a recommendation from the Planning Commission to the City Council. It is the Planning Commission's responsibility to evaluate the land use implications of the request. Once the Planning Commission makes a recommendation, the City Council holds a public hearing and makes a final decision. If the Council agrees to vacate the right-of-way, the applicant will be required to purchase the vacated property from the City at a fair market rate that is acceptable to the City Council.

Planning Commission Recommendation

The Planning Commission held a public hearing on this request on August 26, 2015. No comments were received at the public hearing. After weighing the potential land use implications of the request and finding that no negative impacts would result, the Planning Commission forwarded a positive recommendation to the City Council to approve the request to vacate the approximate 12 foot by 305 foot area of public right-of-way adjacent to 635 and 665 West 6960 South with the following conditions:

1. The City is fairly compensated for the property as determined by the City Council.
2. The applicant shall be responsible for all surveying and title work required. These documents shall be reviewed and approved by the City Engineer and City Attorney before any property transfer can occur.

An ordinance vacating and declaring this property surplus has been prepared for the Council's consideration.

Compensation Offer for Property

If the City Council agrees to vacate this portion of right-of-way, the applicants have each prepared an offer to purchase the property along their property frontages from the City. The basis for these offers stems from an April 2015 appraisal valuing the 635 West property at \$9.90 per square foot, an inutility reduction of 85% (the City has used this methodology for similar parcels, which are not developable as stand-alone parcels, and the only value being created by including

it with an adjacent parcel), and the cost incurred by the owner of the 665 West property (existing development/no improvements immediately required) for the curb, gutter, and sidewalk public improvements. (The owner of the 635 West property (new office building) recognizes that the public improvements along his property frontage were required as part of his development project, and, therefore not an eligible credit towards the purchase price.) The offers are as follows:

635 West (new office building under construction):

- 2,127 square feet of vacated r-o-w
- Market value based on \$9.90/sqft = \$21,057
- Market value less inutile reduction = \$3,158
- Compensation offer to City: \$3,158.00

665 West (existing development/no improvements immediately required):

- 1,352 square feet of vacated r-o-w
- Market value based on \$9.90/sqft = \$13,385
- Market value less inutile reduction = \$2,008
- Cost of public curb, gutter and sidewalk improvements along property frontage = \$7,050
- Improve area adjacent to sidewalk with gravel until permanent landscaping
- improvements can be made
- Compensation offer to City: 0 (non-required public improvement costs exceed property value)

Mayor Seghini opened the public hearing to public comment. There was no one present who desired to speak on this issue.

MOTION: Councilmember Paul Glover MOVED to close the public hearing. The motion was SECONDED by Councilmember Stephen Brown. Mayor Seghini called for discussion on the motion. There being none the Mayor called for a vote. The motion passed unanimously.

ACTION: APPROVE ORDINANCE NO. 2015-O-07 TO VACATE AND PURCHASE A PORTION OF THE 6960 SOUTH PUBLIC RIGHT-OF-WAY ALONG THE FRONTAGE OF 635 WEST AND 665 WEST 6960 SOUTH

MOTION: Councilmember Paul Hunt MOVED that based on the recommendations of the City Departments and the Planning Commission, I move that we adopt Ordinance No. 2015-O-07, vacating an approximate 12 foot by 305 foot area of the public right-of-way adjacent to the property frontage at 635 West 6960 South and 665 West 6960 South, and declaring it surplus property. The motion was SECONDED by Councilmember Quinn Sperry. Mayor Seghini called for discussion on the motion. There being none the Mayor called for a roll call vote. The voting was as follows:

Council member Stephen Brown Aye
Council member Paul Glover Aye
Council member Paul Hunt Aye
Councilmember Wayne Sharp Aye
Council member Quinn Sperry Aye

The motion passed unanimously.

MOTION: Councilmember Quinn Sperry MOVED that we accept the offer by HBB Properties to purchase the surplus property adjacent to the property frontage at 635 West 6960 South created by Ordinance No. 2015-O-07. HBB Properties shall be responsible to prepare all documents required for the property transfer to occur. These documents shall be reviewed and approved by the City Engineer and City Attorney. The motion was SECONDED by Councilmember Stephen Brown. Mayor Seghini called for discussion on the motion. There being none the Mayor called for a roll call vote. The voting was as follows:

Council member Stephen Brown Aye
Council member Paul Glover Aye
Council member Paul Hunt Aye
Councilmember Wayne Sharp Aye
Council member Quinn Sperry Aye

The motion passed unanimously.

MOTION: Councilmember Paul Hunt MOVED that we accept the offer by David W. Major to purchase the surplus property adjacent to the property frontage at 665 West 6960 South created by Ordinance No. 2015-O-07. This offer includes Mr. Major improving the area adjacent to the sidewalk with gravel. Mr. Major shall be responsible to prepare all documents required for the property transfer to occur. These documents shall be reviewed and approved by the City Engineer and City Attorney. The motion was SECONDED by Councilmember Paul Glover. Mayor Seghini called for discussion on the motion. There being none the Mayor called for a roll call vote. The voting was as follows:

Council member Stephen Brown Aye
Council member Paul Glover Aye
Council member Paul Hunt Aye
Councilmember Wayne Sharp Aye
Council member Quinn Sperry Aye

The motion passed unanimously.

MOTION: Councilmember Wayne Sharp MOVED to open a public hearing. The motion was SECONDED by Councilmember Paul Hunt. Mayor Seghini called for discussion on the motion. There being none the Mayor called for a vote. The motion passed unanimously.

**B. CONSIDER A ZONING ORDINANCE TEXT AMENDMENT TO
MODIFY THE GARAGE SETBACK EXCEPTION TO THE SIDE YARD
SETBACK FOR ATTACHED GARAGES IN THE SINGLE FAMILY
RESIDENTIAL (SF-1) ZONE**

Lesley Burns stated that earlier this year, the City Council approved a text amendment allowing an exception to the eight foot side yard setback requirement for attached garages in the SF-1 zone district (single-family residential/7,000 square foot lot) to allow homeowners to expand their attached garages, particularly in older houses that only have single car garages or carports. This new provision includes the following standards:

- d. Attached Single-Car Garages and Carports. In the case where an existing single family residence has an attached garage or carport that accommodates less than two cars because of its width, the garage or carport may be extended to four feet from the side property line provided the following items are satisfied:
 - i. The extended structure area is for a garage use only; the encroachment into the side yard setback cannot be used as habitable space.
 - ii. The extended structure shall not exceed one story, and shall not extend above the roofline of the existing residential structure.
 - iii. The width of the garage shall not exceed twenty-four feet; the depth of the garage shall not exceed twenty-four feet.
 - iv. Eaves may extend an additional one foot beyond the outside wall of the garage or carport; no other projections, including stairs and landings, shall be allowed within the four foot setback.
 - v. All building codes shall be addressed.
 - vi. This exception is intended to provide a property owner of an older home with an attached single-car garage or carport the ability to have a standard attached two-car garage or carport where it otherwise would not be allowed because of the eight-foot side yard setback.
 - vii. All new home construction shall comply with the eight-foot side yard setback.

An issue was brought to the City Council's attention regarding the language in subsection (iii) which includes a maximum depth allowed for the expanded garage. With the maximum depth being absolutely defined, it does not allow for existing one car garages that already exceed 24 feet in depth to be uniformly expanded. To address this issue, a modification to the existing language was presented to the Planning Commission. This modification included the following:

- iii. The width of the garage or carport shall not exceed twenty-four feet; the depth of the garage or carport shall not exceed twenty-four feet or the depth of the existing garage or carport, whichever is greater.

Planning Commission Recommendation

The Planning Commission reviewed this proposed text amendment and held a public hearing on August 12, 2015. As part of its discussion, the Planning Commission requested that some

additional language be added to ensure property owners do not take advantage of the exception and unnecessarily impact the adjacent property. On August 26, 2015, the Planning Commission forwarded a positive recommendation to the City Council to modify the language regarding the maximum garage depth, as well as included some additional language. The Planning Commission's recommendation is included in Attachment A of the proposed ordinance.

Mayor Seghini opened the public comment portion of the public hearing. There was no one present who desired to speak to this issue.

MOTION: Councilmember Paul Glover MOVED to close the public hearing. The motion was SECONDED by Councilmember Paul Hunt. Mayor Seghini called for discussion on the motion. There being none the Mayor called for a vote. The motion passed unanimously.

ACTION: APPROVE ORDINANCE NO. 2015-O-08 MODIFYING THE GARAGE SETBACKS EXCEPTION TO THE SIDE YARD SETBACK FOR ATTACHED GARAGES IN THE SF-1 ZONE DISTRICT

MOTION: Councilmember Paul Hunt MOVED that we adopt Ordinance No. 2015-O-08, modifying the garage setback exception to the side yard setback for attached garages in the SF-1 zone district. The motion was SECONDED by Councilmember Paul Glover. Mayor Seghini called for discussion on the motion. There being none the Mayor called for a roll call vote. The voting was as follows:

Council member Stephen Brown	Aye
Council member Paul Glover	Aye
Council member Paul Hunt	Aye
Councilmember Wayne Sharp	Aye
Council member Quinn Sperry	Aye

The motion passed unanimously.

MOTION: Councilmember Stephen Brown MOVED to open a public hearing. The motion was SECONDED by Councilmember Quinn Sperry. Mayor Seghini called for discussion on the motion. There being none the Mayor called for a vote. The motion passed unanimously.

C. CONSIDER AN ORDINANCE ESTABLISHING TEMPORARY LAND USE REGULATIONS PROHIBITING NEW DEVELOPMENT GREATER THAN 2 STORES IN THE TRANSIT ORIENTED DEVELOPMENT (TOD) ZONE, STATE STREET COMMERCIAL (SCC) ZONE, AND RM-12 AND RM-25 MULTI-FAMILY ZONES

Phillip Hill stated that following discussions with the City Council it has been determined that it is necessary to review the existing land use regulations in the Transit Oriented Development

(TOD) zone, State Street Commercial (SSC) zone, RM-12 and RM-25 Multi-Family zones with respect to buildings in excess of 2 stories.

Specifically the Council has expressed concerns with the challenges created when implementing the existing ordinances with respect to the physical “stepping” of building heights and setbacks to reduce the visual mass of large structures adjacent to single family neighborhoods as well as providing sufficient perimeter landscaping to further buffer and soften the visual impacts.

Currently the City is in the process of updating the General Plan along with its goals and policies. As part of the General Plan update the goals and policies of these areas need to be discussed in light of the noted challenges. Beginning on October 8, 2015 the General Plan steering committee will begin meeting to discuss the goals, policies and other aspects of the General Plan. This provides the opportunity to address these issues in the context of the overall document.

The proposed ordinance would, if adopted, place a temporary land use regulation on these zones prohibiting new development greater than 2 stories in height for up to six (6) months while the City Council, Planning Commission, Steering Committee and City Staff address these concerns.

Mayor Seghini opened the public comment portion of the public hearing. There was no one present who desired to speak to this issue.

MOTION: Councilmember Quinn Sperry MOVED to close public comment. The motion was SECONDED by Councilmember Paul Glover. Mayor Seghini called for discussion on the motion. There being none the Mayor called for a vote. The motion passed unanimously.

ACTION: APPROVE ORDINANCE NO. 2015-O-09 AN ORDINANCE ESTABLISHING TEMPORARY LAND USE REGULATIONS PROHIBITING NEW DEVELOPMENT GREATER THAN 2 STORIES IN THE TRANSIT ORIENTED DEVELOPMENT (TOD) ZONE, STATE STREET COMMERCIAL (SSC) ZONE, RM-12 AND RM-25 MULTI-FAMILY ZONES

MOTION: Councilmember Stephen Brown MOVED that based on the findings of the City Council, identifying the challenges implementing the existing land use development regulations in the Transit Oriented Development (TOD) zone, State Street Commercial (SSC) zone, RM-12 and RM-25 Multi-Family zones, Staff recommends that the City Council adopt Ordinance #2015-O-09 placing temporary land use regulations on the Transit Oriented Development (TOD) zone, State Street Commercial (SSC) zone, RM-12 and RM-25 Multi-Family zone's, prohibiting new development greater than 2 stories in height. This temporary land use regulation shall be limited in time to no more than six (6) months following the adoption of this ordinance. The motion was SECONDED by Paul

Glover. Mayor Seghini called for discussion on the motion. There being none the Mayor called for a roll call vote. The voting was as follows:

Council member Stephen Brown	Aye
Council member Paul Glover	Aye
Council member Paul Hunt	Aye
Councilmember Wayne Sharp	Aye
Council member Quinn Sperry	Aye

The motion passed unanimously.

VIII. CONSENT AGENDA

A. APPROVE MINUTES OF AUGUST 18, SEPTEMBER 01, AND SEPTEMBER 08, 2015

MOTION: Councilmember Wayne Sharp MOVED to approve the consent agenda. The motion was SECONDED by Councilmember Stephen Brown. Mayor Seghini called for discussion on the motion. There being none the Mayor Seghini called for a roll call vote. The voting was as follows:

Council member Stephen Brown	Aye
Council member Paul Glover	Aye
Council member Paul Hunt	Aye
Councilmember Wayne Sharp	Aye
Council member Quinn Sperry	Aye

The motion passed unanimously.

IX. ACTION ITEMS

A. APPROVE RESOLUTION NO. 2015-R-46 REAPPOINTING MARK KLEINFELD AS THE HEARING OFFICER FOR MIDVALE CITY EMPLOYEE APPEALS AND ADMINISTRATIVE APPEALS

Lesley Burns said Mark Kleinfeld has been serving as Midvale City's Appeals and Variance Hearing Officer for the past two years. This position, which replaced the role of the Board of Adjustment, hears and decides appeal and variance requests from the Zoning Ordinance. Pursuant to the ordinance creating this position, the hearing officer is appointed for a two year term, and, may, thereafter, be appointed for additional two year terms.

Mr. Kleinfeld has always performed his duties in a professional and fair manner, and has the respect of those who have worked with him. He has been reliable and accommodating in providing this service in a timely manner to those submitting appeal and variance applications. He has been practicing law since 1973, and is currently an Administrative Law Judge for the Utah Insurance Department, as well as a Hearing Officer for a number of State and Local agencies. Mr. Kleinfeld has been Midvale City's Hearing Officer for the Administrative Code Enforcement (ACE) Program since 2004. He has presided over many code enforcement hearings during this time in addition to the appeal and variance requests these past two years. He has also received a Planning Certificate from the University of Utah.

It is the Mayor's desire to re-appoint Mr. Kleinfeld as the City's Appeals and Variance Hearing Officer. She is requesting the Council's consent on this appointment. A resolution has been prepared for the City Council's consideration of this appointment, which would be for a two-year term.

MOTION: Councilmember Wayne Sharp MOVED that we adopt Resolution No. 2015-R-46 re-appointing Mark E. Kleinfeld as Midvale City's Appeals and Variance Hearing Officer for an additional two-year term. The motion was SECONDED by Councilmember Quinn Sperry. Mayor Seghini called for discussion on the motion. There being none the Mayor Seghini called for a roll call vote. The voting was as follows:

Council member Stephen Brown	Aye
Council member Paul Glover	Aye
Council member Paul Hunt	Aye
Councilmember Wayne Sharp	Aye
Council member Quinn Sperry	Aye

The motion passed unanimously.

B. APPROVE RESOLUTION NO. 2015-R-48 AUTHORIZING THE MAYOR TO ENTER INTO A LICENSE AGREEMENT WITH UDOT FOR ROAD PERMITS

Bob Davis stated some of the roadways within Midvale City are owned and maintained by the State of Utah such as State Street, portions of 7200 South and others. Midvale City owns and operates numerous utilities within those State owned roadways. We have sewer, water and storm drain pipelines, for example, which require occasional repairs or replacement.

When the City needs to do construction work within a state owned roadway, the State requires that we apply for and receive a road cut permit for the work. The attached Utility License Agreement is the underlying document setting forth the terms and conditions for such road cut permits with the State Department of Transportation. This is a standard Agreement that all Cities are requested to sign.

The Statewide Utility License Agreement has been prepared by the Utah State Department of Transportation and presented to Midvale City for our approval and signature. This Agreement has been reviewed and approved by the City Attorney and is included for the Council's consideration.

MOTION: Councilmember Quinn Sperry MOVED that we approve Resolution No. 2015-R-48 Authorizing the Mayor to execute the Statewide Utility License Agreement with the Utah Department of Transportation. The motion was SECONDED by Councilmember Paul Glover. Mayor Seghini called for discussion on the motion. There being none the Mayor Seghini called for a roll call vote. The voting was as follows:

Council member Stephen Brown	Aye
Council member Paul Glover	Aye
Council member Paul Hunt	Aye
Councilmember Wayne Sharp	Aye

Council member Quinn Sperry Aye
The motion passed unanimously.

**C. APPROVE RESOLUTION NO. 2015-R-47 AUTHORIZING THE MAYOR
TO ENTER INTO A LEASE AGREEMENT FOR THE MIDVALE ARTS
COUNCIL**

Laurie Harvey stated that the Midvale Arts Council (MAC) was originally established by resolution in 1985 as a mechanism to promote the arts and rich cultural heritage of the City. The MAC has accomplished this purpose by sponsoring quality entertainment and by providing opportunities for Midvale citizens of all ages and backgrounds to enrich their lives by experiencing the positive benefits of the arts and local culture. Offerings have included such things as free concert series, theatrical productions, and participation in local festivals. In order to gain autonomy and better opportunities for grants, the MAC incorporated as a 501(C)3 in June of 2012.

The City Council has continued to provide support - both in-kind and monetary. A lease agreement between the City and MAC for the use of the Midvale Performing Arts Center was entered into in 2013 and expired in June of 2015.

The MAC has agreed to terms of a lease of space in the Performing Arts Center (695 W. Center Street) and the Outdoor Stage in the Park from the City for \$1 per year. The lease is automatically renewable each year. In prior years, revenue from renting the facilities to third parties has been retained by MAC, and MAC is desirous of continuing that arrangement.

Renters of the Outdoor Stage in the Park are also required to rent the Bowery for half of the normal resident price. Rent received for the Bowery is to be transferred to Midvale City.

Property rules are attached to the lease. The rules for the Outdoor Stage in the Park include a requirement to keep noise at an acceptable level and ensure that residents near the park are not disturbed. The Outdoor Stage in the Park cannot be used between 11 p.m. and 6 a.m.

FISCAL IMPACT:

Funds generated from rent of the facilities are retained by the Midvale Arts Council, except for the portion attributable to the Bowery in the Park.

MOTION: Councilmember Paul Hunt MOVED to approve Resolution No. 2015-R-47 Authorizing the Mayor to enter into a lease agreement for the Midvale Arts Council for the lease of the Performance Arts Center and the outdoor stage in the park. The motion was SECONDED by Councilmember Paul Glover. Mayor Seghini called for discussion on the motion. There being none the Mayor Seghini called for a roll call vote. The voting was as follows:

Council member Stephen Brown Aye
Council member Paul Glover Aye
Council member Paul Hunt Aye
Councilmember Wayne Sharp Aye

Council member Quinn Sperry Aye
The motion passed unanimously.

X. DISCUSSION ITEMS

A. DISCUSS RECERTIFICATION OF THE MIDVALE CITY JUSTICE COURT

Michelle Henderson stated that the State statute requires that municipal justice courts be recertified by the Utah Judicial Council every four years. The certification for Midvale City Justice Court expires on February 28, 2016. In order to qualify for certification, the Court, in conjunction with the City, must submit three documents to the Judicial Council: 1) a letter from the City Attorney attesting to the viability of a Justice Court operated within the City; 2) a resolution from the City Council requesting recertification; and 3) an Affidavit signed by the Judge certifying that all state mandated requirements for operation of a Class I Justice Court are being met.

Midvale City Justice Court is a Class I Court. The Operational Standards that must be met are as follows:

501 or More Case Filings Per Month.

Currently Midvale Justice Court averages between 700 and 800 total filings per month; this includes traffic, criminal and small claims cases.

Court Open Full Time with Full Time Judge.

Midvale City is currently open from 8:00 a.m. to 6:00 p.m. Monday thru Friday and employs a full time Judge. Court is held 4 days a week; 5 if there is a Jury Trial.

Dedicated Courtroom, Judge's Chambers and Clerk Office Co-Located in the Same Facility.

The Midvale Justice Court is housed in a separate section of the Midvale Municipal Center and contains a dedicated courtroom, Judge's chambers and clerk's office. The facilities provided meet the minimum furnishing requirements and the judge has been provided with the required attire and tools as specified by the Judicial Council.

Employ a Minimum of Three Full Time Clerks

Midvale Justice Court currently employs seven full time clerks and three part-time clerks.

Prosecutor Available to Screen Cases and Represent the Municipality at Trial.

Midvale City currently contracts with Cowdell and Woolley and Lisa Garner acts as full time prosecutor.

Indigent Defense Funds Must be Provided for by the Municipality.

Midvale City currently provides funds to provide indigent defense as necessary through a contracted law firm.

Legal Resources Must be Available and Kept Current.

Midvale City provides a copy of the Utah Code and Local Ordinances yearly upon completion of legislative updates. Copies of the Justice Court Manual, Code of Judicial Administration and Uniform Bail Schedule are kept electronically and updated regularly through the Administrative Office of the Courts. Upon request by any persons in the court copies of the above can be provided.

Employed or Contracted Law Enforcement for Municipality

Midvale City currently contracts with Unified Police Department for Law Enforcement purposes within City boundaries.

Municipality Provided Bailiff

Midvale City Justice Court contracts with Court Services of Utah, a bonded and registered constable company who employs POST certified officers, for Bailiff Services. The Bailiffs provide security for the court during all hours of operation.

Security Plan

A draft security plan is attached and will be submitted per C.J.A. Rule 3-414

Jury/Witness Fees

Midvale City provides funding for all payment of statutory juror and witness fees.

Education

Midvale City provides full funding for Judicial and Court Clerk Conferences, which satisfy the requirements of 30 hours per year of education for the judge and 10 hours of education per year for court clerks.

Reporting

All reporting required by the Utah Judicial Council is submitted timely and within the rules and laws governing it. All reporting to the Driver License Division and Bureau of Criminal Identification are made via the State provide CORIS case management system which the Justice Court uses as specified by the Judicial Council. All surcharges are forwarded to the State Treasurers office no later than the 10th day of each month as required by state statute.

**B. DISCUSS AMENDMENT TO THE MIDVALE MUNICIPAL CODE
REGARDING BUSINESS LICENSES**

Chad Woolley stated that this amendment of Midvale Municipal Code 5.02 Business Licenses Generally brings the ordinance up-to-date and solves two problems facing Community Development Department.

First, the current ordinance requires that all businesses, regardless of type, are required to renew their license on or before January 15 of each year. Due to the significant number of businesses in Midvale, this annual demand creates significant delays in processing each of the renewals. In order to alleviate this problem, this amendment distinguishes between rental and non-rental

business licenses. Non-rental businesses will remain on the current January 15th renewal schedule. Rental businesses licenses (licenses for individuals or businesses renting residential units) will be switched to a September 15th renewal schedule. By placing rental and non-rental business licenses on different renewal schedules, the Community Development Department will better be able to process business license renewals in a timely manner.

Second, after the adoption of the most recent fee schedule, the Community Development Department has not been able to recover the costs for incomplete, withdrawn, or denied business license applications. As a result, business license applications that have gone through the costly review or inspection processes are still able to recover 100% refund. This amendment helps the City recover some of the costs of its employees' valuable time. Business license applications that are withdrawn or denied before the inspection process are entitled to recover 75% of the business license application fees. If a business license application is withdrawn or denied after the inspection process, only 25% of the business license application fees may be refunded. These amounts are based on other local municipalities, including Sandy City.

FISCAL IMPACT: Some income from recovering a portion of the costs from incomplete, withdrawn, or incomplete business license applications.

**C. DISCUSS AMENDMENT TO THE MIDVALE MUNICIPAL CODE
REGARDING BUSINESS LICENSES ESTABLISHING MASSAGE
ESTABLISHMENTS**

Chad Woolley stated Across Utah, numerous municipalities, including Midvale, are facing problems with their massage establishments. Individuals have found loopholes in local ordinances that allow them to run unsavory businesses while being shielded from the law.

Midvale's current ordinance allows an individual to apply for a massage establishment license by simply being 21 years old and passing a simple background check. Under the current requirements, the City struggles to distinguish between unsavory "massage establishments" and reputable massage businesses.

The amended ordinance requires massage establishment license applicants to submit copies of and keep current with the City each of their therapists' current Utah massage licenses. In addition, the owner and each employee must complete and pass a background check. And lastly, each applicant must also meet with the Midvale Precinct Police Chief and review applicable laws and regulations.

With these new requirements, the City will better be able to distinguish between legitimate massage establishments and unsavory massage businesses, and take appropriate action.

XI. ADJOURN

MOTION: Councilmember Wayne Sharp MOVED to adjourn the meeting. Councilmember Stephen Brown SECONDED the motion. Mayor Seghini called for discussion on the motion. There being none, she called for a vote. The motion passed unanimously.

The meeting adjourned at 8:33 p.m.

**Rori L. Andreason, MMC
CITY RECORDER**

Approved this 6th day of October, 2015.