



Midvale City
7505 South Holden Street
Midvale, UT 84047
801-567-7200
www.midvalecity.org

MIDVALE CITY COUNCIL MEETING AGENDA September 15, 2015

PUBLIC NOTICE IS HEREBY GIVEN that the **Midvale City Council** will hold a regular meeting on the **15th Day of September, 2015** at Midvale City Hall, 7505 South Holden Street, Midvale, Utah as follows:

6:30 PM

INFORMATIONAL ITEMS

I. DEPARTMENT REPORTS

II. CITY MANAGER BUSINESS

7:00 PM

REGULAR MEETING

III. GENERAL BUSINESS

- A. WELCOME AND PLEDGE OF ALLEGIANCE
- B. ROLL CALL

IV. PUBLIC COMMENTS

Any person wishing to comment on any item not otherwise on the Agenda may address the City Council at this point by stepping to the microphone and giving his or her name for the record. Comments should be limited to not more than three (3) minutes, unless additional time is authorized by the Governing Body. Citizen groups will be asked to appoint a spokesperson. This is the time and place for any person who wishes to comment on non-hearing, non-Agenda items. Items brought forward to the attention of the City Council will be turned over to staff to provide a response outside of the City Council meeting.

V. COUNCIL REPORTS

- A. Councilmember Quinn Sperry
- B. Councilmember Wayne Sharp
- C. Councilmember Stephen Brown
- D. Councilmember Paul Glover
- E. Councilmember Paul Hunt

VI. MAYOR REPORT

- A. Mayor JoAnn B. Seghini

VII. PUBLIC HEARING(S) - 7:00 PM

- 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, City Planner*]

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

- B. Consider a Zoning Ordinance Text Amendment to modify the garage setback exception the side yard setback for attached garages in the Single Family Residential (SF-1) Zone [*Lesley Burns, City Planner*]

ACTION: Approve Ordinance No.2015-O-08 Adopting a Zoning Ordinance Text Amendment to modify the garage setback exception the side yard setback for attached garages in the Single Family Residential (SF-1) Zone

- C. Consider an Ordinance Establishing Temporary Land Use Regulations Prohibiting new development greater than 2 stories in the Transit Oriented Development (TOD) zone, State Street Commercial (SCC) Zone, RM-12 and RM-25 Multi-Family Zones [*Phillip Hill, Asst. City Manager/CD Director*]

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 (SCC) Zone, RM-12 and RM-25 Multi-Family Zones

VIII. CONSENT AGENDA

- A. Approve Minutes of August 18, September 01, and September 08, 2015 [*Rori Andreason, H.R. Director/City Recorder*]

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, City Planner*]
- B. Approve Resolution No. 2015-R-48 Authorizing the Mayor to enter into a License Agreement with UDOT for Road Permits [*Bob Davis, Public Works Director*]
- C. Approve Resolution No. 2015-R-47 Authorizing the Mayor to enter into a Lease Agreement for the Midvale Arts Council [*Laurie Harvey, Asst. City Manager/Admin. Services*]

X. DISCUSSION ITEMS

- A. Discuss Recertification of Midvale Justice Court [*Michelle Henderson, Court Administrator*]
- B. Discuss Amending Midvale City Code for Business Licenses [*Chad Woolley, City Attorney*]
- C. Discuss Amending Midvale City Code for Business License Massage Establishments [*Chad Woolley, City Attorney*]

XI. ADJOURN

In accordance with the Americans with Disabilities Act, Midvale City will make reasonable accommodations for participation in the meeting. Request assistance by contacting the City Recorder at 801-567-7207, providing at least three working days advance notice of the meeting. TTY 711

A copy of the foregoing agenda was provided to the news media by email and/or fax; the agenda was posted in the City Hall Lobby, the 2nd Floor City Hall Lobby, on the City's website at www.midvalecity.org and the State Public Notice Website at <http://pmn.utah.gov>. Council Members may participate in the meeting via electronic communications. Council Members' participation via electronic communication will be broadcast and amplified so other Council Members and all other persons present in the Council Chambers will be able to hear or see the communication.

City Council Meeting
September 15, 2015
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PLEASE MAKE SURE ALL CELL PHONES ARE TURNED OFF DURING THE MEETING

DATE POSTED: SEPTEMBER 11, 2015

**RORI L. ANDREASON, MMC
H.R. DIRECTOR/CITY RECORDER**

Riverwalk 6972 S River Reserve Ct 801-520-1111**256 Units**Manager Brooke GyllingCouncilman Brown

Riverwalk apartments had 10 calls for service in the month of August, an increase of 4 calls for service from July. 4 reports were completed and 6 calls were short-formed. There was 1 death, likely an overdose. The remaining calls were very minor and included disturbances, citizen assists, agency assists, ambulance backs, welfare checks and civil matters.

.04 calls for service per unit

Talavera at the Junction 1004 W Tuscany View Rd 801-871-4200**252 Units**Manager Jacob Huff / Zachary StoneCouncilman Brown

Talavera at the Junction apartments had 8 calls for service in the month of August, an increase of 3 calls for service from July. 2 reports were completed and 6 calls were short-formed. There was 1 residential burglary. The remaining calls were very minor and included ambulance backs, a disturbance, a welfare check, a civil matter, and a false burglary alarm.

.03 calls for service per unit

Florentine Villas 7497 Siena Vista Ln 801-542-0722**214 Units**Manager Kimberly MackeyCouncilman Brown

Florentine Villas apartments had 4 calls for service in the month of August, an increase of 3 calls for service from July. 3 reports were completed and 1 call was short-formed. There was 1 bicycle theft and 1 suspicious circumstance. There was also a false burglary alarm and a 911 hangup.

.02 calls for service per unit

Pinehurst 7311 S Union Creek Way 801-567-0400**174 Units**Manager Nate WilderCouncilman Sperry

Pinehurst apartments had 6 calls for service in the month of August, an increase 3 calls for service from July. No reports were completed and 6 calls were short-formed. The calls were very minor and included 3 ambulance backs, 2 911 hangups, and a civil matter.

.03 calls for service per unit

Chadds Ford 837 E Chadds Ford Ln 801-255-2825**116 Units**Manager Cassie BowersCouncilman Sperry

Chadds Ford apartments had 5 calls for service in the month of August, a decrease of 1 call for service from July. 1 report was completed and 4 calls were short-formed. All calls were very minor and included an ungovernable juvenile, a citizen assist, an ambulance back, and 2 911 hangups.

.04 calls for service per unit

Chelsea Park 7351 S Catalpa 801-561-3131

112 Units

Manager Jenny Davis/Mindi

Councilman Brown

Chelsea Park apartments had 12 calls for service in the month of August, an increase of 10 calls for service from July. 4 reports were completed and 8 calls were short-formed. There was 1 natural death and 1 auto burglary. The remainder of calls were minor in nature and included citizen assists, agency assists, transient persons, an ambulance back, and a recovery of a stolen vehicle equipped with Lojack.

.09 calls for service per unit

Green Leaf Villas 7940 S Main St 801-569-8575

109 Units

Manager Mason/Assistant Manager Lilly

Councilman Brown

Green Leaf Villas apartments had 20 calls for service in the month of August, a decrease of 1 call for service from July. 4 reports were completed and 16 calls were short-formed. There were 2 domestic violence assaults of which there was one arrest. There were 3 juvenile problems and 2 drug problems. These are probably related to an increase of gang activity and tagging in the complex. A Metro Gang sergeant has been made aware of the increase in activity and will be looking further into it.

The remaining calls were minor and included ambulance backs, civil matters, a small apartment fire, an unwanted person, a wanted person, a suspicious person, and a person with a gun that was found to be unfounded.

.18 calls for service per unit

Midshore Manor 8527 S Judy Dr 801-561-2131

88 Units

Manager De Anne Ward

Councilman Sharp

Midshore Manor apartments had 13 calls for service in the month of August, a decrease of 6 calls for service from July. 8 reports were completed and 5 calls were short-formed. There was one child neglect investigation where a 2 year old was found wandering around the complex. The teenage brother had been put in charge of the child while the mother was gone for a couple hours. The teenager fell asleep and the child got outside. The case has been referred to DCFS.

The remaining calls were minor and included non-criminal domestics, harassments, civil matters, a suspicious circumstance, a citizen assist, a 911 hangup, and a runaway.

.15 calls for service per unit

Creekview 967 E South Union Ave 801-565-8888

88 Units

Manager Kandie Zitting

Councilman Sperry

Creekview apartments had 5 calls for service in the month of August, a decrease of 1 call for service from July. 2 reports were completed and 3 calls were short-formed. There was an auto burglary, a welfare check, a fraudulent use of a credit card by a family member, and 2 ambulance backs.

.05 calls for service per unit

Tuscany Villas 948 W Tuscany View Rd 801-441-4437

76 Units

Manager Clark Hunt/ Don

Councilman Brown

Tuscany Villas apartments had 1 call for service in the month of August, the same amount of calls for service from June. The one incident, just like the incident in July, was an ambulance back and it was short-formed

.01 calls for service per unit

Union Meadows 978 E South Union Ave 801-566-4300

72 Units

Manager Cynthia Adams

Councilman Sperry

Union Meadows apartments had 3 calls for service in the month of August, an increase of 3calls for service from July. 1 report was completed and 2 calls were short-formed. There was 1 found bicycle, a noise disturbance, and a 911 hangup.

.04 calls for service per unit

Millcreek 2 759 W Center St 801-566-9600

54 Units

Manager Jolene Lowe

Councilman Brown

Millcreek apartments had had 4 calls for service in the month of August, a decrease of 2 calls for service from July. All 4 calls were short-formed. There were 2 drug problems, 1 civil matter and an ambulance back.

.07 calls for service per unit

161 Total Calls for Service (Increase of 1 call from July)

Reports completed: **65** (Decrease of 2 reports from July)

Short-formed: **96** (Increase of 3 from July)

Good Landlord Program

Districts 2 & 3

August 2015

Apple Honey 7267 Apple Honey Ln 801-889-8298 (James property 801-425-7699) 36 Units

Manager James /Resident Manager James

Councilman Paul Hunt

1 calls for service on a unwanted person.

July had 9 calls for service

Decrease of 8 calls from July

0.02 calls for service per unit Apple Honey

Brighton Place 134 W Plumtree Ln 801-441-4153

336 Units

Manager Gracia

Councilman Paul Glover

21 calls for service 16 of those being short formed. 1 vehicle burg, 1 fire call, 1 stolen vehicle, 1 fraud, and 1 suspicious/morals.

Julys calls for service were 24 and 16 short formed

3 less calls for service than in July

Reviewing last month's calls with Gracia.

0.06 call for service per unit at Bright Place

Candlestick 80 E 7800 S 801-561-0204

299 Units

Manager Jessi /Amber

Councilman Paul Hunt

33 calls for service 21 of those calls were short formed. 3 family fights, 2 suspicious circumstance, 1 fraud, 1 ambulance back, 1 vehicle burg, 1 burglary, 1 hit and run, 1 civil case, and 1 threats investigation.

July's calls for service 37 and 23 short formed

4 less calls in August than in July

Keeping an open line of communication with Jessi and Amber

0.11 call per service at Candlestick

Park Station 150 W 7200 S 801-561-3810

95 Units

Manager Holly

Councilman Paul Glover

1 call for service on a family fight.

Currently interview of an assistant manager, yesterday was Nephi last day.

July's calls for service 4 and 2 short formed

3 less calls in August than in July

0.01 calls per service at Park station with 97% occupancy

Remington 7400 S State St 801-441-4251

288 Units

Manager Kelly Ross/Bree /Ester

Councilman Paul Glover

18 calls for service 10 of those were short formed. 3 were traffic enforcement/ hit & run, 2 welfare checks, 1 threats, stolen vehicle, and 1 vehicle burg.

July's calls for service were 33 and 15 short formed

15 less calls in August than in July and no family fights (DV's)

Kelly called due to possible robbery information

0.06 calls per service at Remington

Wasatch Club 6960 S State 801-562-2017

384 Units

Manager Ashlee /Britney

Councilman Paul Glover

30 call for service with 24 of those being short formed. 4 vehicle burs and 1 ambulance call.

June's calls for service 33 and 27 short formed

8 less calls in August than in July no DV's

0.07 calls per service at Wasatch Club

Total call for service : 104

Short formed calls : 71

Police reports taken : 33

Notes:

Total calls in Midvale for the month of August were 3,320 of those calls 265 were from the reporting apartment complexes for a total of 0.07 calls for service (7%)

Total calls in Midvale for the month of July were 2,263 of those calls 305 were form the reporting apartment complexes for a total of 0.09 calls for service (9%)

We had a 2% decrease in apartment complex crime during the month of August.

Paul stats 161 total calls

ALL CALLS FOR SERVICE

Aug-15

MIDVALE PRECINCT

<i>DESCRIPTION</i>	<i>TOTAL</i>
blank	7
ARSON	1
ASSAULT	33
BURGLARY	38
BURGLARY ALARM	86
DAMAGED PROP	27
DRUGS	31
ESCAPE	40
FAMILY OFFENSE	65
FORGERY	8
FRAUD	29
FRAUD ELDERLY	1
INV OF PRIVACY	13
KIDNAP	3
LARCENY	170
LIQUOR	4
MORALS	2
OBST POLICE	2
PROSTITUTION	2
PUBLIC ORDER	2330
PUBLIC PEACE	154
ROBBERY	4
ROBBERY ALARM	8
RUNAWAY	16
SEXUAL ASLT	5
SEXUAL OFFENSE	6
STOLEN PROP	3
STOLEN VEHICLE	66
TRAF-DUI	1
TRAFFIC	163
WEAPON OFFENSE	2
TOTAL	3320



MIDVALE CITY COUNCIL SUMMARY REPORT

September 15, 2015

SUBJECT:

Public Hearing on request to vacate and declare as surplus property a portion of the 6960 South public right-of-way along the frontage of 635 West and 665 West 6960 South (Proposed Ordinance No. 2015-O-07)

SUBMITTED BY:

Lesley Burns, City Planner

SUMMARY:

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. This proposed ordinance is attached.

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)

FISCAL IMPACT: N/A

STAFF RECOMMENDATION:

Staff agrees with the Planning Commission's recommendation and recommends the adoption of Ordinance No. 2015-O-07. Staff further recommends that the City Council considers the purchase offers being made by the applicants for this property.

RECOMMENDED MOTIONS:

1. Vacating portion of 6960 South right-of-way

"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."

2. Offer to purchase property adjacent to 635 West 6960 South

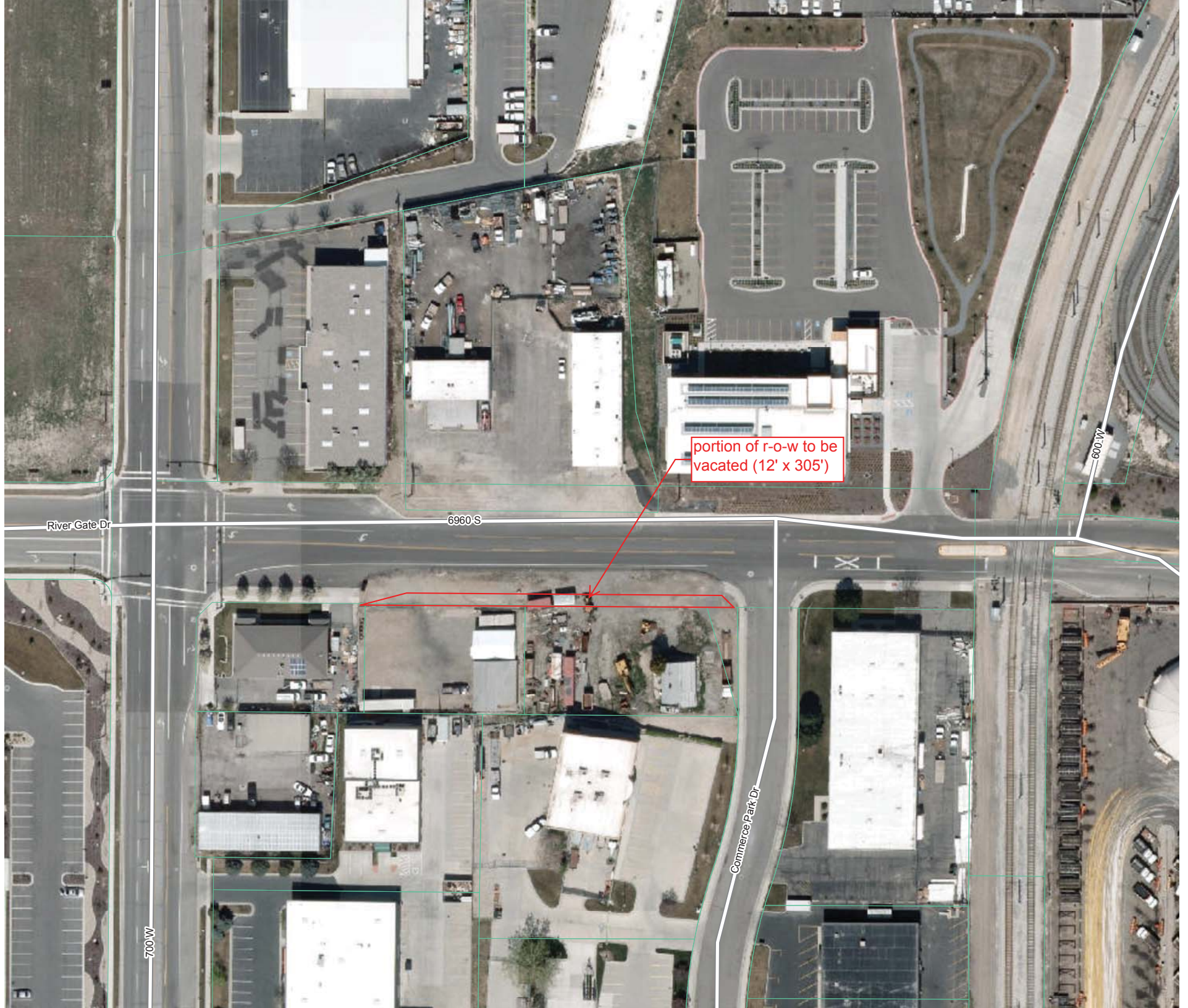
"I move that we accept the offer by HBB Properties to purchase the surplus property adjacent to the property frontage at 635 West 6960 South created by Ordinance No. 2015-O-07. HBB Properties shall be responsible to prepare all documents required for the property transfer to occur. These documents shall be reviewed and approved by the City Engineer and City Attorney."

3. Offer to purchase property adjacent to 665 West 6960 South

"I move 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."

ATTACHMENTS:

- Vicinity Map
- Right-of-way Map
- Photos of Area
- Proposed Ordinance to Vacate Property
- Purchase Offers



portion of r-o-w to be
vacated (12' x 305')

River Gate Dr

6960 S

700 W

Commerce Park Dr

600 W





approx vac area

ORDINANCE NO. 2015-O-07

AN ORDINANCE VACATING APPROXIMATELY 0.084 ACRES OF PROPERTY WITHIN THE 6960 SOUTH PUBLIC RIGHT-OF-WAY ALONG THE PROPERTY FRONTAGE OF 635 WEST 6960 SOUTH AND 665 WEST 6960 SOUTH AND DECLARING SAID PROPERTY SURPLUS

WHEREAS, pursuant to Section 10-9a-609.5 Utah State Code, the City has authority to vacate portions of public right-of-way; and

WHEREAS, pursuant to Chapter 12.16.050 of the Midvale Municipal Code, the City has authority to declare property surplus for disposition of said property; and

WHEREAS, Midvale City received a request to vacate a twelve foot by three hundred and five foot portion of the 6960 South public right-of-way adjacent to the property frontages at 635 West 6960 South and 665 West 6960 South; and

WHEREAS, the Planning Commission held a public hearing on August 26, 2015 to review said request, with such meeting being preceded by notice through publication in the Salt Lake Tribune and Deseret News on August 12, 2015, and the Planning Commission forwarded a recommendation on such to the City Council; and

WHEREAS, the City Council held a public hearing on September 15, 2015, which meeting was preceded by notice through publication in the Salt Lake Tribune and Deseret News on September 1, 2015; and

WHEREAS, this Ordinance is based upon a motion of the Midvale City Council, on September 15, 2015, to vacate a portion of said right-of-way and declare said piece of property surplus for future disposition; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of Midvale City, Utah as follows:

Section 1. The following described portion of property is hereby vacated and declared surplus property:

The property described in Exhibit A attached hereto and by this reference made a part hereof, which property is located at approximately 635 West 6960 South and 665 West 6960 South, Midvale, Utah.

Section 2. If any part of this ordinance or the applications thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance or the application thereof to other persons and circumstances, but shall be confined to its operation to the section, subdivision, sentence or part of the section and the

persons and circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted if such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.

Section 3. This ordinance shall be effective upon publication of a summary thereof.

PASSED AND APPROVED this ____ day of _____, 2015.

JoAnn B. Seghini, Mayor

ATTEST:

Rori Andreason, MMC
City Recorder

Date of first publication: _____

Voting by City Council	“Aye”	“Nay”
Stephen Brown	_____	_____
Paul Glover	_____	_____
Paul Hunt	_____	_____
Wayne Sharp	_____	_____
Quinn Sperry	_____	_____

ATTACHMENT A

6960 SOUTH PUBLIC RIGHT-OF-WAY VACATION DESCRIPTION

BEGINNING at a point on the South line of a County road (said South line being more particularly described in that certain Warranty Deed recorded March 11, 1969 as Entry No. 2279932, in Book 2736, at Page 439 of the Official Records), said point being North 0°20'37" East 220.00 feet, more or less, and South 89°39'23" East 305.00 feet from the Southwest corner of Section 24, Township 2 South, Range 1 West, Salt Lake Base and Meridian (said point of beginning also being the Northeast corner of property described in that certain Warranty Deed recorded April 30, 1979 as Entry No. 3271005, in Book 4852, at Page 1004 of the 150.40 feet) and running;

thence North 0°20'37" East 11.99 feet;

thence South 89°38'51" East 168.34 feet to a point of curvature with a 12.00 foot radius curve to the right;

thence 18.80 feet along said 12.00 foot radius curve to the right through a central angle of 89°44'45", (Chord bears South 44°46'28" East 15.93 feet) to the North line of Parcel A, 72nd Commerce Park Subdivision;

thence North 89°39'45" West 180.34 feet along the north line of said Parcel A, to and along the north line of parcel number 21-24-352-003 to the Point of Beginning.

HBB Properties LLC
5263 S Commerce Drive #204
Murray, UT 84107

David W Major
665 W 6960 S
Midvale, UT 84047

July 6, 2015

*Appraisal April 2015
\$9.90/sq ft.*

Midvale City
7505 Holden Street
Midvale, UT 84047

RE: Request to Vacate Property
Parcel 21-24-352-003 and 21-24-352-002

To Whom It May Concern:

HBB Properties LLC has recently purchased the property at 635 W 6960 S (Parcel 21-24-352-003) and is constructing a new building which is prompting our request for Midvale City to vacate the frontage section of property at the location and deem it surplus property available for purchase from Midvale City by HBB Properties LLC. The legal description of said property is attached Exhibit A.

David W Major owns the property at 665 W 6960 S (Parcel 21-24-352-002), which is adjacent to the parcel listed in the paragraph above, and would also like to request for Midvale City to vacate the frontage section of this property and deem it surplus property available for purchase from Midvale City by David W Major. The legal description of said property is attached Exhibit B.

Our request is that Midvale City allows HBB Properties LLC to purchase the property based on a market value of Nine Dollars and Ninety Cents per square foot (\$9.90 sq ft) for Two Thousand One Hundred Twenty Seven square feet (2,127 sq ft) of property for a total market value price of Twenty One Thousand Fifty Seven Dollars (\$21,057.00), less a discount of Eighty Five percent (85%) or Seventeen Thousand Eight Hundred Ninety Nine Dollars (\$17,899.00) for depreciated use of the land. This would make the total purchase request price of this property Three Thousand One Hundred Fifty Eight Dollars (\$3,158.00).

Our request is that Midvale City allows David W Major to purchase the property based on a market value of Nine Dollars and Ninety Cents per square foot (\$9.90 sq ft) for One Thousand Three Hundred Fifty Two square feet (1,352 sq ft) of property for a total market value price of Thirteen Thousand Three Hundred Eighty Five Dollars (\$13,385.00), less a discount of Eighty Five percent (85%) or Eleven Thousand Three Hundred Seventy Seven Dollars (\$11,377.00) for depreciated use of the land. This would make the total purchase request price of this property Two Thousand Eight Dollars (\$2,008.00). Against this purchase price, we will make curb, gutter and sidewalk improvements of Fifty Four Dollars

and Twenty Three Cents per square foot (\$54.23 sq ft) for a total road improvement cost of Seven Thousand Fifty Dollars (\$7,050.00). As such improvements are in excess of the value of the property our total purchase request price of this property is Zero Dollars (\$0.00).

If you have any questions or to further discuss this request further please contact me at (801) 694-2723.

Sincerely,


Kurt Brooks
HBB Properties LLC
Manager

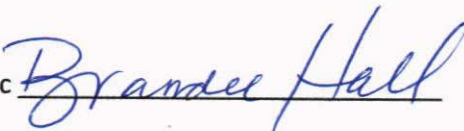

David W Major
Owner

State of UTAH

County of SALT LAKE

On this 23 day of July 2015, before me, the undersigned, a Notary Public in and for the State of Utah appeared before me, Kurt Brooks, known or identified to me to be the person whose name appears on the attached documents.

IN WITNESS WHEREOF, I have hereunto set my official hand and seal the day and year first written above.

Notary Public 
My Commission Expires 02-20-2018



State of UTAH

County of SALT LAKE

On this 23 day of July 2015, before me, the undersigned, a Notary Public in and for the State of Utah appeared before me, David W Major, known or identified to me to be the person whose name appears on the attached documents.

IN WITNESS WHEREOF, I have hereunto set my official hand and seal the day and year first written above.

Notary Public

Brandee Hall

My Commission Expires 02-20-2018



DIAMOND LAND SURVEYING



6/30/15

Proposed ROW Vacation Description

BEGINNING at a point on the South line of a County road (said South line being more particularly described in that certain Warranty Deed recorded March 11, 1969 as Entry No. 2279932, in Book 2736, at Page 439 of the Official Records), said point being North $0^{\circ}20'37''$ East 220.00 feet, more or less, and South $89^{\circ}39'23''$ East 172.50 feet from the Southwest corner of Section 24, Township 2 South, Range 1 West, Salt Lake Base and Meridian (said point of beginning also being the Northwest corner of property described in that certain Quit Claim Deed recorded June 14, 2010 as Entry No. 10989915, in Book 9840, at Page 5183) and running;

thence North $73^{\circ}22'30''$ East 38.91 feet to a point of curvature with a 15.00 foot radius curve to the right;

thence 4.44 feet along said 15.00 foot radius curve to the right through a central angle of $16^{\circ}58'39''$, (Chord bears North $81^{\circ}51'49''$ East 4.43 feet);

thence South $89^{\circ}38'51''$ East 90.91 feet;

thence South $0^{\circ}20'37''$ West 11.99 feet to the Northeast Corner of Parcel 21-24-352-002 as described in said Quit Claim Deed;

thence North $89^{\circ}39'23''$ West 132.50 feet along the north line of said parcel 21-24-352-002 to the point of beginning;

Contains 1352 sq. ft. or 0.031 acres.



9/5/14

Proposed ROW Vacation Description

BEGINNING at a point on the South line of a County road (said South line being more particularly described in that certain Warranty Deed recorded March 11, 1969 as Entry No. 2279932, in Book 2736, at Page 439 of the Official Records), said point being North $0^{\circ}20'37''$ East 220.00 feet, more or less, and South $89^{\circ}39'23''$ East 305.00 feet from the Southwest corner of Section 24, Township 2 South, Range 1 West, Salt Lake Base and Meridian (said point of beginning also being the Northeast corner of property described in that certain Warranty Deed recorded April 30, 1979 as Entry No. 3271005, in Book 4852, at Page 1004 of the 150.40 feet; thence North $0^{\circ}20'37''$ East 12.24 feet; thence South $89^{\circ}39'50''$ East 169.01 feet to a point of curvature with a 12.24 foot radius curve to the right; thence 19.24 feet along said 24.24 foot radius curve to the right through a central angle of $90^{\circ}04'08''$, (Chord bears South $44^{\circ}38'48''$ East 17.32 feet) to the North line of Parcel A, 72nd Commerce Park Subdivision; thence North $89^{\circ}39'45''$ West 180.34 feet along the north line of said Parcel A, to and along the north line of parcel number 21-24-352-003 to the Point of Beginning.



MIDVALE CITY COUNCIL SUMMARY REPORT

September 15, 2015

SUBJECT:

Public Hearing on 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 (Proposed Ordinance No. 2015-O-08)

SUBMITTED BY:

Lesley Burns, City Planner

SUMMARY:

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.

FISCAL IMPACT:

N/A

STAFF RECOMMENDATION:

Staff agrees with the Planning Commission's recommendation and recommends the adoption of Ordinance No. 2015-O-08, which includes the language recommended by the Planning Commission in Attachment A.

RECOMMENDED MOTION:

"I move 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."

Attachments:

- Proposed Ordinance No. 2015-O-08

ORDINANCE NO. 2015-O-08

AN ORDINANCE MODIFYING THE GARAGE SETBACK EXCEPTION TO THE IN THE SINGLE FAMILY RESIDENTIAL (SF-1) ZONE DISTRICT (SECTION 17-7-1.4 A OF THE MIDVALE MUNICIPAL CODE); ALSO PROVIDING A SAVING CLAUSE AND AN EFFECTIVE DATE FOR THE ORDINANCE.

WHEREAS, pursuant to Sections 10-9a-501 through 10-9a-504 Utah State Code, the City has the authority to make and amend a zoning plan which divides the City into zoning districts and within those districts to regulate the erection, construction, re-construction, alteration, and uses of buildings and structures and the uses of land to promote the prosperity, improve the morals, peace and good order, comfort, convenience, and aesthetics of the municipality; and

WHEREAS, on January 2, 2002, the Midvale City Zoning Ordinance (Title 17 of the Midvale Municipal Code) became effective and may be subject to amendments from time to time; and

WHEREAS, since this effective date, Midvale City has found a number of areas that require amendments to the text of the ordinance in order to correct errors and omissions, clarify the intent of the language, and/or include new provisions to further the purpose and intent; and

WHEREAS, on April 7, 2015, the Midvale City Council adopted Ordinance No. 2015-O-03, creating an exception to the required side yard setback for existing attached garages to allow the owners of older, single-family residential housing stock to expand single-car garages into more usable space; and

WHEREAS, following the adoption of the garage setback exception, an issue was discovered with the specific language regarding garage depth that required further modification to the original ordinance; and

WHEREAS, the Planning Commission held a public hearing on August 12, 2015 to review proposed modifying text amendment language regarding this issue, with such meeting being preceded by notice through publication in the Salt Lake Tribune and Deseret News on July 29, 2015, and the Planning Commission forwarded a recommendation on such to the City Council on August 26, 2015; and

WHEREAS, the City Council of Midvale City, Utah held a public hearing on September 15, 2015, which meeting was preceded by notice through publication in the Salt Lake Tribune and Deseret News on September 1, 2015; and

WHEREAS, the City Council has taken into consideration citizen testimony, planning and building analysis, and the Planning Commission recommendation, and has determined that this text amendment to modify the existing ordinance language is

appropriate and within the best interests of the City as a whole in protecting and promoting the health, safety, welfare and aesthetic quality of Midvale City.

NOW, THEREFORE, BE IT ORDAINED by the City Council of Midvale City, Utah as follows:

Section 1. The following chapter and section of the Midvale Municipal Code are hereby amended as included in ATTACHMENT A of this document.

Section 2. If any part of this ordinance or the applications thereof to any person or circumstances shall, for any reason, be adjudged by a court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this ordinance or the application thereof to other persons and circumstances, but shall be confined to its operation to the section, subdivision, sentence or part of the section and the persons and circumstances directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the City Council that this section would have been adopted if such invalid section, provisions, subdivision, sentence or part of a section or application had not been included.

Section 3. This ordinance shall be effective upon publication of a summary thereof.

PASSED AND APPROVED this ____ day of _____, 2015.

JoAnn B. Seghini, Mayor

ATTEST:

Rori Andreason, MMC
City Recorder

Date of first publication: _____

Voting by City Council	"Aye"	"Nay"
Stephen Brown	_____	_____
Paul Glover	_____	_____
Paul Hunt	_____	_____
Wayne Sharp	_____	_____
Quinn Sperry	_____	_____

ATTACHMENT A

SF-1 Zone District – Garage Side Yard Setback Exception Amended

Text Additions

Text Deletions

17-7-1.4 Development standards.

The following development standards apply to all new development in the zone:

A. Setbacks. The minimum setbacks in the zone are as follows:

2. Side. The minimum side yard setback is eight feet, subject to the following exceptions:

- a. Projection. Sills, cornices, chimneys, flues, eaves and ornamental features may project into the side yard up to two and one-half feet.
- b. Stairs and Landings. Outside stairways and landings required by building code for exterior doorways may project into the side yard up to three feet.
- c. Single Family Attached Structure. In the case of a preexisting single family attached structure, the structure shall be exempt from the interior side yard setback.
- 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: (For purposes of this provision, “existing” is defined as structures built before the adoption of this provision.)
 - 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 or carport shall not exceed twenty-four feet;
 - iv. ~~the~~ 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. The existing depth of the garage shall not include storage areas or additions that are outside the existing roofline of the garage.
 - v. 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.
 - vi. All building codes shall be addressed.

vii. 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.

viii. All new home construction shall comply with the eight-foot side yard setback. This includes situations where the existing house is demolished and replaced with a new structure.



Midvale City
CITY COUNCIL MEETING
Minutes

Tuesday, August 18, 2015
Council Chambers
7505 South Holden Street
Midvale, Utah 84047

MAYOR: Mayor JoAnn B. 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; 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; Chief Stephen Higgs, UFA; Danny Walz, RDA Director; and Jarin Blackham, IT Manager.

Mayor Seghini called the meeting to order at 6:35 p.m.

I. INFORMATIONAL ITEMS

A. DEPARTMENT REPORTS

Chief Tony Mason discussed school starting and the buses and crossing guards associated with 300 kids walking to school. He briefly discussed an officer involved shooting being investigated. He believes the victim's wound was self-inflicted.

Councilmember Wayne Sharp asked if the police officers could park on the street to do their reports instead on in a parking lot. Chief Mason said the officers go to parking lots to protect themselves because they are focused on their reports and not someone walking up on the car.

Kane Loader discussed several pending legislative issues regarding law enforcement. With what's going on and the attitude nationwide towards law enforcement, they are having a difficult time filling classes going into law enforcement. This is becoming a big concern. Some colleges are considering dropping some of the courses because of the lack of interest.

Danny Walz discussed the 7200 South project. Councilmember Glover said it is down to one lane. Mr. Walz said shouldn't be so he will check into it.

Bob Davis reported on the demolition of the Midvale Middle School. The children being bussed to that school are being bussed to a different school. The kids walking will be bussed as well. He said the school district will discuss the situation at their board meeting. Letters were sent to residents on Chapel Street regarding the bus route.

Councilmember Wayne Sharp asked if the street sweeper had a specific schedule. Bob Davis said it has been down for some repairs but wasn't sure if there was a schedule. Councilmember Sharp asked if there was a schedule, if it could be posted so people won't park on the street. Bob Davis said it would be very difficult to post a specific schedule due to interruptions with construction etc.

Rori Andreason said the next meeting was scheduled for September 1, 2015.

II. CITY MANAGER'S REPORT

Kane Loader, City Manager, discussed the recent Legislative Policy Committee meeting. Since the Conference of Mayors will be hosted here this month, the transportation coalition will have a press release at 1:00 p.m. on the grassy area outside of city hall for their media event. The interest is building and putting that on the ballot for the voters to make the decision regarding this issue.

Mayor Seghini called the meeting to order at 7:00 p.m.

III. GENERAL BUSINESS

A. Welcome and Pledge of Allegiance

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

C. Proclamation honoring Gus Katis – Mayor Seghini read the proclamation honoring Gus Katis. She presented the proclamation to his family.

IV. PUBLIC COMMENTS

There was no one present who desired to speak.

V. COUNCIL REPORTS

A. Councilmember Paul Hunt – had nothing to report.

B. Councilmember Quinn Sperry – said the Community Council in preparation for their meeting on September 2nd is asking if anyone knows of someone to be a moderator for the Meet the Candidate night. Mayor Seghini said she heard Mont Millerberg had been asked.

D. Councilmember Wayne Sharp – distributed a letter to the Council regarding issues brought up during the block parties. He read through the list. He asked if the City Newsletter was going to condos. He said there are some condos not receiving the newsletter. He also asked if the address of the City Park could be listed in the newsletter. He said another issue brought up

was whether there is a sidewalk repair program that allows for a 50/50 split in cost for the homeowners wanting their sidewalks repaired. Kane Loader said he felt there should be a program like that. Councilmember Wayne Sharp said it would be more for areas that do not have sidewalks. He said Salt Lake City has a program like this where they can pay on their water bill over period of time.

Councilmember Wayne Sharp asked about the policy regarding removal of a tree when a sidewalk is fixed. If the resident does not allow the removal of the tree and the City fixes the sidewalk, the City should not fix the sidewalk again at the City's expense.

Councilmember Glover said he would hate to remove the beautiful trees. Maybe look at moving the sidewalk back. Councilmember Sharp suggested allowing the trees but require they be 6 feet from the sidewalk. Councilmember Glover asked for this item to be scheduled for discussion in the near future to develop a policy.

D. Councilmember Stephen Brown— said he heard similar things as Councilmember Sharp. He said he had five or six people who would like to see the tennis courts more functional at the new park. They are not well maintained. The other proposition he heard, in an effort to clean up Main Street, was to move the basketball courts to the dirt west of the city hall parking lot and sell the court to build another nice building. Danny Walz said there is a basketball court planned in the Bingham Junction Park as well.

E. Councilmember Paul Glover – thanked everyone for the election and congratulated Sophia in moving along in the election with him. It was a good week.

VI. MAYOR REPORT

Mayor JoAnn B. Seghini – said the Harvest Days celebration was a success. There were 27 minutes of fireworks. There was a huge crowd for the bands and the parade was run much better. She said apparently the Mayor selects a float to get an award in the parade. She was approached two minutes before the parade to pick a float. She told the committee to pick one and it happened to be the Midvale float. She did not feel that was right. She asked the Council to ponder that. She also asked in future as proclamations are given out, that the Council takes turns giving those out. The Council agreed. She also discussed providing pickle ball courts and suggested maybe turning the tennis courts into pickle ball courts.

VII. CONSENT AGENDA

- A. APPROVE RESOLUTION NO. 2015-R-42 DECLARING SURPLUS PROPERTY**
- B. SET DATE AND TIME (SEPTEMBER 1, 2015 AT 7:00 P.M.) FOR A PUBLIC HEARING TO CONSIDER A PRELIMINARY SUBDIVISION PLAT FOR THE STATION AT MIDVALE SUBDIVISION LOCATED AT 7682-7696 SOUTH 137 WEST PARK STREET**

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 she 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. ACTION ITEM

A. APPROVE RESOLUTION NO. 2015-R-43 ACCEPTING AND APPROVING THE RESULTS OF THE MUNICIPAL PRIMARY ELECTION HELD AUGUST 11, 2015 AS SHOWN ON THE CANVASS REPORT

Rori Andreason said the Mayor and City Council are the legislative body for Midvale City and comprise the Board of Municipal Canvassers pursuant to Utah Code 20A-4-301. Utah Code requires the Board of Municipal Canvassers to meet to canvass the returns of the Municipal Primary Election no sooner than seven days and no later than 14 days after the election.

Salt Lake County had prepared the election results report for the Boards review and approval. Any valid ballots received by noon on the day of the official canvass and postmarked before Election Day will be opened and added to the election results. She reviewed the election precinct report, canvass report and stats with the Council. The official canvass indicated the following votes for each candidate:

Council District No. 2	Votes
Paul C Glover	377
Sophia Hawes-Tingey	273
Nathan G. Coombs	44

The two candidates moving onto the General Municipal Election will be Paul C Glover and Sophia Hawes-Tingey.

MOTION: Councilmember Paul Hunt MOVED to approve Resolution No. 2015-R-43 accepting and approving the results of the Municipal Primary Election held August 11, 2015 as shown on the canvass report. The motion was SECONDED by Councilmember Stephen Brown. Mayor Pro-Hunt called for discussion on the motion. There being none the Mayor Pro-tem 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. DISCUSSION ITEMS

A. DISCUSS PRELIMINARY SUBDIVISION PLAT FOR THE STATION AT MIDVALE LOCATED AT 7682-7696 S. CENTER SQUARE AND 137 WEST PARK STREET

Lesley Burns stated that on June 24, 2015, the Planning Commission approved a conditional use permit and preliminary site plan for The Station at Midvale project. This project is located on the corner of Center Street, Center Square and Park Street, includes 186 units in two buildings (one four stories; one five stories) with underground parking, surface parking, landscaping and recreation amenities. Curb, gutter and sidewalk improvements, including street trees and benches, along Center Square are part of the proposal, as well as bollard and curbing improvements at the north end of Center Square to close the road between Center Square and Park Street to vehicular traffic.

Also on June 24, 2015, the Planning Commission recommended approval of a preliminary subdivision plat that would create a condominium project, allowing each residential unit to be individually owned and create a homeowners association to own and maintain all of the common areas inside the buildings as well as the property outside the buildings. The Planning Commission's recommendation included the following conditions:

1. The applicant shall prepare a final subdivision plat to be reviewed and approved by the City Engineer and City Council.
2. Prior to the final subdivision plat approval, the applicant shall obtain final site plan approval for the project.
3. The applicant shall provide evidence that a courtesy notice has been sent to Questar Gas, Rocky Mountain Power, Comcast Cable, Utopia and Century Link regarding the utility easements on the subdivision plat prior to final approval.
4. The applicant shall prepare a declaration of covenants, conditions and restrictions, including the creation of a homeowners association, for the development. This document shall be recorded concurrently with the subdivision plat.

The applicant is working on completing these items, including obtaining approval of the final site plan for the project.

Councilmember Glover asked if the Council voted against the subdivision plat, if the project would still happen. Lesley Burns stated the project has already been approved by the Planning Commission and would proceed. The owner just would not be able to sell the condos individually.

B. DISCUSS MIDVALE CITY/SALT LAKE COUNTY RECREATION FACILITIES

Kane Loader discussed recent conversations with Salt Lake County regarding a swimming pool in Midvale. The recommendation has been made to build the pool at the Copperview Community Center due to costs to maintain a facility at a different location. Salt Lake County Parks and Rec have made the recommendation for a study to be done having the pool at this location but not approval of the pool itself. Jordan High School and Hillcrest High School do not have swimming pools and are traveling to other sites to use the pools. The pools in the county are pretty spread out. Having the pool located at the Copperview Community Center would help make Jordan and Hillcrest feel like it's not their pool. The concern has been raised by the Council that there are no facilities on the east side of the City.

The Council discussed their desire for the pool to be located on the east side. Councilmember Sharp asked if the county had been approached about letting Midvale take over the park on 7400 South 700 east. They can keep the ball diamonds but let Midvale take over the park and see what the County will contribute to building a pool there. Several council members said they have had citizens tell them they would pay more taxes if they could have a recreation center in Midvale.

Kane Loader suggested having the study research both sites the Copperview Community Center and the Union Park location. Councilmember Stephen Brown suggested looking at the usage as well. Kane Loader asked Laura Lewis her opinion on how viable bonds are for a recreation center.

Laura Lewis discussed the trials West Valley City went through in getting a recreation center. She said it is very difficult to bond for something like that unless it can pay for its own operations and maintenance, which most of the recreation centers do not.

Kane Loader said he would proceed talking to the County.

X. 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 8:30 pm.

Rori L. Andreason, MMC
CITY RECORDER

Approved this 15th day of September, 2015.



Midvale City
CITY COUNCIL MEETING
Minutes

Tuesday, September 1, 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: Phillip Hill, Assistant City Manager/Community and Economic 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; Chief Brad Larson, UFA; Danny Walz, RDA Director; RDA Coordinator; and Jarin Blackham, IT Manager.

Mayor Seghini called the meeting to order at 6:30 p.m.

I. INFORMATIONAL ITEMS

A. DEPARTMENT REPORTS

Chief Mason said COP officers have asked if they can move their reports to the third Tuesday of the month so they have more time to gather the information.

Chief Brad Larson reported on a fire in Midvale. There were no injuries and the damage was around \$30,000. They believe the fire was started in a clothes dryer. He also reported that it appears the fire in Cottonwood Heights is now under control.

Laurie Harvey said she sent out the check listing for the month of August and the budget reports for July. She said staff is busy closing out the last fiscal year so the auditors can start working on it.

Danny Walz updated the Council on a new project. CRS is working with UDOT who is the agency in charge of overseeing the railroad crossings across the state. They are interested in getting a crossing where the spur comes off. They will be working with CRS to get that crossing approved. This means somewhere else in the state they will have to close two railroad crossings or upgrade them. Getting a new crossing is very difficult. This process will take one to two years

and cost approximately one to two million dollars. Information will be brought back in the future.

Rori Andreason presented the volunteer gift to preview by the Council. The volunteer dinner is scheduled for October 1st at the new Senior Citizens Center.

Chad Woolley had nothing to report.

Phillip Hill reported on city projects including the 7200 South project. He also updated the Council on the splash pad project.

II. CITY MANAGER'S REPORT

Kane Loader, City Manager, was excused.

Mayor Seghini opened the regular meeting at 7:00 p.m.

III. GENERAL BUSINESS

A. Welcome and Pledge of Allegiance

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

C. Recognition of Brent Christenson and Tyler Sharp for their Service

Councilmember Hunt presented Tyler Sharp with an award for his dedicated service on the Planning Commission. Councilmember Brown presented Brent Christenson with an award for his dedicated service on the Planning Commission.

IV. PUBLIC COMMENTS

Spencer Mears said he was verbally attacked by someone who recently spoke to the Council. He went to talk to Greg Penrose and his parents. He said Mr. Penrose's parents do not have any ill will towards Spencer Mears or Max Burton. He said Mr. Penrose said people in the neighborhood are afraid of retribution if they spoke out against him or Mr. Burton. He said Wayne Sharp also said he was approached by neighbors who said the same thing. Mr. Mears said he has talked to his neighbors and they are not against the haunted house. He said he and his wife walked around the neighborhood to invite them to the block party and they were excited to receive the invitation and to bring food to the party.

Mr. Mears said Councilmember Sharp has been petitioning to eliminate some stop signs but he was not aware of what stop signs he was talking about.

Councilmember Glover's said Councilmember Sharp just asked a general question to the Council of whether it would be appropriate to have yield signs instead of stop signs. He said that is as far as the conversation has gone. If the Council were actually going to do something like this, there would be things that we would have to do such as a traffic study.

Mr. Mears said he had brought this up because right there on the corner by his house is a stop sign and he has counted 20 kids that he knows of in that area. He said he would like to see the

stop signs stay so they are more cautious in the area. He knows people run the stop signs all the time and the yield signs would be less effective. He would like to see them stay.

V. COUNCIL REPORTS

A. Councilmember Quinn Sperry – reminded everyone about the “Meet the Candidate” tomorrow at the Community Council meeting.

B. Councilmember Stephen Brown – had nothing to report.

C. Councilmember Wayne Sharp – was excused.

D. Councilmember Paul Glover – had nothing to report.

E. Councilmember Paul Hunt– reported that last week he received a phone call from neighbor having trouble with water meter and fees for street lighting. He said by the following morning by 11:30 a.m. all their questions were answered by the staff. Laurie and Phil immediate helped them out and went above and beyond the call of duty. They wanted to have a meeting tonight but all of their concerns were answered. He thanked the staff for their exceptional service.

VI. MAYOR REPORT

Mayor JoAnn B. Seghini – Mayor Seghini reminded the Council of the ULCT Conference is on September 16-18. The City will pay for the registration.

MOTION: Councilmember Stephen Brown MOVED to open public comment. 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.

VII. PUBLIC HEARING(S)

A. CONSIDER A PRELIMINARY SUBDIVISION PLAT FOR THE STATION AT MIDVALE LOCATED AT 7682-7696 SOUTH CENTER SQUARE AND 137 WEST PARK STREET

Lesley Burns said on June 24, 2015, the Planning Commission approved a conditional use permit and preliminary site plan for The Station at Midvale project. This project is located on the corner of Center Street, Center Square and Park Street, includes 186 units in two buildings (one four stories; one five stories) with underground parking, surface parking, landscaping and recreation amenities. Curb, gutter and sidewalk improvements, including street trees and benches, along Center Square are part of the proposal, as well as bollard and curbing improvements at the north end of Center Square to close the road between Center Square and Park Street to vehicular traffic.

Also on June 24, 2015, the Planning Commission recommended approval of a preliminary subdivision plat that would create a condominium project, allowing each residential unit to be individually owned and create a homeowners association to own and maintain all of the common

areas inside the buildings as well as the property outside the buildings. The Planning Commission's recommendation included the following conditions:

1. The applicant shall prepare a final subdivision plat to be reviewed and approved by the City Engineer and City Council.
2. Prior to the final subdivision plat approval, the applicant shall obtain final site plan approval for the project.
3. The applicant shall provide evidence that a courtesy notice has been sent to Questar Gas, Rocky Mountain Power, Comcast Cable, Utopia and Century Link regarding the utility easements on the subdivision plat prior to final approval.
4. The applicant shall prepare a declaration of covenants, conditions and restrictions, including the creation of a homeowners association, for the development. This document shall be recorded concurrently with the subdivision plat.

The applicant is working on completing these items, including obtaining approval of the final site plan for the project.

Mayor Seghini opened the public comment portion of the hearing.

Sophia Hawes-Tingey, 7667 South Grant Street, said she wanted to paint a picture of being able to come home and look up at the mountains and then coming home looking out your backyard and see a 40-50 ft. building. She said you lose the aesthetics as well as property value of your home. When living in these homes built in 1935 you are losing the ability to sell your home. She said Councilmember Glover made it very clear on August 11th that it doesn't matter how you vote; the project will still go through. She disagreed. If you do vote against the project you will get more security and it will stay a condominium unit, so it is under these reasons she had started running a petition. She urged the City Council to vote no to this subdivision.

Councilmember Sperry asked Sophia if she wanted the condos or apartments? Sophia said the residents are against the five stories. She said they were willing to accept three stories. She said she disagreed with comments that were made stating Midvale needs to grow up instead of out.

Ethan Miller, 186 Park Street, said with the decision before the Council is a great opportunity to hit the pause button to see what can be done. He said he felt betrayal had taken place. The City Planner said the plans were approved but he believed that was not what happened. They've been told at every turn that there was nothing anyone can do. The approval was required and there was no recourse. He felt that represents a massive failure on the part of the City. This is a five story building going into people's back yards. This will be the tallest residential building and one of the tallest in the area. How could this happened and in a way that none of them can do anything about it. He enjoys protection of the law. He sees a developer of an out of state company that will end up rich and his ability to stop it has been taken away. He felt this development will be real harm to the residents. He said he tried to talk with Mr. Peterson, developer, but had not been successful in hearing from him. He said this is a scandal. He said he felt this situation warrants

the termination and removal of the city manager, assistant city manager, and staff members that let this development take place. In regards to the condos, he felt some questions needed to be answered; why is it so important that this be done? He said Mr. Peterson said they have asked for a change to the buildings to become condominiums and it has never been approved on any of his buildings. He thinks these things need to be followed up on to see if we have any leverage. He felt the Council owed them at least that much.

Tyler Sharp, 7580 South Jefferson, said the City would be sued if the City Council said stop right now. He asked the City Attorney, Chad Woolley, what would happen if the Council voted against the project that evening.

Chad Woolley said there is nothing that can be done to stop the development legally. Once a company starts to do a project that is allowed, the City's hands are tied. Even if the City Council agreed with the residents, there is nothing that can be done as long as the developer is following the City ordinances.

Evelyn Heath, 7696 S Grant Street, said her big concern was who was going to take her fence down since the code says there cannot be a fence inside a fence. She was concerned because the Chelsea Park apartments are a dump. Who will be in charge to keep these from becoming the same?

Phillip Hill discussed the Good Lord Program. The police meet with the property management on a regular basis, and follows up on calls and issues in the rental facilities.

Ceone said he lives on the corner of Grant and Park Street. He said he builds this type of building and this is the first one that he knows of that is so close to a residential neighborhood. He asked if the fire is equipped to handle a fire in a building like this. What can the City do to keep the residents from coming down from the condos and going through Park Street. He felt a five story building was crazy. Their lives are being changed dramatically. He is concerned with parking and the safety of his loved ones. He said none of the Council would want this in their back yard.

Councilmember Glover said actions cannot be taken to stop this project. Action to stop this in the future would be to work on the General Master Plan. He asked that he get involved in that process. The master plan the Council is dealing with now was put into effect years ago so they cannot stop the project. The issue that night was whether the development will be either apartments or condos they can sell.

Councilmember Brown said the road is public property. Decisions on that are made by the City Council. If there is a problem down the road that can be addressed with the City Council to review the issue and the impact it would have to make a decision.

Denise Hagman, 7675 South Grant, said she had three concerns. One she asked when things progress with walls or tearing down, will she be notified so they can feel safe to make arrangements with pets and grandkids. Where can she get updates? She has signed up on line but has not received anything. Where can you look to see who voted for this in 2001?

Proceedings of the Midvale City Council Meeting
September 1, 2015

Phillip Hill said the Planning Department can give updates if she would contact them. Rori Andreason said she would be happy to assist Ms. Hagman with finding documentation for 2001 when this master plan was adopted.

Evelyn Heath, 7639 Grant Street, asked if they will be able to see a property line survey before they start to build fences, etc.

Spencer Mears, 384 West Princeton Drive, said agreed with everything said. He would be very unhappy if something like this blocked his view of the mountains. He said this is another example of stupidity that happens in Midvale and good people have to suffer in a City that is supposed to be a friendlier City.

Kirt Peterson, Horizon Development, discussed what was anticipated along the fence line. He said they are not allowed to impose on a homeowner. He said he would offer to take down all of the fences. The property line has been surveyed. He doesn't recall all the stakes in the ground as of yet. It will be marked along each boundary so it is very apparent where the property boundary is. They will have their employee's onsite to directly communicate with the homeowners. They will give the neighbors plenty of notice before anything takes place. He said he would have to look at each fence as it comes. The homeowner will have a lot to say about it. The funding requires keeping the project affordable. He will have CC&Rs and a homeowners association with bylaws.

Councilmember Glover said the owners of the condominiums take better taken care of their property than apartments.

Councilmember Sperry said there will more than likely be some investors that will buy, but there will be others that also buy. His vote is to make it a condominium.

Councilmember Glover asked what the rates are.

Mr. Peterson said they participate in the good landlord program and he is a great proponent of it. He said there is a mixture of rental rates. There are one to four bedroom units ranging from \$400 to \$1500 a month. There are a total of 186 units and 80 units are low income. He also said the property surveys are public record and anyone can get that from the county surveyor.

Mayor Seghini said this is a tax credit project. It is a Federal Program. People with low income can get a good living space without having to pay \$1500.00 for a space. That's what the range is in the rates. If you are not a good tenant, you are out.

Denise Hagman said at the last meeting in August it was explained to them that the units would start out as rental units and may move to condo units in 20 to 25 years.

Ceone said there are low power lines all through Park and Grant that can be hit. They get wiped out every time a large truck comes down the road. He asked where the track out pad was going to be.

Phillip Hill said they haven't got to that point yet. The developer will need to work with the City Engineer on those details; it is not something the Council deals with.

Evelyn Heath said she was told there could not be a fence within a fence.

Ethan Millard, 186 Park Street, said the Council did not have to take action on that night. He thinks they deserve to know more about this company before it is approved. He said he didn't think action should be taken on this that night. If this is the kind of project that is so important that the city administration is so unwilling to protect them from, they deserve to hear about that as well. He wants more information as to who these guys are.

Spencer Mears said Chelsey Park is run down. The \$400 rent will attract people like those in Chelsey Park.

Lesley Burns said the City does what they can to avoid double fences. It is not a requirement, but it is encouraged not to have double fences. She said one of the conditions placed on this project by the Planning Commission is that they will work with the adjoining property owners. The obligation of this developer is to work with the adjoining property owners.

Councilmember Sperry asked if they vote against the condo plat, it's just apartments right.

Lesley said yes. Even if the Council does not vote tonight, the project can move ahead.

Councilmember Sperry said if we want it to be condos then we vote in favor, to give them the option. He asked about the zoning requirements. As long as the zoning requirements are met, it has to be approved, correct?

Chad Woolley said as long as the zoning requirements are met, it has to be approved, even if they are not happy with it. The zoning ordinances are used for protection.

Ethan Millard objected to this. He said the fact that it is zoned for a five story building is the Council's fault. He wants someone to stand up to this. He feels that the zoning ordinance was incompetent decision making.

MOTION: Councilmember Paul Hunt MOVED to close public comment. 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 THE PRELIMINARY SUBDIVISION PLAT FOR THE STATION AT MIDVALE LOCATED AT 7682-7696 CENTER SQUARE AND 137 WEST PARK STREET

MOTION: Councilmember Quinn Sperry MOVED that we approve the preliminary subdivision plat for the Station at Midvale Subdivision located at 7682-7696

South Center Square and 137 West Park Street with the following conditions:

- 1. The applicant shall prepare a final subdivision plat to be reviewed and approved by the City Engineer and City Council.**
- 2. Prior to the final subdivision plat approval, the applicant shall obtain final site plan approval for the project.**
- 3. The applicant shall provide evidence that a courtesy notice has been sent to Questar Gas, Rocky Mountain Power, Comcast Cable, Utopia and Century Link regarding the utility easements on the subdivision plat prior to final approval.**
- 4. The applicant shall prepare a declaration of covenants, conditions and restrictions, including the creation of a homeowners association, for the development. This document shall be recorded concurrently with the subdivision plat.”**

The motion died for a lack of a second.

MOTION: Councilmember Paul Glover **MOVED** to a substitute motion that we do not approve the preliminary subdivision plat for the Station at Midvale Subdivision located at 7682-7696 South Center Square and 137 West Park Street with the following conditions:

- 1. The applicant shall prepare a final subdivision plat to be reviewed and approved by the City Engineer and City Council.**
- 2. Prior to the final subdivision plat approval, the applicant shall obtain final site plan approval for the project.**
- 3. The applicant shall provide evidence that a courtesy notice has been sent to Questar Gas, Rocky Mountain Power, Comcast Cable, Utopia and Century Link regarding the utility easements on the subdivision plat prior to final approval.**
- 4. The applicant shall prepare a declaration of covenants, conditions and restrictions, including the creation of a homeowners association, for the development. This document shall be recorded concurrently with the subdivision plat.”**

The motion was SECONDED by 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	Nay
Council member Paul Glover	Aye
Council member Paul Hunt	Nay
Councilmember Wayne Sharp	Absent
Council member Quinn Sperry	Nay

The motion failed.

MOTION: Councilmember Quinn Sperry **MOVED** that we approve the preliminary subdivision plat for the Station at Midvale Subdivision located at 7682-7696

South Center Square and 137 West Park Street with the following conditions:

- 1. The applicant shall prepare a final subdivision plat to be reviewed and approved by the City Engineer and City Council.**
- 2. Prior to the final subdivision plat approval, the applicant shall obtain final site plan approval for the project.**
- 3. The applicant shall provide evidence that a courtesy notice has been sent to Questar Gas, Rocky Mountain Power, Comcast Cable, Utopia and Century Link regarding the utility easements on the subdivision plat prior to final approval.**
- 4. The applicant shall prepare a declaration of covenants, conditions and restrictions, including the creation of a homeowners association, for the development. This document shall be recorded concurrently with the subdivision plat.”**

The motion was SECONDED by Paul Hunt. 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	Nay
Council member Paul Hunt	Aye
Councilmember Wayne Sharp	Absent
Council member Quinn Sperry	Aye

The motion passed unanimously.

VIII. CONSENT AGENDA

- A. APPROVE MINUTES OF AUGUST 11, 2015**
- B. SET DATE AND TIME (SEPTEMBER 15, 2015 AT 7:00 P.M.) FOR A PUBLIC HEARING TO 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; CLEAN INDUSTRIAL ZONE; HBB PROPERTIES LLC AND DAVID W. MAJOR (APPLICANTS).**
- C. SET DATE AND TIME (SEPTEMBER 15, 2015 AT 7:00 P.M.) FOR A PUBLIC HEARING TO CONSIDER A ZONING ORDINANCE TEXT AMENDMENT TO MODIFY THE GARAGE SETBACK EXCEPTION THE SIDE YARD SETBACK FOR ATTACHED GARAGES IN THE SINGLE FAMILY RESIDENTIAL (SF-1) ZONE**

MOTION: Councilmember Paul Hunt MOVED to approve the consent agenda. 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 Absent
Council member Quinn Sperry Aye
The motion passed unanimously.

IX. ACTION ITEMS

**A. APPROVE RESOLUTION NO. 2015-R-44 APPOINTING SHANE
LIEDTKE AS A FULL TIME PLANNING COMMISSION MEMBER**

**B. APPROVE RESOLUTION NO. 2015-R-45 APPOINTING CASSIDY
WALLIN AS A FULL TIME PLANNING COMMISSION MEMBER**

Lesley Burns said the Midvale City Planning Commission is comprised of five full voting members and two alternate members. Recently, two of the full members have resigned, Brent Christenson and Tyler Sharp. Shane Liedtke and Cassidy Wallin have been serving as alternate members since September 2014. Both have expressed an interest in filling the unexpired terms for the vacant seats. Both have made significant contributions to the Planning Commission as alternate members.

It is the Mayor's desire to appoint Mr. Liedtke as a full member, filling the unexpired term of Mr. Christenson; and to appoint Mr. Wallin as a full member, filling the unexpired term of Mr. Sharp. The Mayor is requesting the Council's consent to these appointments. Resolutions have been prepared for the City Council's consideration of these appointments, which would take effect immediately.

MOTION: Councilmember Stephen Brown MOVED to approve Resolution No. 2015-R-44 appointing Shane Liedtke as a full time planning commission member. The motion was SECONDED by Councilmember Paul Hunt. 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 Absent
Council member Quinn Sperry Aye

The motion passed unanimously.

MOTION: Councilmember Paul Hunt MOVED to approve Resolution No. 2015-R-45 appointing Cassidy Wallin as a full time planning commission member. 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 Absent
Council member Quinn Sperry Aye

The motion passed unanimously.

C. APPROVE RESOLUTION NO. 2015-R-46 APPOINTING RON SPERRY TO SERVE AS A BOARD MEMBER ON THE JORDAN VALLEY WATER CONSERVANCY DISTRICT BOARD

Mayor Seghini said this item would be rescheduled.

X. DISCUSSION ITEMS

A. DISCUSS 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; CLEAN INDUSTRIAL ZONE;

Lesley Burns stated that 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.

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 inutility 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 inutility reduction = \$2,008
- Cost of public curb, gutter and sidewalk improvements along property frontage = \$7,050
- Compensation offer to City: 0 (non-required public improvement costs exceed property value)

Councilmember Glover said he would like the property owners to make improvements or gravel the area so it looks decent.

**B. DISCUSS TEXT AMENDMENT TO MODIFY GARAGE SETBACK
EXCEPTION TO SIDE YARD SETBACK FOR ATTACHED GARAGES IN
SINGLE FAMILY RESIDENTIAL (SF-1) ZONE; CITY STAFF (APPLICANT)**

Lesley Burns stated 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.

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 9:07 p.m.

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

Approved this 15th day of September, 2015.



MIDVALE CITY
CITY COUNCIL WORKSHOP MEETING
Minutes

Tuesday, September 08, 2015
Council Chambers
7505 S. Holden Street
Midvale, Utah 84047

MAYOR: JoAnn Seghini

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

STAFF: Kane Loader, City Manager; Phillip Hill, Asst. City Manager/CD Director; Laurie Harvey, Asst. City Manager/Admin. Services Director; Rori Andreason, H.R. Director/City Recorder; Bob Davis Public Works Director; Danny Walz, Redevelopment Agency Director; Lesley Burns, City Planner; Annaliese Eichelberger, RDA Coordinator; and Jarin Blackham, IT Manager.

Mayor Seghini called the meeting to order at 6:31 p.m.

I. DISCUSSION ITEMS

A. PRESENTATION ON GENERAL PLAN UPDATE

Phillip Hill introduced Logan Simpson who discussed the process the General Plan update has been through so far and what next steps will be taken. They then reviewed what they heard at the block parties. They reviewed comments they received from residents as follows:

Neighborhood Assessments

- **Transportation**
- Residents concerned with aging roads, specifically east side roads.
- Planning should focus on bicycle and pedestrian mobility needs.
- Improve mobility network from Main Street to Bingham Junction.
- Concerned with traffic cutting through neighborhood streets.

- **Parks and Recreation**
- Residents are proud of Midvale's parks and park amenities.
- Desire for parks and recreation opportunities on west side of State Street.
- Community pool and centrally located community center are desired.

- **Housing**
- Majority of residents like the multifamily housing in Bingham Junction and are supportive of it in other context appropriate areas if it is designed well and is owner occupied.

Old Town

- Support for urban design
- Connection with Main Street
- Support for transition of some
- Buildings and a “face lift” of Northern portion
- See opportunity to Connect to Jordan Bluffs
- Support for a transition to a different use

Main Street

- Improve pedestrian connects to Bingham Junction
- Strict design standards or façade improvement program
- Preserve historic character

Central

- Supportive of transition
- Desire for local convenience commercial, such as a pharmacy or grocery store
- Generally not supportive of additional multifamily housing

Copperview

- Desire for local convenience commercial, such as a pharmacy or grocery store
- Supportive of a transition of uses in the area, a community garden was one idea.
- Improved waling path with lights for safety

North East

- Not supportive of a bus route
- Transition from fast food chains to local establishments
- Concerned with traffic cutting through neighborhood

Midvalley

- Concerned with low quality retail on State Street
- Not supportive of additional tattoo, quick loans, or pawn shops
- Supportive of redevelopment, ideas included a park, community pool, or community center

State Street

- Support mixed-use concept with retail, office, and residential amenities, such as a park
- Too much low value retail (pawn shops, tattoo parlors, quick loan places).
- Enhance streetscape as a gateway to Midvale

Draft Plan Format

- Our Vision
 - Introduction

- How to use this plan
 - Vision and Vision Statements
- Our Future
 - Present and future conditions
- Our Plan
 - Land use
 - Goals and Policies
 - Housing and Demographics
 - Goals and Policies
 - Transportation and Mobility
 - Goals and Policies
 - Economic Development
 - Goals and Policies
 - Public facilities and amenities
 - Goals and Policies
 - Parks, Recreation, and Open Space
 - Goals and Policies
- Our Neighborhoods
 - Specific area opportunities
- Our Commitment
 - Implementation and projects

Example of Goals and Policies

Element: Land use

Goal 1: Encourage pleasing gateways to Midvale City that promote an image of the Midvale as distinctive, unique place.

Supporting Policies:

Policies1A: Landscaping, prominent and specifically designed gateway monuments and appropriate lighting should be used to reflect the City's identity at each entrance.

Policies1B: Promote context-appropriate public art in public spaces, including at entry points to Midvale.

Policies1C: Establish gateway overlay zones at entrances that minimize and discourage visually prominent development, including buildings and utilities.

Example of Implementation and Projects

Project 1: Development design standards

Location: City-wide

Objective: Establish and maintain development standards that promote high aesthetic values for specific types of development in Midvale.

Potential

Stakeholders: City staff, appointed officials, residents, developers, architects, planners.

Recommendations: Development design standards can balance siting, materials, style elements, colors, lighting, parking, landscaping, and building orientation to the street. It is a primary tool for the City to ensure that new development is of high quality, complements the City's character and site-specific scale, and ensures carefully determined overall design outcomes. Midvale City should consider whether to adopt the resulting standards as advisory or to codify them into ordinance.

Timeline: 2016

Phillip Hill said with staff being in the middle of the General Plan Update, he suggested maybe placing a moratorium on development in the TOD zone so the council and staff can relook at the areas in this zone to make sure that is the appropriate zone for the areas. He also suggested looking at maybe the State Street zone as well. He would have more discussions in regards to where the Council wants those designations and how it relates to surrounding neighborhoods and developments. He would like to put a moratorium in place until this process is complete. The Council agreed with the moratorium and discussing these issues further.

B. DISCUSS LEASE AGREEMENT BETWEEN MIDVALE CITY AND MIDVALE ARTS COUNCIL

Laurie Harvey discussed a proposed lease agreement between the Midvale City Council and the Midvale Arts Council, the intent is to have the resolution next week approving this agreement. The agreement has been reviewed by the City Attorney, Arts Council and City Manager. The rental fees for these facilities go directly to the Arts Council. The Arts Council will pay Midvale City \$1 per year for use of the properties. This agreement will automatically renew each year unless one of the parties disagrees. She reviewed the rental fees for the facilities.

The Council said the acceptable noise level needs to be included in the contract. The arts council needs to make sure and enforce that. She will bring back as action item next week.

C. DISCUSS THE USE OF CITY PARK OPENSOURCE

Kane Loader discussed the increasing requests to utilize the park for events. He asked the Council if they wanted to reserve the park for events or leave it open for the public to use. The Council said they would rather have the park available to the public. After a lengthy discussion, the Council said they would like the organization to fill out an application that shows how they are tied to the Midvale community. Have staff review the application and if it looks viable for the community, bring it to the Council. The Council did not want anything scheduled for Sundays and wanted to limit use of any organized event so the park is available to the community.

II. ADJOURN

Mayor Seghini adjourned the meeting at approximately 7:44 p.m.

Rori L. Andreason, MMC

CITY RECORDER

Approved this 15th day of September, 2015.



MIDVALE CITY COUNCIL SUMMARY REPORT

September 15, 2015

SUBJECT:

Re-Appointment of Mark E. Kleinfield to continue as Midvale City's Appeals and Variance Hearing Officer (Resolution No. 2015-R-46)

SUBMITTED BY: Lesley Burns, City Planner and Chad Woolley, City Attorney

SUMMARY:

Mark Kleinfield 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. Kleinfield 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. Kleinfield 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. Kleinfield 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.

FISCAL IMPACT: N/A

RECOMMENDED MOTION:

"I move that we adopt Resolution No. 2015-R-46, re-appointing Mark E. Kleinfield as Midvale City's Appeals and Variance Hearing Officer for an additional two-year term."

Attachments:

- Resolution No. 2015-R-46

**MIDVALE CITY, UTAH
RESOLUTION NO. 2015-R-46**

**A RESOLUTION CONFIRMING THE RE-APPOINTMENT OF MARK E.
KLEINFELD TO CONTINUE SERVING AS MIDVALE CITY'S
APPEALS AND VARIANCE HEARING OFFICER**

WHEREAS, pursuant to the Utah Code, Municipal Land Use, Development, and Management Act, Midvale City is required to establish one or more appeal authorities to hear and decide variances and appeals regarding the City's land use ordinances; and

WHEREAS, Midvale City, through Ordinance No. 2012-09, has created an Appeals and Variance Hearing Officer (Hearing Officer) position to fulfill these duties; and

WHEREAS, in December 2012, pursuant to Section 17-5-3 of the Midvale Municipal Code, the Mayor, with the advice and consent of the City Council, appointed Mr. Mark E. Kleinfeld to serve a two-year term in this position; and

WHEREAS, Mr. Kleinfeld has served the City well in this capacity, performing his duties in a professional, reliable and fair manner; and

WHEREAS, the City Attorney and Community Development Director have recommended to the Mayor the re-appointment of Mark E. Kleinfeld to continue to fill this position for an additional two-year term; and

WHEREAS, the Mayor desires to re-appoint Mr. Kleinfeld to continue serving as the City's Appeals and Variance Hearing Officer, and is requesting the advice and consent of the City Council on this re-appointment; and

WHEREAS, Mr. Kleinfeld has expressed a desire to continue in this role.

NOW, THEREFORE, BE IT RESOLVED by the City Council of Midvale City, Utah:

SECTION 1. The City Council hereby consents to and confirms the Mayor's re-appointment of Mark E. Kleinfeld as Midvale City's Appeals and Variance Hearing Officer for an additional two-year term through December 2016.

SECTION 2. This Resolution shall take effect immediately.

PASSED AND APPROVED this ____ day of _____, 2015.

JoAnn B. Seghini, Mayor

ATTEST:

Rori Andreason, MMC
City Recorder

Voting by City Council	"Aye"	"Nay"
Stephen Brown	_____	_____
Paul Glover	_____	_____
Paul Hunt	_____	_____
Wayne Sharp	_____	_____
Quinn Sperry	_____	_____



MIDVALE CITY COUNCIL SUMMARY REPORT

September 15, 2015

SUBJECT:

Recertification of the Midvale City Justice Court

SUBMITTED BY:

Michelle Henderson – Justice Court Administrator

SUMMARY:

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.

FISCAL IMPACT: N/A

STAFF RECOMMENDATION:

Staff recommends that the City Council approve Resolution No. 2015-R- requesting recertification of the Midvale City Justice Court by the Utah Judicial Council.

RECOMMENDED MOTION:**Attachments:**

- Draft Security Plan
- Draft Resolution
- Draft Judicial Affidavit
- Justice Court Standards for Recertification

SECURITY PLAN

FOR

MIDVALE JUSTICE COURT

MIDVALE CITY, UTAH

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I. INTRODUCTION:

The intent of court security is to promote the safety and well being of judicial personnel, members of the bar and citizens utilizing the courts, to establish uniform policies for court security and to delineate responsibility for security measures by the Council, the administrative office, local judges, court executives and law enforcement agencies.

Court security includes the procedures, technology, and architectural features needed to ensure the safety and protection of individuals within the courthouse and the integrity of the judicial process. Court security is the joint effort of law enforcement and the judiciary to prevent or control such problems as verbal abuse, insult, disorderly conduct, physical violence, demonstrations, theft, fire, bomb, threats, sabotage, prisoner escapes, kidnappings, assassinations, and hostage situations.

In accordance with Rule 3-414 of the Utah Code of Judicial Administration, this plan has been developed to establish procedures that will be followed by the Staff of the Midvale City Justice Court and Court Services of Utah, which is the agency responsible for security in the event of a disturbance or emergency situation.

All court employees will receive training on a yearly basis. They will be instructed on the entire security plan. The Court Services of Utah Officer who is assigned as the bailiff will also be trained yearly on this plan and security measures required herein.

II. EMERGENCY CONTACTS:

<u>Agency</u>	<u>Telephone Number</u>
Police Department	(Emergency) 911 or (Non emergency) 743-3000
Fire Department	(Emergency) 911 or (Non emergency) 840-4000
Ambulance	(Emergency) 911 or (Non emergency) 840-4000
Intermountain Medical Center 507-7000
Emergency Utility Services: Gas 1-800-541-2824
Power 1-866-870-3419
Building Maintenance 256-2594 or 567-7235
Midvale City Administration 567-7200
Midvale City Justice Court 255-4234

III. RESPONSIBILITIES OF LAW ENFORCEMENT AGENCIES

A. Requirements

Court Services of Utah is responsible for security of the courthouse and shall:

1. Coordinate all law enforcement activities within the courthouse necessary for implementation of the security plan and for response to emergencies.
2. Cooperate with the court executive in the development and implementation of a local security plan.
3. Provide local law enforcement personnel with training.
4. Appoint court bailiffs.
5. Provide building and perimeter security.

IV. COURTROOM SUPPORT

A. Bailiff Requirements/Training

1. Bailiffs shall be “law enforcement officers” as defined in Section 53-13-103. At the discretion of the law enforcement administrator and with the consent of the presiding judge, bailiffs may be “special function officers” as defined by Section 53-13-105.
2. Prior to exercising the authority of their office, bailiffs shall satisfactorily complete the basic course at a certified peace officer training academy or pass a waiver examination and be certified. Bailiffs shall complete 40 hours of annual training as established by the division of Peace Officer Standards and Training. Bailiffs shall receive annual training on the elements of the court security plan, emergency medical assistance and the use of firearms.
3. Court bailiffs shall be of suitable physical and mental condition to ensure that they are capable of providing a high level of security for the court and to ensure the safety and welfare of individuals participating in court proceedings. Bailiffs shall be capable of responding appropriately to any potential or actual breach of security.

B. Weapons

1. Bailiffs, transporting officers, and other uniformed officers will be allowed weapons in the courtroom and judge’s chambers. Any non-uniformed officer will be allowed weapons in the courtroom and judge’s chambers but must first check in with the bailiff or clerk and present current, picture identification.
2. Every non-uniformed officer will have identification available while in the courtroom or court offices. Exceptions may be approved on a case-by-case basis at the request of a law enforcement agency and with the approval of the Court.
3. A Judge or law enforcement official as defined in state law may possess, in the Midvale City Justice Court a concealed firearm and ammunition for which the judge or law enforcement official has a valid certificate of qualification issued under Utah Code Ann. 53-5-711 or its successor provision. Any such individuals must notify the Bailiff.

- a. To re-qualify for a certificate under Section 53-5-711 a judge shall annually complete with a passing score a range qualification course for judges and law enforcement officials established by the Department of Public Safety or a course established by any law enforcement agency of the state of Utah or its political subdivision for the re-qualification of its officers.
4. All firearms permitted under this security plan that are carried into the courtroom shall be concealed unless worn as part of a public law enforcement agency uniform.
5. All firearms shall remain in the physical possession of the person authorized to possess it and shall not be placed in a drawer, cabinet, briefcase or purse unless the person has physical possession of the briefcase or purse or immediate control of the drawer or cabinet or the drawer or cabinet is locked.
6. All firearms shall be secured in a holster with a restraining device.

C. Responsibilities of Court Bailiffs

The bailiff is responsible and accountable to the assigned court. The court should inform the bailiff of particular needs, procedures, or special duties in addition to:

1. The bailiffs shall prevent persons in custody from having physical contact with anyone other than the members of the defense counsel's team. Visitation shall be in accordance with jail and prison policies and be restricted to those facilities.
2. The bailiffs shall observe all persons entering the courtroom, their movement and their activities. The bailiff shall control access to the bench and other restricted areas.
3. The bailiffs shall search the interior of the courtroom and restricted areas prior to the arrival of any other court participants. Similar searches shall be conducted following recesses to ensure the room is clear of weapons, explosives and/or contraband.
4. The bailiffs shall wear the official uniform of the law enforcement agency by which they are employed.
5. The bailiffs shall comply with the directives of the judge or commissioner with respect to security related activities and shall perform other duties incidental to the efficient functioning of the court, which do not detract from security functions. Activities wholly unrelated to security or function of the court, including personal errands, should be neither requested nor performed.
6. Bailiffs shall follow all Court Services of Utah policies and procedures.

D. Responsibilities of Transporting Officers

Court Services of Utah is responsible for transportation any persons in the physical custody of a federal, state, county or municipal facility whose presence in court is required of that person to and from the courtroom.

1. The transportation officer shall remain present at all times during court appearances.
2. The transportation officer shall be responsible for the custody of such persons.
3. The transportation officer shall support the court bailiff in the preservation of peace in the courtroom.

4. The transportation officer shall provide advance notice of the transportation and of any extraordinary security requirements to the law enforcement agency responsible for court security, to the judge, and to the bailiff.
5. The transportation officer shall comply with any regulations regarding the transportation of persons in custody to court.
6. The transportation officer shall return the person in custody to the proper place of confinement.
7. Midvale Police Department shall provide assistance to the transportation officer as circumstances dictate.

E. Responsibilities of Transporting Officers

1. Officers transporting prisoners into the court may secure their prisoner in a court holding cell and notification shall be made to the records clerks and the court bailiff.
2. Transporting officer may assist with the security of the prisoner, in circumstances where multiple defendants need to be taken into the courtroom.
3. Transporting officer may assist with the security of the prisoner, in circumstances where the prisoner is uncooperative, disorderly or violent.

V. HIGH PROFILE/RISK CASES:

A. Need for Additional Security

In cases where there is an indication of high risk, extreme disruption, and/or a high public interest the judge, clerk, law enforcement officers, prosecutors and defense attorneys will communicate their view of the appropriate level of risk. If there is a need for higher security, Court Services of Utah will provide a plan for security of that case and provide the same to the judge, the prosecutor, and at the discretion of the judge, to defense counsel.

B. Metal Detectors and Physical Searches

If the need arises, the Bailiff or other assigned court security personnel will use a metal detector and /or a physical search of persons desiring to enter the courtroom. Signs will be posted to alert the public that they may be subject to search. Only designated law-enforcement officers will conduct physical searches.

C. High Community and Public Interest Cases

When a court hearing is scheduled that may attract community attention and result in large numbers coming to court, Court Services of Utah should be notified at the earliest opportunity in order for sufficient security arrangements to be made.

D. Media

Where cases result in high media attention, staff is not to release any information. Members of the news media should be directed to the office of the prosecutor or the judge.

The use of cameras or other recording equipment is not allowed in the courtroom unless ordered by the court.

VI. BUILDING SECURITY

A. Description of the Midvale Justice Court

1. The Midvale City Justice Court is located at 7505 South Holden Street, Midvale Utah. The Court is adjacent to Midvale City Hall and is located on the north section of the building. The building which houses the Court is a single story with no basement and the City Municipal building is a two story building with a basement.
2. The Midvale Justice Court has one public entrance. There are two other restricted entrances to the Court building. There are two other restricted entrances to the Midvale Municipal building and one public entrance. There is one courtroom located in the North East corner of the building; this courtroom has one public entrance. The judge and other court personnel access the court through a doorway from the Clerk's area. Prisoners waiting for court that day are held in a secure area at the very back of the Court with no public access.
3. There are three emergency exits out of the Midvale Justice Court:
 - a. The Main Lobby Entrance and Exit Doors
 - b. The connector hallway emergency exit door
 - c. The courtroom emergency exit door
 - d. In the event of the emergency, the following evacuation plans shall be used (evacuation maps attached):
 - i. **Public in the main lobby/waiting** area should exit through the public entrance and exit doors located on the west side of the building. The public shall congregate on the western most side of the grass area located just north of the court building.
 - ii. **Public by the restrooms** shall exit through the east emergency exit door, into the hallway, through the stairwell and out the east employee entrance door. The public shall turn north and congregate on the western most side of grass area.
 - iii. **Public in the courtroom** shall exit through the doors at the back of the courtroom and out the entrance/exit doors in the court lobby. The public shall congregate on the western most side of the grass area located just north of the court building.
 - iv. **Defense council, prosecution and jury** (should one be in session) shall exit out of the south emergency exit door of the courtroom, through the secured court clerk area, into the hall adjacent to the Municipal Center and then out the East employee entrance door. They shall then gather on the western most side of the grass area located just north of the court building.

- v. **Detainees being held in the holding cells** shall be escorted by the transport officer and, if available, an additional constable out of the loading door located on the north side of the court building. The detainees shall be taken to the north side of the prisoner drop off area and secured by the bailiff until transportation can take them back to their respective holding facilities.
 - vi. **The in-court clerk and Judge** shall exit into the secured Court Clerk area, out the secured access door connecting to City Hall and through the employee entrance door located on the Northeast end of the building. The Judge and the Clerk shall proceed to the eastern most side of the grass area located north of the court building.
 - vii. **All court personnel shall** exit through the secure access door connecting to City Hall and through the employee entrance door located on the east side of the building. Court employees shall proceed to the eastern most side of the grass area located north of the court building.
4. The Midvale Justice Court is separated from City Hall by a secure door. The area reserved for the Justice Court contains the judge's chambers, clerk offices, jury deliberation room, break room, public and private restrooms and a courtroom.
 5. The courtroom, the judge's chambers, and the clerks' office are secured at all times. Inmates may be brought to the courtroom directly from the jail or holding cells without going through public areas. Inmates are never allowed in restricted or public areas.

B. Building Security Positions

Court Services of Utah is responsible for handling any threats to security in the offices or courtroom of the Midvale City Justice Court. Department personnel are trained to handle any and all emergencies that might arise.

1. A bailiff will be provided to the court from Court Services of Utah while court is in session.
2. Court Services of Utah will provide a security officer to oversee the magnetometer and x-ray machine while the justice court is in session.

C. Security Alarms

The Peak Alarm can be summoned by the use of one or more distress buttons in the courtroom and clerk's. They are located at the judge's bench, the in-court clerk's desk and two at the clerks' front counter. The Court facility also has video security at the entrance of the courthouse, the lobby of the courthouse, the courtroom and in the onsite holding cells. The video feed from the holding cell is monitored by the Bailiff, Court Administrator and in-court clerk and all video feed is saved directly to the City database. The police can also be summoned by two-way radio, to which the bailiff has access. The police department can also be summoned by using the telephones located on every desk in both the courtroom and the court offices.

In the event of an emergency or disturbance in the courtroom, the distress button should be used, even if a Bailiff is present.

The distress button system will be tested monthly. The test will be prearranged with Peak Alarm Security Company.

D. Security Measures of Court and Personal Property

When safety and time permits, the following protocols shall be followed:

1. Security of records

The Court Administrator is responsible for the security of all court records. Upon notification of any emergency and assuring all persons are out, the room containing court records is to be locked to limit access. In all instances, the entire court staff should do everything reasonable, but not at a risk to their personal safety, to ensure that the files are kept confidential and safe.

2. Security of court funds

If any emergency arises and the building needs to be evacuated, all monies must be locked up if it can be done safely. If time permits, and there is no threat, the clerk or clerks should take the money with them, in an inconspicuous manner, for safe keeping until the emergency is over. The Court Administrator is ultimately responsible for ensuring the safe handling of court funds and should be diligent in seeing that none of those funds are lost or stolen.

3. Security of other court property

In all cases, the court staff shall take appropriate action to protect furniture, equipment, files, etc. as the situation allows. However, at no time should staff risk life or limb to save property.

4. Security measures outside building

The entire perimeter of City Hall and the Court are monitored twenty-four hours a day seven days a week by surveillance cameras.

5. Securing the courthouse

The justice court portion of the building shall be checked at the end of each business day. Building security officers will complete the check; the check will ensure the justice court is properly secured.

6. High-profile cases

During high profile cases, security officials should be mindful of demonstrators or others who may interfere with court proceedings. Twenty-four hour security coverage of the court building and its surrounding area may be conducted in extremely high profile cases or ones where threats have been received.

VII. EMERGENCY SITUATIONS

During an emergency, the bailiff is in charge of the situation. Employees should follow instructions from any security officer, bailiff, or police officer during emergencies.

The bailiff or officer in charge will:

1. Direct, in an orderly fashion, evacuations of the court portion of the building. All court employees will be directed to a designated safe area. This area is the farthest portion of the grass area north of the court building.
2. Once evacuated, account for employees at the safe-area.
3. Determine whether to send employees home or, to allow employees to return to the court building.

A. Hostile Persons

1. If an employee encounters a hostile person, the employee should keep calm and, without alarming the person, attempt to indicate the need for help to other employees.
2. If, upon observing the hostile person(s) it appears that security is needed, the employee will obtain assistance by use of the most readily available means, to include: the panic button or calling the police department or other available law enforcement on the intercom or telephone.
3. If using the telephone or intercom system avoid letting the hostile person know what request is being made. The employee should simply use the following codes and identify the location:

Verbally hostile personCode 1 (Verbal)
Imminent hostile personCode 1
Hostile person with weapon.....Code 2
Hostage situationCode 3

4. If the panic button is pressed Peak Alarm dispatch will call the area of the alarm to verify its validity.
5. Peak Alarm will then alert local police or other available law enforcement who will then take over the situation as per their own policy and training.

B. Courtroom Disturbance

1. Summoning Assistance

If a disturbance takes place in the courtroom that the bailiff, judge or court staff cannot easily defuse, the judge or clerk will activate the distress button or make an intercom or telephone call that will alert the police department or other available law enforcement, to the problem. Court personnel should not attempt to disarm hostile persons or otherwise take matters into their own hands.

2. Hostage Situations

In a hostage situation, all court personnel shall follow the procedures in section D, 'Hostage Situations' (below).

C. Disturbance Outside the Courtroom

1. Clerk Incident Assessment

If a disturbance or emergency takes place in a court waiting area or clerk's office, a clerk will assess the situation. If the situation warrants, the clerk will call the police department or other more readily available law enforcement personnel.

2. Weapon Situation

If a weapon is visible or used, court personnel will (if possible) notify the police department or other more readily available law enforcement that there is a weapon. Court personnel should not attempt to disarm the hostile person(s) or take matters into their own hands, but should attempt to follow the procedures as outlined in the section of this plan entitled "Hostage Situations" (below).

D. Hostage Situations

1. Duty to Notify Law Enforcement

If a hostage situation develops anywhere in the court portion of the building, the police department or other more readily available law enforcement will be contacted as quickly as possible. If unable to describe the situation, the individual making the call should simply say, "code three" and their location to alert law enforcement of the situation. "Code three" is the designation code for a hostage situation.

2. Instructions for a Hostage Situation

- a. No attempt to free hostages will be made by court staff.
- b. An attempt will be made to gather as much information as possible about the situation. It should include as much of the following as can be obtained:
 - i. Name and description of person(s) taking hostage(s).
 - ii. Name and description of hostages.
 - iii. Number of people involved.
 - iv. Location of the situation.
 - v. Location of exits and entrances to the area.
 - vi. Description of any weapons being used.
 - vii. Brief description of the circumstances.

3. Instructions to Hostages

The following are guidelines court staff should follow if they become a hostage. Court staff should be an example to those hostages who are not court employees. Staff should try and calm these individuals and, if possible, explain these guidelines for everyone's protection:

- a. Be cautious of heroics. Don't act foolishly.
- b. Be cooperative and do not make threats. Obey captors' demands without appearing either servile or antagonistic.
- c. Keep your cool. Attempt to relax by thinking of other things.

- d. Keep a low profile, but be observant.
- e. Be reluctant to give up your identification or clothing. Be especially resistant to changing clothing with captors as this could put you in danger in a rescue attempt.
- f. If possible, drink water, even if you are not particularly thirsty. It is important to keep up your strength.
- g. Be cautious of your body language as well as your words. It is important to not arouse the hostility of your captors.
- h. Try to not enter into discussions or activities with captors and be cautious of making suggestions to them.
- i. Think of persuasive reasons why you should be kept alive if your life is threatened.
- j. If a rescue attempt occurs and shots are fired, get down, take cover if possible, and keep your hands on your head. Do not resist being apprehended until proper identification can be made by law enforcement.

E. Escaping Prisoner

If an escape attempt is made during court, the clerk or judge will activate the alarm and call the police department or nearest available law-enforcement. The court staff should be observant as to the prisoner's means of escape, any help he or she received, directions of escape, and other facts that might be helpful to law enforcement. Court staff will not attempt to apprehend the prisoner themselves.

F. Bomb Threat

Extreme caution should always be used with any unusual packages, even when a bomb threat has not been made.

Court personnel upon receipt of a bomb threat should follow the following procedures:

1. During the call, try to learn all you can about the alleged bomb, its location, when it is set to go off, what kind of bomb it is, and what it looks like.
2. Have the caller repeat messages, but do not interrupt the caller. Remain calm. Do not put them on hold or transfer the call.
3. When the caller hangs up, immediately call 911. Inform the Court Administrator of the threat and they will then call Midvale Records at 256-2000.
4. Calmly notify the judge of the threat received. When directed to evacuate, do so quickly, but in an orderly manner following the established evacuation plans.
5. If directed, begin an immediate search of the area for unusual objects. Do not touch or move any suspicious items or packages. When law enforcement personnel arrive advise them of the search results.
6. Secure all files and money as indicated in Section VI subsection D.

E. Fire

1. Employees will evacuate the building when the fire alarm goes off, closing doors behind them.
2. Any employee who observes dense smoke, flames or fire in the building will sound the fire alarm and call 911.
3. If time permits, secure money and turn off equipment.

F. Earthquake

If an earthquake occurs during working hours, staff should:

1. Stay inside if they are inside and get under something like a desk, table or permanent doorway, or against an inside wall. Stay away from windows and outside walls.
2. If outside, stay outside and move away from buildings, gas meters, power lines, etc.
3. After the quake is over, stay put until instructed to evacuate or take other action as directed by emergency personnel.
4. Do not re-enter buildings until instructed to do so by appropriate authorities.

G. Hazardous Materials and Chemical Spills

Evacuation of the building or other actions after a hazardous material incident or chemical spill will be determined by the fire department or law enforcement hazardous materials specialists.

H. Injury or Person needing Medical Attention

The first person to discover someone needing medical attention will:

1. Call 911.
2. Administer first aid, seeking competent help from persons in the vicinity.
3. Keep the victim as comfortable as possible.
4. Stay with the injured or sick person, and reassure them that help is on the way.
5. Command someone to direct emergency medical responders to the scene.

VIII. EVACUATIONS

A. Pre-Evacuation Actions

Prior to evacuation of the building and depending on the nature of the emergency, precautionary measures should be adhered to as listed in Section VI.

B. Evacuation Notice/Location

Upon direction to evacuate, all persons should evacuate according to the posted evacuation plan. All court employees should meet at the unsecured Southeast parking directly outside the public entrance to the court.

C. Render Aid

Employees will note anyone in the building who might need assistance. Within the employee's training and skill level, the employee will provide the needed help. The employee will also notify medical personnel of any person needing help.

D. Escape and Close Doors

If a safe door is not available to exit through, trapping employees and other persons, employees should go to an external window and signal for help. Upon exiting a room or building, all doors should be closed to prevent smoke penetration. Care should be taken not to block or seal in a doorway that will impede others from escaping.

E. Accounting for Staff

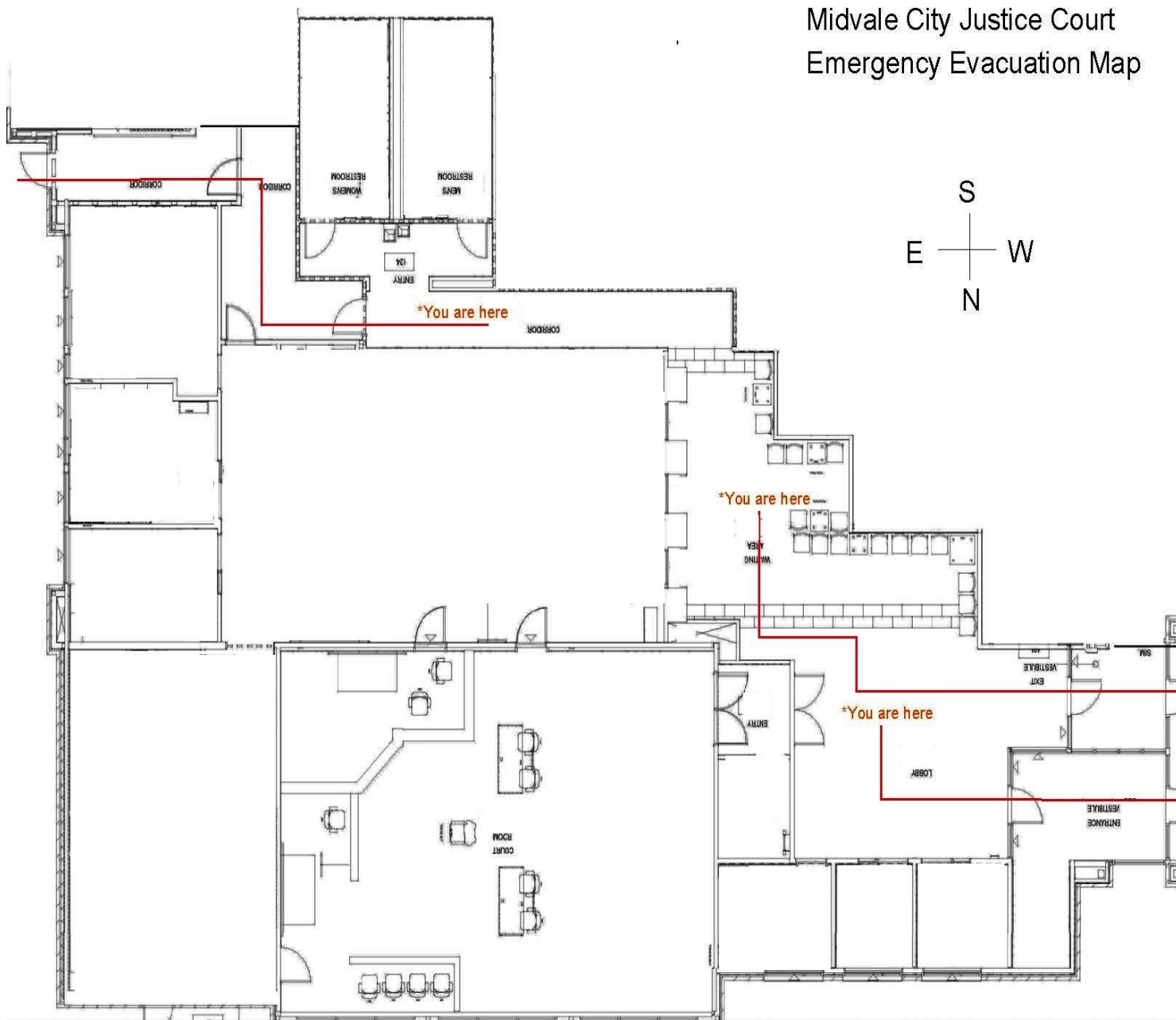
Following evacuations, all employees will inform their supervisor of their whereabouts and condition. All court employees should muster in the unsecured South parking lot near the railroad lines. Provided that the building is safe, the supervisor, building security officer or other appropriate public safety personnel will authorize re-entry into the building. Long-term evacuations will require that employees check back with their supervisor before returning to work.

The key to evacuation is to remember that human safety must always come first and never be compromised to the security of property.

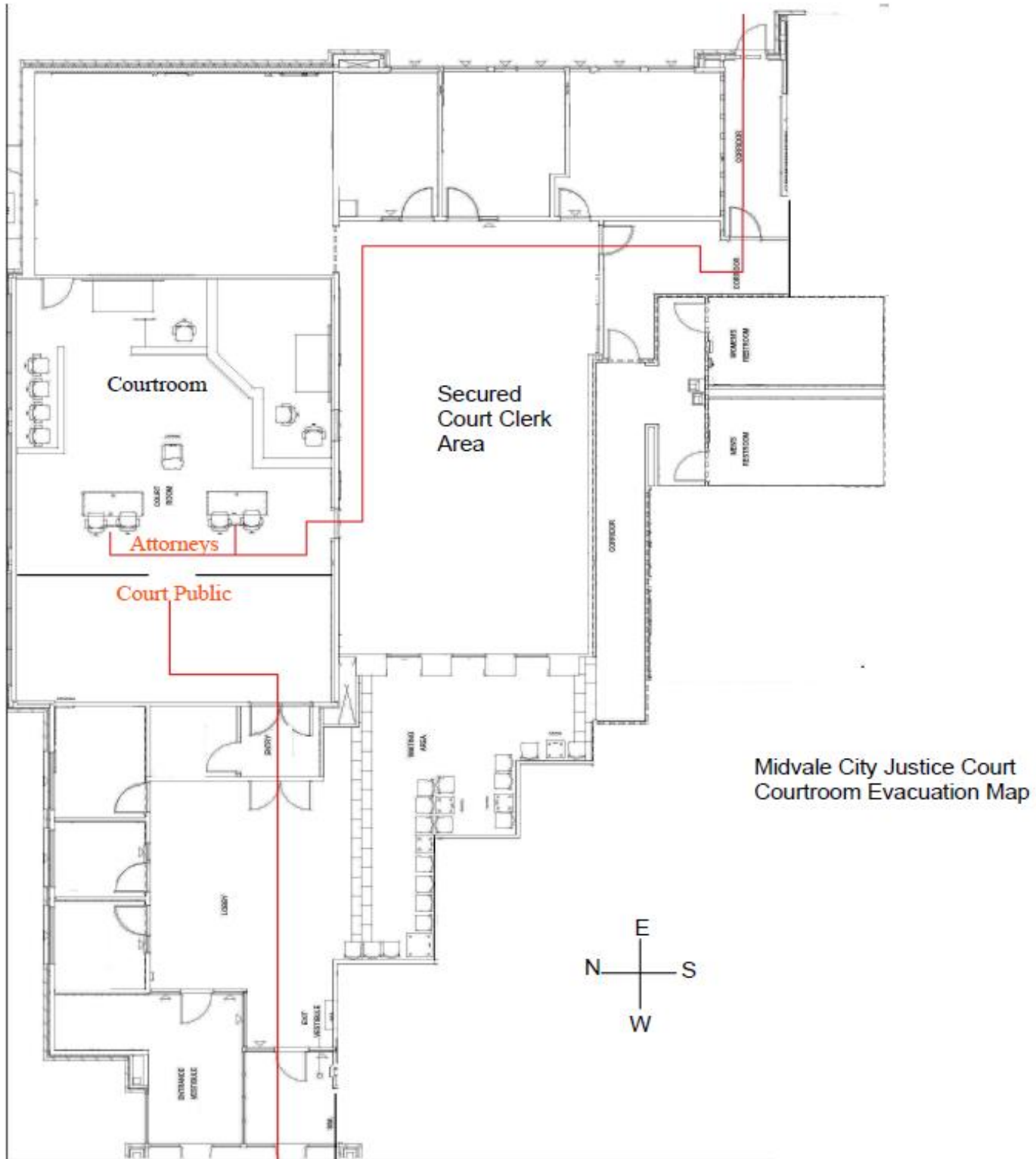
EVACUATION MAPS

Main Court Lobby

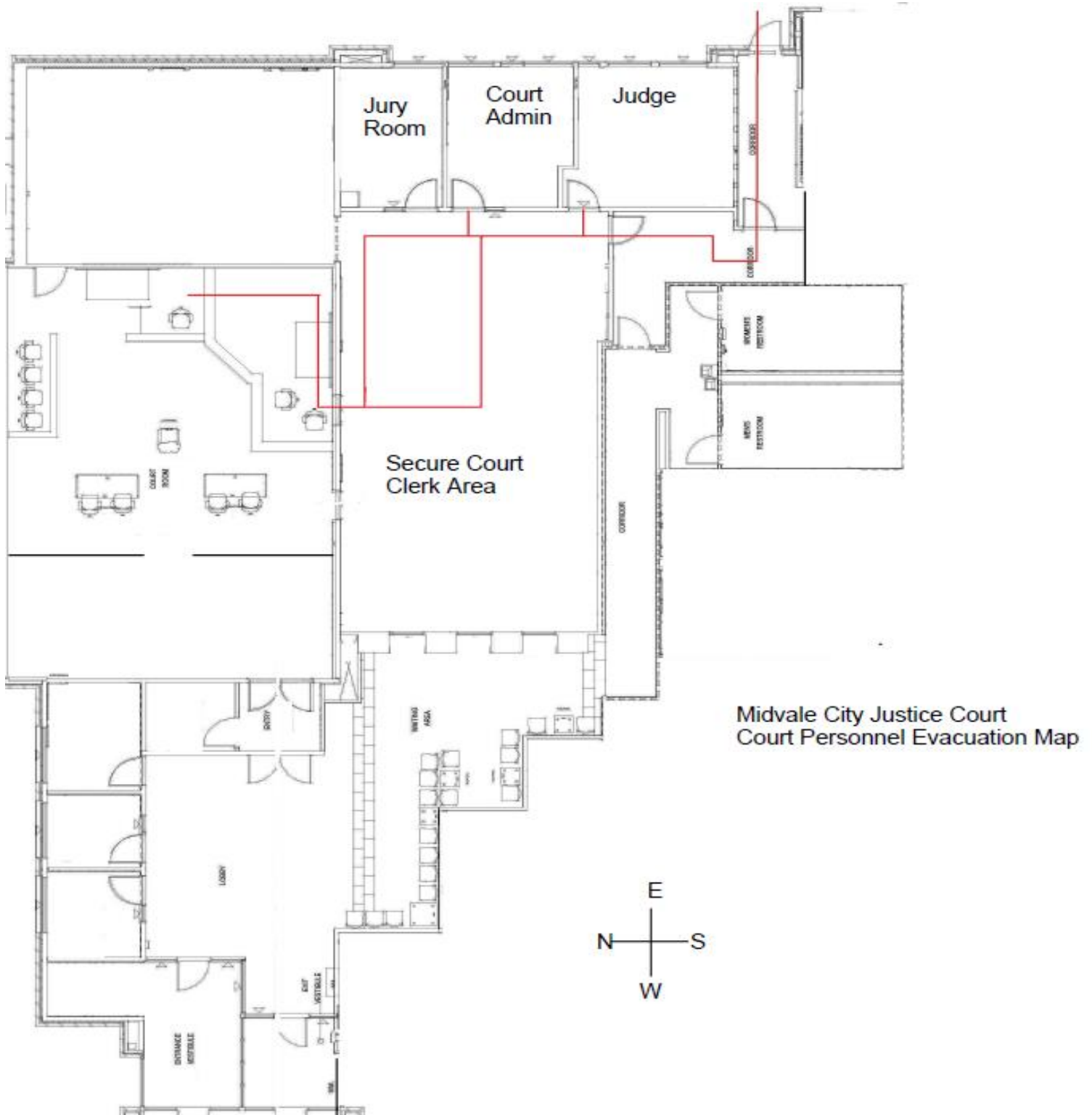
Midvale City Justice Court Emergency Evacuation Map



Courtroom



Court Personnel



**MIDVALE CITY, UTAH
RESOLUTION NO. 2015-R-**

**A RESOLUTION REQUESTING THE RECERTIFICATION OF THE MIDVALE
CITY JUSTICE COURT.**

WHEREAS, the provisions of U.C.A. 78A-7-103 require that Justice Courts be recertified at the end of each four-year term; and

WHEREAS, the term of the present Court shall expire on the 28th day of February, 2016;
and

WHEREAS, the members of the Midvale City Council have received an opinion letter from Chad Woolley, Midvale City Attorney, which sets forth the requirements for the operation of a Justice Court and feasibility of continuing to maintain the same; and

WHEREAS, the members of the Midvale City Council have determined that it is in the best interests of Midvale City to continue to provide for a Justice Court;

NOW, THEREFORE, BE IT RESOLVED that Midvale City Council hereby request recertification of the Midvale City Justice Court by the Justice Court Standards Committee and the Utah Judicial Council.

BE IT FURTHER RESOLVED that the Midvale City Council hereby affirms their willingness to continue to meet all requirements set forth by the Judicial Council for continued operation of the Midvale City Justice Court for the next four-year term of court, except as to any requirements waived by the Utah Judicial Council.

This Resolution, assigned no. 2015-__, shall take effect _____.

PASSED AND APPROVED this ____ day of _____, 2015.

JoAnn B. Seghini Mayor

ATTEST:

Rori L. Andreason MMC
City Recorder

Voting by City Council	“Aye”	“Nay”
Stephen Brown	_____	_____
Paul Glover	_____	_____
Paul Hunt	_____	_____
Wayne Sharp	_____	_____
Quinn Sperry	_____	_____

JUSTICE COURT STANDARDS
FOR RECERTIFICATION

AUGUST 2015

INSTRUCTIONS TO APPLICANT FOR RECERTIFICATION

As part of the recertification process, each entity should carefully review all requirements for the operation of Justice Courts. In order to aid governing bodies in obtaining the necessary information regarding the continuing obligations of an entity with respect to the operations of the Court, the governing body of each entity must request and review a written opinion from its attorney advising the entity of all requirements for the operation of a Justice Court, and the feasibility of maintaining a Justice Court. In addition, prior to submission of this application, each entity must duly pass a resolution requesting recertification. The resolution must also affirm that the entity is willing to meet all requirements for the operation of the Court during the period of certification. **A copy of the attorney's opinion and the resolution must accompany the application.** Please use the checklist on page 21 of this packet.

Statutes of the State of Utah require that certain standards be met in the operation of a Justice Court. These statutory requirements include:

1. All official court business shall be conducted in a courtroom or an office located in a public facility which is conducive and appropriate to the administration of justice (78A-7-213).
2. Each court shall be opened and judicial business shall be transacted every day as provided by law (78A-7-213), although the judge is not required to be present during all hours that the court is open.
3. The hours that the court will be open shall be posted conspicuously at the court and in local public buildings (78A-7-213).
4. The judge and the clerk of the court shall attend the court at regularly scheduled times (78A-7-213).
5. The entity creating the Justice Court shall provide and compensate a judge and clerical personnel to conduct the business of the court (78A-7-206 and 78A-7-207).
6. The entity creating a Justice Court shall assume the expenses of travel, meals, and lodging for the judge of that court to attend required judicial education and training (78A-7-205).
7. The entity creating a Justice Court shall assume the cost of travel and training expenses of clerical personnel at training sessions conducted by the Judicial Council (78A-7-103).

8. The entity creating the Justice Court shall provide a sufficient staff of public prosecutors to attend the court and perform the duties of prosecution (78A-7-103).

9. The entity creating the court shall provide adequate funding for attorneys where persons are indigent as provided by law (78A-7-103).

10. The entity creating the court shall provide sufficient local law enforcement officers to attend court when required and provide security for the court (78A-7-103).

11. Witnesses and jury fees as required by law shall be paid by the entity which creates the court (10-7-76 and 17-50-319).

12. Any fine, surcharge, or assessment which is payable to the State shall be forwarded to the State as required by law (78A-7-120 and 78A-7-121).

13. Every entity creating a court shall pay the judge of that court a fixed compensation, within the range provided by statute (78A-7-206).

14. Court shall be held within the jurisdiction of the court, except as provided by law (78A-7-212).

15. The entity creating the court shall provide and keep current for the court a copy of the Utah Code, the Justice Court Manual, state laws affecting local governments, Utah Court Rules Annotated, local ordinances, and other necessary legal reference material (78A-7-103).

16. All required reports and audits shall be filed as required by law or by rule of the Judicial Council pursuant to Section 78A-7-215.

17. All justice courts shall use a common case management system and disposition reporting system as specified by the Judicial Council (78A-7-213).

In addition to those requirements which are directly imposed by statute, section 78A-7-103 directs the Judicial Council to promulgate minimum requirements for the creation and certification of Justice Courts. Pursuant to statute, the Judicial Council has adopted the following minimum requirements:

- 1) That the Court be opened for at least one hour each day that the court is required to be open as provided by law. Additional hours of operation are specified in C.J.A. Rule 9-105.
- 2) That the judge be available to attend court and conduct court business as needed.
- 3) That the minimum furnishings for a courtroom include: a desk and chair for the judge (on a six inch riser), a desk and chair for the court clerk, chairs for witnesses,

separate tables and appropriate chairs for plaintiffs and defendants, a Utah State flag, a United States flag, a separate area and chairs for at least four jurors, a separate area with appropriate seating for the public, an appropriate room for jury deliberations, and an appropriate area or room for victims and witnesses which is separate from the public. (A suggested courtroom configuration is attached).

- 4) A judicial robe, a gavel, current bail schedules, a copy of the Code of Judicial Administration, and necessary forms and supplies.
- 5) Office space for the judge and clerk (under certain circumstances this space may be shared, but if shared, the judge and clerk must have priority to use the space whenever needed). The office space shall include a desk for the judge and a desk for the clerk, secure filing cabinets for the judge and the clerk, a telephone for the judge and a telephone for the clerk, appropriate office supplies to conduct court business, a cash register or secured cash box, a typewriter or word processor, and access to a copy machine.
- 6) A clerk must be present during the time the court is open each day and during court sessions, as required by the judge.
- 7) The entity must have at least one peace officer (which may be contracted).
- 8) A court security plan must be submitted consistent with C.J.A. Rule 3-414.
- 9) Each court must have at least one computer with access to the internet, and appropriate software and security/encryption technology to allow for electronic reporting and access to Driver License Division and the Bureau of Criminal Identification, as defined by the reporting and retrieval standards promulgated by the Department of Public Safety. Monthly reports must also be electronically submitted to the Administrative Office of the Courts monthly. Also note that all justice courts shall use the CORIS case management system. (78A-7-213).
- 10) Each court shall report required case disposition information to DLD, BCI and the Administrative Office of the Courts electronically, as described in number 9 above.

In establishing minimum requirements, the Judicial Council has determined that Justice Courts with higher case filings require greater support services. To accommodate the great differences in judicial activity between Justice Courts within the state, the Council has divided courts into four classes based upon the average monthly cases filed in that court. Minimum standards have been set for each classification. Courts which have an average of less than 61 cases filed each month are classified as Class IV Courts. The minimum requirements for a Class IV Court are stated above. (These requirements are also attached as Class IV minimum requirements).

These requirements include both the statutory requirements and requirements promulgated by the Judicial Council, and are sometimes hereinafter referred to as "base requirements."

Courts which have an average of more than 60 but less than 201 cases filed each month are classified as Class III Courts. In addition to the base requirements, a Class III Court must be open more hours each week (see attached Class III minimum requirements), and court must be scheduled at least every other week.

Courts which have an average of more than 200 but less than 501 cases filed each month are classified as Class II Courts. In addition to the base requirements, Class II Courts are required to be open additional hours (see attached Class II minimum requirements), the courtroom configuration is required to be permanent (although the courtroom may be used by another entity when the court is not in session), court must be scheduled at least weekly, the judge must be provided an appropriate office (chambers) for his own use, clerical space may not be shared, at least one full-time clerk must be provided (see attached Class II minimum requirements), and the courtroom, judge's chamber and clerk's office must be in the same building.

Courts which have an average monthly filing of more than 500 cases are classified as Class I Courts. Class I Courts are considered to be full-time courts. In addition to the base requirements, a Class I Court must have a full-time judge, at least three clerks, it must be open during regular business hours, it must have a courtroom which is dedicated for the exclusive use as a court and which meets the master plan guideline adopted by the Judicial Council, and the judge's chambers and clerk's office cannot be shared by another entity.

The State Legislature has provided that any Justice Court that continues to meet the minimum requirements for its class is entitled to be recertified. The Judicial Council also has authority to waive any minimum requirement imposed by rule of the Council rather than by statute. Waiver is at the discretion of the Judicial Council and will be based upon a demonstrated need for a court to conduct judicial business and upon public convenience. Any waiver will generally be for the entire term of the certification. A waiver must be obtained through the Judicial Council each time a court is recertified, and the fact that a waiver has been previously granted will not be determinative on the issue of waiver for any successive application.

There is a great diversity in the needs of the Justice Courts. The needs of a particular Court are affected by the type of cases filed (some courts have a high percentage of traffic matters, while others handle significant numbers of criminal and small claims matters), the location of the Court, the number of law enforcement agencies served, the policies and procedures followed by each judge with respect to the operation of the Court, and many other factors. Clerical resources and judicial time are particularly sensitive to local conditions.

In order to adequately function it is anticipated that some courts will exceed minimum requirements for clerical resources and judicial time. Similarly, the particular circumstances of a court may allow it to operate efficiently with less than the minimum requirements in the above areas; and in such circumstances waiver may be requested.

The statute also provides that the Judicial Council may grant an extension of time for any requirement which is not specifically required by statute. An extension may be granted at the discretion of the Judicial Council where individual circumstances temporarily prevent the entity from meeting a minimum requirement. An extension will be for a specific period of time and the certification of the court will terminate at the end of the extension period. In order for the court to continue to operate beyond the extension period, the court must be certified as meeting all requirements, obtain an additional extension, or obtain a waiver as provided above.

Applications for existing courts for recertification must be accompanied by an affidavit of the judge, on a form approved by the Judicial Council, certifying that the operational standards for the court have been met. Any exceptions to compliance with the minimum requirements or operational standards shall be noted on the above form. In addition, individual Justice Court Judges must meet with the governing body of the entity which created the court at least once a year to review the budget of the court, review compliance with the requirements and operational standards of the court, and discuss other items of common concern and shall certify that this meeting has been held and that the operational standards for the court have been met during the prior year.

Upon submission of an application, Judicial Council Staff will conduct an appropriate independent investigation and notify the entity of its initial recommendations, whether in favor or against certification. If staff intends to recommend against certification, it shall specify the minimum requirements that have not been met. The entity may then present additional information, request an extension, or request a waiver. After making an appropriate investigation based upon any additional information or request made by the entity, the staff will then submit its recommendations to the Judicial Council. The recommendations shall specify whether or not a waiver or extension should be granted, if either has been requested. If the recommendation is against recertification, or against waiver, or against extension, the entity may request that it be allowed to make an appearance before the Judicial Council. Any request to appear before the Judicial Council must be filed within 15 days of notification of the Committee's recommendations.

If you have any questions concerning this application, please contact Richard Schwermer, staff to the Judicial Council, at P. O. Box 140241, Salt Lake City, Utah 84114-0241, ricks@utcourts.gov or telephone: (801)578-3816.

OPERATIONAL STANDARDS

The following standards are intended to be applied in the recertification review by the Justice Court Standards Committee as operational standards. The justice courts are classified into four classes, based upon case filings. The case filing information is expressed in terms of filings per month, but courts will be classified on the basis of average monthly filings over a period of at least one year. The classification of a court is determined at creation and is subject to review and possible reclassification whenever the court is being recertified. While the standards for some areas of court operation are uniform for all levels of justice court, other standards are developed on a continuum, reflecting the difference in the time needed to competently manage caseloads of different levels.

CLASS I

MINIMUM REQUIREMENTS [Note that the following are **minimum** requirements. In order to adequately function as a Class I Court it may be necessary for your court to exceed the minimum requirements.]

- FILINGS:

501 or more citations or cases filed per month

- HOURS:

Court Open: Full Time

Judge: Full Time

- FACILITY:

Dedicated Courtroom (with juror deliberation room)

Judge's Chambers

Clerk Office

Co-located in the same facility

(Meet the Master Plan Guidelines adopted by the Judicial Council)

- CLERICAL RESOURCES:

At least three full time clerks

- PROSECUTION:

Prosecutor to screen cases and represent the county or municipality at trial.

- INDIGENT DEFENSE:

The municipality or county provides adequate funding to provide indigent defense counsel for any defendant who requests representation and qualifies.

- LEGAL RESOURCES:

The following must be available and kept current:

- a. Utah Code
- b. Local ordinances
- c. Justice Court Manual
- d. Code of Judicial Administration
- e. Uniform Bail Schedule
- f. Other legal resources as required under §78A-7-103.

- LAW ENFORCEMENT:

The local government creating the court must have at least one employed or contracted peace officer.

- BAILIFF:

The local government creating the court must provide a sworn law enforcement officer to attend court when required and provide security for the court.

- SECURITY PLAN:

A court security plan must be submitted consistent with C.J.A. Rule 3-414.

- JURY/ WITNESS FEES:

Local government is responsible for payment of statutory juror and witness fees.

- EDUCATION:

Local government is responsible for costs of attendance at Judicial Council mandated training - at least 30 hours per year for the judge, and 10 hours for clerks.

- REPORTING:

All reports and audits shall be made and timely filed as provided by law or by rule of Judicial Council. Reports to the Driver License Division and the Bureau of Criminal Identification must be made electronically.

CLASS II

MINIMUM REQUIREMENTS [Note that the following are **minimum** requirements. In order to adequately function as a Class II Court it may be necessary for your court to exceed the minimum requirements.]

- FILINGS:

201 to 500 citations or cases a month.

- HOURS:

Court Open

201-300 filings	At least 4 hours per day
301-400 filings	At least 5 hours per day
401-500 filings	At least 6 hours per day

Judge available when needed. Trial calendar set at least weekly.

- FACILITY:

Courtroom (configuration is permanent but may be shared)

Judge's Office

Clerk Office

(Courtroom and office must be co-located in the same building)

- CLERICAL RESOURCES:

201-275 filings	At least one full time clerk
276-350 filings	1.5 FTEs
351-425 filings	2.0 FTEs
426-500 filings	2.5 FTEs

- PROSECUTION:

Prosecutor to screen cases and represent the county or municipality at trial.

- INDIGENT DEFENSE:

The municipality or county provides adequate funding to provide indigent defense counsel for any defendant who requests representation and qualifies.

- LEGAL RESOURCES:

The following must be available and kept current:

- a. Utah Code
- b. Local ordinances
- c. Justice Court Manual
- d. Code of Judicial Administration
- e. Uniform Bail Schedule
- f. Other legal resources as required under §78A-7-103

- LAW ENFORCEMENT:

The local government creating the court must have at least one employed or contracted peace officer.

- BAILIFF:

The local government creating the court must provide a sworn law enforcement officer to attend court when required and provide security for the court.

- SECURITY PLAN:

A court security plan must be submitted consistent with C.J.A. Rule 3-414.

- JURY/ WITNESS FEES:

Local government is responsible for payment of statutory juror and witness fees.

- EDUCATION:

Local government is responsible for costs of attendance at Judicial Council mandated training - at least 30 hours per year for the judge, and 10 hours for clerks..

- REPORTING:

All reports and audits shall be made and timely filed as provided by law or by rule of Judicial Council. Reports to the Driver License Division and the Bureau of Criminal Identification must be made electronically.

CLASS III

MINIMUM REQUIREMENTS [Note that the following are **minimum** requirements. In order to adequately function as a Class III Court it may be necessary for your court to exceed the minimum requirements.]

- FILINGS:

61-200 citations or cases per month

- HOURS:

Court Open

61-150 filings

At least 2 hours a day

151-200 filings

At least 3 hours a day

Judge available as needed. Trial calendar set at least every other week.

- FACILITY:

Courtroom (access to public facility for trials, arraignments, etc.)

Judge's /clerk office

(Meets minimum requirements)

- CLERICAL RESOURCES:

At least one clerk required to be available daily during the scheduled hours of court operation and during court sessions as needed.

- PROSECUTION:

Prosecutor to screen cases and represent the county or municipality at trial.

COURT CERTIFICATION AFFIDAVIT

Court Location: _____

Judge: _____

Address: _____

Telephone: _____

Level of Court (Circle one): I II III IV

Average Case Filings Per Month: _____

Daily Court Hours: _____

Number of Full-time Clerks: _____

Hours Worked Per Week Per Clerk: _____

Number of Part-time Clerks: _____

Hours Worked Per Week Per Clerk: _____

This form is divided into two parts. Section I contains those requirements that are statutory and are **not** waivable. Section II contains minimum requirements established by the Judicial Council, and those requirements may be waived pursuant to the procedure set forth in the instructions to applicant included with the application for certification.

Comes now Judge _____,

Justice Court Judge for _____

_____ and,

except as specifically noted below, certifies as follows:

SECTION I

**THE FOLLOWING ITEMS ARE STATUTORY AND CANNOT BE WAIVED.
CERTIFICATION WILL NOT BE GRANTED UNLESS EACH REQUIREMENT IS MET.**

Please indicate **Yes or No** to each of the following:

1. All official court business is conducted in a public facility. _____
2. Court is open daily. _____
3. The hours of court operation are posted conspicuously. _____
4. The judge and the clerk attend court at regularly scheduled times based on the level of the court. _____
5. The judge is compensated at a fixed rate, within the statutory range. _____
6. The responsible governmental entity provides and compensates sufficient clerical personnel necessary to conduct the business of the court. _____
7. The responsible governmental entity assumes the expenses of the travel of the judge for purposes of required judicial education. _____
8. The responsible governmental entity assumes the expenses of the travel of each clerk for the purposes of attending training sessions conducted by the Judicial Council. _____
9. The responsible governmental entity provides the Court with:
 - a. Sufficient prosecutorial support _____
 - b. Funding for attorneys for indigent defendants, as appropriate _____
 - c. Sufficient local law enforcement officers to attend court as provided by statute _____
 - d. Security for the court as provided by statute _____
 - e. Witness and juror fees _____
 - f. Appropriate copies of the Utah Code, the Justice Court Manual, state laws affecting local governments, local ordinances and other necessary legal reference materials _____

10. Fines, surcharges and assessments which are payable to the state are forwarded as required by law. _____
11. Court is held within the jurisdiction of the court, except as provided by law (78A-7-212).

12. All required reports and audits are filed as required by law or Rule of the Judicial Council.

SECTION II

Section II contains minimum requirements established by the Judicial Council, and those requirements may be waived or an extension granted pursuant to the procedure set forth in the instructions to applicant included with this application for recertification.

Please indicate **YES or NO** to each of the following:

1. Court is open each day as appropriate for the classification of the court. _____
2. The judge is available to attend court and to conduct court business as needed. _____
3. Minimum furnishings in the courtroom include:
 - a. Desk and chair for the judge _____
 - b. A six inch riser _____
 - c. Desk and chair for the court clerk _____
 - d. Chairs for witnesses _____
 - e. Separate tables and appropriate chairs for plaintiffs and defendants _____
 - f. A Utah State flag _____
 - g. A United States flag _____
 - h. A separate area and chairs for at least four jurors _____
 - i. A separate area with appropriate seating for the public _____
 - j. An appropriate room for jury deliberations _____
 - k. An appropriate area or room for victims and witnesses which is separate from the public _____
 - l. A judicial robe _____
 - m. A gavel _____
 - n. Current bail schedules _____
 - o. A copy of the Code of Judicial Administration _____

- p. Necessary forms and supplies _____
 - q. Office space for the judge _____
 - r. Office space for the court clerk _____
 - s. Secure filing cabinets _____
 - t. Appropriate office supplies _____
 - u. A cash register or secured cash box _____
 - v. At least one computer with internet access _____
 - w. Access to a copy machine _____
4. The appropriate number of clerks as required by the classification of the court are present during the time court is open each day and as needed during court sessions. _____
5. Does the applicant have a law enforcement department? _____
6. If the applicant does not have a law enforcement department, identify the law enforcement agency which will provide law enforcement services for the applicant: _____

7. A security plan has been filed consistent with C.J.A. Rule 3-414. _____
8. The court electronically reports to the Driver License Division, the Bureau of Criminal Identification and the Administrative Office of the Courts as required. _____
9. If the court is a **Class I** court:
- a. Judge is employed on a full-time basis _____
 - b. Dedicated courtroom which meets the master plan guidelines adopted by the Judicial Council _____
 - c. Court has a jury deliberation room _____
 - d. Judge's chambers, clerk's office, and courtroom are in the same building _____
 - e. Judge has his or her own private chambers _____
 - f. Clerk's office is separate from any other entity _____

- g. Court is open during normal business hours _____
10. If the court is a **Class II** court:
- a. Court is open (check one)
- _____ 1. 201-300 average monthly filings: at least 4 hrs./day
_____ 2. 301-400 average monthly filings: at least 5 hrs./day
_____ 3. 401-500 average monthly filings: at least 6 hrs./day
- b. Trial calendar is set at least weekly _____
- c. Courtroom configuration is permanent _____
- d. Courtroom, judge's chambers, and clerk's office are within the same building _____
- e. Judge has his or her own private chambers _____
11. If the court is a **Class III** court:
- a. Trial calendar is set at least every other week _____
- b. Court is opened (check one):
- _____ 1. 61-150 average monthly filings: at least 2 hrs./day
_____ 2. 151-200 average monthly filings: at least 3 hrs./day
12. If the court is a **Class IV** court:
- a. Trial calendar is set at least monthly _____
- b. Court is open at least 1 hour per day _____
13. **If you have responded with a "no" to any item in Section II above, you must request a waiver or extension below and justify that request.** If waiver or extension of any requirement is requested, please specify each requirement and indicate factors which demonstrate a need for the waiver or extension. For any requested extension, please include the requested extension period. (To receive a waiver or extension of any requirement, the information requested in this section must be provided. Remember that statutory requirements cannot be waived or extended).

[illegible]

I am familiar with the minimum operational standards for this court, and except as noted above, those standards are currently met or exceeded. During the current term of the court, I have met with the appropriate governing body of the City to review the budget of the court, review compliance with the minimum requirements and operational standards, and discuss other items of common concern.

DATED this _____ day of _____, 20____.

Justice Court Judge

I declare under criminal penalty of the State of Utah that the foregoing is true and correct.

Executed on this _____ day of _____, 20_____.



MIDVALE CITY COUNCIL SUMMARY REPORT

Meeting Date: September 15, 2015

SUBJECT: Midvale Municipal Code 5.02 Business Licenses Generally

SUBMITTED BY: Chad Woolley, City Attorney

SUMMARY:

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.

STAFF'S RECOMMENDATION AND MOTION: I move that we approve Ordinance No. 2015-O-10 amending Midvale Municipal Code 5.02 Business Licenses Generally.

Attachments: Proposed Resolution
Amended Ordinance

MIDVALE CITY

ORDINANCE NO. 2015-O-10

**AN ORDINANCE AMENDING MIDVALE CITY CODE
CHAPTER 5.02 BUSINESS LICENSES GENERALLY.**

WHEREAS, the City Council desires to amend Midvale Municipal Code Chapter 5.02 Business Licenses Generally; and

WHEREAS, the City Council finds it in the City's best interest to better balance the annual renewal of city business licenses; and

WHEREAS, the City Council finds it in the City's best interest to amend Midvale Municipal Code Chapter 5.02 Business Licenses Generally to reflect current city practices; and

WHEREAS, the City Council finds it in the City's best interest to capture some of the expenses for applying for a business license;

NOW, THEREFORE, BE IT ORDAINED by the City Council of Midvale City, Utah as follows:

Section 1. The City Council desires to amend Midvale Municipal Code Chapter 5.02 Business Licenses Generally as set forth in Exhibit A.

Section 2. This Ordinance shall be effective upon date of first publication.

PASSED AND APPROVED this ___ day of _____, 2015.

MIDVALE CITY

By: _____
Mayor JoAnn B. Seghini

[SEAL]

VOTING:

Stephen Brown	Yea ____	Nay ____
Paul Glover	Yea ____	Nay ____
Quinn Sperry	Yea ____	Nay ____
Paul Hunt	Yea ____	Nay ____
Wayne Sharp	Yea ____	Nay ____

ATTEST:

Rori L. Andreason, MMC
City Recorder

Published this ____ day of _____, 2015.

Chapter 5.02

BUSINESS LICENSES GENERALLY*

Sections:

- 5.02.010 Definitions.
- 5.02.020 Business license required.
- 5.02.030 Business license division—Duties and responsibilities.
- 5.02.040 Business license application.
- 5.02.050 Issuance of a business license.
- 5.02.060 Renewals of business licenses.
- 5.02.070 Inspections and audits.
- 5.02.080 License application fees.
- 5.02.090 Business license due dates and waiver.
- 5.02.100 Term of business licenses.
- 5.02.110 Exemptions to business license fees requirements.
- 5.02.120 Transfer of license restricted.
- 5.02.130 Display of licenses.
- 5.02.140 Reciprocal recognition of business licenses.
- 5.02.150 Penalty.
- 5.02.160 Constructive notice of time periods.

* Prior history: Prior code §§ 9-111 through 9-130 as amended by Ords. 10-21-80A, 06-2-81, 3-15-83A, 3-20-84A, 2-3-87A and 6-28-88C.

5.02.010 Definitions.

The following definitions shall be applicable throughout this title unless a different meaning is clearly intended:

- A. “Alcoholic beverage licenses” means retail, wholesale, warehousing, and manufacturing liquor licenses as defined in Chapter 5.10 of this title.
- B. “Amusement device” means any machine, whether mechanically or electronically operated, that upon the insertion of a coin, trade-token, slug or similar object, operates or may be operated as a game or contest of skill or amusement, of any kind or description, and that contains no automatic payoff for the return of money or trade-tokens, or that makes no provision whatever for the return of money to the player. An amusement device is further defined as any machine, apparatus or contrivance that is used or that may be used as a game of skill and amusement wherein or whereby the player initiates, employs or directs any force generated by the machine, but specifically excludes a musical mechanical amusement device.
- C. “Applicant” means any person applying for any license provided for in this title. If the person is a partnership or corporation, then each partner, officer or director is considered an applicant and must qualify accordingly.
- D. “Application” means a formal written request for the issuance of any license permitted under this title.
- E. “Authorized officers” means those persons authorized by the city or other entities to inspect businesses and enforce the provisions of this title or other applicable regulations, including peace officers, ordinance enforcement officers, and employees of the health department, fire department, planning and zoning division, building inspection division, city attorney’s office or the city ~~administrator~~manager.
- F. “Building division” means the building division of the Midvale City community ~~and economic~~ development department.
- G. “Business” means and includes all trades, occupations, professions or activities engaged within Midvale City, carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term “business” unless otherwise specifically provided.

- H. “Business license division” means the business license division of the Midvale City community ~~and economic~~ development department.
- I. “Business license fee and bonding schedules” means the schedule of fees adopted by the Midvale City council setting forth the various fees charged by the city.
- J. “City” means Midvale City.
- K. “City ~~administrator~~manager” means the chief administrative officer of Midvale City.
- L. “City attorney’s office” means the Midvale City attorney’s office.
- M. “City recorder” means the Midvale City recorder.
- N. “Employee” means all individuals who work for an employer for salary or commission or wages and who are subject to the direction and control of such employer.
- O. “Engaging in business” includes, but is not limited to, the sale of real or personal property at retail or wholesale, the bartering or trading of property or services, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to his employer under any contract of personal employment.
- P. “Fire department” means the ~~Midvale City fire department~~Unified Fire Authority.
- Q. “Garage sale or yard sale” means the periodic sale of personal belongings at an occupied residence. Any sale held regularly or at a location other than an individual’s occupied dwelling is considered a business and is governed by the provisions of this title.
- R. “Health department” means the Salt Lake Valley health department.
- S. “Hearing board” means each and every member of the license hearing board of Midvale City.
- T. “Home occupation” is as defined in Title 17.
- U. “License administrator” means the individual or his/her designee who is the head of the business license division of the community ~~and economic~~ development department.
- V. “Licensee” means the person who has obtained any type of license provided for in this title. The term shall also include any employee or agent of the licensee.
- W. “Ordinance enforcement office” means the ordinance enforcement division of the Midvale City community ~~and economic~~ development department.
- X. “Person” means an individual, partnership, corporation, association or other legal entity.
- Y. “Place of business” means each separate location maintained or operated by the licensee, whether or not under the same name, within the city from which business is engaged in.
- Z. “Planning and zoning division” means the planning and zoning division in the Midvale City community ~~and economic~~ development department.
- AA. “Police department” means the ~~Midvale City police department~~Unified Police Department.
- BB. “Rental” means any residential dwelling, including, but not limited to, an apartment, a condominium, or a house, that is rented to an occupant other than the owner.
- BBCC. “Temporary business” means any business authorized to conduct business at any single place for a limited time as defined by the type of business. Temporary businesses include: seasonal produce, special event, temporary

retail, Christmas tree or fireworks. May not include home occupations, any business, whether or not it is temporary, which is specifically regulated or licensed under any chapter or section of this title, or any business, whether or not it is temporary, which requires a conditional use permit or administrative conditional use permit in accordance with Title 17.

~~CEEDD~~. “Violated” or “violating” means that there exists reasonable cause to believe that any ordinance, code, statute or law has been or is being violated and is not limited to pleas of guilty or convictions for violating such ordinances, codes, statutes or laws. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.020 Business license required.

A. Unless otherwise provided, it shall be unlawful for any person to engage in any business within the city without first having obtained a business license pursuant to this title. A separate license shall be required for each type of business defined in this chapter and for each place of business. Each day of noncompliance shall constitute a separate violation.

B. In addition to any criminal prosecution or civil proceedings, if any person found violating this section later applies for a license and if a license is granted, the penalty fees shall be as follows:

1. Effective December 9, 1997, the penalty fee shall be one hundred percent of the license fees for the first year, and the business shall pay an additional penalty for each year or portion of a year in which the business operated without a license. The penalty fee for each year or portion of a year without a license shall be an amount equal to one hundred twenty-five percent of the current business license fees.

2. The city ~~administrator~~ manager may authorize an amnesty period in which the penalty fees to be paid by a business operating without a license may be waived one time per calendar year for a period not to exceed one month, for the purpose of encouraging unlicensed businesses to properly license. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.030 Business license division—Duties and responsibilities.

It shall be the duty and responsibility of the business license division to:

A. Enforce the provisions of this title;

B. Collect all business license fees and all alcoholic beverage license fees;

C. Process all applications and renewals of all licenses provided for in this title;

D. Obtain the necessary approvals from the various agencies, city departments and divisions before issuing any business licenses or alcoholic beverage licenses;

E. Deny, suspend or revoke licenses as provided in this title; and

F. Generate a list of all licenses issued during the month. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.040 Business license application.

The Midvale City business license application shall be in such format and require such information as the license administrator deems necessary to enforce this title, including but not limited to:

A. The name, date of birth and home address of the person applying for the license;

B. The registered name of the business, if applicable;

C. The federal tax number of the corporation, if applicable;

D. The type of business to be engaged in;

E. The class of license desired, if the type of license is divided into classes;

- F. The location of the place of business;
- G. A state tax number, if applicable;
- H. A state contractor's number, if applicable;
- I. Proof that the business is state licensed or registered, if applicable; and
- J. A space for the applicant or applicant's authorized agent to sign under penalty of law that all the information contained therein is true. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.050 Issuance of a business license.

- A. An applicant for a business license shall fill out the application in full and sign it as verification under penalty of law that all information contained therein is true.
- B. The application shall be returned to the business license division along with full payment of all business license fees, fines and penalties, if applicable.
- C. The business license division shall submit copies to the planning and zoning division, building inspection division, code enforcement division, fire department and health department, sewer district and, for certain businesses where specifically provided for in this chapter, to the police department, for their review, unless a specific provision of this title requires submission to fewer or additional departments, divisions or agencies than those named.
- D. Only after receiving signed, written approval from each of the entities named in this section, the business license division shall be authorized to prepare a certificate of license for issuance.
- E. The certificate of license shall be signed by the license administrator and the city recorder and shall contain the following information:
 - 1. The person's name to whom the certificate is issued;
 - 2. The business name;
 - 3. The type of business licensed;
 - 4. The date the license was issued;
 - 5. The expiration date of the license;
 - 6. The address of the place of business licensed; and
 - 7. The business license number.

F. If the business is licensed to conduct more than one type of business as defined herein, the certificate of license shall state each type of business licensed; or a separate license for each type shall be issued at the discretion of the license administrator. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.060 Renewals of business licenses.

- A. Each year, licensees shall renew their business licenses by completing an application for a license renewal signed under penalty of law that all information contained therein is true and returning it, along with the proper fees and fines and penalties, if applicable, to the business license division within the time period set forth in this title. Renewal applications for businesses which require police checks of the licensees shall be submitted to the police department for their approval to ascertain whether the licensee still meets the necessary qualifications.
- B. Upon receipt of the application fees, fines, and police department approval, if applicable, the business license division shall be authorized to prepare a certificate of license as provided in this chapter. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.070 Inspections and audits.

A. Authorized officers shall be permitted to make an inspection to enforce any of the provisions of this title or any other applicable statute or ordinance, and may enter any building or may enter upon any premises during regular business hours. The officers or their authorized representatives shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and request entry.

B. Any business or establishment which displays or sells products and items as described in the definition of “principal purpose” in Section 5.12.010 shall be subject to an annual audit of gross receipts to ensure compliance with the declaration that the business is not a sexually oriented business.

C. No owner, occupant or any other person having charge, care or control of any building or premises shall fail or neglect, after proper request is made as herein provided, to properly permit entry therein by the authorized officer or his representative(s) for the purpose of inspection and examination to ensure compliance with this title. (Ord. 8/11/2009O-12 § 2, 2009: Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.080 License application fees.

All business license fees shall be those set forth in Chapter 5.08, Business License Fees and Bonding Schedules. The total fee required each year for each type of business consists of the base fee, plus the variable fees and regulatory fees.

A. Applications for new business licenses must be accompanied by an application fee as set forth in Chapter 5.08, Business License Fees and Bonding Schedules, in addition to the required base, variable and/or regulatory fees.

B. The base fees are categorized in the business license fee and bonding schedules by type of business. The definition of each type of business and the specific regulations governing them are found in this title. If a particular type of business is not listed in the business license fee and bonding schedules, then its base fee shall be the general business license base fee as set forth in the business license fee and bonding schedules.

C. The variable and regulatory fees for each business, regardless of whether it is defined in this chapter, are set forth in the business license fee and bonding schedules.

D. If, for any reason, the license application is not granted or withdrawn, the applicant may request a refund. If the application is withdrawn or denied before any inspection is conducted, the license administrator will refund 75% of the fees paid. If the application is withdrawn or denied after an inspection is conducted, the license administrator will refund 25% of the fees paid.(Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.090 Business license due dates and waiver.

A. Business license fees for new businesses shall be due and payable upon making application to the business license division. The application shall not be processed until the fees, fines and penalties, if applicable, are paid.

B. Non-rental business ~~Business~~ license fees for renewal businesses shall be due and payable on or before January 15th of each calendar year. The penalty for nonpayment of the renewal fee shall be:

1. Fifty percent of the fee due if paid by February 15th;
2. Seventy-five percent of the fee due if paid by March 15th; and
3. If the fee plus penalty is not paid by March 15th, the business shall be considered to be operating without a business license in violation of this chapter, subject to criminal prosecution for every day of operation after two months from the due date and the license fee, if a license is granted thereafter, shall be doubled.

C. All initial non-rental business licenses issued after the commencement of the current license year shall be prorated semi-annually, and the fee paid for each semi-annual period or fraction thereof during which the business has been or will be conducted, according to the following schedules; provided, however, that no annual license fee of thirty-five dollars or less shall be prorated:

1. On or after January 15th, but prior to July 1st, the fee shall be one-half of the annual fee;

2. On or after July 1st, but prior to January 15th, the fee shall be one-half of the annual fee;
3. Each application for a license under this title shall be accompanied by the license fee required to be paid for the issuance of the license desired. In addition to the license fee regularly assessed, any applicant which shall have commenced doing business prior to obtaining a valid license shall be assessed a penalty fee. The penalty fee shall be equal to twenty-five percent of the regular license fee if the applicant has operated without a license for less than thirty days, and shall be equal to one hundred percent of the regular license fee if the applicant has operated without a license for more than thirty days during the calendar year in question. Any license which has been issued pursuant to payment by means of check or bond shall be void and of no force or effect if such check or bond is not honored.

D. Rental business license fees for renewal businesses shall be due and payable on or before September 15th of each calendar year. The penalty for nonpayment of the renewal fee shall be:

1. Fifty percent of the fee due if paid by October 15th;
2. Seventy-five percent of the fee due if paid by November 15th; and
3. If the fee plus penalty is not paid by November 15th, the rental business shall be considered to be operating without a business license in violation of this chapter, subject to criminal prosecution for every day of operation after two months from the due date and the license fee, if a license is granted thereafter, shall be doubled.

~~DE.~~ Notwithstanding the provisions of this section, the license administrator may waive the imposition of license penalty fees for:

1. New businesses which have located in the city and have not obtained a Midvale City business license.
2. Existing businesses which have been licensed by the city and have been purchased, but the new owner has not reapplied for a city business license.
3. The license administrator may waive such penalty fees only upon the following conditions:
 - a. The business makes application for a city business license within five working days after being notified by the city that such a license is required; or the business voluntarily makes application for a business license prior to notification by the city; and
 - b. The business has either been located in the city for less than two years or the purchase of the business occurred less than two years prior to the business application.
4. The license administrator may not, under any circumstances, waive the business license fee due the city for the current year or for prior years in which the business operated.

~~EF.~~ Notwithstanding the provisions of this section, the city ~~administrator-manager~~ may waive the imposition of license penalty fees for:

1. Late renewal fees under the following circumstances:
 - a. Nondelivery or delayed delivery of mail;
 - b. Miscommunication between the business owner and city representative; or
 - c. Other circumstances deemed to be in the best interest of the city.
2. The city ~~administrator-manager~~ may not, under any circumstances, waive the business license fee due the city for the current year or for prior years in which the business operated. (Ord. 11/20/2007O-16 § 1 (part), 2007: Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.100 Term of business licenses.

A. All non-rental business licenses, except temporary business licenses, shall expire each year on December 31st.

B. All rental business licenses shall expire each year on August 31st.

B.C. Temporary business licenses shall expire as indicated by the type of temporary business as defined herein. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.110 Exemptions to business license fees requirements.

A. A business license fee shall not be imposed on any person engaged in business solely for religious, charitable, eleemosynary or other types of strictly nonprofit purpose which is tax exempt under the provision of Section 501(c) of the United States Tax Code.

B. A business license fee shall not be imposed on any person engaged in a business type specifically exempted from paying business licensing fees by the laws of the state of Utah.

C. Any business exempt from paying the license fee as provided in this section shall still comply with all other requirements of this title. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.120 Transfer of license restricted.

A. Business licenses are not transferable. In the event that a business is sold to a new owner while maintaining the same business type and location, a "change of owner" application shall be accepted by the license administrator in lieu of a new business application.

B. A business is not eligible to transfer ownership under a "change of owner" application unless all business license fees were paid in full at the last applicable renewal period and/or its initial fees were paid in full.

C. The business class is properly identified and maintained.

D. A "change of owner" application shall not be accepted for any business requiring a background check of the owner or principals. In the case of businesses requiring a background check, a new business application shall be submitted. (Ord. 10/28/2003O-12 (part), 2003)

5.02.130 Display of licenses.

A. Every certificate of license for a business shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the place of business so that the same may be easily seen. When the certificate of license has expired, it shall be removed and no certificate of license which is not in force and effect shall be permitted to remain posted within the place of business. If the licensee's business is such that a license cannot be displayed due to the transient or mobile nature of the business, then the licensee shall carry the license on his person ready to be shown on request by an authorized officer during all such time or times while the licensee is engaged in or pursuing the business for which a license is granted.

B. In the event the license is for a coin-operated machine or device, the certificate shall be attached or displayed in the immediate vicinity of the machine for which it has been issued. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.140 Reciprocal recognition of business licenses.

No license fee or tax shall be imposed by the city on any business whose only activity is the delivery of property sold at a regular place of business licensed and maintained outside the city where:

A. The business is at the time of such delivery licensed by a Utah municipality or county; and

B. The authority licensing such business grants to licensees of the city making deliveries within its jurisdiction the same privileges, upon substantially the same terms, as are granted by this section. However, before said business shall commence within the city a police background investigation may be required where appropriate; and

C. Neither the property delivered nor its manufacturing, producing or processing facilities are subject to inspection pursuant to any health or sanitary standards prescribed by the city; and

D. The delivery motor vehicle prominently displays a license plate or symbol issued by a Utah municipality or county evidencing compliance with its business license regulations;

E. Reciprocity shall not be granted to solicitors, mobile food units or any business requiring police checks or police I.D. cards. (Ord. 10/28/2003O-12 (part), 2003)

5.02.150 Penalty.

A. The provisions of this title may, at the sole discretion of Midvale City, be enforced through the provisions of Title 7, Midvale City Administrative Code Enforcement Program;

B. Any violations of this title shall be a class B misdemeanor;

C. Where applicable, each day of noncompliance shall constitute a separate violation. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97 (part), 1997)

5.02.160 Constructive notice of time periods.

A. All businesses, owners, licensees or applicants are obligated to be aware of and are deemed to have constructive notice of all time periods and/or deadlines and the effect of noncompliance with such time periods and/or deadlines as set forth in this title relating to the application, issuance, renewal, expiration, appeal or other action relating to business licenses, alcohol licenses, or any other licensing matters set forth in this title.

B. Nothing in this title shall be construed as requiring the city to take any affirmative action to notify businesses, owners, licensees or applicants of any time periods and/or deadlines or the effect of noncompliance with such time periods and/or deadlines set forth in this title relating to the application, issuance, renewal, expiration, appeal or other action relating to business licenses, alcohol licenses or any other licensing matters as set forth in this title. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97 (part), 1997)



MIDVALE CITY COUNCIL SUMMARY REPORT

Meeting Date: September 15, 2015

SUBJECT: Midvale Municipal Code 5.26 Massage Establishments

SUBMITTED BY: Chad Woolley, City Attorney

SUMMARY:

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.

FISCAL IMPACT: None.

STAFF'S RECOMMENDATION AND MOTION: I move that we approve Ordinance No. 2015-O-11 amending Midvale Municipal Code 5.26 Massage Establishments.

Attachments: Proposed Resolution
Amended Ordinance

MIDVALE CITY

ORDINANCE NO. 2015-O-11

**AN ORDINANCE AMENDING MIDVALE CITY CODE
CHAPTER 5.26 MASSAGE ESTABLISHMENTS.**

WHEREAS, the City Council desires to amend Midvale Municipal Code Chapter 5.26 Massage Establishments; and

WHEREAS, there a statewide problem with unlicensed massage therapists using loopholes to obtain business licenses,

WHEREAS, the City Council finds it in the City's best interest to prevent unlicensed massage therapists from obtaining City business licenses,

NOW, THEREFORE, BE IT ORDAINED by the City Council of Midvale City, Utah as follows:

Section 1. The City Council desires to amend Midvale Municipal Code Chapter 5.26 Massage Establishments as set forth in Exhibit A.

Section 2. This Ordinance shall be effective upon date of first publication.

PASSED AND APPROVED this ___ day of _____, 2015.

MIDVALE CITY

By: _____
Mayor JoAnn B. Seghini

[SEAL]

VOTING:

Stephen Brown	Yea ____	Nay ____
Paul Glover	Yea ____	Nay ____
Quinn Sperry	Yea ____	Nay ____
Paul Hunt	Yea ____	Nay ____
Wayne Sharp	Yea ____	Nay ____

ATTEST:

Rori L. Andreason, MMC
City Recorder

Published this ____ day of _____, 2015.

Chapter 5.26 MESSAGE ESTABLISHMENTS*

Sections:

[5.26.010](#) Definitions.

[5.26.020](#) Business license required.

[5.26.030](#) Qualifications of the licensee.

[5.26.040](#) Prohibited acts.

[5.26.050](#) Sanitation of premises.

[5.26.060](#) Display of licenses.

[5.26.070](#) Violation.

* Prior ordinance history: Ords. 6-2-88A and 6-28-94B.

5.26.010 Definitions.

A. "Massage" means the practice whereby a person, either by the hands or with a mechanical or electrical apparatus, administers to another person effleurage (stroking), friction (rubbing), petrissage (kneading), tapotement (percussion) and vibration (shaking or trembling), or variations of these, and the use of rehabilitative procedures involving the muscles by nonintrusive means and with spinal manipulation. The practice of massage may include the use of oil rubs, heat lamps, salt glows, hot and cold packs or tub, shower, steam or cabinet baths.

B. "Massage apprentice" means a person who is licensed as a massage apprentice by the state of Utah.

C. "Massage establishment" means any place where massages are given for hire.

D. "Massage technician" or "therapist" means a person who is licensed as a massage technician or therapist by the state of Utah. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97O (part), 1997)

5.26.020 Business license required.

It is unlawful for any person or entity to operate a massage establishment without meeting the requirements of this chapter and obtaining a business license as required by this title. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97O (part), 1997)

5.26.030 Qualifications of the licensee.

Each individual desiring a massage establishment license shall:

A. Be an individual at least twenty-one years of age;

B. Have no convictions of crimes involving moral turpitude within the past five years.

C. Submit copies of current Utah massage licenses for each massage technician, therapist, or apprentice employed at the massage establishment.

D. Meet with the Midvale Precinct Police Chief or his/her designee and sign a statement of understanding of the applicable laws and regulations.

E. Complete background checks for licensee and all employees. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97O (part), 1997)

5.26.040 Prohibited acts.

The following acts are prohibited:

A. It is unlawful for any person to practice or engage in or attempt to practice or engage in massage, without first being licensed by the state of Utah as a massage technician or massage apprentice.

B. It is unlawful for any massage establishment to employ, for the purpose of performing massage, any individual who is not licensed by the state of Utah as a massage technician or massage apprentice.

C. It is unlawful to serve, store, allow to be served, or allow to be consumed any alcoholic beverage on the licensed premises of a massage establishment.

D. It is unlawful for a massage technician, massage therapist, massage apprentice, or any employee of a massage establishment to touch or offer to touch or massage the genitalia of customers.

E. It is unlawful for the massage technician, massage therapist, massage apprentice, or any customer or employee of the massage establishment to display to any other person any specified anatomical area or to engage in any specified sexual activity, as defined in Section 5.12.010, while on the premises of the massage establishment. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97O (part), 1997)

5.26.050 Sanitation of premises.

All applications for a massage establishment license shall be referred to the Salt Lake Valley board of health for investigation, and a license shall be granted only after findings by the valley board of health that the proposed premises are sanitary enough to conduct business therein without jeopardizing the public health.

Each establishment shall provide to all patrons clean, sanitary and opaque coverage capable of covering the patron's specified anatomical areas. No common use of such covering shall be permitted, and reuse is prohibited unless having been adequately cleaned. In addition, no owner, operator, managing employee, manager, employee or masseur should administer a massage unless the patron is covered by the covering provided by the establishment. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97O (part), 1997)

5.26.060 ~~Display of licenses.~~ Licenses.

A. Every massage establishment licensed under this chapter shall display its massage establishment license in a conspicuous place on the premises.

B. Every massage technician or massage apprentice, while on the premises of a licensed massage establishment, shall maintain in his or her possession or immediate presence his or her state massage technician, therapist, or apprentice license.

C. The massage establishment license holder is required to provide the City with current licenses for each massage technician, therapist, or apprentice employed at the massage establishment. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97O (part), 1997)

5.26.070 Violation.

Any violation will constitute a class B misdemeanor. (Ord. 10/28/2003O-12 (part), 2003: Ord. 12-09-97O (part), 1997)