MIDVALE CITY COUNCIL MEETING
AGENDA
March 13, 2018

PUBLIC NOTICE IS HEREBY GIVEN that the Midvale City Council will hold a regular meeting on the 13th day of March 2018 at Midvale City Hall, 7505 South Holden Street, Midvale, Utah as follows:

7:00 PM
REGULAR MEETING

I. GENERAL BUSINESS
   A. WELCOME AND PLEDGE OF ALLEGIANCE
   B. ROLL CALL

II. PUBLIC HEARING – 7:00 p.m.
   A. PUBLIC HEARING TO ALLOW PUBLIC INPUT REGARDING (A) THE ISSUANCE AND SALE OF NOT MORE THAN $13,000,000 AGGREGATE PRINCIPAL AMOUNT OF WATER, SEWER, AND STORM WATER REVENUE AND REFUNDING BONDS, SERIES 2018; (B) ANY POTENTIAL ECONOMIC IMPACT THAT THE PROJECT DESCRIBED HEREIN TO BE FINANCED WITH THE PROCEEDS OF THE SERIES 2018 BONDS ISSUED UNDER THE ACT MAY HAVE ON THE PRIVATE SECTOR AND RELATED MATTERS [Laurie Harvey, Asst. City Manager/Admin Services Director]

III. 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 day 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 also posted at the following locations on the date and time as posted above: 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.

PLEASE MAKE SURE ALL CELL PHONES ARE TURNED OFF DURING THE MEETING

DATE POSTED:  March 9, 2018

RORI L. ANDREASON, MMC
H.R. DIRECTOR/CITY RECORDER
MAYOR: Mayor Robert M. Hale

COUNCIL MEMBERS: Council Member Dustin Gettel
Council Member Paul Glover
Council Member Quinn Sperry - Excused
Council Member Bryant Brown
Council Member Paul Hunt

STAFF: Kane Loader, City Manager; Laurie Harvey, Asst. City Manager/Admin. Services Director; Rori Andreasen, H.R. Director/City Recorder; Lisa Garner, City Attorney; Larry Wright, Public Works Director; Matt Dahl, Redevelopment Agency Director; Laura Magness, Communications Specialist; Lesley Burns, City Planner; and Matthew Pierce, IT Manager.

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

I. GENERAL BUSINESS
   A. Welcome and Pledge of Allegiance

   B. Roll Call – Council Members Paul Glover, Paul Hunt, Bryant Brown and Dustin Gettel were present at roll call. Council Member Quinn Sperry was excused.

MOTION: Councilmember Paul Glover MOVED to open the public hearing. Councilmember Paul Hunt SECONDED the motion. Mayor Hale called for discussion on the motion. There being none, he called for a vote. The motion passed unanimously.

II. PUBLIC HEARING
   A. PUBLIC HEARING TO ALLOW PUBLIC INPUT REGARDING (A) THE ISSUANCE AND SALE OF NOT MORE THAN $13,000,000 AGGREGATE PRINCIPAL AMOUNT OF WATER, SEWER, AND STORM WATER REVENUE AND REFUNDING BONDS, SERIES 2018 ;(B) ANY POTENTIAL ECONOMIC IMPACT THAT THE PROJECT DESCRIBED HEREIN TO BE FINANCED WITH THE PROCEEDS OF THE SERIES 2018 BONDS ISSUED UNDER THE ACT MAY HAVE ON THE PRIVATE SECTOR AND RELATED MATTERS

Laurie Harvey said the City is considering issuing Revenue Bonds to fund the following projects:
   • A direct connection of our water system to Jordan Valley Water Conservancy District
   • Improvements to the City’s water meter reading system
   • Improvements to the water, sewer, and storm water system infrastructure
• Upgrades to grit and phosphorous removal equipment at South Valley Water Reclamation Facility, of which the City is a partial owner

**SERIES 2018 REVENUE BOND PROJECTS**

<table>
<thead>
<tr>
<th>Project</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>JVWCD pipeline connections</td>
<td>$1,100,000</td>
</tr>
<tr>
<td>Replacement of Union area meters</td>
<td>195,000</td>
</tr>
<tr>
<td>Fixed read system</td>
<td>90,000</td>
</tr>
<tr>
<td>Water Smart software</td>
<td>40,000</td>
</tr>
<tr>
<td>Sewer system projects</td>
<td>840,300</td>
</tr>
<tr>
<td>Water system projects</td>
<td>2,300,000</td>
</tr>
<tr>
<td>SVWRF phosphorous/grit removal</td>
<td>1,700,000</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$6,265,300</strong></td>
</tr>
</tbody>
</table>

**TERMS OF BOND ISSUANCE - PROCEEDS**
Par amount not to exceed $7 million
• Project costs $6,265,000
• Underwriters discount $25,600
• Costs of issuance $145,000
• Total $6,435,600

**TERMS OF BOND ISSUANCE – INTEREST RATE**
Interest rate not to exceed 6%
• Expected true interest cost 3.83%
• Bonds may be issued with a higher coupon rate and sold at a premium

**TERMS OF BOND ISSUANCE – TERM**
Maturity may not exceed 27 years
• Anticipated maturity is 25 years
• Last payment due October 2043

**DEBT SERVICE**
Debt service is estimated at $382,000 - $387,000 per year
• Allocated to fund where proceeds were spent

**NEXT STEPS**
• Tonight’s public hearing to receive comment from the public
• 30-day contest period begins
• Marketing of bonds in mid-April
• Closing in late April

A parameters resolution was adopted on February 20, 2018, authorizing the issuance of bonds not to exceed:
• $7 million par amount for the above projects
• An interest rate of six percent (6.0%) (allowing for the ability to price with original issue premium)
• A maximum length to maturity of twenty-seven (27) years
• A three percent (3%) discount from par

The resolution also authorizes officers of the City to approve the final terms and provisions of the bonds within the parameters set forth.

A notice of intent to issue bonds was published in the newspapers on February 24 and March 5, 2018. The notice included the date, time and place of tonight’s public hearing. The purpose of this public hearing is to receive input from the public with respect to the issuance of the Bonds and the potential economic impact that the Project will have on the private sector. A 30-day contest period will follow the public hearing.

**FISCAL IMPACT:**
We anticipate that the issuance of the bonds will provide construction funds of $7 million. Based upon a term of twenty-seven years, estimated debt service is about $390,000 per year. We plan to service the debt with utility user fee revenue from water, sewer, and storm water charges.

Councilmember Dustin Gettel asked if the smart system software could be made available to apartment residents.

Laurie Harvey said the only way to do so was to have a separate meter for every apartment. It will be available to the property owner.

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

**MOTION:** Councilmember Paul Glover MOVED to close the public hearing. Councilmember Bryant Brown SECONDED the motion. Mayor Hale called for discussion on the motion. There being none, he called for a vote. The motion passed unanimously.

III. **ADJOURN**

**MOTION:** Councilmember Paul Glover MOVED to adjourn the meeting. Councilmember Dustin Gettel SECONDED the motion. Mayor Hale called for discussion on the motion. There being none, he called for a vote. The motion passed unanimously.

The meeting adjourned at 7:13 p.m.

Rori L. Andreason, MMC
H.R. DIRECTOR/CITY RECORDER

Approved this 27\textsuperscript{th} day of March 2018.
<table>
<thead>
<tr>
<th>NAME (PLEASE PRINT)</th>
<th>ADDRESS</th>
<th>CITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Spencer Mead</td>
<td>384 Princeton Dr</td>
<td>Midvale</td>
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</table>
OPEN AND PUBLIC MEETINGS ACT

POLICY and PURPOSE.

The Act specifically says that it is the intent of the Legislature that the State and its political subdivisions exist to aid in the conduct of the people's business and that they are to take their actions openly and that their deliberation are to be conducted openly.\(^1\)

The Act is considered so important by the state legislature that it specifically requires that the chair of every public body sees that the public body is trained at least annually in how to comply with the Act\(^2\) and there can be criminal sanctions for knowing and intentional violations of the Act.\(^3\)

WHAT IS A MEETING.

A meeting is defined as the convening of a public body when a quorum is present. It includes workshops and executive sessions even though the act does not define either. The definition of meetings includes either in person or through electronic communications. However the Act also states that "Nothing in this chapter shall be construed to restrict a member of a public body from transmitting an electronic message to other members of the public body at a time when the public body is not convened in an open meeting."\(^4\)

What you call a meeting (work session etc.) does not determine whether or not it must be a public meeting. All meetings of public bodies start out as open and public meetings.

Quorum for a City with a six member council form of government is defined as three council members not including the mayor.\(^5\)

The definition of meeting is qualified by the description that it must be for the purpose of discussing, receiving comments from the public about, or acting on a matter over which the public body has jurisdiction or advisory power.

Convening is defined to mean the calling of a meeting of a public body by a person, authorized to do so, for the purpose of either discussing or acting on a matter over which that public body has either jurisdiction or advisory power.

The exceptions to the definition of meeting are very narrow. They include a chance meeting, a convening of a public body that has both legislative and executive responsibilities where no public funds are appropriated, and where the meeting is convened just to implement

\(^1\) Utah Code section 52-4-102.
\(^2\) Utah Code section 52-4-104.
\(^3\) Utah Code section 52-4-305.
\(^4\) Utah Code section 52-4-210.
\(^5\) Utah Code section 10-3-504.
administrative matters. Social meetings are also not subject to the Open and Public Meetings Act although there does not appear to be any definition of what a social meeting is.

WHAT IS A PUBLIC BODY.

A public body is any group of two or more persons, officially created (by constitution, statute ordinance or resolution), that has the power to expend, disburse, or is supported in whole or part by tax revenue and has authority to do the public's business, it is governed by the act. The intent of this is to include all committees, commissions, or other groups that may be carrying out anything that looks like the public's business if they are supported by public funds. If you officially take some action to create a committee or group to do some public function you should anticipate that the group will have to comply with the Open and Public Meetings Act.

NOTICE OF MEETING.

Any public body that has holds regular meetings, such as the regular city council meetings, must give public notice at least annually, of the anticipated meeting schedule. The notice must include the date, time, and place of the scheduled meetings.

In addition to this annual notice of regular meetings, each meeting must have its own notice. This notice must be given at least twenty-four hours prior to the meeting and needs to consist of the agenda, the date, time, and place of the meeting.

Both the annual notice and the notice requirements for each meeting are satisfied by posting the written notice at the principal office of the public body or at the building where the meeting is to be held and providing a copy of the notice to at least one newspaper of general circulation within the jurisdiction of the public body or to a local media correspondent. You must also post it on the State of Utah website called the Utah Public Notice website.

EMERGENCY MEETINGS.

When there are unforeseen circumstances and it is necessary to hold an emergency meeting, the notice requirements can be disregarded and the best notice practical needs to be given. An emergency meeting cannot be held unless an attempt has been made to notify all members of a public body and a majority of the public body approves calling the meeting. Forgetting to put something on an agenda does not constitute an emergency situation.

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6 This could apply to small fifth and fourth class cities and towns where individual council members have administrative departments but should only be used in very few circumstances.
7 Utah Code 52-4-208
8 Utah Code 52-4-103(7)(a)
9 Utah Code 52-4-202.
10 Utah Code 52-4-202(5).
MEETING AGENDA.

Each meeting notice must include an agenda for the meeting. The agenda must also provide enough detail to notify the public as to the topics to be discussed and the decisions that may be made. If an item in not on the agenda, no final action can be taken on that item. However, at the discretion of the chair of the meeting, an item not on the agenda, brought up by the public, can be discussed, if no final action is taken on the matter. While “final action” is not defined in the Act, the Act is very clear that no ordinance, resolution, rule, regulation, contract, or appointment can be approved except at a public meeting.

CLOSED MEETINGS.

Generally all parts of meetings are required to be open to the public. There are however some circumstances when a portion of a meeting may be closed to the public. These are intended to be very limited exceptions and every meeting, even one anticipated by the body to be closed to the public, must be convened and begin as a public meeting. A city or town public body can close portions of its meetings to do the following:

a) Discuss the character, professional competence, or physical or mental health of an individual.

b) Hold a strategy session to discuss collective bargaining.

c) Hold a strategy session to discuss pending or reasonably imminent litigation.

d) Hold a strategy sessions to discuss the purchase, exchange, or lease of real property when public discussion of the transaction would disclose the appraisal or estimated value of the property under consideration or prevent the public body from completing the transaction.

E) Hold a strategy sessions to discuss the sale of real property.

f) Discuss the deployment of security devices and investigative proceedings regarding criminal conduct.

I addition there are other purposes for closed meetings that are not relevant to Cities and Towns.

The open meetings Act specifically requires that if a work shop or executive session is being held on the same day as a regularly scheduled meeting of the public body, then the workshop or executive session must be held at the same location as the regularly scheduled meeting with certain limited exceptions.

Before any part of a meeting may be closed for one of these valid reasons, the public body must be called together in an open meeting. At least two-thirds of the members of the public body present must vote to close the meeting, before it can be closed. The reasons for holding the closed meeting and the vote either for or against the proposition to hold the meeting are to be entered into the minutes of the public portion of the meeting.

11 Utah Code 52-4-202(6)
12 Utah Code 52-4-205
13 Utah Code 52-4-201
No ordinance, resolution, rule, regulation, contract, or appointment can be approved at a closed meeting. In addition it is not permissible to interview a person applying to fill an elected position in a closed meeting.

**MINUTES.**

The law requires that written minutes be kept of all meetings. The minutes must include certain minimal detail. The written minutes of an open meeting must include the date, time, and place of a meeting; the names of the members present and absent; the substance of the matters discussed or decided on including a summary of the comments made by members of the body; a record, by individual member, of the votes taken; the names of any person who made comments in the meeting; the substance, in brief of the comments made; and any other material a member of the public body requests be entered in the minutes that is a record of what occurred in the meeting. A public body may satisfy the requirement that minutes include the substance of matters proposed, discussed, or decided or the substance of testimony or comments by maintaining a publicly available online version of the minutes that provides a link to the meeting recording at the place in the recording where the matter is proposed, discussed, or decided or the testimony or comments provided. The minutes of an open meeting in which a portion is closed must also include the reason for holding the closed meeting, where the closed meeting will be held, and the vote by member to close the meeting.

The closed meetings minutes must include the date, time, and place of the meeting; the names of the members present and absent; and the names of other persons present except where disclosure would infringe on the confidence necessary to fulfill the purpose of closing the meeting.

The city or town must adopt a policy defining what is reasonable for getting the minutes approved as final and must make draft minutes available to the public at the same time they are available to members of the public body. These minutes are public records and are available to the public and a draft copy of the minutes for the City or Town Council must be available within 30 days of the meeting and within 3 days from when they are approved.

**RECORDING OF MEETINGS.**

All open meeting must also be recorded. The recording must be labeled with the date, time and place of the meeting and are public documents that must be made available to the public for its listening pleasure or for copying within three business days following the meeting. The recording must be complete and unedited. In addition the Utah Open and Public Meetings Act gives the public the right to record any open meeting. This recording could include either audio recording or video recording of the meeting.

The closed portion of the meeting must also be recorded with limited exceptions. These recordings of the closed portion of a meeting are protected records under the Government

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14 Utah Code 52-4-204(3)
15 Utah Code 52-4-205(2)
16 There is no provision for closing a meeting to discuss the general category of personnel. It is never appropriate to close a meeting to discuss general personnel matters. You can close a meeting to discuss an individual.
Records Access and Management Act and, therefore, should not become public except under the provisions of that act. Disclosure of the information discussed in a closed meeting without the permission of the public body may be a violation of the Utah Municipal Officers and Employees Ethics Act.\(^\text{17}\)

There is a limited exception to the requirement that a closed meeting be recorded. Meetings in which the competence or physical or mental health of an individual is discussed or the deployment of security devices is discussed do not need to be recorded. The public body holding the meeting can have the chair or presiding officer sign a sworn affidavit affirming that the sole purpose for closing the meeting was to discuss only those issues.

**ENFORCEMENT OF OPEN MEETINGS ACT.**

It is a criminal offense to knowingly or intentionally violate the Open and Public Meetings Act.\(^\text{18}\) The attorney general and the county attorneys of the state are charged with enforcing the Open and Public Meetings Act. The Office of the Attorney General is required to give annual notice to public bodies of any changes in the open meetings law and the presiding officer of all public bodies is required to give annual training on the law to the members of the public body.

Private individuals can also enforce the open meetings act by bringing suit if done in a timely fashion. They must bring the action within 90 days from the violation (30 days if it is a bond issue). They may bring suit to enjoin or force compliance with provisions of the act. If the private individuals prevail, the court may award reasonable attorneys fees and court costs to the successful plaintiffs. Actions taken in violation of the open meetings act are voidable not void. This means that if no challenge is taken of the action with the 90 days then the action is still valid and it is too late to challenge it under the Act.

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\(^\text{17}\) Utah Code 10-3-1304(2)(a)
\(^\text{18}\) Utah Code 52-4-305