MIDVALE CITY COUNCIL MEETING
AGENDA
August 28, 2018

PUBLIC NOTICE IS HEREBY GIVEN that the Midvale City Council will hold a special meeting on the 28th day of August 2018 at Midvale City Hall, 7505 South Holden Street, Midvale, Utah as follows:

6:30 PM
REGULAR MEETING

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

II. ACTION ITEMS
A. Consider Ordinance No. 2018-O-10 Amending Midvale Municipal Code, Chapter 5.54 Wireless Communications Services [Garrett Wilcox, Deputy Attorney]


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: AUGUST 24, 2018

RORI L. ANDREASON, MMC
H.R. DIRECTOR/CITY RECORDER
CITY COUNCIL MEETING  
Minutes  
Tuesday August 28, 2018  
Council Chambers  
7505 South Holden Street  
Midvale, Utah 84047

MAYOR: Mayor Robert Hale

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

STAFF: Kane Loader, City Manager; Laurie Harvey, Asst. City Manager/Admin. Services Director; Rori Andreasen, H.R. Director/City Recorder; Lisa Garner, City Attorney; Garrett Wilcox, Deputy City Attorney, Matt Dahl, Redevelopment Agency Director; and Jake Shepherd, Network Administrator.

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

I. GENERAL BUSINESS  
A. Welcome and Pledge of Allegiance

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

II. ACTION ITEMS  
A. CONSIDER ORDINANCE NO. 2018-O-10 AMENDING MIDVALE MUNICIPAL CODE, CHAPTER 5.54 WIRELESS COMMUNICATIONS SERVICES

Garrett Wilcox said on January 16, 2018, the Council adopted Chapter 5.54 ‘Wireless Communications Services.’ This ordinance put a regulatory scheme in place that allows wireless providers to install small wireless facilities in the City’s right-of-way under certain conditions. This ordinance had been negotiated with several providers who were ultimately supportive of the adoption of the ordinance.

Earlier that day, the Legal Department attended a meeting at the State Capitol in which they were told that S.B. 189 ‘Small Wireless Facilities Deployment Act’ would likely be introduced and passed that legislative session. In coordination with the Utah League of Cities and Towns, the Legal Department assisted in negotiating with wireless providers, state legislators, and others in improving the bill. The passed version of the bill was an improvement from the original draft, but it had the unfortunate effect
of a limiting municipalities’ ability to regulate and control the deployment of small wireless facilities within their right-of-way. This bill specifically prohibited grandfathering existing ordinances. Any municipality with an existing ordinance, such as Midvale, is required under the bill to have an ordinance that is compliant with S.B. 189 before the ‘Small Wireless Facilities Deployment Act’ goes into effect on September 1.

The proposed ordinance makes the necessary changes to the City’s Chapter 5.54 ‘Wireless Communications Services.’ As mentioned above, under S.B. 189 the City became limited in what requirements it could impose on providers of small wireless facilities. To the extent possible, the proposed ordinance attempts to keep the most important requirements in place. The City is still requiring that small wireless facilities are stealthed and that the impact on the right-of-way from their associated ground equipment is minimized. The amendment specifically requires heightened aesthetic standards in Downtown Midvale, State Street, Bingham Junction, Jordan Bluffs, and Transit-Oriented zones. The amendment also requires providers to bring their small wireless facilities up to existing requirements every 10 years as a condition of renewal. And to the extent permitted under federal law, the amended ordinance continues to prohibit the installation of any wireless facility or utility pole that does not meet the requirements of a permitted use in the ‘Small Wireless Facilities Deployment Act.’

Unfortunately, because of the ‘Small Wireless Facilities Deployment Act,’ the proposed ordinance loses some a number of tools the City had put in place to incentivize certain kinds of installation. First, the state required definition of small wireless facilities is nearly double in volume from that adopted by the City. Second, municipalities are prohibited from requiring placement of small wireless facilities on specific structures. Third, municipalities are prohibited from requiring minimum separation distances. As a result of these prohibitions, the City’s current scheme to incentivize providers to install their facilities on existing infrastructure has largely been gutted. The City must now allow noticeably larger facilities in the right-of-way without much control over the type of installation or their placement.

With the ‘Small Wireless Deployment Act’ taking effect on September 1, the staff recommends adopting the proposed ordinance to bring Chapter 5.54 into compliance with the law. Although the proposed amendments will reduce the City’s control over its right-of-way, the amended Chapter 5.54 will provide more control, especially over aesthetics, than relying on the minimal default standards established in the ‘Small Wireless Deployment Act.’

The Council discussed the regulations and the possibility of lobbying for changes. Lisa Garner said it is regulated by the federal government.

Kane Loader commended Garrett Wilcox and Lisa Garner for their diligence is getting the City up to speed on this issue and ahead of many other cities in preparing these ordinances.
MOTION:(114,207),(894,296) Council Member Quinn Sperry MOVED to approve Ordinance No. 2018-O-10 Amending Chapter 5.54 Wireless Communications Services. The motion was SECONDED by Council Member Paul Hunt. Mayor Hale called for discussion on the motion. There being none then he called for roll call vote. The voting was as follows:

Council Member Quinn Sperry  Aye
Council Member Paul Glover  Aye
Council Member Paul Hunt  Aye
Council Member Bryant Brown  Aye
Council Member Dustin Gettel  Aye

The motion passed unanimously.


Garrett Wilcox said Midvale has historically used Chapter 12.12 ‘Excavations Within City Rights-of-Way’ to regulate all activity within the City’s rights-of-way. This was sufficient when the right-of-way was being utilized by a small number of users, and those users were installing predictable kinds of installations. However, in the last several years, the number of users and the types of installations have increased substantially. As a result, Chapter 12.12 is no longer sufficient to regulate all activity in the City’s right-of-way.

The proposed Chapter 12.14 ‘Installations Within City Rights-of-Way’ is an attempt to modernize the City’s regulation of the right-of-way. With this new chapter, activity in the right-of-way will now be regulated by whether such intrusions are permanent or temporary. Chapter 12.12 will regulate temporary intrusions such as excavations, road cuts, the installation of conduit, etc. Chapter 12.14 will regulate anything that is installed in the right-of-way on a permanent basis such as boxes, cabinets, poles, etc.

The proposed Chapter 12.14 will serve the City in two ways. First, it will standardize the type of information collected by the City for installations within the right-of-way. This improved, standardized information will better assist our City Engineer and other City staff in planning right-of-way projects. It will also place the requirement on installation owners to maintain an inventory of such installations for the City to check its information against. Second, it will also standardize the types, sizes, placement, and aesthetic requirements for installations within the right-of-way. These requirements are based heavily on the requirements established in Chapter 5.54 for small wireless facilities.

Lastly, under S.B. 189 the ‘Small Wireless Facilities Deployment Act,’ the State has mandated that municipalities must treat all users of the right-of-way in a nondiscriminatory fashion. Additionally, it also mandates that municipalities may not collect additional information from a small cell provider that it does not also collect
from communications providers. If municipalities are not completely compliant with S.B. 189 before its effective date on September 1, 2018, a municipality's ordinance is considered invalid and a wireless provider must only comply with the minimum protections of the 'Small Wireless Facilities Deployment Act.' The City wants to maintain the greatest control possible over its own property. Chapter 12.14 will bring the City into compliance with S.B. 189 and will allow the City to maintain the greatest amount of control over its right-of-way.

With the increasing congestion and multiple uses in the City's right-of-way, the proposed Chapter 12.14 will better help the City manage its right-of-way by collecting improved information, establishing general standards for installations, and establishing complete compliance with S.B. 189.

MOTION: Council Member Paul Hunt MOVED to approve Ordinance No. 2018-O-11 creating the Midvale Municipal Code Chapter 12.14, Installations within the City Rights-of-Way. The motion was SECONDED by Council Member Bryant Brown. Mayor Hale called for discussion on the motion. There being none then he called for roll call vote. The voting was as follows:

Council Member Quinn Sperry Aye
Council Member Paul Glover Aye
Council Member Paul Hunt Aye
Council Member Bryant Brown Aye
Council Member Dustin Gettel Aye

The motion passed unanimously.

III. ADJOURN

MOTION: Council Member Paul Glover MOVED to adjourn the meeting. The motion was SECONDED by Council Member Paul Hunt. Mayor Hale called for discussion on the motion. There being none, he called for a vote. The motion passed unanimously.

The meeting adjourned at 6:43 p.m.

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

Approved this 4th day of September 2018.
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<tr>
<th>NAME (PLEASE PRINT)</th>
<th>ADDRESS</th>
<th>CITY</th>
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<tbody>
<tr>
<td>Debbie Lowe</td>
<td>4393 Riverboat Rd.</td>
<td>Taylorsville</td>
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