ORDINANCE NO. 2019-O-08

AN ORDINANCE FORMALIZING THE CITY COUNCIL DECISION ON MARCH 6, 2007 TO VACATE THE 210 WEST PUBLIC RIGHT-OF-WAY BEGINNING AT 7200 SOUTH AND RUNNING NORTH APPROXIMATELY 400 FEET AND DECLARING SAID PROPERTY SURPLUS

WHEREAS, pursuant to Section 10-9a-609.5 Utah State Code, the Midvale City (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, in January 2007, the City received a request from KOB Lynwood Midvale LLC for the City to vacate the 210 West public right-of-way beginning at 7200 South and running north approximately 400 feet and to purchase the associated 0.32 acre parcel to include in its adjacent commercial development project; and

WHEREAS, all City Departments reviewed said request and recommended it be granted based on the following: (1) no parcel with access to the 210 West right-of-way uses it as primary access; (2) the road, when open, provides little more than internal circulation for the adjoining commercial uses; (3) the proposed development plan will allow the secondary access 210 West provides in the area to continue; and (4) there were no complaints regarding access in the area while 210 West was closed for a number of months; and

WHEREAS, the Planning Commission held a public hearing on February 28, 2007 preceded by the required notice and forwarded a recommendation to the City Council to vacate the 210 West public right-of-way, declare the property surplus, and sell the property to KOB Lynwood Midvale LLC to use as part of its future commercial
project with the condition the internal vehicular circulation system continue to provide access to the parking lot north of the right-of-way; and

WHEREAS, the City Council held a public hearing on March 6, 2007 preceded by the required notice and approved the vacation of the 210 West public right-of-way, declared the associated property surplus, and agreed to sell the property to KOB Lynwood Midvale LLC to include within its commercial development project with the condition the internal vehicular circulation system continue to provide access to the parking lot north of the right-of-way; and

WHEREAS, the commercial development project, including the vacated right-of-way (the “Midvale Station Commercial Retail Center” or “Midvale Station”), was reviewed, approved, and constructed (with the exception of two building pads) in the following years with the understanding the 210 West right-of-way vacation had been recorded and the property purchased by KOB Lynwood Midvale LLC; and

WHEREAS, the recent review of a development application for one of the undeveloped Midvale Station pads brought to the City’s attention the 210 West right-of-way still being shown on Salt Lake County’s official property map because the right-of-way vacation approved by the City Council in 2007, although done through the appropriate process, was not formalized by an ordinance and therefore not recorded by Salt Lake County; and

WHEREAS, it is the desire of the City Council to formalize the March 6, 2007 City Council decision regarding the vacation of the 210 West right-of-way, so it can be officially recorded, and Salt Lake County’s official property map can reflect the existing development and use of the property.

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

Section 1. The following described right-of-way 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 north of 7200 South at 210 West in 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. The Midvale City Council does hereby authorize the Mayor to sign any documents needed to transfer ownership of the property.

Section 4. This ordinance shall be effective upon publication of a summary thereof.

PASSED AND APPROVED this 4th day of June, 2019.

[Signature]
Robert M. Hale, Mayor

ATTBST:
Rori Andreasen, MMC
City Recorder

Date of first publication: June 11, 2019

Voting by City Council
Bryant Brown       “Aye”    “Nay”
Dustin Gettel
Paul Glover
Paul Hunt
Quinn Sperry
EXHIBIT A

DESCRIPTION OF THE PROPERTY

Road Vacation Parcel
Located in the Northeast Quarter of Section 25,
Township 2 South, Range 1 West,
Salt Lake Base and Meridian.

Beginning at a point on the north line of 7200 South Street said point being South
1242.56 feet and West 1799.59 feet from the Northeast Corner of Section 25, Township 2 South,
Range 1 West, Salt Lake Base and Meridian, said Northeast Corner of Section 25 being North
4°00'25" East 1201.54 feet along the State Street monument line and North 85°05'35" West
287.34 feet from a street monument found at the intersection of 7200 South and State Street, and
running; thence North 78°04'21" West 35.82 feet along the north line of said 7200 South Street;
thence North 399.84 feet; thence North 89°50'44" East 35.05 feet; thence South 407.38 feet to
the point of beginning.

Contains 14,146 square feet. 0.32 acres.

Parcel Number:
Midvale City
CITY COUNCIL MEETING
Minutes

Tuesday, March 6, 2007
Council Chambers
655 West Center Street
Midvale, Utah 84047

MAYOR: JoAnn Seghini

COUNCIL MEMBERS: Councilmember Kelly H. Bennett
Councilmember Colleen Costello
Councilmember Paul Glover
Councilmember Brent Moore
Councilmember Wayne Sharp

STAFF: Kane Loader, City Administrator; Rori Clark, City Recorder; Marty Pezely, City
Attorney; Laurie Harvey, Administrative Services Director; Phillip Hill,
Community & Economic Development Director; Keith Ludwig, Public Works
Director; Tony Mason, Police Chief; Stephen Higgs, Fire Chief; Brian Tucker; City
Planner; and Lesley Burns, Associate Planner.

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

BRIEFING MEETING

STAFF REPORTS
Chief Tony Mason, Police, reported on recent activities and incidents in the Police Department.
He also introduced Captain Kimberly Burgon and Captain Steve Shreve who were sworn in
that evening and are ready to serve.

Chief Stephen Higgs updated the Council on the Fire Department issues.

Councilmember Colleen Costello mentioned a very nice letter she received thanking the City for
the CERT class that is offered.

Laurie Harvey reported on the company she is recommending the City contract with to allow
citizens to make payments online. An average monthly payment option is also available at no
additional cost. Lewis Young should be reporting back soon on financing options for the sewer
lift stations.

Phillip Hill updated the Council on recent activity in the Community & Economic Development
Department.
Keith Ludwig reported on Public Works projects and activities. A job offer for the Field Engineer/Project Manager was extended to an applicant and accepted. He will start work on Monday.

Rori Clark asked the Council to inform her if they would like to attend the ULC&T Spring Conference in April.

Kane Loader discussed the budget retreat scheduled for Thursday and Friday of that week.

Mayor JoAnn Seghini called the regular meeting to order at 7:05 p.m.

1. GENERAL BUSINESS

1.1 PLEDGE OF ALLEGIANCE

1.2 ROLL CALL - Council Members Wayne Sharp, Kelly H. Bennett, Colleen Costello, Brent Moore, and Paul Glover were present at roll call.

1.3 PUBLIC COMMENTS - There was no one present who desired to speak.

MOTION: Councilmember Brent Moore MOVED to go into a public hearing. Councilmember Colleen Costello SECONDED the motion. Mayor Seghini called for discussion on the motion. There being none, she called for a vote. The motion passed unanimously.

2. PUBLIC HEARINGS

2.3 CONSIDER VACATION OF RIGHT-OF-WAY ACQUISITION, APPROXIMATELY 210 WEST 7200 SOUTH KOB LYNWOOD MIDVALE, LLC

Phillip Hill stated that KOB Lynwood Midvale, LLC has submitted preliminary drawings to the Planning staff for a 38,000 square foot commercial project at approximately 210 West and 7200 South. The project takes in the property that had contained the Backyards of America use and the property to the west of the 210 West right-of-way, the former site of the Chinese Buffet. The 210 West right-of-way would be in the middle of the project area. 210 West should be considered a good candidate for vacation since:

- No parcel with access to 210 West uses it as a primary access;
- The road, when open, provides little more than internal circulation for adjoining commercial uses;
- The development plan would continue the secondary access that 210 West currently provides;
- There have been no complaints about access even though the road has been closed for months.
Resolution 12/14/1999 was adopted creating a policy and procedure for processing these types of requests. It is required by that resolution that each city department review and either approve or disapprove the request. This request is being reviewed by the applicable departments and no complications are anticipated.

Planning Commission Recommendation:
The Planning Commission acted as follows:

"I move that we recommend that the City Council vacate the right-of-way for 210 West based on the surplus nature of the property in its current configuration as a city street and sell the property to KOB Lynwood Midvale, LLC to use as part of their commercial project with the condition that the internal transportation system continue to provide access to the parking lot to the north."

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

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

MOTION: Councilmember Wayne Sharp MOVED to vacate the right-of-way for 210 West based on the surplus nature of the property in its current configuration as a city street and sell the property for not less than $10,000 to KOB Lynwood Midvale, LLC to use as part of their commercial project with the condition that the internal transportation system continue to provide access to the parking lot to the north. Councilmember Paul Glover SECONDED the motion. Mayor Seghini called for discussion on the motion. There being none, she called for a roll call vote. The voting was as follows:

<table>
<thead>
<tr>
<th>Councilmember</th>
<th>Vote</th>
</tr>
</thead>
<tbody>
<tr>
<td>Councilmember Wayne Sharp</td>
<td>Aye</td>
</tr>
<tr>
<td>Councilmember Colleen Costello</td>
<td>Aye</td>
</tr>
<tr>
<td>Councilmember Kelly Bennett</td>
<td>Aye</td>
</tr>
<tr>
<td>Councilmember Paul Glover</td>
<td>Aye</td>
</tr>
<tr>
<td>Councilmember Brent Moore</td>
<td>Aye</td>
</tr>
</tbody>
</table>

The motion passed unanimously.