

**MIDLAND CITY COUNCIL
MINUTES
October 6, 2020**



The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., October 06, 2020.

Council Members present: Patrick Payton, Spencer Robnett, Michael Trost, Scott Dufford, John Norman, Jack Ladd, Lori Blong

Council Members absent: None

Staff members present: City Attorney John Ohnemiller, Interim City Manager Robert Patrick, Assistant City Manager Morris Williams

The meeting was called to order at 10:00 a.m.

OPENING ITEMS

1. Invocation – Pastor Phil Allman, Grace Lutheran Church
2. Pledge of Allegiance

PRESENTATIONS

3. PROCLAMATION FOR 2020 ARTS COUNCIL OF MIDLAND DAY

Mayor Payton presented the proclamation.

Interim City Manager Robert Patrick presented Council with a large thank you card from USSSA Baseball thanking Council for turfing the fields at the Bill Williams Sports Complex. The card was signed by all of the players.

CONSENT AGENDA

Lori Blong moved to approve the Consent Agenda, excluding items 6, 9, 10, 11, 14, 18, 19; seconded by John Norman.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

4. MOTION APPROVING THE FOLLOWING MINUTES:

4a. REGULAR CITY COUNCIL MEETING OF SEPTEMBER 22, 2020

5. 2020-154 – RESOLUTION APPROVING THE SOLE-SOURCE MASTER AGREEMENT FOR NEPTUNE WATER METERS AND ASSOCIATED PARTS FOR THE CUSTOMER SERVICE DIVISION OF THE FINANCE DEPARTMENT FROM CORE & MAIN, LP, AT A TOTAL COST NOT TO EXCEED \$2,999,933.85 (GENERAL SERVICES)
7. 116-2020 – MOTION AUTHORIZING THE EXECUTION OF A COMMERCIAL HANGAR LEASE AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS AND PAUL ARMSTRONG DBA SKYWEST AVIATION, INC., REGARDING HANGAR S-14 LOCATED ON CITY-OWNED PROPERTY DESCRIBED AS TRACT 2-B OF LOT 1A, BLOCK 13, INDUSTRIAL PARK REGIONAL AIR TERMINAL, UNIT 12, MIDLAND, MIDLAND COUNTY, TEXAS (AIRPORTS)
8. 117-2020 – MOTION AUTHORIZING THE EXECUTION OF A COMMERCIAL HANGAR LEASE AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS AND EMPIRE AIRLINES, INCORPORATED, REGARDING HANGAR S-13 LOCATED ON CITY-OWNED PROPERTY DESCRIBED AS TRACT 2-B OF LOT 1A, BLOCK 13, INDUSTRIAL PARK REGIONAL AIR TERMINAL, UNIT 12, MIDLAND, MIDLAND COUNTY, TEXAS (AIRPORTS)
12. 2020-156 – RESOLUTION AUTHORIZING THE EXECUTION OF A COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT WITH CASA DE AMIGOS FOR THE CASA DE AMIGOS HOME CLEANING PROJECT IN THE AMOUNT OF \$40,000.00; THE PURPOSE OF THIS PROJECT IS TO PROVIDE HOME CLEANING SERVICES TO PROMOTE THE ENVIRONMENTAL AND PHYSICAL HEALTH OF SENIOR CITIZENS AND INDIVIDUALS WITH DISABILITIES; THE PROJECT WILL BEGIN ON OCTOBER 1, 2020, AND END ON SEPTEMBER 30, 2021 (DEVELOPMENT SERVICES)
13. 2020-157 – RESOLUTION AUTHORIZING THE EXECUTION OF A COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT WITH MISSION HEALTH CARE, INC., FOR THE MISSION CENTER TAKE HOME TERRIFIC PROJECT IN THE AMOUNT OF \$30,000.00; THE PURPOSE OF THIS PROJECT IS TO PROVIDE DELIVERED EVENING MEALS TO SENIOR CITIZENS AND INDIVIDUALS WITH DISABILITIES; THE PROJECT WILL BEGIN ON OCTOBER 1, 2020, AND END ON SEPTEMBER 30, 2021 (DEVELOPMENT SERVICES)
15. 2020-159 – RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF MIDLAND AND WEST TEXAS FOOD BANK FOR THE CARES WEST TEXAS FOOD BANK PROJECT (DEVELOPMENT SERVICES)

16. 2020-160 – RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY OF MIDLAND AND CASA DE AMIGOS OF MIDLAND, TEXAS, INC., FOR THE CASA DE AMIGOS - CARES CITYWIDE COMMUNITY SERVICES PROJECT (DEVELOPMENT SERVICES)
17. 2020-161 – RESOLUTION AUTHORIZING THE MAYOR, CITY MANAGER, AND CITY ATTORNEY TO ACCEPT AND EXECUTE THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT IN THE AMOUNT OF \$1,441,115.00 (DEVELOPMENT SERVICES)
20. 2020-163 – RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE AN APPROXIMATE 20-ACRE TRACT OF LAND OUT OF SECTION 2, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, LOCATED AT OR ABOUT 6400 WEST U.S. HIGHWAY 80; AUTHORIZING THE CITY MANAGER TO NEGOTIATE, EXECUTE AND FILE ALL DOCUMENTS NECESSARY TO PURCHASE SAID TRACT, PURCHASE A TITLE INSURANCE POLICY AND HOLD THE CLOSING; APPROPRIATING FUNDS; AND ORDERING THE CITY SECRETARY TO RECORD, OR ENSURE THAT THE TITLE COMPANY RECORDS, THE INSTRUMENT OF CONVEYANCE (ENGINEERING SERVICES)
21. 122-2020 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND BETA CRUDE CONNECTOR, LLC. REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 8, BLOCK 38, TOWNSHIP 1 SOUTH, T&P RR CO. SURVEY, MIDLAND AND MARTIN COUNTIES, TEXAS (UTILITIES)
22. 123-2020 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND BETA CRUDE CONNECTOR, LLC. REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTIONS 7 AND 18, BLOCK 38, TOWNSHIP 1 SOUTH, T&P RR CO. MIDLAND COUNTY, TEXAS (UTILITIES)
23. 124-2020 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND BETA CRUDE CONNECTOR, LLC. REGARDING CITY-OWNED PROPERTY LOCATED IN SECTION 22, BLOCK 40, TOWNSHIP 1 SOUTH, T&P RR CO. SURVEY A-1391, MIDLAND COUNTY, TEXAS (UTILITIES)
24. 2020-164 – RESOLUTION AUTHORIZING THE ACCEPTANCE OF A 4.91-ACRE UTILITY EASEMENT OUT OF SECTION 8, BLOCK 39, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AT A COST NOT TO EXCEED \$122,850.00; AND ORDERING RECORDATION BY THE CITY SECRETARY (UTILITIES)

The following items were pulled from consent agenda and considered individually.

6. 2020-155 – RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH FREESE AND NICHOLS, INC., FOR THE ANALYSIS AND DESIGN FOR THE REPLACEMENT OF THE WATER SOURCE FOR THE MIDLAND

INTERNATIONAL AIR AND SPACE PORT WATER SYSTEM FOR THE UTILITIES DEPARTMENT FOR A COST OF \$323,296.00; AND APPROVING \$64,660.00 FOR CONTINGENCIES (GENERAL SERVICES)

Council Member Ladd asked what fund this was coming from and if it could be paid for by the airport. Utilities Director Carl Craigo stated it is not just for the airport but for all the businesses around the airport. Interim City Manager Robert Patrick noted that in a roundabout way, the airport is paying for a portion in the charge for services to the airport. Mr. Craigo clarified that the first plume goes back to World War II and the second is from an oil spill some time ago. Both are to a point that they have had to shut off a couple of wells.

Spencer Robnett moved to approve Resolution No. 2020-155; seconded by Lori Blong.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

9. 118-2020 – MOTION APPROVING AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND FREESE AND NICHOLS, INC., FOR ENGINEERING SERVICES, LAND SURVEYING SERVICES, AND OTHER SERVICES RELATED TO CERTAIN MIDLAND DEVELOPMENT CORPORATION PROJECTS (CITY MANAGER'S OFFICE)

Council Member Trost noted his comments referred to items 9, 10 and 11 noting they are from different organizations for the same service. He asked if they could not all be lumped together and receive a benefit. Interim City Manager Robert Patrick noted there is no efficiency in lumping them together. Sara Harris Director of Operations for MDC clarified that these are infrastructure agreements that were started when Gary Law was on staff noting he was an ancillary extension of MDC managing infrastructure agreements funded by MDC for the City. Engineering Services Director Jose Ortiz reported this was started to help the City manage the projects on their behalf because they were short staffed and could not handle the volume. Gary Law got them most of the way through the project and now staff can handle finalization of the projects in the next six months.

Spencer Robnett moved to approve Motion No. 118-2020; seconded by Scott Dufford.

The motion passed by the following vote:

AYE: Payton, Robnett, Dufford, Norman, Ladd, Blong

NAY: Trost

ABSTAIN: None

ABSENT: None

10. 119-2020 – MOTION APPROVING AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND KIMLEY-HORN AND ASSOCIATES, INC., FOR ENGINEERING SERVICES, LAND SURVEYING SERVICES, AND OTHER SERVICES RELATED TO CERTAIN MIDLAND DEVELOPMENT CORPORATION PROJECTS (CITY MANAGER’S OFFICE)

Spencer Robnett moved to approve the Consent Agenda items 10-11; seconded by Lori Blong.

The motion passed by the following vote:

AYE: Payton, Robnett, Dufford, Norman, Ladd, Blong

NAY: Trost

ABSTAIN: None

ABSENT: None

11. 120-2020 – MOTION APPROVING AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND PARKHILL, SMITH & COOPER, INC., FOR ENGINEERING SERVICES, LAND SURVEYING SERVICES, AND OTHER SERVICES RELATED TO CERTAIN MIDLAND DEVELOPMENT CORPORATION PROJECTS (CITY MANAGER’S OFFICE)

Spencer Robnett moved to approve the Consent Agenda items 10-11; seconded by Lori Blong.

The motion passed by the following vote:

AYE: Payton, Robnett, Dufford, Norman, Ladd, Blong

NAY: Trost

ABSTAIN: None

ABSENT: None

14. 2020-158 – RESOLUTION AUTHORIZING THE EXECUTION OF A COMMUNITY DEVELOPMENT BLOCK GRANT CONTRACT WITH SENIOR LIFE MIDLAND, INC., FOR THE SENIOR NUTRITION PROGRAM IN THE AMOUNT OF \$68,000.00; THE PURPOSE OF THIS PROJECT IS TO PROMOTE THE NUTRITIONAL AND PHYSICAL HEALTH OF PROGRAM PARTICIPANTS; THE PROJECT WILL BEGIN ON OCTOBER 1, 2020, AND END ON SEPTEMBER 30, 2021 (DEVELOPMENT SERVICES)

Mayor Payton noted this item was pulled at the request of staff to be considered at a later date.

18. 121-2020 – MOTION APPROVING A PROPOSED PRELIMINARY PLAT OF HANKS SOUTH INDUSTRIAL PARK, BEING A PLAT OF AN 80-ACRE TRACT OF LAND LOCATED IN BLOCK 38, T-2-S, B.F. WALCOTT SURVEY, ABSTRACT 1156, AND A 75-ACRE TRACT OF LAND LOCATED IN BLOCK 38, T-2-S, C.A. WINBORN SURVEY, ABSTRACT 511, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED AT THE

NORTHWEST CORNER OF THE INTERSECTION OF SOUTH COUNTY ROAD 1160
AND EAST COUNTY ROAD 150 (EXTRATERRITORIAL JURISDICTION)
(DEVELOPMENT SERVICES)

Council Member Blong noted this is in the ETJ and previously there has been development without adequate drainage. She asked if staff felt this satisfies their concern for adequate drainage. Development Services Director Chuck Harrington noted yes they feel what is being presented is acceptable.

Spencer Robnett moved to approve Motion No. 121-2020; seconded by Jack Ladd.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

19. 2020-162 – RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR A LOCAL ON-SYSTEM IMPROVEMENT PROJECT WITH THE STATE OF TEXAS, ACTING BY AND THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION (“TXDOT”), FOR THE DESIGN AND CONSTRUCTION OF U-TURN LANES AND LEFT-TURN LANES ON THE EASTBOUND FRONTAGE ROAD AND THE WESTBOUND FRONTAGE ROAD OF LOOP 250 AT MIDKIFF ROAD; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO CERTIFY A COPY OF THIS RESOLUTION TO TXDOT (ENGINEERING SERVICES)

Council Member Blong recognized this is a resolution authorizing the agreement but asked what would be the cost and who would pay. Traffic Engineer Mike Pacelli reported that \$500,000 for funding is already in a project. This is a partnership between the owner of the mall and the City that was funded back in 2019. The mall put up \$300,000 as deposit for traffic mitigation for Dick’s Sporting Goods and parking pads approved with their zone change. The City added funds to do work at the interchange. It will be bid early next year and will come back to Council for award.

Council Member Ladd asked if a second left turn lane was being added. Mr. Pacelli reported that a left turn lane would be added both eastbound and westbound making it more like Holiday Hill.

Lori Blong moved to approve Resolution No. 2020-162; seconded by Jack Ladd.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

SECOND READINGS

25. 10115 – AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR THE WEST HALF OF LOT 1, BLOCK 4, MOODY ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF SOUTH STREET, APPROXIMATELY 95 FEET WEST OF NORTH TYLER STREET), BY PERMITTING (1) A REDUCED MINIMUM LOT AREA, (2) A REDUCED MINIMUM LOT WIDTH, AND (3) A REDUCED MINIMUM LOT DEPTH IN THE EVENT THAT THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND IS AMENDED TO REZONE THE PROPERTY FROM LI, LIGHT INDUSTRIAL DISTRICT TO RR, REGIONAL RETAIL DISTRICT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION (DEVELOPMENT SERVICES) (FIRST READING HELD SEPTEMBER 22, 2020)

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10115.

Spencer Robnett moved to approve the second and final reading of Ordinance No. 10115; seconded by Lori Blong.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

26. 10091 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE THE WEST HALF OF LOT 1, BLOCK 4, MOODY ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM LI, LIGHT INDUSTRIAL DISTRICT TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED ON THE SOUTH SIDE OF SOUTH STREET, APPROXIMATELY 95 FEET WEST OF NORTH TYLER STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES) (FIRST READING HELD JULY 14, 2020)

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10091

Michael Trost moved to approve the second and final reading of Ordinance No. 10091; seconded by Lori Blong.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

PUBLIC HEARINGS

The City Council will hold public hearings on the following items:

27. 125-2020 – THE PROPOSED GRANTING OF OIL AND GAS WELL PERMITS TO DIAMONDBACK E&P LLC FOR THE DRILLING OF THE FOLLOWING OIL AND GAS WELLS: MISSOULA UNIT 806LS; MISSOULA UNIT 817MS; BUTTE UNIT 805LS; AND BUTTE UNIT 816MS; SAID WELLS BEING GENERALLY LOCATED 409 FEET NORTH OF GREEN TREE BOULEVARD EXTENSION AND BETWEEN 2,062 FEET AND 2,122 FEET WEST OF NORTH MIDKIFF ROAD EXTENSION (DEVELOPMENT SERVICES)

Mayor Payton opened the public hearing at 10:22 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

28. 126-2020 – RECEIVE PUBLIC COMMENTS REGARDING THE DEVELOPMENT OF THE CITY’S (COVID) COMMUNITY DEVELOPMENT PROGRAM RELIEF PROJECTS FUNDS (DEVELOPMENT SERVICES)

Mayor Payton opened the public hearing at 10:23 a.m.

Community Development Block Grant Manager Isaac Garnett reported that Development Services posted the public hearing in the newspaper and opened public comments for five days, with no comments submitted. They will have to amend the 2020 action plan regarding the upcoming \$1.4 million. Council Member Norman asked if this is referring to Item 17. Mr. Garnett confirmed it was.

There being no one else wishing to speak, the public hearing was closed at 10:25 a.m.

29. 10116 – AN ORDINANCE AMENDING TITLE III, “DEPARTMENTS”, CHAPTER 1, “WATER DEPARTMENT”, SECTION 2, “RATES”, OF THE CITY CODE OF MIDLAND, TEXAS; CONTAINING A CUMULATIVE CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION (UTILITIES)

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10116.

Utilities Director Carl Craigo gave a brief overview of the item noting that the City has a base rate and four additional tiers. With the new meters doing a better job of capturing water usage it has been found that more businesses are affected by the highest tier and this will lower the rate of that highest tier.

Mayor Payton opened the public hearing at 10:28 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Spencer Robnett moved to approve the first of two readings of Ordinance No. 10116; seconded by John Norman.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

MISCELLANEOUS

Mayor Payton reconvened the meeting in Regular Session (following Executive Session) at 11:12 a.m. with the entire Council present in the basement Conference Room.

30. 2020-165 – RESOLUTION AUTHORIZING THE NEGOTIATION AND EXECUTION OF AN AGREEMENT FOR COMMERCIAL SALTWATER DISPOSAL OPERATIONS AT T-BAR RANCH (GENERAL SERVICES)

Spencer Robnett moved to approve Resolution No. 2020-165 awarding the contract to Felix and allowing Council Members Robnett, Dufford and Blong to negotiate the contract and bring back to Council for approval; seconded by Jack Ladd.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: None

EXECUTIVE SESSION

31. Pursuant to Texas Government Code § 551.101, the City Council will hold an Executive Session, which is closed to the public, to discuss the following matters as permitted under the following sections of the Texas Government Code:

a. Section 551.072, Deliberation Regarding Real Property

a.1. Discuss the purchase, exchange, lease, or value of real property

Mayor Payton recessed the meeting to go to Executive Session at 10:29 a.m. noting the final item, number 30 would be heard downstairs immediately following Executive Session.

All the business at hand having been completed, the meeting adjourned at 11:14 a.m.

PASSED AND APPROVED October 20, 2020.

Patrick Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary