

**MIDLAND CITY COUNCIL
MINUTES
November 17, 2020**



The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., November 17, 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

CONSENT AGENDA

Spencer Robnett moved to approve Consent Agenda items 3-23, excluding items 4, 6, 15, 16, 17, 19, 20, 21, 22, 23; 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

3. MOTION APPROVING THE FOLLOWING MINUTES:
 - 3a. REGULAR CITY COUNCIL MEETING OF NOVEMBER 3, 2020
 - 3b. REGULAR CITY COUNCIL MEETING OF NOVEMBER 9, 2020
5. 2020-180 – RESOLUTION AUTHORIZING THE PURCHASE OF HERBICIDE FOR

SPRABERRY FARM FROM MULTIPLE BIDDERS, FOR A TOTAL COST OF \$134,156.40 (GENERAL SERVICES)

7. 2020-182 – RESOLUTION AWARDED A CONTRACT FOR THE FISCAL YEAR 2021 MILL AND INLAY PROJECT TO JONES BROS. DIRT & PAVING CONTRACTORS, INC. OF ODESSA, TEXAS, AT A TOTAL COST NOT TO EXCEED \$3,917,110.60; AND AUTHORIZING PAYMENT (GENERAL SERVICES)
8. 2020-183 – RESOLUTION AWARDED A CONTRACT FOR THE THOMASON DRIVE MILL AND INLAY PAVING PROJECT TO JONES BROS. DIRT & PAVING CONTRACTORS, INC. OF ODESSA, TEXAS, AT A TOTAL COST NOT TO EXCEED \$4,966,334.08; APPROPRIATING FUNDS; AND AUTHORIZING PAYMENT (GENERAL SERVICES)
9. 2020-184 – RESOLUTION APPROVING THE PURCHASE OF A DYNAPAC CP2700 PNEUMATIC TIRE ROLLER FROM BEE EQUIPMENT SALES, LTD AT A TOTAL COST OF \$172,092.11 THROUGH BUYBOARD (GENERAL SERVICES)
10. 2020-185 – RESOLUTION APPROVING THE PURCHASE OF A 2021 AUTOCAR ACX64 WITH A HEIL 28-YARD DURAPACK PYTHON AUTOMATED SIDE-LOAD REFUSE BODY FROM CHASTANG ENTERPRISES, INC., THROUGH BUYBOARD AT A TOTAL COST OF \$317,222.00 (GENERAL SERVICES)
11. 2020-186 – RESOLUTION AWARDED A CONTRACT TO DEE SKY SERVICES FOR MOWING SERVICES AT THE LANDFILL FOR A NOT TO EXCEED AMOUNT OF \$200,000.00 PER YEAR (GENERAL SERVICES)
12. 2020-187 – RESOLUTION AWARDED A CONTRACT FOR THE PURCHASE AND INSTALLATION OF IRRIGATION PIVOTS AT SPRABERRY FARM FOR THE UTILITIES DEPARTMENT TO THE SOLE BIDDER, LAMESA IRRIGATION COMPANY FOR A TOTAL COST NOT TO EXCEED \$189,698.81 (GENERAL SERVICES)
13. 2020-188 – RESOLUTION AUTHORIZING THE PURCHASE OF THE FALL AND SPRING SEED FOR SPRABERRY FARM FROM MULTIPLE BIDDERS, FOR A TOTAL COST OF \$144,772.00 (GENERAL SERVICES)
14. 2020-189 – RESOLUTION APPROVING THE PURCHASE OF A JOHN DEERE 310L BACKHOE LOADER FROM YELLOWHOUSE MACHINERY CO. AT A TOTAL COST OF \$110,173.01 THROUGH BUYBOARD (GENERAL SERVICES)
18. 2020-192 – RESOLUTION APPROVING THE ISSUANCE OF PERMITS TO DIAMONDBACK E&P LLC (“OPERATOR”) TO DRILL FOUR OIL AND GAS WELLS LOCATED IN SECTION 8, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED BETWEEN 409 FEET NORTH OF THE GREEN TREE BOULEVARD EXTENSION AND BETWEEN 2,062 FEET AND 2,122 FEET WEST OF THE NORTH MIDKIFF ROAD EXTENSION); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT (DEVELOPMENT SERVICES)

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

4. 2020-179 – RESOLUTION DECLARING EXPECTATION TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE DEBT (FINANCE)

Council Member Blong asked for a report.

Finance Director Mark Mason reported that the original Certificate of Obligation is for the northeast utilities project and a number of parks including artificial turf, vehicles and equipment. They are looking to maintain current cash flows to continue operations and looking at the future financing of equipment and vehicles. This will allow us to reimburse ourselves back for anything that we spend on these items prior to the issuance of debt. We will come back in March for the actual issuance of debt. The amount is not to exceed \$60 million but it could be much less.

Lori Blong moved to approve Resolution No. 2020-179; seconded by Spencer Robnett.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: None

6. 2020-181 – RESOLUTION AWARDED A CONTRACT FOR THE FISCAL YEAR 2021 HA5 HIGH DENSITY MINERAL BOND SURFACE SEAL PROJECT TO THE SOLE BIDDER, ANDALE CONSTRUCTION, INC. OF WICHITA, KANSAS, AT A TOTAL COST NOT TO EXCEED \$1,818,817.00; AND AUTHORIZING PAYMENT (GENERAL SERVICES)

Council Member Blong noted this is a sole bidder and asked if there is a reason more people chose not to bid. Transportation Manager Gabe McClelland reported historically there has only been one bidder as most local contractors don't offer this service. The notice inviting bids was sent out to many vendors including the local companies. The unit price came in the same as in the past. He answered questions about the different types of road materials and when they are used to extend the life of roads. Interim City Manager Robert Patrick concluded that there are many different types of tools, and this is just one of the tools that we use.

Lori Blong moved to approve Resolution No. 2020-181; seconded by Spencer Robnett.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: None

15. 2020-190 – RESOLUTION APPROVING THE PURCHASE OF ONE HUNDRED THIRTY (130) 2021 YAMAHA ELECTRIC GOLF CARTS FROM METRO GOLF CARS, INC.,

THROUGH BUYBOARD AT A TOTAL COST OF \$373,750.00; AND AUTHORIZING THE TRADE-IN OF ONE HUNDRED THIRTY (130) CITY-OWNED YAMAHA DRIVE 2 GOLF CARTS (GENERAL SERVICES)

Council Member Ladd asked if the golf course is making money and if this is the best use of funds. Council Member Dufford noted that over the years typically the General Fund subsidizes the golf course anywhere from \$100,000 to \$250,000. Interim City Manager Robert Patrick added that for this size golf course, Midland is subsidizing much less than what is typical for other public golf courses. He added that we also subsidize all parks in town.

Council Member Ladd asked if fees could be raised to make more money. Golf Pro Gregg Sikes noted they ran studies to see what others are charging and historically they try to be less than others. They typically stay about \$1 lower on golf carts and the fees are about the same. Council Member Robnett noted that the golf course provides a huge benefit to the non-profit community for fundraising noting the amount of money raised there by local non-profits is staggering.

Jack Ladd moved to approve Resolution No. 2020-190; seconded by Spencer Robnett.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: None

16. 139-2020 – MOTION AUTHORIZING THE INTERIM CITY MANAGER OR THE INTERIM CITY MANAGER'S DESIGNEE TO ADVERTISE A REQUEST FOR PROPOSALS FOR THE WATER AND SEWER SYSTEM IMPROVEMENTS - BRIARWOOD AVENUE UTILITY IMPROVEMENTS PROJECT FOR THE UTILITIES DEPARTMENT (GENERAL SERVICES)

Council Member Blong asked for the purpose and timeline of this project. Utilities Director Carl Craig reported the first phase is to provide service to the fire station and gave a brief overview. Council Member Blong asked if developments on that path could gain access to the utilities. Mr. Craig reported they could bring in lateral lines to connect into the service.

Lori Blong moved to approve Motion No. 139-2020; seconded by Spencer Robnett.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: None

17. 2020-191 – RESOLUTION AUTHORIZING THE CITY OF MIDLAND BUSINESS MICRO-GRANT ASSISTANCE PROGRAM; AUTHORIZING THE APPROPRIATION OF FUNDS IN THE AMOUNT OF \$500,000.00 FROM THE CARES GRANT; AND AUTHORIZING THE EXECUTION A CONTRACT WITH MIDLAND COLLEGE TO PROVIDE PROGRAM

ADMINISTRATIVE SERVICES AT A COST NOT TO EXCEED \$25,000.00
(DEVELOPMENT SERVICES)

Council Member Robnett inquiring on agenda items 17, 19, 20, 21, 22 noted there is about \$6 million plus of unappropriated CARES Act money available. CDBG Manager Isaac Garnett reported all of the requests came from the community as a result of a notice they put out asking for applications. Council Member Robnett continued that he does not have a concrete plan with how the money should be spent but there is a sense of urgency on the part of the hospital and that might be the better place to expend those funds. He suggested that the items be moved to Monday's meeting rather than denied.

When asked about the micro-grant program Mr. Garnett clarified that this is modeled after the City of Odessa's program and is for people who did not receive the federal small business grant. Each qualifying business can receive up to \$10,000. When asked about the MDC program Council Member Blong reported in her opinion it did not go very well. Many of the applicants were those who had already received federal money or did not qualify. It was a well-intentioned program, but it was terminated.

Spencer Robnett moved to approve Resolution No. 2020-191; seconded by Lori Blong.

The motion failed by the following vote:

AYE: None

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

ABSTAIN: None

ABSENT: None

19. 2020-193 – RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH THE YOUNG MENS CHRISTIAN ASSOCIATION OF MIDLAND, TEXAS FOR THE FACILITY IMPROVEMENT PROGRAM IN THE AMOUNT OF \$244,303.00 (DEVELOPMENT SERVICES)

Spencer Robnett moved to defer Resolution No. 2020-193 to November 23, 2020; seconded by Michael Trost.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: None

20. 2020-194 – RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH ST. VINCENT DE PAUL SOCIETY FOR THE SOCIAL SERVICES RENTAL AND UTILITY ASSISTANCE PROGRAM IN THE AMOUNT OF \$99,000.00 (DEVELOPMENT SERVICES)

Spencer Robnett moved to defer Resolution No. 2020-194 to November 23, 2020; seconded by Michael Trost.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong
NAY: None
ABSTAIN: None
ABSENT: None

21. 2020-195 – RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH SAINT ANN’S CHURCH FOR THE SOCIAL SERVICES RENTAL AND UTILITY ASSISTANCE PROGRAM IN THE AMOUNT OF \$100,000.00 (DEVELOPMENT SERVICES)

Spencer Robnett moved to defer Resolution No. 2020-195 to November 23, 2020; seconded by Michael Trost.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong
NAY: None
ABSTAIN: None
ABSENT: None

22. 2020-196 – RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH CASA DE AMIGOS OF MIDLAND, TEXAS, INC., FOR THE SOCIAL SERVICES GRAB-N-GO FOOD ASSISTANCE PROGRAM IN THE AMOUNT OF \$89,628.00 (DEVELOPMENT SERVICES)

Council Member Trost noted he thinks this is an essential service that will help a lot of people and will go a long way. Council Member Robnett asked if this could be deferred until Monday’s meeting. Council Member Trost noted it could not.

Michael Trost moved to approve Resolution No. 2020-196; seconded by John Norman.

The motion passed by the following vote:

AYE: Payton, Trost, Dufford, Norman, Ladd, Blong
NAY: Robnett
ABSTAIN: None
ABSENT: None

23. 138-2020 – MOTION AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT AND RESTATEMENT OF PRODUCED WATER DISPOSAL SITE LEASE AGREEMENT WITH FELIX WATER, LLC, FOR THE PURPOSE OF ALLOWING CERTAIN COMMERCIAL SALTWATER DISPOSAL ACTIVITIES AT T-BAR RANCH LOCATED IN WINKLER AND LOVING COUNTIES, TEXAS (DEFERRED FROM NOVEMBER 09, 2020)

Council Member Blong pulled this for an individual vote noting that we need long term usage for infrastructure that needs to be evaluated as a comprehensive plan and not parsed out quickly.

Council Member Dufford reported he has studied the operational aspects of this, and feels there are no issues from a standpoint of moving forward. He understands the geology of

the area and thinks there is very little risk with this part of the proposal.

Spencer Robnett moved to approve Motion No. 138-2020; seconded by Scott Dufford.

The motion failed by the following vote:

AYE: Robnett, Dufford

NAY: Payton, Trost, Norman, Ladd, Blong

ABSTAIN: None

ABSENT: None

Mayor Payton recessed the meeting at 12:42 p.m. The meeting reconvened at 12:47 p.m. with all Council Members present.

SECOND READINGS

24. 10123 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 4,800-SQUARE FOOT PORTION OF BLOCK 1, LESS THE 250-FOOT BY 150-FOOT NORTHWEST CORNER AND LESS THE 224-FOOT BY 150-FOOT SOUTHWEST CORNER, REPLAT OF BLOCKS 1 AND 2, IMPERIAL HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST WADLEY AVENUE, APPROXIMATELY 277 FEET EAST OF NORTH MIDKIFF ROAD), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; 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 NOVEMBER 03, 2020)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10123.

Michael Trost moved to approve the second and final reading of Ordinance No. 10123; seconded by Jack Ladd.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: Dufford

ABSENT: None

25. 10124 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 1, BLOCK 4, "A" STREET COMMUNITY CENTER, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR AN OFFICE CENTER TO AN AMENDED PD, PLANNED DEVELOPMENT DISTRICT FOR AN OFFICE CENTER (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH "A" STREET AND VENTURA DRIVE); 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 NOVEMBER 03, 2020)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10124.

Spencer Robnett moved to approve the second and final reading of Ordinance No. 10124; seconded by Jack Ladd.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Norman, Ladd

NAY: None

ABSTAIN: Blong

ABSENT: Dufford

26. 10125 – AN ORDINANCE VACATING AND ABANDONING A 0.075-ACRE PORTION OF ALLEY RIGHT-OF-WAY LOCATED ADJACENT TO BLOCK 1, SHILOH SUBDIVISION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED BETWEEN WEST SCHARBAUER DRIVE AND NORTH C STREET, APPROXIMATELY 220 FEET NORTH OF SHELL AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$8,167.50; AND ORDERING RECORDATION BY THE CITY SECRETARY (DEVELOPMENT SERVICES) (FIRST READING HELD NOVEMBER 03, 2020)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10125.

Spencer Robnett moved to approve the second and final reading of Ordinance No. 10125; seconded by Jack Ladd.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: Dufford

27. 10126 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR THE WEST 0.45 ACRES OF LOT 27, BLOCK 10, PERMIAN ESTATES, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST WALL STREET, APPROXIMATELY 303 FEET WEST OF SOUTH MIDKIFF ROAD), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; 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 NOVEMBER 03, 2020)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10126.

Spencer Robnett moved to approve the second and final reading of Ordinance No.10126; 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

28. 10127 – AN ORDINANCE MAKING CERTAIN AMENDMENTS TO THE 2019-2020 FISCAL YEAR BUDGET SO AS TO INCREASE AMOUNTS APPROPRIATED TO CERTAIN FUNDS (FINANCE) (FIRST READING HELD NOVEMBER 03, 2020)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10127.

John Norman moved to approve the second and final reading of Ordinance No. 10127; 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

PUBLIC HEARINGS

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

29. 10129 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITHOUT TERM FOR LOT 22 AND THE WEST 97.3 FEET OF LOT 23, BLOCK 81, PERMIAN ESTATES ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST WALL STREET, APPROXIMATELY 383 FEET WEST OF THOMASON DRIVE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR A MOBILE FOOD VENDOR PARK; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; 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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10129.

Mayor Payton opened the public hearing at 1:15 p.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. 10129; seconded by Scott Dufford.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Ladd, Blong
NAY: None
ABSTAIN: None
ABSENT: None

30. 10130 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 19.70-ACRE TRACT OF LAND OUT OF SECTION 30, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-16, MULTIPLE-FAMILY DWELLING DISTRICT TO PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE SOUTH SIDE OF PRINCETON AVENUE, APPROXIMATELY 824 FEET WEST OF NORTH MIDLAND DRIVE); 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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10130.

Development Services Director Chuck Harrington reported this is a request by MCDC to change from multi-family that was previously brought to City Council. The amended plan calls for a true mixed-residential use including single family homes and townhouses. The density in SF1 is 4.8 units per acre and the overall density is much lower than allowed. This was approved by Planning & Zoning and meets the comprehensive plan. Staff recommends approval subject to conditions A-H included in the ordinance. As of today, ten letters of objection have been received.

Mayor Payton opened the public hearing at 12:52 p.m.

David Diaz, MCDC, reported they are requesting a zone change. Nobody knew we would be in a position of an abundance of apartments which is why they are changing their request. They are receptive to what the community needs and they feel this is the most appropriate.

Sharon Humphreys, 4504 Princeton, reported she will be able to see this development from her front door. She had concern for this being developed in phases, how trash will be handled, traffic, and light shining onto her property. She reported that lately there has been drag racing on her street. When asked if she has called the drag racing into the police, she reported she had not, but confirmed she would next time it happens. She is in favor of these not being apartments and expressed concern that where a road was put in from the Bobby Cox apartments it is still labeled as single family. Finally she wanted employee Whitney Craig to be recognized for recently completing her PHD from Capella University.

Cristina Cockrell, 4609 Cuthbert, asked if construction will take place over specific hours. David Diaz reported crews normally work 8 to 6 and can go later during summer hours and about 20% of the crew will work on weekends.

There being no one else wishing to speak, the public hearing was closed at 1:07 p.m.

Spencer Robnett moved to approve the first of two readings of Ordinance No. 10130; 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

31. 10131 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 9, BLOCK 4, REPLAT OF WINDWOOD PARK, CITY AND COUNTY OF MIDLAND, TEXAS, FROM LR, LOCAL RETAIL DISTRICT TO 2F, TWO-FAMILY DWELLING (DUPLEX) DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF NORTH MAIN STREET, APPROXIMATELY 91 FEET NORTH OF ELM AVENUE); 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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10131.

Mayor Payton opened the public hearing at 1:16 p.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. 10131; 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

32. 10132 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 3,588-SQUARE FOOT PORTION OF LOT 2, BLOCK 1, WALLACE HEIGHTS, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH LOOP 250 WEST, APPROXIMATELY 377 FEET SOUTH OF SINCLAIR AVENUE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; 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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10132.

Mayor Payton opened the public hearing at 1:17 p.m.

Catherine Chamblee, Austin, representing the applicant, reported they wish to proceed with

getting a mixed beverage permit. They are primarily a breakfast and lunch spot and are not open past 2:00 p.m. any day. They understand the TABC regulations in terms of alcoholic service hours on Sundays. They would only serve alcohol with food. The main purpose in applying for the permit is to keep up with their competition noting that many of their competitors have a MB permit which allows a person to serve mimosas for breakfast and they would like the same option.

There being no one else present wishing to speak, the public hearing was closed at 1:19 p.m.

Michael Trost moved to approve the first of two readings of Ordinance No. 10132; 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

33. 10133 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 1, 2, AND 3, BLOCK 1, JADEN KATE ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT, IN PART, AND PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT, IN PART, TO PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH ELKINS ROAD AND ARAPAHOE ROAD); 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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10133.

Mayor Payton opened the public hearing at 1:09 p.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. 10133; 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

34. 10134 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 3, BLOCK 22, GREENWOOD ADDITION, THIRD, FOURTH, AND FIFTH SECTIONS, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH CLAY STREET, APPROXIMATELY 110 FEET SOUTH OF EAST WASHINGTON AVENUE); 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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10134.

Mayor Payton opened the public hearing at 1:22 p.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. 10134; 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

MISCELLANEOUS

35. 10135 – AN ORDINANCE ADOPTING A FEE SCHEDULE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING AN APPEAL PROCESS; AND ORDERING PUBLICATION (FINANCE)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10135.

Lori Blong moved to approve the first of two readings of Ordinance No. 10135; seconded by Scott Dufford.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: None

36. 2020-197 – RESOLUTION APPROVING AMENDMENTS TO THE PERMITS ISSUED TO ENDEAVOR ENERGY RESOURCES, L.P. ("OPERATOR") TO DRILL TWO OIL AND GAS WELLS LOCATED IN SECTION 31, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED BETWEEN 339 FEET AND 340 FEET SOUTH OF THE EAST CYNTHIA DRIVE EXTENSION, AND BETWEEN 2,226 FEET AND 2,291 FEET WEST OF TODD DRIVE); EACH SAID AMENDMENT AUTHORIZING THE USE OF AN ONSITE ELECTRIC COMPRESSOR (DEVELOPMENT SERVICES)

Spencer Robnett moved to approve Resolution No. 2020-197; 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

37. 2020-198 – RESOLUTION APPROVING AMENDMENTS TO THE PERMITS ISSUED TO ENDEAVOR ENERGY RESOURCES, L.P. (“OPERATOR”) TO DRILL TWO OIL AND GAS WELLS LOCATED IN SECTION 31, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED APPROXIMATELY 1,082 FEET SOUTH OF THE EAST CYNTHIA DRIVE EXTENSION, AND BETWEEN 2,284 FEET AND 2,309 FEET WEST OF TODD DRIVE); EACH SAID AMENDMENT AUTHORIZING THE USE OF AN ONSITE ELECTRIC COMPRESSOR (DEVELOPMENT SERVICES)

John Norman moved to approve Resolution No. 2020-198; seconded by Spencer Robnett.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: None

38. 10136 – AN ORDINANCE DIRECTING OWNERS AND OPERATORS OF COMMERCIAL ENTITIES, BUILDINGS, AND OTHER ENCLOSED SPACES THAT ARE OPEN TO THE PUBLIC TO REQUIRE INDIVIDUALS TO WEAR FACE COVERINGS; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION (CITY MANAGER’S OFFICE)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10136.

Russel Meyers, CEO of Midland Health, reported there have been about 115 COVID deaths in the community noting they just lost a second hospital employee who was 50 years old. As for hospital employees they have 111 in quarantine, 68 who have tested positive and another 43 with suspicious symptoms. About 10% of their workforce has been exposed. They have capacity for 281 patients and are currently at 241 with 93 being COVID patients. The state has provided 38 ventilators and half are in use on COVID patients. They have expanded their testing hours and are currently getting a 30% positive test rate which is how they forecast future hospitalizations. COVID patients tend to have 14-15 days hospital stay where an average patient would be 3-5 days. They are currently using the Emergency Department to house COVID patients and are bringing in climate controlled tents to place in the parking lot to use as an emergency room. They will soon be at the point that they will have to transfer patients out to other hospitals.

Mayor Payton asked if we should fine businesses and/or individual for not wearing a mask. Mr. Meyers responded we should do the best we can to enforce individuals and companies, noting it is a difficult problem to enforce but it is time for the community to make a statement about the public health crisis. We must get our arms around it. Businesses need to set the expectation to wear a mask. Mayor Payton asked if he thought the community would not heed to wearing a mask without a fine. Mr. Meyers noted he believed that it is apparent because we are worse off than in the past. Please wear a mask even if it is uncomfortable.

Council Member Robnett asked him to provide specific ways the City can support the hospital including public service announcements that could be placed on billboards.

Jenny Cudd, 3400 Humble, noted we needed to guard against the overreaching hand of big government taking away freedoms. She asked the Council not to penalize business owners and force them to do an impossible task of policing the people in their business.

Cathy Broadrick, 5114 Ashdown Place, thanked Stuart Doreen for being diligent in his job encouraging mask wearing but felt this item is the perfect way to pit people on either side of the mask debate against each other and did not think that should be done to businesses. She agreed with Council Member Dufford's statement in the paper and asked a friend in San Antonio how it was working. They said it has been working for a long time and helped them turn the spike around. They did it using this ordinance but businesses have to enforce it. It is unfortunate but effective. We need to get people's attention and get them to wear a mask, have curfews and a stay at home ordinance. The spread of the virus is climbing at an alarming rate. Statisticians and historians will rate how we did and we will try to learn from our mistakes. We are doing poorly because of lack of leadership in implementing measures to save lives.

Eliel Rosa, 3603 Humble, reported he has been working in public policy arena on behalf of students. It is important to protect our inalienable rights and health care is not a right. He felt we should be protecting Pastor Fu and that is where our priorities should be. Midland will never become one of the best cities to live in if we go on with this unconstitutional ideal. Please stay with the constitution and the laws of the land.

Kelly Stout, 2300 Boyd, spoke in favor of the mask mandate noting she would not bully anybody who doesn't want to wear a mask. She wondered where their rights end and another persons begins especially when it comes to public health. She believes in no shoes, no shirt, no mask, no service.

Nicole Lawrence, 5207 Oak Valley, felt it wasn't good to inhale fibers from a mask and that wearing a mask has psychological impact on human emotions. She is a small business owner and is doing her best to make it a success. It has been hard competing with big box chain stores. People have been driven away from local stores by fears of the virus. She loves Midland and feels that a mask mandate would make it hard on all businesses and taking money out of their own pockets goes against everything she believes in. A medical mask was never intended for the general population.

Jerry Morales reported his family started their restaurant in 1977 and now 42 years later they are running two restaurants. He is a part of the local and state restaurant association and they are fighting to keep restaurants open. Midland Memorial Hospital is in desperate need of reducing the spread of the virus and nobody knows that more than the restaurants. They are already out of pocket more money with personal protective equipment and extra sanitizing and paper products and their operations have dropped 50-75%. Putting the burden on businesses to enforce a mask mandate will cause them to lose more business. He thinks instead the City should ensure every business has a sign on the front door encouraging customers to wear masks.

Council Member Norman noted he has gotten a lot of calls, emails and texts. This is an

important issue for him. What we are doing right now is not working. He believes we should be enforcing the mask mandate that is already in place by the governor and it should be the responsibility of individuals, not businesses. Several ideas were discussed. Mayor Payton asked if Council would put their ideas together in the form of an actionable item for Council to consider at the next meeting.

Following discussion, it was noted that this ordinance deserves a vote up or down.

Mayor Payton read a statement about COVID noting it has impacted every area of life. In March an emergency declaration was adopted that was far reaching and he allowed it to lapse as soon as possible. The last nine months has been a great health challenge. Not all of Texas has been affected the same and should not be treated the same. He has not wavered from his message which has culminated in this discussion today. He has heard many voices urging him to issue a mask mandate but none have asked the Council to issue it. Some have asked for the enforcement of the Governor's mask mandate, but the City would still need to deal with the issue of enforcement. He is not comfortable with making decisions that should be decided by the body which is why this is on the agenda. One of the things made clear to him is that the foundation of representative government has been eclipsed by the unhealthy nature of unilateral mandates by one elected official that the entire nation is dealing with. He put this on the agenda because your elected representatives wanted to hear from you and wanted to debate, discuss and vote on the issue rather than a unilateral mandate. If we chose to enforce the Governors mask order we could have Midlander's calling 911 and pitting one person against another. He had a physician ask him to set up a mask patrol unit in hopes that it strikes fear in all of you and have the mask unit being called out on those who are violating the order. The Mayor believes Midland will respond to this message of crisis and will react. We need to be united not divided by impossible mandates. This is real and we must fight. We must honor and serve each other safely. He called on the community to practice social distancing and to be careful with family events. He cannot be more proud of all things we have faced and is ready to debate and compromise to get better answers.

Spencer Robnett moved to approve the first of two readings of Ordinance No. 10136; seconded by Michael Trost.

The motion failed by the following vote:

AYE: Trost

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

ABSTAIN: None

ABSENT: None

Mayor Payton called for a brief recess at 10:41 a.m. The meeting reconvened at 11:49 a.m. with all Council Members present.

39. 2020-199 – RESOLUTION ADDING ONE (1) REGULAR CITY COUNCIL MEETING ON NOVEMBER 23, 2020, TO THE CITY COUNCIL MEETINGS SCHEDULED FOR THE 2020 CALENDAR YEAR (CITY MANAGER'S OFFICE)

Spencer Robnett moved to approve Resolution No. 2020-199; 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

40. MOTION MAKING APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS (CITY SECRETARY'S OFFICE)

Michael Trost moved to defer the item to November 23, 2020; seconded by Spencer Robnett.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: None

EXECUTIVE SESSION

Mayor Payton recessed the meeting to go to Executive Session at 1:26 p.m.

41. 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 551.071, Consultation with the City Attorney

- a.1. Discuss matters in which the duty of the attorney(s) to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code

All the business at hand having been completed, the meeting adjourned at 2:19 p.m.

PASSED AND APPROVED December 15, 2020.

Patrick Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary