MIDLAND CITY COUNCIL
MINUTES
January 24, 2012

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:00 a.m. on January 24, 2012.

Council Members present: Mayor W. Wesley Perry, Mayor Pro Tem Jerry Morales (At-Large), Council Member Scott Dufford (At-Large), Council Member Jeff Sparks (District 1), Council Member Vicky Hailey (District 2), and Council Member John James (District 3), Council Member Michael Trost (District 4).

Council Members absent: None.

Staff members present: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, City Secretary Amy Turner, Development Services Director Rick Crownover, General Services Director Robert Patrick, Community Services Director Tina Jauz, Solid Waste Director Morris Williams; City Engineer David Beard, Public Information Officer Tasa Watts, and Community Development Manager Sylvester Cantu.

1. Receive presentation from Community Services on various initiatives to reduce park maintenance.

   Community Services Director Jauz reported that last summer she and David Alldredge of Alldredge Gardens came up with ideas on drought saving measures. She reviewed the initiatives they implemented noting that they mowed less often because they watered less often. They used the money saved by mowing less frequently to do work in other areas including removing turf, inserting drip systems or crushed granite and installing xeriscape landscaping. In the future, they plan to remove more turf on areas that are not playing fields and water heavier one time per month. For athletic fields they will still water but less often noting the fields will not be in pristine condition. She explained that there are two well irrigated parks and those will remain two green areas for citizens but they will be mowed less often.

   Their next pilot project will be to drill water wells at other parks where they expect a good chance to get water. She emphasized that no money would be expended. All of the projects have been and will be covered on the savings of mowing less often and in fewer areas due to turf removal.

2. Update the City Paving Plan for surfacing the unpaved streets.

   City Engineer David Beard explained that the City Paving Plan was originally developed in 2010 and reviewed the plan. He explained the funding that was currently available and showed the street status as of May 2010. He showed projects he would like to accomplish with the available funding noting the focus would be on streets where residents currently live.

   Discussion ensued about what considerations are given for scoring streets. It was suggested that traffic be a consideration in the scoring. It was suggested that this topic could be discussed at retreat.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:42 a.m.

The agenda items were heard in the following order: 1, 2, 3, 4, 5, 7, 8, 9, 10, 6, 11, 12, 13, 14, 15, 19, 20, 21, 22, 18, 23, 24, 25, 26, (Lunch recess), 16, 17, 27, 28.

REGULAR SESSION
The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., January 24, 2012.

Council Members present: Mayor W. Wesley Perry, Mayor Pro Tem Jerry Morales (At-Large), Council Member Scott Dufford (At-Large), Council Member Jeff

Sparks (District 1), Council Member Vicky Hailey (District 2), and Council Member John James (District 3), Council Member Michael Trost (District 4).

Staff members present at the annex table: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, and Assistant City Manager Jim Nichols.

OPENING ITEMS

1. The Invocation was delivered by Billy Ashley of Bethel Missionary Baptist Church.

2. The Pledge of Allegiance to the Flag was stated.

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
   a. Presentation of Retirement Commendation for retiring city employees.
      1. Richard Candelaria
      2. Pedro C. Falcon
      3. Michael Turner

   Mayor Perry and City Manager Sharp presented retirement proclamations to retiring employees Richard Candelaria, Pedro Falcon and Michael Turner.

PUBLIC COMMENT

4. Receive public comments where individuals may address the City Council on City related issues and projects. Any deliberation of or decision by the City Council regarding the item being discussed shall be limited to a motion to place the item on the agenda for a subsequent meeting.

   Paul Lewis, 3501 Gulf, restated his objection to any new water meters while the City is in a drought.

CONSENT AGENDA

Council Member Trost moved to approve consent agenda items 5-10 with the exception of 6; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

5. Approved a motion approving the following minutes:

   a. Regular Minutes of January 10, 2012.

7. Approved a resolution approving an Interlocal Agreement with the Midland Emergency Communication District. (CISD)

   RESOLUTION NO. 2011 - 334

   RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN INTERLOCAL AGREEMENT WITH THE MIDLAND EMERGENCY COMMUNICATION DISTRICT REGARDING THE PURCHASE AND MAINTENANCE OF 9-1-1 EMERGENCY SYSTEM RECORDING EQUIPMENT TO BE HOUSED AT THE CITY OF MIDLAND COMMUNICATIONS CENTER

8. Approved a motion on a request by Newton Engineering for City View Acres (Section 6), to approve items requested for deferral in the amount of $53,730.13, and to waive the associated public improvement guarantee. This subdivision is positioned in the ETJ less than ½ mile from the City Limits, generally located at Fairgrounds Ave. approximately 1,800 feet north of Garden City Hwy. (SH 158). (Engineering)

9. Approved a resolution authorizing the City Attorney to represent the City of Midland and the Chief of Police in Jeremiah Alan Owens v. Price Robinson, Chief of Police; 385 Judicial District Court, Midland County, Texas; Cause No. CV48480. (City Attorney)

RESOLUTION NO. 2012 - 003

RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO FILE ALL DOCUMENTS, EMPLOY ALL NECESSARY EXPERTS AND MAKE ALL NECESSARY APPEARANCES TO REPRESENT THE CITY OF MIDLAND AND THE CHIEF OF POLICE IN A LAWSUIT STYLED JEREMIAH ALAN OWENS V. PRICE ROBINSON, CHIEF OF POLICE, CITY OF MIDLAND, TEXAS; 385th JUDICIAL DISTRICT COURT, MIDLAND COUNTY, TEXAS; CAUSE NO. CV48480; AND AUTHORIZING THE PAYMENT OF ALL COSTS

10. Approved a resolution authorizing the execution of a Right of Way License Agreement with Bluestem Energy Assets, LLC, for placement, operation and maintenance of a six inch gas pipeline within City of Midland right of way. (Engineering)

RESOLUTION NO. 2012 - 004

RESOLUTION AUTHORIZING A RIGHT OF WAY LICENSE WITH THE CITY OF MIDLAND, TEXAS AND BLUESTEM ENERGY ASSETS, L.L.C., A DELAWARE COMPANY; SAID RIGHT OF WAY LICENSE IS FOR THE PURPOSE OF PLACING, OPERATING, AND MAINTAINING ONE SIX INCH GAS PIPELINE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT OF WAY ABUTTING THE NORTHEAST QUARTER (NE/4) OF SECTION 8, BLOCK X, H.P. HILLIARD SURVEY AND NORTHWEST QUARTER (NW/4) OF SECTION 9, BLOCK X, H.P. HILLIARD SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR FIVE YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND MAY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL FIVE YEAR TERM UPON 90 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

The following item was pulled from consent calendar and considered individually.

6. Consider a resolution approving the purchase of six police package cars and nine police package SUVs for the Garage Division. (General Services)

RESOLUTION NO. 2012 - 001

RESOLUTION APPROVING THE PURCHASE OF FIVE (5) POLICE PACKAGE CARS AND NINE (9) POLICE PACKAGE SPORT UTILITY VEHICLES, FROM ROGERS FORD OF MIDLAND, TEXAS, AND CALDWELL COUNTRY CHEVROLET, OF CALDWELL, TEXAS, RESPECTIVELY, AT A TOTAL COST OF $362,752.00; AND THE CITY MANAGER HAS DETERMINED THE NEED TO PURCHASE ONE (1)ADDITIONAL POLICE PACKAGE CAR FROM ROGERS FORD INCREASING THE TOTAL PRICE TO $388,884.00; AND THE PURCHASE OF THE ADDITIONAL POLICE PACKAGE CAR INCREASES THE PRICE PAID TO ROGERS FORD BY APPROXIMATELY TWENTY PERCENT (20%) AND IS AUTHORIZED BY SECTION 252.048 OF THE TEXAS LOCAL GOVERNMENT CODE

Council Member Dufford noted he pulled the item for informational purposes. General Services Manager Patrick gave a brief overview of the item noting they were looking for an alternative to the Crown Victoria. The specs were written for a Chevrolet Caprice but it was written so that more than one vendor could bid on it. He explained that we should expect higher gas mileage with the SUV.

Discussion ensued regarding the number of cars needed and if the models had been used by other departments.

Council Member Dufford moved to adopt Resolution No. 2011-001; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

SECOND READINGS

11. Consider an ordinance on second reading on a request by Los Conchos Ventures, LLC. for a zone change. (Planning)

ORDINANCE NO. 8958

ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 19.71-ACRE TRACT OF LAND (“TRACT 1”) WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT; BY PERMITTING A 12.97-ACRE TRACT OF LAND (“TRACT 2”) WHICH IS

PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS AN O-1, OFFICE DISTRICT; BY PERMITTING A 26.33-ACRE TRACT OF LAND ("TRACT 3") WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS AN AMENDED PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; BY PERMITTING A 60.84-ACRE TRACT OF LAND ("TRACT 4") WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS A 1F-2, ONE-FAMILY DWELLING DISTRICT; BY PERMITTING A 7.93-ACRE TRACT OF LAND ("TRACT 5") WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS A TH, TOWNHOUSE DISTRICT; BY PERMITTING A 6.33-ACRE TRACT OF LAND ("TRACT 6") WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS A TH, TOWNHOUSE DISTRICT; BY PERMITTING A 10.64-ACRE TRACT OF LAND ("TRACT 7") WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; BY PERMITTING A 19.73-ACRE TRACT OF LAND ("TRACT 8") WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A 1F-2, ONE-FAMILY DWELLING DISTRICT; ALL OF SAID TRACTS BEING OUT OF SECTION 6, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS; ALL OF SAID TRACTS BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS MADE A PART HEREOF; SAID TRACTS ARE GENERALLY LOCATED SOUTH OF MOCKINGBIRD LANE, BETWEEN HOLIDAY HILL ROAD AND ORIOLE DRIVE; PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT 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

Council Member Morales asked if this was the revised Ordinance. City Attorney Stretcher clarified that it was and reviewed the changes made to the Ordinance with Council.

Council Member Morales asked if the fence lines were recorded that were discussed and if the ingress and egress is conforming to the two streets. Planning Division Manager Walker responded that the new preliminary plat shows two new cul-de-sacs that were not on the original plat.

Deputy City Secretary Reyes read the caption of Ordinance No. 8958.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 8958 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey.

Following discussion, Council Member Sparks moved to amend the motion to have no house constructed adjacent to Holiday Hill Road without a fence on Holiday Hill and no house to be constructed on Oriole without a fence on Oriole; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

The motion, as amended, carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

12. Consider an ordinance on second reading on a request by Hamilton Williams for a Special Use Permit. (Planning)

ORDINANCE NO. 8975

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE SOUTH 120 FEET OF TRACT 4, MORNINGSIDE, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH BIG SPRING STREET, APPROXIMATELY 880 FEET SOUTH OF SCHARBAUER DRIVE), WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR TIRE, BATTERY AND AUTOMOTIVE ACCESSORY USE; MAKING SAID PERMIT 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

Deputy City Secretary Reyes read the caption of Ordinance No. 8975.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8975 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

PUBLIC HEARINGS

13. At approximately 10:33 AM hold a public hearing and consider an ordinance on a request by Landgraf, Crutcher and Associates for a Site Plan Review on a 8.00-acre tract of land out of Section 2, Block 39, T-2-S, T&P RR Co. Survey, City and County of Midland Texas. (Planning)

ORDINANCE NO. 8976

ORDINANCE ADOPTING A SITE PLAN FOR AN 8.00-ACRE TRACT OF LAND OUT OF SECTION 2, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NEAR THE NORTHEAST CORNER OF THE INTERSECTION OF EAST INTERSTATE HIGHWAY 20 AND TERRELL STREET); SUBJECT TO THE FOLLOWING CONDITIONS AND RESTRICTIONS; 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

Planning Division Manager Walker gave an overview of the item noting that no letters of opposition had been received.

Council Member Sparks asked if there was a driveway onto Terrell. Planning Division Manager Walker responded that there was no driveway on Terrell. He explained that there was a pipeline extending across the corner of the property and underneath Terrell so the applicant chose not to have a driveway on the south side.

Mayor Perry opened the public hearing at 10:41 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Reyes read the caption of Ordinance No. 8976.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 8976 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

DEVELOPMENT SERVICES

14. Consider an ordinance on a request by Habitat for Humanity to vacate a 10-foot by 150-foot (1500 sq ft) portion S. Adams Street right-of-way. (Planning)

ORDINANCE NO. 8977

AN ORDINANCE VACATING AND ABANDONING A 1,500 SQUARE FOOT PORTION OF ADAMS STREET RIGHT-OF-WAY ADJACENT TO LOTS 4-6, BLOCK 40, MOODY ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF KENTUCKY AVENUE AND ADAMS STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF $150.00; WAIVING THE FEE FOR THE COST OF THE RIGHT-OF-WAY; AND ORDERING RECORDATION BY THE CITY SECRETARY

Planning Division Manager Walker gave an overview of item.

Alynda Best of Habitat for Humanity noted that the item states it would be purchased for $150 and she requested that it be purchased for $1. Staff clarified that there would be no charge.

Deputy City Secretary Reyes read the caption of Ordinance No. 8977.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 8977 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT:

None.

15. Consider an ordinance on a request by Habitat for Humanity to vacate a 10-foot by 150-foot (1500 sq ft) portion of Jefferson Street right-of-way. (Planning)

ORDINANCE NO. 8978

AN ORDINANCE VACATING AND ABANDONING A 1,500 SQUARE FOOT PORTION OF JEFFERSON STREET RIGHT-OF-WAY ADJACENT TO LOTS 4A, 5A AND 5B, BLOCK 193, SOUTHERN ADDITION, SECTION 7, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF JEFFERSON STREET AND DAKOTA AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF $150.00; WAIVING THE FEE FOR THE COST OF THE RIGHT-OF-WAY; AND ORDERING RECORDATION BY THE CITY SECRETARY

Planning Division Manager Walker gave an overview of the item.

Deputy City Secretary Reyes read the caption of Ordinance No. 8978.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 8978 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

MISCELLANOUS

16. Consider a motion selecting an entity or organization to develop the T Bar Water Field located in Winkler County and Loving County, Texas. The T Bar Water Field consists of approximately 20,229 acres and the water rights underneath the property. The motion may also authorize the Mayor, Council Member Scott Dufford and Council Member Jerry Morales to negotiate a contract with the selected entity or organization and the contract shall not be effective until approved by a resolution of the Midland City Council. (City Manager)

Mayor Perry announced that the committee consisting of himself, Council Member Dufford, Council Member Morales, Assistant City Manager Nichols, City Manager Sharp, Utilities Director Purvis, City Attorney Stretcher, and Finance Director McNaughton met and received presentation on both proposals.

Council Member Dufford moved to enter into agreement with Midland County Fresh Water District Number 1 to develop the T Bar Water Field located in Winkler County and Loving County, Texas and authorize the Mayor, Council Member Scott Dufford and Council Member Jerry Morales to negotiate a contract with the selected entity or organization and the contract shall not be effective until approved by a resolution of the Midland City Council; seconded by Council Member Morales.

Discussion ensued regarding the presentations and qualifications of the applicants and the need to include contract performance deadlines with incentives and penalties.

Mayor Perry noted that the City is not borrowing any money for this contract for a long-term water supply and that the City is agreeing to buy water at a certain price for a long time.

Council Member James moved to amend the motion to include the City Attorney or his designee and the City Manager or his designee as authorized parties to negotiate a contract; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

The motion, as amended, carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

17. Consider a resolution hiring an outside legal attorney for the T-Bar project. (City Manager)

RESOLUTION NO. 2012 - 002

RESOLUTION AUTHORIZING THE EMPLOYMENT OF THE LAW FIRM OF LLOYD GOSSELINK OF AUSTIN, TEXAS TO ASSIST THE CITY OF MIDLAND IN ALL MATTERS RELATED TO WATER CONTRACTS; AND THE MAYOR IS AUTHORIZED

TO EXECUTE AN ENGAGEMENT LETTER WITH THE LLOYD GOSSELINK LAW FIRM; AND APPROPRIATING FUNDS

Council Member Trost stated he preferred the City Attorney be used for the T-Bar Ranch noting that after doing some research he was not comfortable with the proposed law firm. He explained that they have represented water districts who often oppose fresh water development.

Council Member Dufford noted that the committee was making the recommendation to hire the firm and felt that they were very knowledgeable and would be able to help every step of the way.

City Attorney Stretcher noted he had never met Mr. Rochelle, but he did have a phone conversation with him. Mr. Rochelle would need to run conflict resolutions with his partners to see if he could represent the City of Midland.

Council Member James moved to adopt Resolution No. 2012-002; seconded by Council Member Hailey.

The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

18. Consider an ordinance authorizing the issuance, levy ad valorem tax and resolve other matters associated with Tax & Limited Pledge Revenue Certificates of Obligation, Series 2012. (Finance)

ORDINANCE NO. 8979

ORDINANCE AUTHORIZING THE ISSUANCE OF "CITY OF MIDLAND, TEXAS, TAX AND LIMITED PLEDGE REVENUE CERTIFICATES OF OBLIGATION, SERIES 2012"; LEVYING AN AD VALOREM TAX UPON ALL TAXABLE PROPERTY WITHIN THE CITY AND PROVIDING FOR A LIMITED PLEDGE OF THE NET REVENUES OF THE CITY'S WATERWORKS AND SEWER SYSTEM FOR THE PAYMENT OF SAID CERTIFICATES; PRESCRIBING THE TERMS AND DETAILS OF SUCH CERTIFICATES AND RESOLVING OTHER MATTERS INCIDENT AND RELATED TO THE ISSUANCE, SALE, SECURITY, PAYMENT AND DELIVERY OF SAID CERTIFICATES, INCLUDING THE APPROVAL OF A PAYING AGENT/REGISTRAR AGREEMENT AND THE APPROVAL AND DISTRIBUTION OF AN OFFICIAL STATEMENT PERTAINING THERETO; AND PROVIDING AN EFFECTIVE DATE

Finance Director Bob McNaughton noted the purpose of the item was for the sale of Certificates of Obligation and introduced George Williford.

George Williford, Coppell, Texas, reviewed the report Tax and Limited Pledge Revenue Certificates of Obligation, Series 2012, with the City Council and answered questions.

Deputy City Secretary Reyes read the caption of Ordinance No. 8979.

Council Member James moved approval of the first and final reading of Ordinance No. 8979 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

19. Consider a resolution allowing the Hispanic Chamber of Commerce to operate a concert, in conjunction with the annual Mex-Tex Family Fiesta, until 1:00 a.m. on Sunday, June 10, 2012. (City Secretary)

RESOLUTION NO. 2012 - 005

RESOLUTION AUTHORIZING THE MIDLAND HISPANIC CHAMBER OF COMMERCE TO EXTEND THE HOURS OF THE MEX-TEX FAMILY FIESTA TO OPERATE A CONCERT UNTIL 1:00 A.M. ON SUNDAY, JUNE 10, 2012

Council Member James recalled the Council wanting this event moved downtown. He continued to receive calls about the event, but acknowledged that turning the stage did make some difference.

Council Member Trost stated he also received phone calls complaining about the loud noise. He agreed that the previous year Council suggested this was the last time the

hours of the event would be extended.

Following discussion, Council Member Hailey moved to adopt Resolution No. 2012-005; seconded by Council Member Dufford.

Council Member James moved to amend the motion by allowing the concert to go until midnight instead of 1 a.m.; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

The motion, as amended, carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

20. Consider resolutions relating to a request from RSP Permian, L.L.C. for a permit to drill an oil and gas well (Bus Barn #2601) located 733' FNL and 1905' FWL, Section 26, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Development Services)

Oil & Gas Compliance Officer Ron Jenkins noted that the 30-day waiting period was complete, stated that one objection letter had been received and the applicant had requested a variance for landscaping and a variance for the 500 foot setback requirement.

a. Consider a resolution for a Permit to Drill an Oil and Gas Well within the City Limits.

RESOLUTION NO. 2012 - 006

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. (“OPERATOR”) TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 733 FEET FROM THE NORTH LINE AND 1,905 FEET FROM THE WEST LINE, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NEAR THE SOUTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 870 FEET EAST OF HEIDELBERG LANE)

Steve Gray, 4516 Bent Tree Trail, representing RSP, noted that some parcels of the land were within the City limits and some were not. They have already drilled two wells outside of the City limits and a four acre piece of land has been purchased for a tank battery and a well site. Their plan was that any wells developed could go to the tank battery outside of the City limits. He noted this application is on land owned by MISD. The landscaping variance was requested because there was very little landscaping in the area and the closest residence is 500 feet to the south. MISD agreed to the well site being within 500 feet of their commercial building and they have signed an agreement.

Council Member Dufford asked in general what the company's development philosophy will be for the entire area. Steve Gray noted that other wells are staked and permitted with the railroad commission. Other wells may be drilled in that location but they have not committed to anything at this time. When asked about fencing, Mr. Gray reported they would do standard fencing to match the surrounding areas.

Mayor Perry stated that this was not a public hearing but noted he would allow a couple of people on the opposing side to speak asking that comments for items 20, 21 and 22 be heard.

Dr. Steven Rea, distributed a copy of items that he disbursed at a previous meeting. He noted the oil and gas ordinance restricted wells within 500 feet of residences and that variances required an agreement with the surface owner. He presented Council with a map showing where the well sites were located within their subdivision and showing where alternative well sites could be located. He noted they were initially opposed to sites 2601, 2602 and 2603 but clarified that they are opposed to drilling within any community within Midland. He explained there were other areas where they could drill noting that the land across the street was for sale. An offer was made by one of the residents to purchase the land and lease it to them instead of drilling in 2603. He explained that in the last eight months they have only had one meeting with the applicant and asked the applicant to consider alternative drilling sites.

Robert Schlagel, 4304 Coyote Trail, explained he has no objection to 2601 and 2602. The people who live in 2603 would have their way of life destroyed if the wells were allowed to be drilled noting that the minerals could be recovered in all of Section 26 with other technology such as horizontally drilling. He stated that a lot of prayers were being

said for this project.

Council Member Sparks moved to adopt Resolution No. 2012 - 008; seconded by Council Member James.

Council Member James asked if the school owned the property in the tract that was within 500 feet of the commercial building. Oil & Gas Compliance Officer Jenkins replied that the school owned the property and that they signed an agreement stating it was okay to locate the well within 500 feet of their building.

Discussion ensued about landscaping. City Attorney Stretcher noted the City had several options: one, require the landscaping; two, defer or waive the landscaping; three, come up with amount as to what the landscaping would be and then require the permittee to donate the money into the parks foundation or construct the landscaping.

Steven Gray of RSP noted the well site was more than a quarter of a mile from the closest residence. He stated he would prefer to make a donation.

Council Member Sparks moved to require RSP place $4,000 in an escrow account and decide in two years if landscaping should be required. The motion died due to a lack of a second to the motion.

Council Member Dufford moved to amend the motion by deferring landscaping for two years and then make a decision if landscaping would be required; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Hailey, Perry, Dufford, James, Sparks. NAY: Morales, Trost. ABSTAIN: None. ABSENT: None.

The motion, as amended, carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

b. Consider a resolution authorizing the execution of a road repair agreement with RSP Permian, LLC. related to the Bus Barn #2601 well.

RESOLUTION NO. 2012 - 007

RESOLUTION AUTHORIZING THE EXECUTION OF A ROAD REPAIR AGREEMENT WITH RSP PERMIAN, L.L.C. REGARDING ITS APPLICATION TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 733 FEET FROM THE NORTH LINE AND 1,905 FEET FROM THE WEST LINE, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS

Oil & Gas Compliance Officer Jenkins noted that RSP has put up $25,000 per well for the road repair agreement.

Discussion ensued regarding how road damage is assessed.

Council Member Sparks moved to adopt Resolution No. 2012 - 010; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

21. Consider resolutions relating to a request from RSP Permian, L.L.C. for a permit to drill an oil and gas well (Bus Barn #2602) located 600' FNL and 525' FWL, Section 26, Block 40, T-1-S T&P RR Co. Survey, Midland County Texas.

Oil & Gas Compliance Officer Jenkins reported that the 30-day waiting period had been completed, noted two letters of objection had been received, and explained that the applicant was requesting two variances. The first variance would be for landscaping and the second variance would be for a building located within 448 feet of the well site.

a. Consider a resolution for a Permit to Drill an Oil and Gas Well within the City Limits.

RESOLUTION NO. 2012 - 008

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. (“OPERATOR”) TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 600 FEET FROM THE NORTH LINE AND 525 FEET FROM THE WEST LINE, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NEAR THE SOUTH SIDE OF

BRIARWOOD AVENUE, APPROXIMATELY 450 FEET EAST OF HEIDELBERG LANE)

Council Member Sparks moved to adopt Resolution No. 2012-008; seconded by Council Member James.

Council Member Dufford moved to amend the motion by deferring the landscape for two years and then make a decision if landscaping would be required; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hailey, Perry, Sparks, James, Dufford. NAY: Trost, Morales. ABSTAIN: None. ABSENT: None.

The motion, as amended, carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

b. Consider a resolution authorizing the execution of a road repair agreement with RSP Permian, LLC. related to the Bus Barn #2602 well.

RESOLUTION NO. 2012 - 009

RESOLUTION AUTHORIZING THE EXECUTION OF A ROAD REPAIR AGREEMENT WITH RSP PERMIAN, L.L.C. REGARDING ITS APPLICATION TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 600 FEET FROM THE NORTH LINE AND 525 FEET FROM THE WEST LINE, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS

Council Member Sparks moved to adopt Resolution No. 2012-009; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

22. Consider resolutions relating to a request from RSP Permian, L.L.C. for a permit to drill an oil and gas well (Bus Barn #2603) located 690' FNL and 1080' FEL, Section 26, Block 40, T-1-S T&P RR Co. Survey, Midland County, Texas.

Oil & Gas Compliance Officer Jenkins reported that 30 letters of objection and two petitions had been received objecting to this well site. He noted that the applicant was requesting a variance from landscaping but the Oil & Gas Advisory Commission recommended against the landscaping variance. It was noted that there were two structures within 500 feet, one was a barn and another was a shop, but they do not meet the qualifications because they are not residences.

a. Consider a resolution for a Permit to Drill an Oil and Gas Well within the City Limits.

RESOLUTION NO. NUMBER>

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. (“OPERATOR”) TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 690 FEET FROM THE NORTH LINE AND 1,080 FEET FROM THE EAST LINE, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 600 FEET WEST OF ROADRUNNER TRAIL)

Steve Gray presented a map to the Council showing where a private road would be constructed from Old County Road 60 directly to the well site. He noted there would need to be a flow line constructed. He noted they would be willing to put in a privacy fence and landscaping when the time was appropriate. He shared a picture of a home in Saddle Club Estates with five homes surrounding it that were all in the $300,000 price range and stated that Section 2603 could look similar in a few years with a privacy fence and landscaping. He noted they were not setting a precedent because Fort Worth allows drilling within 600 feet from a residence unless there is a written agreement in which case drilling can happen up to 300 feet from a residence. He noted they would be happy to do a temporary variance on landscaping until the water issue was resolved.

Discussion ensued about the flow line route and other potential locations.

Council Member Dufford asked Mr. Gray if he had an alternative spot across from the location if he would consider drilling from there instead. Steve Gray responded that yes, down the road they would consider that as an option. Council Member Dufford asked if they had access to the location from another area if they would directionally drill in lieu of the vertical wells. Steve Gray responded that they would do both but would not do it in lieu of the vertical location. Council Member Sparks asked if the location could be

moved to the north. Steve Gray responded that yes it could be moved to the north but they would reserve the right to drill more wells on that tract noting it would be the perfect location for island drilling where they could develop three wells on one pad.

Discussion ensued about the two structures within the 500 feet of the well site. It was noted that the owner was not present. When asked if anything was made commercially within those structures the neighbors reported they were not aware of any commercial activities.

Dr. Rea noted that people who build homes within a well site know what they are getting into in, but when you build a well within proximity to an existing home, he felt their property values would plummet.

Don Tiffen, 4105 Tumbleweed Trail, commented that granting variances is a slippery slope. He explained that RSP had wells that are staked out within 300 feet of residences and noted that the Ordinance could be strengthened to protect homeowners within the City limits by addressing noise abatement and nuisance issues.

Jeff Streun, 6609 Briarwood, stated he lives right next to where the access road will be constructed. He explained he has a 12 year old daughter and is concerned for her safety with all of the traffic.

Council Member Dufford moved to defer the item to the February 28 City Council Meeting; seconded by Council Member Morales.

The Council encouraged RSP to meet with the residents to see if they could reach an agreement.

The motion carried by the following vote: AYE: Morales, Hailey, Sparks, Dufford, James, Perry. NAY: Trost. ABSTAIN: None. ABSENT: None.

b. Consider a resolution authorizing the execution of a road repair agreement with RSP Permian, LLC. related to the Bus Barn #2603 Well.

RESOLUTION NO. 2012 - 011

RESOLUTION AUTHORIZING THE EXECUTION OF A ROAD REPAIR AGREEMENT WITH RSP PERMIAN, L.L.C. REGARDING ITS APPLICATION TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 690 FEET FROM THE NORTH LINE AND 1,080 FEET FROM THE EAST LINE, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS

Council Member Dufford moved to defer the item to the February 28 City Council meeting; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Hailey, Sparks, Dufford, James, Perry. NAY: Trost. ABSTAIN: None. ABSENT: None.

23. Consider a resolution on a request from Pioneer Natural Resources (Mabee #3) for a Permit to Drill an Oil and Gas Well within the City Limits located 660' FNL and 1980' FEL, Section 12, Block 39, T-1-S T&P RR Co. Survey, Midland County, Texas. (Development Services)

RESOLUTION NO. 2012 - 012

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO PIONEER NATURAL RESOURCES USA, INC. (“OPERATOR”) TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 660 FEET FROM THE NORTH LINE AND 1,980 FEET FROM THE EAST LINE, SECTION 12, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 349, NORTH OF ARAPAHOE LANE); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

Oil & Gas Compliance Officer Jenkins noted the 30-day review period had passed, explained that a request was received for waiver of the road repair agreement and that a variance was being requested for landscape and fencing. No letters of objection had been received.

Discussion ensued about whether the applicant should be required to make a donation to the Park Endowment Fund when landscape was waived. A motion was made to require a $1500 donation to the Park Endowment Fund. Following discussion the motion

was withdrawn.

Council Member Sparks moved to adopt Resolution No. 2012-012; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

24. Consider a resolution on a request from Pioneer Natural Resources (Mabee E #4) for a Permit to Drill an Oil and Gas Well within the City Limits located 800' FSL and 1980' FEL, Section 12, Block 39, T-1-S T&P RR Co. Survey, Midland County, Texas. (Development Services)

RESOLUTION NO. 2012 - 013

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO PIONEER NATURAL RESOURCES USA, INC. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 800 FEET FROM THE SOUTH LINE AND 1,980 FEET FROM THE EAST LINE, SECTION 12, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 349, NORTH OF ARAPAHOE LANE); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

Oil & Gas Compliance Officer Jenkins noted the 30-day review period has passed, that one letter of objection had been received and that the applicant was requesting a variance from fencing and landscaping and that there would be a waiver for the road repair agreement.

Council Member Dufford moved to adopt Resolution No. 2012-013; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

25. Consider a resolution on a request from Pioneer Natural Resources (Mabee D #5) for a Permit to Drill an Oil and Gas Well within the City Limits located 1880' FNL and 1980' FWL, Section 12, Block 39, T-1-S T&P RR Co. Survey, Midland County, Texas. (Development Services)

RESOLUTION NO. 2012 - 014

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO PIONEER NATURAL RESOURCES USA, INC. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 1,880 FEET FROM THE NORTH LINE AND 1,980 FEET FROM THE WEST LINE, SECTION 12, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 349, NORTH OF ARAPAHOE LANE); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

Oil & Gas Compliance Officer Jenkins noted this was the same as the previous item and that no public comments had been received and noted they were requesting the same variances.

Council Member Dufford moved to adopt Resolution No. 2012-014; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

26. Consider a resolution on a request from Pioneer Natural Resources (Mabee D #6) for a Permit to Drill an Oil and Gas Well within the City Limits located 1865' FNL and 660' FEL, Section 12, Block 39, T-1-S T&P RR Co. Survey, Midland County, Texas. (Development Services)

RESOLUTION NO. 2012 - 015

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO PIONEER NATURAL RESOURCES USA, INC. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 1,865 FEET FROM THE NORTH LINE AND 660 FEET FROM THE EAST LINE, SECTION 12, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 349, NORTH OF ARAPAHOE LANE); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

Oil & Gas Compliance officer Jenkins noted this was the same situation as previously

noted and that no public comments had been received for this item.

Council Member James moved to adopt Resolution No. 2012-015; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

27. Consider making appointments to various Boards and Commissions.

No appointments were made.

EXECUTIVE SESSION

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

a. Section 551.074 Personnel Matters

1. Deliberate the employment, evaluation, duties, and salary of the Presiding Municipal Court Judge, the Associate Municipal Court Judge, the City Manager, the City Attorney and the City Secretary.

Mayor Perry recessed the meeting to executive session at 2:35 p.m. The entire Council met in executive session until 2:50 p.m.

There being no other business to come before the City Council, the meeting was adjourned at 2:50 p.m.

PASSED AND APPROVED the 14th day of February, 2012.

_____
W. Wesley Perry, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary