MIDLAND CITY COUNCIL
MINUTES
February 12, 2013

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 February 12, 2013.

Council Members present:	Mayor W. Wesley Perry, Council Member Jerry Morales (At-Large), Mayor Pro Tem Jeff Sparks (District 1), Council Member John Love (District 2), Council Member John James (District 3), and Council Member Michael Trost (District 4).
Council Members absent:	Council Member Scott Dufford (At-Large).
Staff members present:	City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, Assistant City Manager Jim Nichols, City Secretary Amy Turner, Police Chief Price Robinson, Utilities Director Stuart Purvis, Downtown Development Manager Genora Young, Solid Waste Director Morris Williams, Finance Director Bob McNaughton, Assistant Code Administration Manager Ron Jenkins, Building Official Steve Thorpe, Public Information Officer Sara Higgins, Property Code Officer Lory Maxwell, Code Enforcement Officer Letty Mancha, Property Code Officer Dale Stevens, Code Enforcement Officer Luis Gonzales, Code Enforcement Officer Ponce Guerra, Code Enforcement Officer Mike Williams, Code Enforcement Supervisor Rick Arellano, and Customer Service Division Manager Tony Goyang.

1. Receive information regarding the Water and Sewer Junior Lien Revenue Bonds, Series 1999 redemption.

   Finance Director Bob McNaughton reported on the Water and Sewer Junior Lien Revenue Bonds noting that the State collapsed the bond program and it is no longer a feasible debt instrument. The City has about a year to make a decision on what to do. There is enough money in various funds restricted by ordinances that could be used to pay off the debt issued without using operating funds and would result in saving $5 million. He reported a resolution would be brought to Council at a future meeting.

2. Receive presentation regarding rebranding of Code Enforcement.

   Building Official Steve Thorpe reported their intent to retool and rebrand Code Enforcement noting they want to be known as Code Compliance because they are seeking compliance rather than enforcement.

   Code Enforcement Supervisor Rick Arellano reviewed the steps of code inspections with regard to violations and showed corresponding letters and cards highlighting changes being made

It was suggested that a general reminder be given to all City residents and to not focus solely on habitual offending neighborhoods.

3. Receive presentation regarding a personnel rescue/recovery vehicle for the Police Department.

   Police Chief Price Robinson introduced members of his part-time tactical team noting they are well trained, have good equipment, are good leaders, and are very knowledgeable. However, the team does not have a reliable personnel delivery rescue vehicle to get someone in or out of a dangerous situation. The safest way to respond to an incident is with the use of a rescue/recovery vehicle. He shared pictures of the current and the proposed vehicle and provided statistics. He noted he would bring to Council a formal item for the purchase of the vehicle.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:50 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., February 12, 2013.

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

Council Members absent: Council Member Scott Dufford (At-Large)

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.

The Agenda Items were heard in the following order: 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 7, 12, 35a, 35b, 39, 41, 40, 42, 43, 44, 38, 57 46, 47, 48, 49, 50, 51, 52, 53, 45, 36, 37, 54, 55, 56.

OPENING ITEMS

1. Invocation - Pastor Tommie Hale, Mt. Calvary Missionary Baptist Church

2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to: No presentations were made.

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.

Laurie Stephens, 5000 Rainbow Road, noted her property backs up to the retention basin that is located on Preston and Idyllwild. She requested that once the renovations are complete to the retention basin that it be designated a park.

There were no other requests by citizens to speak.

CONSENT AGENDA

Council Member Sparks moved to approve to approve Consent Agenda items 5-34 excluding 7 and 12: seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

5. Approved a motion approving the following minutes:

   a. Regular Meeting of January 22, 2013.

6. Received for information and possibly discuss first quarter Fiscal Year 2012 – 2013 Investment Report. (FINANCE)

8. Approved a resolution rejecting all bids received for automobiles and light trucks for the Garage Division and approving plans and specifications and authorizing re-advertisement for bids. (GENERAL SERVICES)

   RESOLUTION NO. 2013 - 030
   RESOLUTION REJECTING ALL BIDS RECEIVED FOR BID NUMBER 6009-13 FOR AUTOMOBILES AND LIGHT TRUCKS; AND AUTHORIZING RE-ADVERTISEMENT FOR BIDS

9. Approved a resolution approving the purchase of two (2) squad rescue vehicles from Knapp Chevrolet through HGAC for the Garage Division. (GENERAL SERVICES)

   RESOLUTION NO. 2013 - 031
   RESOLUTION APPROVING THE PURCHASE OF TWO (2) SQUAD RESCUE VEHICLES THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (HGAC) AT A TOTAL COST OF $213,400.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COUNCIL OF GOVERNMENTS

10. Approved a resolution approving the purchase of one (1) new Frazer ambulance from Sterling McCall Ford through HGAC for the Garage Division. (GENERAL SERVICES)

   RESOLUTION NO. 2013 - 032
   RESOLUTION APPROVING THE PURCHASE OF ONE (1) NEW TYPE-1 AMBULANCE THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (HGAC) AT A TOTAL COST OF $177,800.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COUNCIL OF GOVERNMENTS

11. Approved a resolution approving the purchase of one (1) Frazer ambulance remount from Knapp Chevrolet through HGAC for the Garage Division. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 033

RESOLUTION APPROVING THE PURCHASE OF AMBULANCE BOX REFURBISH AND RE-MOUNTING SERVICES THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (HGAC) AT A TOTAL COST OF $66,275.00; AND THIS SERVICE WAS NOT BID BUT PURCHASED THROUGH A COUNCIL OF GOVERNMENTS

13. Approved a resolution authorizing the City Manager to execute a Consent Agreement between the First National Bank of Stanton, Texas and the City of Midland, Texas as required by Article 8(K) of the Absolute Investments, Inc.'s Lease Agreement to encumber its' leasehold interest in the lease by pledging said lease as collateral for a loan to construct a hangar on the premises. (Tract 1 - Section 6, Lot 4B, Block 11, Midland International Airport Industrial Park Addition, Midland County, Texas). (AIRPORTS)

RESOLUTION NO. 2013 - 035

RESOLUTION CONSENTING TO ABSOLUTE INVESTMENTS, INC.'S ENCUMBRANCE OF ITS LEASEHOLD INTEREST IN TRACT 1 IN LOT 4B, BLOCK 11, MIDLAND INTERNATIONAL AIRPORT INDUSTRIAL PARK ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS, AS AUTHORIZED BY ARTICLE 8(K) OF THE LEASE AGREEMENT BETWEEN ABSOLUTE INVESTMENTS, INC. AND THE CITY OF MIDLAND REGARDING SAID PROPERTY

14. Approved a resolution authorizing the City Manager to execute a Consent Agreement between the First National Bank of Stanton, Texas and the City of Midland, Texas as required by Article 8(K) of the Absolute Investments, Inc.'s Lease Agreement to encumber its' leasehold interest in the lease by pledging said lease as collateral for a loan to construct a hangar on the premises. (Tract 6 - Section 6, Lot 4B, Block 11, Midland International Airport Industrial Park Addition, Midland County, Texas.) (AIRPORTS)

RESOLUTION NO. 2013 - 036

RESOLUTION CONSENTING TO ABSOLUTE INVESTMENTS, INC.'S ENCUMBRANCE OF ITS LEASEHOLD INTEREST IN TRACT 6 IN LOT 4B, BLOCK 11, MIDLAND INTERNATIONAL AIRPORT INDUSTRIAL PARK ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS, AS AUTHORIZED BY ARTICLE 8(K) OF THE LEASE AGREEMENT BETWEEN ABSOLUTE INVESTMENTS, INC. AND THE CITY OF MIDLAND REGARDING SAID PROPERTY

15. Approved a resolution authorizing the City Manager to execute a Consent Agreement between the First National Bank of Stanton, Texas and the City of Midland, Texas as required by Article 8(K) of the Absolute Investments, Inc.'s Lease Agreement to encumber its leasehold interest in the lease by pledging said lease as collateral for a loan to construct a hangar on the premises. (Tract 4 - Section 7, Lot 4B, Block 11, Midland International Airport Industrial Park Addition, Midland County, Texas). (AIRPORTS)

RESOLUTION NO. 2013 - 037

RESOLUTION CONSENTING TO ABSOLUTE INVESTMENTS, INC.'S ENCUMBRANCE OF ITS LEASEHOLD INTEREST IN TRACT 4 IN LOT 4B, BLOCK 11, MIDLAND INTERNATIONAL AIRPORT INDUSTRIAL PARK ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS, AS AUTHORIZED BY ARTICLE 8(K) OF THE LEASE AGREEMENT BETWEEN ABSOLUTE INVESTMENTS, INC. AND THE CITY OF MIDLAND REGARDING SAID PROPERTY

16. Approved a resolution supporting the Westridge Senior Citizens' Rental Housing at Beal Parkway. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2013 - 038

RESOLUTION SUPPORTING THE MIDLAND WESTRIDGE APARTMENTS, L.P. FOR A PROPOSED DEVELOPMENT FOR AFFORDABLE SENIOR CITIZENS' RENTAL HOUSING AT BEAL PARKWAY

17. Approved a resolution authorizing the execution of a Sports Agreement with the Greater Midland Football League to administer programs, special events, and services related to football. (COMMUNITY SERVICES)

RESOLUTION NO. 2013 - 039

RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH THE GREATER MIDLAND FOOTBALL LEAGUE TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO FOOTBALL

18. Approved a resolution authorizing the execution of a Sports Agreement with the Midland Junior Baseball Association, Incorporated, to administer programs, special events, and services related to baseball for men ages nineteen and younger. (COMMUNITY SERVICES)

RESOLUTION NO. 2013 - 040

RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH MIDLAND JUNIOR BASEBALL ASSOCIATION, INCORPORATED, TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO BASEBALL FOR MEN AGES NINETEEN AND YOUNGER

19. Approved a resolution authorizing the execution of a Sports Agreement with the City of Midland Aquatics, Incorporated, to administer programs, special events, and other services related to swimming in the City of Midland; the term of the agreement is from February 13, 2013, through December 31, 2013; and the contract covers Doug Russell Pool. (COMMUNITY SERVICES)

RESOLUTION NO. 2013 - 041

RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH CITY OF MIDLAND AQUATICS, INCORPORATED, TO ADMINISTER PROGRAMS, SPECIAL EVENTS, AND OTHER SERVICES RELATED TO SWIMMING IN THE CITY OF MIDLAND; AND THE CONTRACT COVERS THE DOUG RUSSELL POOL

20. Approved a resolution authorizing the execution of a Sports Agreement with the Midland Soccer Association, Incorporated, to administer programs, special events, and services related to soccer for youth ages nineteen and younger. (COMMUNITY SERVICES)

RESOLUTION NO. 2013 - 042
RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH MIDLAND SOCCER ASSOCIATION, INCORPORATED, TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO SOCCER

21. Approved a resolution authorizing the execution of a Sports Agreement with the Midland Adult Soccer League to administer programs, special events, and services related to soccer for adults ages nineteen and older. (COMMUNITY SERVICES)

RESOLUTION NO. 2013 - 043
RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH THE MIDLAND ADULT SOCCER LEAGUE TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO SOCCER FOR ADULTS AGES NINETEEN (19) AND OLDER

22. Approved a resolution authorizing the execution of a Sports Agreement with Midland Softball Association, Incorporated, to administer programs, special events, and services related to softball for adults ages fifteen (15) and older. (COMMUNITY SERVICES)

RESOLUTION NO. 2013 - 044
RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH MIDLAND SOFTBALL ASSOCIATION, INCORPORATED, TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO SOFTBALL FOR ADULTS AGES FIFTEEN (15) AND OLDER

23. Approved a resolution authorizing the execution of a Sports Agreement with Midland United Girls Softball Association, Incorporated, to administer programs, special events, and services related to softball for girls. (COMMUNITY SERVICES)

RESOLUTION NO. 2013 - 045
RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH MIDLAND UNITED GIRLS SOFTBALL ASSOCIATION, INCORPORATED TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO SOFTBALL FOR GIRLS

24. Approved a resolution authorizing the execution of a Sports Agreement with the Texas Cricket Club to administer programs, special events, and services related to cricket. (COMMUNITY SERVICES)

RESOLUTION NO. 2013 - 046
RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH THE TEXAS CRICKET CLUB TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO CRICKET

25. Approved a resolution authorizing the execution of a Sports Agreement with West Texas BMX to administer programs, special events, and services related to BMX (Bicycle Motocross) racing and riding. (COMMUNITY SERVICES)

RESOLUTION NO. 2013 - 047
RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH

WEST TEXAS BMX TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO WEST BMX RACING AND RIDING

26. Received presentation of schedule for Fiscal Year 2013-14 Community Development Block Grant (CDBG) Program. (DEVELOPMENT SERVICES)

27. Approved a resolution authorizing staff to accept an access easement in the Providence Park Addition - Section 4. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 048

RESOLUTION AUTHORIZING THE ACCEPTANCE OF A 0.0026-ACRE ACCESS EASEMENT LOCATED IN LOT 19, BLOCK 1, PROVIDENCE PARK, SECTION 4, MIDLAND, MIDLAND COUNTY, TEXAS; AND ORDERING RECORDATION BY THE CITY SECRETARY

28. Approved a motion on a request by West Engineering of Midland for the Northwestern Addition (Section 15) to approve items requested for deferral in the amount of $28,578.00 and to waive the associated public improvement guarantee. (Generally located at the southeast corner of Midland Drive and Mockingbird Lane intersection.) (ENGINEERING SERVICES)

29. Approved a resolution approving a Temporary Water Service Agreement with Pioneer Natural Resources USA, Inc. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 049

RESOLUTION AUTHORIZING THE EXECUTION OF A TEMPORARY WATER AND SEWER SERVICE AGREEMENT BETWEEN THE CITY OF MIDLAND AND PIONEER NATURAL RESOURCES USA, INC. FOR SERVICES TO 2518 FARM-TO-MARKET ROAD 307, MIDLAND, TEXAS, 79706; SAID PROPERTY IS OUTSIDE THE CITY LIMITS; PIONEER NATURAL RESOURCES USA, INC. HAS EXECUTED A LETTER AGREEING TO ANNEXATION IF AND WHEN THE PROPERTY IS ANNEXED; PIONEER NATURAL RESOURCES USA, INC. SHALL BE CHARGED A RATE FOR SERVICE WHICH IS ONE AND ONE-HALF TIMES THE RATE CHARGED CUSTOMERS IN THE CITY LIMITS; AND ORDERING RECORDATION BY THE CITY SECRETARY

30. Approved a resolution authorizing the execution of a Public Improvement Development Agreement in the amount of $242,592 with Vineyard Reserve, LLC (Chuck Hedges) for the extension of wastewater collection system improvements to serve the Vineyard Addition. Said agreement being authorized by Section 395.081 of the Texas Local Government Code. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 050

RESOLUTION AUTHORIZING THE EXECUTION OF A PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH VINEYARD RESERVE, LLC FOR DEVELOPMENT OF VINEYARD ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF HOLIDAY HILL ROAD, WEST OF THE GREEN TREE SUBDIVISION); AND APPROPRIATING FUNDS IN THE AMOUNT OF $242,592.00 THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE

31. Approved a resolution to accept a re-authorized AFG Grant from 2007. (FIRE)

RESOLUTION NO. 2013 - 051
RESOLUTION ACCEPTING A GRANT AWARD FROM THE 2007 ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM; AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS; DEPOSITING AND APPROPRIATING GRANT FUNDS

32. Approved a resolution to appropriate interest earned on the FY2009 Justice Assistance Grant funds. (POLICE)

RESOLUTION NO. 2013 - 052
RESOLUTION APPROPRIATING INTEREST EARNED IN THE AMOUNT OF $24.00 ON THE FY2009 JUSTICE ASSISTANCE GRANT FUNDS; THE GRANT AWARD PLUS INTEREST MUST BE EXPENDED OR RETURNED TO THE FEDERAL GOVERNMENT AS A REQUIREMENT OF THE GRANT

33. Approved a resolution approving a Professional Services Agreement with SAIC for the Operational Review of the Solid Waste Department. (SOLID WASTE)

RESOLUTION NO. 2013 - 053
RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH SAIC ENERGY, ENVIRONMENT & INFRASTRUCTURE, L.L.C., FOR PROFESSIONAL OPERATIONAL REVIEW OF SERVICES AT THE CITY LANDFILL AND ALL RELATED ASPECTS OF SOLID WASTE AND RECYCLING; IT IS ESTIMATED THAT THE DESIGN AND ENGINEERING WORK SHALL COST $202,700.00; AND APPROPRIATING FUNDS

34. Approved a resolution approving a Discharge License with Compressor Systems, Inc. for the Purpose of Discharging Effluent from the Washing of Equipment with Degreaser Soap. (UTILITIES)

RESOLUTION NO. 2013 - 054
RESOLUTION AUTHORIZING THE EXECUTION OF A SANITARY SEWER DISCHARGE LICENSE AGREEMENT WITH COMPRESSOR SYSTEMS INCORPORATED FOR THE PURPOSE OF DISCHARGING EFFLUENT

The following items were pulled from Consent Agenda and considered individually.

7.

Consider a resolution rescinding Resolution No. 2013-003 for a three (3) year agreement for dry cleaning services with Dry Clean Super Center for the Police Department, Fire Department, Municipal Court, Garage and Water & Wastewater and ratifying re-advertisement for bids. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 029
RESOLUTION RESCINDING RESOLUTION NUMBER 2013-003 AWARDING A BID TO DRY CLEAN SUPER CENTER, FOR A MULTI-YEAR CONTRACT FOR DRY-CLEANING AND LAUNDRY SERVICES AND AUTHORIZING THE RE-ADVERTISEMENT OF BIDS; RATIFYING ALL PRIOR ACTS OF THE CITY MANAGER RELATED TO BIDDING

Council Member Sparks asked if Council wished to consider changing its policy of rescinding all bids once a vendor is selected. Council determined this should be discussed at a future briefing session or at the Council retreat.

Council Member Love moved to adopt Resolution No. 2013-029; seconded by Council Member James. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

12. Consider a resolution authorizing a contract for the 2013 Mill/Overlay Project for the Engineering Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 034

RESOLUTION AWARDING A CONTRACT FOR THE 2013 MILL OVERLAY PROJECT TO REESE ALBERT, INCORPORATED, OF MIDLAND, TEXAS, AT A TOTAL COST OF $4,427,477.23; AND AUTHORIZING THE APPROPRIATION OF AN ADDITIONAL 10% FOR A CONTINGENT FEE; AND ALLOCATING AND APPROPRIATING FUNDS

Council Member Sparks moved to adopt Resolution No. 2013-034; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

SECOND READINGS

35. Specific Use Permit without Term for a Manufactured Home Park on Lot 1, Block 1, Fairgrounds Addition, City and County of Midland, Texas.

a. Consider an ordinance on second reading on a request by Chase Gardaphe for a Specific Use Permit without Term for a Manufactured Home Park on Lot 1, Block 1, Fairgrounds Addition, City and County of Midland, Texas. (Generally located on the east side of N. Fairgrounds Road, approximately 900 feet south of East Golf Course Road.)

ORDINANCE NO. 9106

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 1, BLOCK 1, FAIRGROUNDS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH FAIRGROUNDS ROAD, APPROXIMATELY 900 FEET SOUTH OF EAST GOLF COURSE ROAD), WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR A MANUFACTURED HOME PARK; 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.

Planning Division Manager Cameron Walker reported that the sidewalk issue was discussed at the previous meeting noting that the estimated cost to install sidewalks at the location would be $12,521. The issue could be considered using the deferral procedures.

Deputy City Secretary Reyes read the caption of Ordinance No. 9106.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9094 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

b. Consider a motion on a request by Newton Engineering for the Fairgrounds Addition (Stonegate Mobile Home Community) and to approve items requested for deferral in the amount of $12,521.00 and to waive the associated public improvement guarantee. (Generally located on the east side of North Fairgrounds Road, approximately 900 feet south of East Golf Course Road.)

Council Member James moved to approve a motion on a request by Newton Engineering for the Fairgrounds Addition (Stonegate Mobile Home Community) and to approve items requested for deferral in the amount of $12,521.00 and to waive the associated public improvement guarantee; seconded by Council Member Sparks. The motion failed by the following vote: AYE: Perry, James, Sparks. NAY: Love, Morales, Trost. ABSTAIN: None. ABSENT: Dufford.

36. Consider an ordinance on second reading on a request by Basin Burger House for an amended Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on Lot 1A, Block 29, Homestead Addition, Section 8, City and County of Midland, Texas. (Generally located on the southwest corner of the intersection of West Louisiana Avenue and North Colorado Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9107

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 1A, BLOCK 29, HOMESTEAD ADDITION, SECTION 8, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST LOUISIANA AVENUE AND NORTH COLORADO STREET), WHICH IS PRESENTLY ZONED C-1, CENTRAL AREA DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; 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. 9107.

Council Member Trost moved to approve the second and final reading of Ordinance No. 9107 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

37. Consider an ordinance on second reading to replace Section 10-1-2 of the Midland City Code. The intent of the proposed ordinance is to clarify the permitting process and other regulations regarding parades and other special events. (CITY ATTORNEY'S OFFICE)

ORDINANCE NO. 9108

AN ORDINANCE AMENDING TITLE X, "TRAFFIC REGULATIONS", CHAPTER 1, "GENERAL TRAFFIC REGULATIONS", SECTION 2, "PERMIT REQUIRED FOR PARADES AND PROCESSIONS", OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO CLARIFY THE PERMITTING PROCESS AND OTHER REGULATIONS RELATED TO SPECIAL EVENTS; CONTAINING A PROCESS FOR APPEALING THE DENIAL OF A PERMIT; CONTAINING A CUMULATIVE CLAUSE AND EXPRESSLY REPEALING ANY ORDINANCE OR PORTION THEREOF IN CONFLICT WITH THIS ORDINANCE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS ($500.00) AND NOT REQUIRING A CULPABLE MENTAL STATE; ESTABLISHING AN EFFECTIVE DATE OF MARCH 1, 2013; AND ORDERING PUBLICATION

Deputy City Secretary Moreno read the caption of Ordinance No. 9108.

Council Member James moved to approve the second and final reading of Ordinance No. 9108 in accordance with the Charter of the City of Midland with the amendment on Page 4 under City Attorney's Office to read: "The insurance shall cover all spectators and participants of the Special Event. The Certificate of Insurance shall show that spectators and participants are covered by the Commercial Liability Insurance." and amendment on Page 11 under copies to read, "(5) Midland County Emergency Management Coordinator; and (6) Midland County Sheriff."; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

PUBLIC HEARINGS

38. At approximately 10:30 A.M. hold a public hearing and consider an ordinance on a request by Morian Hospitality Midland, LLC for a zone change from LR-2, Local Retail District to PD, Planned District for a Shopping Center on Lot 4A, Block 52, Belmont Addition, Section 12, City and County of Midland, Texas. (Generally located on the north side of W. Longview Avenue, approximately 790 feet east of Rankin Hwy.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9109

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 4A, BLOCK 52, BELMONT ADDITION, SECTION 12, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED ON THE NORTH SIDE OF WEST LONGVIEW AVENUE, APPROXIMATELY 790 FEET EAST OF RANKIN HIGHWAY); 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

Planning Division Manager Walker gave an overview of the item noting no letters of objection had been received and that Planning & Zoning recommended approval of the item.

Mayor Perry opened the public hearing at 12:28 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Moreno read the caption of Ordinance No. 9109.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9109 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

It was noted for the record that although this item says that it is for a Planned District for a Shopping Center it is acknowledged and understood that it will be used as a hotel.

39. At approximately 10:33 A.M. hold a public hearing and consider an ordinance on a request by Black Family Partnership for a zone change from LR-2, Local Retail District to PD, Planned District for a Shopping Center on the north 3.54-acres of Lot 30, Block 5, Greathouse Addition, Section 6, City and County of Midland, Texas. (Generally located between Holiday Hill Road and Spence Drive, approximately 200 feet north of Briarwood Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9110

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 3.54-ACRE TRACT OF LAND OUT OF SECTION 6, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED BETWEEN HOLIDAY HILL ROAD AND SPENCE DRIVE, APPROXIMATELY 200 FEET NORTH OF BRIARWOOD AVENUE; SAID 3.54-ACRE TRACT IS OUT OF THE NORTH HALF OF LOT 30, BLOCK 5, GREATHOUSE ADDITION, SECTION 6, BUT SAID LOT 30 HAS NOT BEEN REPLATTED); 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

Planning Division Manager Walker gave an overview of the item noting one letter of objection had been received.

Mayor Perry opened the public hearing at 10:54 a.m.

Eric West, Parkhill Smith and Cooper, 1700 West Wall, reported that early in the process they sent the Site Plan to the Colorado River Municipal Water District (CRMWD) for their approval. They are fine with the location of the building and they will have additional restrictions.

There being no one else wishing to speak, the public hearing was closed at 10:55 a.m.

Deputy City Secretary Reyes read the caption of Ordinance No. 9110.

Council Member James moved approval of the first of two readings of Ordinance No. 9110 in accordance with the Charter of the City of Midland; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Perry, James, Sparks. NAY: Trost. ABSTAIN: None. ABSENT: Dufford.

40. At approximately 10:36 A.M. hold a public hearing and consider an ordinance on a request by K J Hotel for a zone change from 1F-3, One-Family Dwelling District to PD, Planned District for a Shopping Center on a 4.356-acre tract of land within Blocks 54 and 55 and the adjacent vacated streets and alley rights-of-way, Belmont Addition, City and County of Midland, Texas. (Generally located on the northwest corner of the intersection of E. Longview Avenue and S. Baird Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9111

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 4.356-ACRE TRACT OF LAND WITHIN BLOCKS 54 AND 55 AND THE ADJACENT VACATED STREET AND ALLEY RIGHTS-OF-WAY, BELMONT ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED 1F-3, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED ON THE NORTHEAST CORNER OF LONGVIEW AVENUE AND BAIRD STREET); 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

Planning Division Manager Walker gave an overview of the item noting this item was for the construction of a hotel and that no letters of objection had been received.

Mayor Perry opened the public hearing at 11:09 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. 9111.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9111 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

It was noted for the record that although the item says it is a Planned District for a Shopping Center it was understood and acknowledged that it will be a hotel.

41. At approximately 10:39 A.M. hold a public hearing and consider an ordinance on a request by Fasken Oil and Ranch for a zone change from FD, Future Development

District to O-1, Office District, on a 34.60-acre tract of land out of Section 13, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located at the west side of Holiday Hill Road, approximately 800 feet north of Sherwood Drive.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9112

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 34.79-ACRE TRACT OF LAND OUT OF SECTION 13, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS AN O-1, OFFICE DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF HOLIDAY HILL ROAD, APPROXIMATELY 800 FEET NORTH OF SHERWOOD 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

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

Mayor Pro Tem Sparks opened the public hearing at 10:58 p.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. 9112.

Council Member James moved approval of the first of two readings of Ordinance No. 9112 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

42. At approximately 10:42 A.M. hold a public hearing and consider an ordinance on a request by John Gonzalez for a Specific Use Permit without Term for an accessory building for living or sleeping quarters on Lot 19, Block 3, Baumann Heights 1st Section, City and County of Midland, Texas. (Generally located on the south side of W. Louisiana Avenue, approximately 630 feet east of N. Midkiff Road.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9113

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF LOT 19, BLOCK 3, BAUMANN HEIGHTS 1st SECTION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST LOUISIANA AVENUE, APPROXIMATELY 630 FEET EAST OF NORTH MIDKIFF ROAD), WHICH IS PRESENTLY ZONED 1F-1, ONE-FAMILY DWELLING DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR AN ACCESSORY BUILDING TO BE USED FOR LIVING OR SLEEPING QUARTERS; 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

Planning Division Manager Walker provided an overview of the item noting two letters of objection from the neighborhood had been received and that the item was approved by the Planning & Zoning Commission. Questions were asked and answered about accessory buildings.

Mayor Perry opened the public hearing at 11:20 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Moreno read the caption of Ordinance No. 9113.

Council Member James moved approval of the first of two readings of Ordinance No. 9113 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Perry, James, Sparks. NAY: Trost. ABSTAIN: None. ABSENT: Dufford.

43. At approximately 10:45 a.m. hold a public hearing regarding a proposed oil and gas permit to Petroplex Energy, Inc., (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Western-T 8 #1) located 2,183 feet from the south line and 467 feet from the east line located in Section 8, Block 39, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the west side of the extension of North Midkiff Road, approximately ½ mile north of the extension of Green Tree Boulevard.) (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins reported the application had been reviewed by the Oil & Gas Advisory Committee and there were three administrative items that were addressed. The applicant requested a variance from landscaping and irrigation in addition to a request to not have a Road Repair Agreement because they would not be using any City streets. No letters of objection had been received.

Mayor Perry opened the public hearing at 11:23 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

No further action was taken on this item.

44. At approximately 10:48 A.M. hold a public hearing and consider an ordinance ON APPEAL on a request by Freedom Influence Group, LLC for Specific Use Permit without Term for a Manufactured Home Park on a 46.458-acre tract of land out of Blocks 83 and 86, East Midland, City and County of Midland, Texas. (Generally located on the west side of N. Fairgrounds Road, approximately 600 feet north of E. Cuthbert Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9114

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 46.458-ACRE TRACT OF LAND OUT OF BLOCKS 83 AND 86, EAST MIDLAND, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF FAIRGROUNDS ROAD, APPROXIMATELY 600 FEET NORTH OF EAST CUTHBERT AVENUE), WHICH IS PRESENTLY ZONED C-3, COMMERCIAL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR A MANUFACTURED HOME PARK; 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

Planning Division Manager Walker gave an overview of the item noting that on January 14, 2013, the Planning & Zoning Commission unanimously recommended against the request for a manufactured home park under a specific use permit on the 46-acre tract of land located on the west side of Fairgrounds Road. Their reasons for denial were traffic, noise dust, and potential effect to the neighborhood to the west. Three letters of objection had been received making the objection rate 54%.

Mayor Perry opened the public hearing at 11:27 a.m.

Blake Templeton, Lubbock, noted he felt this land was valuable for housing due to easy access of water and sewer. They have a waiting list of 752 individuals who would like to move into Stonebridge Estates. Several people in the audience stood to show their support of this item.

Rick Betenbough of Betenbough Homes stated his support of the project noting they originally looked at the tract of land for single family homes but felt it would be better used for manufactured housing.

Larry Kilgore, 1007 N. Fairgrounds Rd, noted their pipe yard is next door to where the proposed site. He stated his objection to the project because of potential noise complaints about their pipe yard from future residents noting they were a 24-hour operation. He offered the applicant buy them out and they would move to another location. He expressed concern about traffic using their yard for turning around because traffic is 50 miles per hour.

Dan Nicholas, 10105 ECR 103, expressed his support of the project noting he was asked to invest in the project but did not because it did not meet his formula. He expressed support due to the housing need this was a good fit.

David Diaz, 5101 Sherwood, reminded Council of their investment in homes near the proposed site. He felt the land was perfect for single family stick built homes, not manufactured homes. At CDBG meetings in those neighborhoods there were often complaints from residents about manufactured homes. The neighborhood prefers single family stick built homes. He objected to this use because there are already over 1,000 mobile home lots that have been identified in Midland and Midland County that were still sitting vacant.

Golden Gibbs, 1416 Chestnut, spoke in opposition to manufactured homes due to traffic concerns.

Planning Division Manager Walker reminded Council that if they approved this item they would also be approving the site plan. There was an issue with inconsistent zoning because their driveways go through 2F Zoning. The applicant previously came before Council with a request to change that 2F Zoning to C3 and then the applicant withdrew his application. He answered questions about what appropriate uses were included in C3 zoning and the number of mobile home parks in the City.

Chase Gardaphe, 415 W. Wall Street, answered questions about the difference between a mobile home and a manufactured home. Building Official Steve Thorpe also commented on differences between the two clarifying this was a manufactured home community.

Council member James asked applicant if they could come up with a way to build single family homes in the current 2F zone to create a buffer between the current residential homes and the manufactured home park.

Brant Greathouse, 3600 S. Highway 349, replied they were looking at placing 20 site built homes in the 2F section.

Blake Templeton asked if Council would allow them to make changes to their site plan to put site built single family housing in the 2F zone with high efficiency single family homes with the concession that access to manufactured home park go through those homes or allow for another alternative.

Mayor Perry stated concern because procedurally the Council needed to either approve or deny the item. If a deferral was made, Council would still have to either approve or deny the item as it stands.

City Attorney Stretcher clarified that if this item is denied it would take about a year for them to get back in front of the Council and that development on Tilden would require a Development Agreement because this project does not abut Tilden. He also noted it would be much cleaner to roll this approval into one package with the 2F zoning.

Council Member James asked if they could still withdraw their application and if they did so, would it put them off for a year. The response was no; they could begin immediately.

Brant Greathouse expressed concern about making revisions noting they have been working on this since May 2012. He explained the steps they have taken to purchase the land. He requested that his application be withdrawn.

MISCELLANOUS

45. Consider an ordinance making certain transfers in various funds of the 2011 – 2012 Fiscal Year Budget and making certain budget amendments and ordering recordation. (FINANCE)

ORDINANCE NO. 9115

AN ORDINANCE MAKING CERTAIN TRANSFERS IN VARIOUS FUNDS OF THE 2011-2012 FISCAL YEAR BUDGET AND MAKING CERTAIN BUDGET AMENDMENTS; AND ORDERING RECORDATION

Finance Director McNaughton gave an overview of the item reporting that this item would approve the budget for several special revenue funds.

Deputy City Secretary Reyes read the caption of Ordinance No. 9115.

Council Member James moved approval of the first of two readings of Ordinance No. 9115 in accordance with the Charter of the City of Midland; seconded by Council

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

46. Consider a resolution approving the issuance of a permit to Bluestem Energy Holdings (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Evans P 1) located 490 feet from south line and 565 feet from east line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of North Midkiff Road, approximately 490 feet north of Mockingbird Lane.) Evans P 1 (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 055

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO BLUESTEM ENERGY HOLDINGS, LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 490 FEET FROM THE SOUTH LINE AND 565 FEET FROM THE EAST LINE, SECTION 8, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDKIFF ROAD, APPROXIMATELY 490 FEET NORTH OF MOCKINGBIRD LANE); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT

Oil & Gas Compliance Officer Jenkins gave an overview of the item noting that one letter of objection had been received. The Oil & Gas Advisory Committee recommended against granting a variance for landscaping and irrigation due to the proximity to homes. He clarified the land owner and the operator both were in favor of the variance. The resolution includes a two-year variance.

Council Member James moved to adopt Resolution No. 2013 - 055; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

47. Consider a resolution approving the issuance of a permit to Bluestem Energy Holdings (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Evans A 1) located 993 feet from north line and 490 feet from east line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of North Midkiff Road, approximately ¾ mile north of Mockingbird Lane.) Evans A 1 (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 056

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO BLUESTEM ENERGY HOLDINGS, LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 993 FEET FROM THE NORTH LINE AND 490 FEET FROM THE EAST LINE, SECTION 8, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDKIFF ROAD, APPROXIMATELY 3/4 OF A MILE NORTH OF MOCKINGBIRD LANE); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT

Oil & Gas Compliance Officer Jenkins gave an overview of the item noting that no letters of objection had been received and that the Oil & Gas Advisory Committee recommended granting a variance for landscaping and irrigation.

Council Member James moved to adopt Resolution No. 2013 - 056; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

48. Consider a resolution approving the issuance of a permit to Bluestem Energy Holdings (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Evans O 1) located 654 feet from south line and 1860 feet from east line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the north side of Mockingbird Lane, approximately 1/3 mile west of North Midkiff Road.) Evans O 1 (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 057

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO BLUESTEM ENERGY HOLDINGS, LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 654 FEET FROM THE SOUTH LINE AND 1,860 FEET FROM THE EAST LINE, SECTION 8, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF MOCKINGBIRD LANE, APPROXIMATELY 1/3 OF A MILE WEST OF NORTH MIDKIFF ROAD); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT

Oil & Gas Compliance Officer Jenkins gave an overview of the item noting that no letters of objection had been received and that the Oil & Gas Advisory Committee recommended against granting a variance for landscaping and irrigation. He clarified that if the resolution is approved a two year variance was included in the resolution.

Council Member James moved to adopt Resolution No. 2013 - 057; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

49. Consider a resolution approving the issuance of a permit to Bluestem Energy Holdings (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Evans B 2) located 490 feet from north line and 2,328 feet from east line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of North Midkiff Road, approximately 1 mile north of Mockingbird Lane.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 058

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO BLUESTEM ENERGY HOLDINGS, LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 490 FEET FROM THE NORTH LINE AND 2,328 FEET FROM THE EAST LINE, SECTION 8, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDKIFF ROAD, APPROXIMATELY 1 MILE NORTH OF MOCKINGBIRD LANE); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING

ROAD REPAIR AGREEMENT

Oil & Gas Compliance Officer Jenkins gave an overview of the item noting that no letters of objection had been received and that the Oil & Gas Advisory Committee recommended granting a variance for landscaping and irrigation.

Council Member James moved to adopt Resolution No. 2013 - 058; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

50. Consider a motion on a request by Grassland 2 Development Company, LLC for a proposed preliminary plat of Grassland Estates West, Section 9, being a 197.31-acre tract of land including the to be vacated 5.7-acre right-of-way all out of Sections 35 and 36, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the north side of State Highway 158 and at the northwest extension of Homestead Boulevard.) (DEVELOPMENT SERVICES)

Planning Division Manager Walker gave an overview of the item noting this was a preliminary plat with a new right-of-way land proposal and the applicant would come back with a final plat at a future date. He noted that only a portion of the land was inside of the City Limits.

Council Member Morales moved to approve a motion on a request by Grassland 2 Development Company, LLC for a proposed preliminary plat of Grassland Estates West, Section 9, being a 197.31-acre tract of land including the to be vacated 5.7-acre right-of-way all out of Sections 35 and 36, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the north side of State Highway 158 and at the northwest extension of Homestead Boulevard.); seconded by Council Member James. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

51. Consider a motion ON APPEAL on a request for a proposed preliminary plat of Legacy Addition, being a 104.50-acre tract of land out of Section 38, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located at the south extension of Avalon Drive, approximately 960 feet south of Deauville Boulevard.) (DEVELOPMENT SERVICES)

Planning Division Manager Walker gave an overview of the item noting the item was on appeal from Planning & Zoning. A proposed plat without alleys requires City Council approval. He described other areas that had been approved with alleys noting the applicant planned to include a public space.

Eric West, 1700 W. Wall, addressed that it was a hardship by landowner to develop the land because of existing well sites on the property. He explained that developing residential areas without alleys may be how future development will need to be in order to accommodate existing well sites.

Solid Waste Director Morris Williams answered questions about solid waste pick-up when no alleys were present clarifying they would use a cart system.

Don Allen, Ft. Worth, answered questions about the oil and gas wells. It was recommended to Mr. Allen that he have an assigned route of how the oil and gas well operators would access their oil wells to ensure there was adequate space for getting larger vehicles in and out of the area.

Council Member James moved to approve a request for a proposed preliminary plat of Legacy Addition, being a 104.50-acre tract of land out of Section 38, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located at the south extension of Avalon Drive, approximately 960 feet south of Deauville Boulevard.); seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, James, Sparks. NAY: None. ABSTAIN: Perry. ABSENT: Dufford.

52. Continue consideration of a motion interpreting Chapter 11-7a revised Outdoor Sign Regulations regarding the use of advertising on EZ Rider transportation shelters in all zoning districts. (DEVELOPMENT SERVICES)

Council Member James introduced the new General Manager Rob Stephens noting he was available to answer any questions.

Rob Stephens, EZ Rider General Manager, introduced himself noting that many transit systems use outdoor advertising to help raise funds for their operations. There were about 35 shelters in Midland that could generate up to $100,000 per year for operations.

Council Member John James reported that there would be 20 locations of the 35 in Midland that would be available for use of advertising based on the guidelines.

Council Member Love moved to approve interpreting Chapter 11-7a revised Outdoor Sign Regulations regarding the use of advertising on EZ Rider transportation shelters in all zoning districts; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

53. Consider a resolution granting a variance request from West Engineering of Midland for the Sun Garden Estates Addition, to construct a laydown curb & gutter section in lieu of standard section. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 059

RESOLUTION GRANTING A VARIANCE FOR SUN GARDEN VILLAGE ADDITION, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED BETWEEN DORMARD AVENUE ON THE NORTH, PINE AVENUE ON THE SOUTH, RANCHLAND HILLS GOLF CLUB ON THE EAST, AND MIDLAND DRAW ON THE WEST), BY PERMITTING CONSTRUCTION OF LAYDOWN CURB AND GUTTER IN LIEU OF CURB AND GUTTER CONSTRUCTED TO CITY OF MIDLAND DESIGN AND CONSTRUCTION STANDARDS

Acting City Engineer David Beard gave an overview of the item noting the developer requested to use laydown curb and gutter in a portion of their development. Staff recommended denial of the item because it does not fit within the standard noting that he would recommend approval if the entire area was laydown curb.

Andrew Mellon, indicated the areas where laydown curbs were being requested noting it was one easy long street because it cuts down cost.

Council Member moved to adopt Resolution No. 2013 - 059; seconded by Council Member Morales. Following discussion, the motion carried by the following vote: AYE: Morales, Trost, Perry, James. NAY: Love, Sparks. ABSTAIN: None. ABSENT: Dufford.

54. Consider a resolution to authorize the City Manager to negotiate the purchase of Lots 1-12 Block 110, Original Town Addition, Midland, Midland County, Texas, along with Title Insurance, a Phase 1 and Phase 2 Environmental Study, and authorize the City Manager to execute the closing documents pertaining to the sale of property at Lone Star Title and Abstract. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 060

RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE TITLE INSURANCE, ACQUIRE PHASE 1 AND PHASE 2 ENVIRONMENTAL STUDIES, NEGOTIATE AND EXECUTE AN AGREEMENT WITH A REAL ESTATE BROKER, NEGOTIATE, EXECUTE AND FILE ALL NECESSARY DOCUMENTS, AND MAKE ALL PAYMENTS NECESSARY, INCLUDING ASSOCIATED CLOSING COSTS, REGARDING THE PURCHASE OF LOTS 1-12, BLOCK 110, ORIGINAL TOWN ADDITION, MIDLAND, MIDLAND COUNTY, TEXAS, WITH APPROVAL FROM THE MAYOR; AND DIRECTING THAT SAID PROPERTY SHALL BE CLOSED AT LONE STAR ABSTRACT AND TITLE COMPANY, INCORPORATED

Council Member Trost moved to adopt Resolution No. 2013 - 060; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

55. Consider a resolution to authorize the City Manager to negotiate the purchase of Lots 7A and 13A, Block 27, Original Town Addition, Section 3 Midland, Midland County, Texas, along with Title Insurance, a Phase 1 and Phase 2 Environmental Study, and authorize the City Manager to execute the closing documents pertaining to the sale of property at Lone Star Title and Abstract. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 061

RESOLUTION AUTHORIZING THE CITY MANAGER TO PURCHASE TITLE INSURANCE, ACQUIRE PHASE 1 AND PHASE 2 ENVIRONMENTAL STUDIES, NEGOTIATE AND EXECUTE AN AGREEMENT WITH A REAL ESTATE BROKER, NEGOTIATE, EXECUTE AND FILE ALL NECESSARY DOCUMENTS, AND MAKE ALL PAYMENTS NECESSARY, INCLUDING ASSOCIATED CLOSING COSTS, REGARDING THE PURCHASE OF LOTS 7A AND 13A, BLOCK 27, ORIGINAL TOWN ADDITION, SECTION 3, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS, WITH APPROVAL FROM THE MAYOR; AND DIRECTING THAT SAID PROPERTY SHALL BE CLOSED AT LONE STAR ABSTRACT AND TITLE COMPANY, INCORPORATED; AND APPROPRIATING FUNDS

Council Member Trost moved to adopt Resolution No. 2013 - 061; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

56. Consider a motion making appointments to various Boards and Commissions.

Council Member Trost moved to appoint Avery Pullin and W. Roger Beebe to the City Development Advisory Board; seconded by Council Member James. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

EXECUTIVE SESSION

57. Mayor Perry announced that 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 551.072 Deliberation Regarding Real Property.

a.1. Discuss the purchase, exchange, lease or value of real property described as Lots 1-12, Block 110, Original Town Addition, Midland, Midland County, Texas.

a.2. Discuss the purchase, exchange, lease or value of real property described as Lots 7A and 13A, Block 27, Original Town Addition, Section 3, Midland, Midland County, Texas.

a.3. Discuss the sale, lease, exchange or value of real property described as Lots 13 through 24, Block 54, Original Town Addition to the City of Midland, Midland County, Texas.

a.4. Discuss the purchase, exchange, lease, and value of real property described as 2.0 acres more or less, Block 025, All, Original Town, City of Midland, Midland County, Texas; .32 acres more or less, Block 35, Lots 5 and 6, Original Town, City of Midland, Midland County, Texas; .367 acres more or less, block 57, Lots 1, 2 (E90), and 3, Original Town, City of Midland, Midland County, Texas; 2.0 acres more or less, Block 007, All, Original Town, City of Midland, Midland County, Texas; 2.0 acres more or less, Block 008, All, Original Town, City of Midland, Midland County, Texas; 2.0 acres more or less, Block 055, All, Original Town, City of Midland, Midland County, Texas.

b. Section 551.071, Consultation with the City Attorney

b.1. Discuss with the City Attorney and Attorney(s) with the law firm of Cotton, Bledsoe, Tighe, and Dawson, litigation styled In Re: Heritage Consolidated, LLC, Case No. 10-36484-hdh, Chapter 11, Jointly Administered, in the United States Bankruptcy Court, Northern District of Texas, Dallas Division.

b.2. Discuss with the City Attorney contemplated litigation and City legal issues involved in litigation styled Richard Sanchez, Heather Sanchez, Todd King and Laci King, et al. v. Union Pacific Railroad, Inc., and Smith Industries, Inc., in the 441st Judicial District Court in Midland County, Texas.

b.3. Discuss a matter in which the duty of the attorney 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.

Mayor Perry recessed the meeting to Executive Session at 12:32 p.m. noting that they would reconvene in open session to hear the remainder of the items at 1:45 p.m.

Mayor Perry reconvened the meeting in open session at 1:50 p.m. and continued the meeting.

All of the business at hand having been completed, the meeting adjourned at 3:21 p.m.

PASSED AND APPROVED the 26th day of February, 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary