

**MIDLAND CITY COUNCIL
MINUTES
February 28, 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 February 28, 2012.

Council Members present: Mayor W. Wesley Perry, 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: Mayor Pro Tem Jerry Morales (At-Large), Council Member Scott Dufford (At-Large). (Dufford arrived at 9:05 a.m.)

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, Development Services Director Rick Crownover, Police Chief Price Robinson, General Services Director Robert Patrick, Utilities Director Stuart Purvis, Solid Waste Director Morris Williams, Environmental Compliance Specialist Jill Reed, Solid Waste Superintendent Jeffrey Ahrlett, Customer Service Division Manager Tony Goyang, Planning Division Manager Cameron Walker, Oil & Gas Compliance Officer Ron Jenkins, City Engineer David Beard, Public Information Officer Tasa Watts, and Multimedia Developer Ryan Stout.

1. Receive an update from staff regarding the Solid Waste Department.

Solid Waste Director Morris Williams presented a PowerPoint presentation reviewing changes made since 2010 and the department challenges. Discussion ensued regarding plastic bags/litter, the Citizen Collection station and recycling.

2. Presentation and discussion regarding the Drought Contingency Plan.

Utilities Director Stuart Purvis reported that the amount of water received from CRMWD would decrease. The city would be divided into six zones and every customer would be allotted two hours watering per week. He reviewed proposed changes such as a moratorium on installing additional meters on the same property. He reviewed the proposed Ordinance that would be considered in the regular meeting which includes multipliers on the top tiers of water consumption.

City Manager Sharp reported that a media campaign would begin explaining the restrictions. Discussion ensued where some felt a higher water bill would be the best education. Council consensus was to have the first and second reading of the new ordinance as soon as possible.

3. Receive information and discuss establishing an ordinance prohibiting texting while driving.

In the interest of time, this item would 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 10:00 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:08 a.m., February 28, 2012.

Council Members present: Mayor W. Wesley Perry, 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: Mayor Pro Tem Jerry Morales (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 City Council heard the agenda items in the following order: 1, 2, 3, 4, 13, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 51, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62.

OPENING ITEMS

1. Invocation - Reverend Dr. Michael Philliber, Providence Presbyterian Church (PCA)
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time.

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.

Robert Porter presented a map to the City Council and requested their assistance with infrastructure in an area of town of where low income housing could be built. He also requested that incentives be given to builders who build low income housing.

There were no other requests by citizens to speak.

CONSENT AGENDA

The following item was pulled from consent agenda and considered first.

13. Consider 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. 2012 - 046

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

In response to a question if changes were made to the sports agreements, Community Services Director Tina Jauz, noted that the process was changed and that only the sports associations who were able to provide reporting from 2011, turned in their insurance certificates and signed their agreements were on the agenda.

Council Member Trost moved to adopt Resolution No. 2012-046; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

Council Member Sparks moved to approve Consent Agenda items 5 - 25 excluding 13; seconded by Council Member James. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

5. Approved a motion approving the following minutes:
 - a. Regular Meeting Minutes of February 14, 2012.
6. Approved a resolution approving the purchase of Limestone Rock Asphalt Coldmix through State of Texas Contract 745-A1 for the Transportation Division. (General Services)

RESOLUTION NO. 2012 - 039

RESOLUTION APPROVING THE PURCHASE OF 750 TONS OF TYPE-1, GRADE CC LIMESTONE ROCK ASPHALT COLD MIX THROUGH THE TEXAS COMPTROLLER OF PUBLIC ACCOUNTS CONTRACT 745-A1 (TCPAC) AT A TOTAL COST OF \$56,250.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COOPERATIVE PURCHASING PROGRAM

7. Approved a resolution approving the purchase of a storage area network for the Communication and Information Systems Department. (General Services)

RESOLUTION NO. 2012 - 040

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT TO PROVIDE AND INSTALL A PRIMARY STORAGE AREA NETWORK (SAN) WITHIN THE CITY OF MIDLAND'S DATA CENTER WITH DELL MARKETING, L.P., AT A TOTAL COST OF \$74,315.33

8. Approved a resolution approving plans and specification and authorizing advertisement for bids for replacement of windows/glass at the Martin Luther King, Jr. Community Center training room area. (General Services)

RESOLUTION NO. 2012 - 041

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE ADDING OF WINDOWS AT THE MARTIN LUTHER KING JR. COMMUNITY CENTER TRAINING ROOM

9. Approved an Interlocal Agreement with the North Central Texas Council of

Governments approving a cooperative program for Service Line Protection programs.
(General Services)

RESOLUTION NO. 2012 - 042

RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT WITH THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS APPROVING A COOPERATIVE PROGRAM FOR SERVICE LINE PROTECTION PROGRAMS

10. Approved a resolution approving a contract with Utility Service Partners Private Label, Incorporated to provide utility service line warranties to City of Midland homeowners.
(General Services)

RESOLUTION NO. 2012 - 043

RESOLUTION AUTHORIZING THE EXECUTION OF A MARKETING AGREEMENT WITH UTILITY SERVICE PARTNERS PRIVATE LABEL, INCORPORATED, DBA SERVICE LINE WARRANTIES OF AMERICA, ALLOWING THE OFFER OF UTILITY SERVICE LINE WARRANTIES TO MIDLAND RESIDENTS

11. Approved a resolution suspending the effective date of Atmos Energy Corporation proposed rate increase. (City Manager)

RESOLUTION NO. 2012 - 044

RESOLUTION OF THE CITY OF MIDLAND, TEXAS, SUSPENDING THE MARCH 13, 2012, EFFECTIVE DATE OF ATMOS ENERGY CORP., WEST TEXAS DIVISION ("ATMOS WEST TEXAS") REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ATMOS WEST TEXAS ("CITIES") TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; REQUIRING REIMBURSEMENT OF CITIES' RATE CASE EXPENSES; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND CITIES' LEGAL COUNSEL

12. Approved a resolution requesting permission to submit a grant application for the FY2013 Edward Byrne Memorial Justice Assistance Grant Program through the Office of the Governor of Texas Criminal Justice Division. (Police)

RESOLUTION NO. 2012 - 045

RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE OFFICE OF THE GOVERNOR OF TEXAS CRIMINAL JUSTICE DIVISION FOR FISCAL YEAR 2013 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM; SAID FUNDS FROM THIS GRANT WILL BE USED TO PURCHASE A USE OF FORCE SIMULATOR AND INTERACTIVE CLASSROOM EQUIPMENT WHICH WILL SIMULATE REAL LIFE USE OF FORCE SCENARIOS THAT OFFICERS COULD POSSIBLY FACE, SUCH AS DEADLY FORCE OR ACTIVE SHOOTER CIRCUMSTANCES, THEREBY REFINING THE DECISION MAKING PROCESS IN ACCORDANCE WITH FEDERAL, STATE, AND DEPARTMENT POLICIES

14. Approved a 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. (Community Services)

RESOLUTION NO. 2012 - 047

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

15. 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 29, 2012, through December 31, 2012; and the contract covers Doug Russell Pool. (Community Services)

RESOLUTION NO. 2012 - 048

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; THE TERM OF THE AGREEMENT IS FROM FEBRUARY 29, 2012 THROUGH DECEMBER 31, 2012; AND THE CONTRACT COVERS THE DOUG RUSSELL POOL

16. Approved a resolution authorizing the execution of a sports agreement with Midland Soccer Association, Incorporated, to administer programs, special events, and services related to soccer for youth ages nineteen and younger. (Community Services)

RESOLUTION NO. 2012 - 049

RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH MIDLAND SOCCER ASSOCIATION, INCORPORATED, TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO SOCCER

17. 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. 2012 - 050

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

18. 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 and older. (Community Services)

RESOLUTION NO. 2012 - 051

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

19. 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. 2012 - 052

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

20. 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. 2012 - 053

RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH THE TEXAS CRICKET CLUB TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO CRICKET

21. 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. 2012 - 054

RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH WEST TEXAS BMX TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO BMX RACING AND RIDING

22. Approved a resolution approving the execution of a Task Order Contract with HDR Engineering, Inc. (Utilities)

RESOLUTION NO. 2012 - 055

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT TASK ORDER WITH HDR ENGINEERING, INCORPORATED, FOR PROFESSIONAL SERVICES REGARDING THE CITY'S PERMIT ISSUED FROM THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY FOR OPERATIONS AT THE WATER POLLUTION CONTROL PLANT, PLANT FARM AND SPRABERRY FARM, AT AN ESTIMATED TOTAL COST OF \$35,150.00

23. Approved a motion on a request by West Company of Midland for Montgomery Addition (Section 4), to approve items requested for deferral, and to waive the associated public improvement guarantee. This subdivision is positioned in the City Limits, generally located on the west side of Fairgrounds Ave. approximately 1,100 feet north of Business I-20. Total deferral amount is \$42,550. (Engineering)
24. Approved a resolution approving a promotional agreement between the Midland Development Corporation and the Downtown Midland Management District. (City Attorney)

RESOLUTION NO. 2012 - 056

RESOLUTION APPROVING A PROMOTIONAL AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND THE DOWNTOWN MIDLAND MANAGEMENT DISTRICT TO ADVERTISE OR PUBLICIZE THE CITY OF MIDLAND FOR THE PURPOSE OF DEVELOPING NEW AND EXPANDED BUSINESS ENTERPRISES

25. Approved a resolution authorizing a request for qualifications to select a Planning firm to rewrite the city's zoning regulations. (Planning)

RESOLUTION NO. 2012 - 057

RESOLUTION AUTHORIZING THE CITY MANAGER TO ADVERTISE A REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL SERVICES FOR REVISIONS TO THE CITY OF MIDLAND'S ZONING CODE REGULATIONS; AUTHORIZING THE CITY MANAGER TO NEGOTIATE A PROFESSIONAL SERVICES AGREEMENT FOR SAID SERVICES; AND PROVIDING THAT SAID AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL

SECOND READINGS

26. Consider an ordinance making certain transfers in various funds of the 2010 - 2011 fiscal year budget and making certain budget amendments and ordering recordation. (Finance)

ORDINANCE NO. 8987

ORDINANCE MAKING CERTAIN TRANSFERS IN VARIOUS FUNDS OF THE 2010-2011 FISCAL YEAR BUDGET AND MAKING CERTAIN BUDGET AMENDMENTS; AND ORDERING RECORDATION

Deputy City Secretary Reyes read the caption of Ordinance No. 8987.

Council Member James moved to approve the second and final reading of Ordinance No. 8987 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

27. Consider an ordinance on second reading providing the Midland Chamber of Commerce Convention and Visitors Bureau with additional funds to promote tourism in Midland. (Community Services)

ORDINANCE NO. 8988

AN ORDINANCE AMENDING THE OFFICIAL MUNICIPAL BUDGET FOR FISCAL YEAR 2011-2012 IN ORDER TO PROVIDE ADDITIONAL FUNDS TO THE MIDLAND CHAMBER OF COMMERCE FOR A FOURTH OF JULY EVENT IN DOWNTOWN MIDLAND; THE ADDITIONAL FUNDING PROVIDED WILL HELP PROMOTE TOURISM IN THE CITY OF MIDLAND; AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE MIDLAND CHAMBER OF COMMERCE

Deputy City Secretary Reyes read the caption of Ordinance No. 8988.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8988 in accordance with the Charter of the City of Midland; seconded by Council Member Trost.

Council Member James moved to amend the motion by authorizing the City Manager to execute the contract; seconded by Council Member Hailey. The motion to amend carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

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

28. Consider an ordinance on second reading on a request by Western International for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned

District on a 4.16-acre tract of land out of Section 37, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the northwest corner of the intersection of North Loop 250 and Deauville.) (Planning)

ORDINANCE NO. 8980

ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 4.18-ACRE TRACT OF LAND (BEING 6.68 ACRES INCLUSIVE OF ADJACENT RIGHTS-OF-WAY) OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF DEAUVILLE BOULEVARD AND LOOP 250); 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

Deputy City Secretary Reyes read the caption of Ordinance No. 8980.

Council Member James moved to approve the second and final reading of Ordinance No. 8980 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

29. Consider an ordinance on second reading on a request by Daniel Dirlam for a zone change from LR-2, Local Retail District to C-3, Commercial District on Lot 12A, Block 1, Jesse Anne Village, Section 5, City and County of Midland, Texas. (Generally located at the east side of South Midland Drive, approximately 550 feet north of West Wall Street.) (Planning)

ORDINANCE NO. 8981

ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 12A, BLOCK 1, JESSE ANNE VILLAGE, SECTION 5, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, TO BE USED AS A C-3, COMMERCIAL DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF SOUTH MIDLAND DRIVE, APPROXIMATELY 550 FEET NORTH OF WEST WALL STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Reyes read the caption of Ordinance No. 8981.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8981 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

30. Consider an ordinance on second reading on a request by Jeffrey Benson for a zone change from LR-3, Local Retail District to PD, Planned District for a Shopping Center on Lots 1 through 4, Block 2, Gateway Plaza, City and County of Midland, Texas.

(Generally located on the northeast corner of the intersection of Business I-20 and Liberty Drive.) (Planning)

ORDINANCE NO. 8982

ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 1-4, BLOCK 2, GATEWAY PLAZA, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED LR-3, LOCAL RETAIL DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF BUSINESS INTERSTATE 20 AND LIBERTY 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

Deputy City Secretary Reyes read the caption of Ordinance No. 8982.

Council Member Trost moved to approve the second and final reading of Ordinance No. 8982 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

31. Consider an ordinance on second reading on a request by City of Midland - FM 1788 a City-initiated proposal for a zone change from FD, Future Development District to IP-2, Industrial Park District on a 156.88-acre tract of land out of Section 6, 7 and 8, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the east side of South Farm to Market 1788 north of West Business I-20.) (Planning)

ORDINANCE NO. 8983

ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 156.88-ACRE TRACT OF LAND OUT OF SECTIONS 6, 7 AND 8, BLOCK 40, T-2-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 IP-2, INDUSTRIAL PARK DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF FARM-TO-MARKET ROAD 1788, NORTH OF BUSINESS INTERSTATE 20); 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. 8983.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 8983 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales, Dufford.

32. Consider an ordinance on second reading on a request by C. Hollis Construction for a Special Exception to the Zoning Code concerning the side yard setback requirements for a garage on Lots 1 and 2, Block 108, West End Addition, City and County of Midland, Texas. (Generally located on the southwest corner of the intersection of Holloway Avenue and South "K" Street.) (Planning)

ORDINANCE NO. 8984

ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOTS 1 AND 2, BLOCK 108, WEST END ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF HOLLOWAY AVENUE AND SOUTH "K" STREET), BY PERMITTING AN ENCROACHMENT INTO THE REQUIRED SIDE YARD SETBACK FOR CONSTRUCTION OF A GARAGE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

Deputy City Secretary Reyes read the caption of Ordinance No. 8984.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8984 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

33. Consider an ordinance on second reading on a request by Nikki Gatlin for a Specific Use Permit with Term for a Day Care Center on 10,950 square feet out of Lot 1A, Block 4, Alamo Heights, Section 2, City and County of Midland, Texas. (Generally located on the northwest corner of the intersection of North Midland Drive and Crockett Avenue.) (Planning)

ORDINANCE NO. 8985

ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 1A, BLOCK 4, ALAMO HEIGHTS, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF MIDLAND DRIVE AND CROCKETT AVENUE), WHICH IS PRESENTLY ZONED MF-1, MULTIPLE-FAMILY DWELLING DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR A DAY CARE CENTER; 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. 8985.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 8985 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

34. Consider an ordinance on second reading on a request for the vacation of a 0.52-acre tract vacating rights-of-way of streets and alleys in Block 79, East Midland and Blocks 2 and 4, Glenn Frances Addition, City and County of Midland, Texas. (Generally located near the southeast corner of the intersection of East Golf Course Road and North Jackson Street.) (Planning)

ORDINANCE NO. 8986

ORDINANCE VACATING AND ABANDONING A 0.52-ACRE TRACT OF STREET AND ALLEY RIGHT-OF-WAY LOCATED IN BLOCK 79, EAST MIDLAND ADDITION, AND BLOCKS 2 AND 4, GLENN FRANCES ADDITION, CITY AND COUNTY OF MIDLAND,

TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF EAST GOLF COURSE ROAD AND NORTH JACKSON STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$2,265.00; WAIVING THE FEE FOR THE COST OF THE RIGHT-OF-WAY; REPEALING ORDINANCE NO. 8969; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Reyes read the caption of Ordinance No. 8986.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8986 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

PUBLIC HEARINGS

35. At approximately 10:30 A.M. hold a public hearing and consider a resolution on a request by Butch Corey for a Temporary Land Use permit for a Carnival on Lot 1, Block 17, Skyline Terrace, Unit 2, City and County of Midland, Texas. (Generally located on the southwest corner of the intersection of West Loop 250 North and North Midkiff Road.) (Planning)

RESOLUTION NO. 2012 - 058

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A CARNIVAL ON LOT 1, BLOCK 17, SKYLINE TERRACE, UNIT 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST LOOP 250 NORTH AND NORTH MIDKIFF ROAD); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; AND PROVIDING THAT THE CHIEF OF POLICE SHALL ENSURE THAT ALL PARTICIPANTS ARE LICENSED PURSUANT TO TITLE V, CHAPTER 9 OF THE MIDLAND CITY CODE

Planning Division Manager Walker gave an overview of the item.

Mayor Perry opened the public hearing at 10:38 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Hailey moved to adopt Resolution No. 2012-058; seconded by Council Member Trost. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

36. At approximately 10:33 A.M. hold a public hearing and consider a resolution on a request by Fairmont Park Church of Christ for a Temporary Land Use permit for RV parking on Lot 1, Block 5, Fairmont Park Addition, Section 2 and on a .96-acre tract of land out of Section 18, Block 39, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the northwest corner of the intersection of North Midland Drive and Fairbanks Drive.) (Planning)

RESOLUTION NO. 2012 - 059

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR MOTOR HOME PARKING ON LOT 1, BLOCK 5, FAIRMONT PARK ADDITION, SECTION 2, AND ON A 0.96-ACRE TRACT OF LAND OUT OF SECTION 18, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH MIDLAND DRIVE AND FAIRBANKS DRIVE); AND MAKING SAID PERMIT SUBJECT

TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Planning Division Manager Walker gave an overview of the item noting one letter of objection had been received, that staff supported the request and that no generators would be in used on the property.

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.

Council Member Sparks moved to adopt Resolution No. 2012-059; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

38. At approximately 10:39 A.M. hold a public hearing on a request by Callon Petroleum Operating Company (Pecan Acres 23 #3) for a Permit to Drill an Oil and Gas Well within the City Limits, located 704' FNL and 2007' FWL, Section 23, Block 40, T-1-S, T&P RR Co. Survey, Midland, Texas. (Generally located on the west side of Golden Gate Drive, approximately $\frac{3}{4}$ mile north of Briarwood Avenue.) (Planning)

Oil & Gas Compliance Officer Ron Jenkins gave overview of the item noting that the Oil & Gas Advisory Committee reviewed the item and approved it with a landscape variance not to exceed two years, allowed for the use of steel coated tanks instead of fiberglass for water containment, and allowed multiple wells on pad sites.

Mayor Perry opened the public hearing at 10:47 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

39. At approximately 10:42 A.M. hold a public hearing on a request by Callon Petroleum Operating Company (Pecan Acres 23 #6) for a Permit to Drill an Oil and Gas Well within the City Limits, located 651' FSL and 2040' FWL, Section 23, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the west side of Golden Gate Drive, approximately 650 feet north of Briarwood Avenue.) (Planning)

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting it was the same information as the previous item with the same variances.

Mayor Perry opened the public hearing at 10:48 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

40. At approximately 10:45 A.M. hold a public hearing on a request by Callon Petroleum Operating Company (Pecan Acres 23 #12) for a Permit to Drill an Oil and Gas Well within the City Limits, located 1911' FEL and 2009' FNL, Section 23, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the west side of Golden Gate Drive, approximately $\frac{1}{2}$ mile north of Briarwood Avenue.) (Planning)

Oil & Gas Compliance Officer Jenkins reported that this was the same information as the prior reports with the same variance requests and the same recommendation. He noted that no letters of objection had been received for any of the items.

Mayor Perry opened the public hearing at 10:49 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

41. At approximately 10:48 A.M. (Tract 1) hold a public hearing regarding the annexation of a city-owned tract of land being a 40.46-acre tract of land out of Section 45, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the north of Midland International Airport.) (Planning)

Planning Division Manager Walker gave an overview of the item noting there were six parcels of land owned by City and that the City wished to incorporate them within the City limits. He reported that there were two privately owned parcels where the owners were requesting annexation, one for residential purposes and the second for a key retail corner. He explained the first tract is City owned.

Mayor Perry opened the public hearing at 10:50 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

42. At approximately 10:49 A.M. (Tract 2) hold a public hearing regarding the annexation of a city-owned tract of land being a 96.28-acre tract of land out of Section 43 & 44, Block 40, T-2-S and Sections 4 and 5, Block 40 T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located northwest of Midland International Airport) (Planning)

Planning Division Manager Walker gave an overview of the item noting this is also a tract owned by the City.

Mayor Perry opened the public hearing at 10:51 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

43. At approximately 10:50 A.M. (Tract 3) hold a public hearing regarding the annexation of a city-owned tract of land being a 55.08-acre tract of land out of Sections 8, 9, 16 & 17, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located south of Midland International Airport.) (Planning)

Planning Division Manager Walker gave an overview of the item noting that this parcel is just over 55 acres, that a small portion was owned by Southwestern Bell, and Southwestern Bell had been notified of the public hearings. The remainder of the land is City owned.

Mayor Perry opened the public hearing at 10:52 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 10:51 A.M. (Tract 4) hold a public hearing regarding the annexation of a city-owned tract of land being a 2.25-acre tract of land out of Section 10, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located northeast of Midland International Airport.) (Planning)

Planning Division Manager Walker reported that the land is owned by the City of Midland.

Mayor Perry opened the public hearing at 10:53 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

45. At approximately 10:52 A.M. (Tract 5) hold a public hearing regarding the annexation of a city-owned tract of land being a 3.88-acre tract of Section 4, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the southeast of Midland International Airport.) (Planning)

Planning Division Manager Walker reported that the City also owns this land.

Mayor Perry opened the public hearing at 10:54 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

46. At approximately 10:53 A.M. (Tract 6) hold a public hearing regarding the annexation of a city-owned tract of land being a 3.57-acre tract of land out of Section 13, Block 40, T-1-S, T&P RR Co. Survey Midland County, Texas. (Generally located on the north side of the Mockingbird Lane extension, east of Avalon Drive.) (Planning)

Planning Division Manager Walker reported that this land was acquired by the City from Fasken Ranch in order to place a water tower on it.

Mayor Perry opened the public hearing at 10:55 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

47. At approximately 10:54 A.M. (Tract 7) hold a public hearing regarding the annexation of a 28.31 acre tract of land out of Section 24, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the northwest corner of the intersection of Briarwood Avenue and Holiday Hill Road.) (Planning)

Planning Division Manager Walker gave an overview of item noting the land is owned by the Black Family Partnership. The land is just over 28 acres and the owner is requesting annexation for utility services. He noted the intent was to develop a key arterial corner.

Mayor Perry opened the public hearing at 10:56 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

48. At approximately 10:57 A.M. (Tract 8) hold a public hearing regarding the annexation of a 108.453-acre tract of land out of Section 37, Block 40, T-1-S T&P RR Co. Survey, Midland County, Texas. (Generally located northwest of the intersection of Tradewinds Boulevard and Champions Drive.) (Planning)

Planning Division Manager Walker gave an overview of the item noting the land is owned by Betenbough Homes and they are planning to continue their development of Legends Park neighborhood that included a school site and a park.

Mayor Perry opened the public hearing at 10:59 a.m.

Chris Berry, Lubbock, Texas, representing Betenbough Homes, reported they were excited to build some more homes in Midland and that they were in negotiations with MISD for a school and a park.

There being no one else wishing to speak, the public hearing was closed at 11:00 a.m. No further action was taken on this item.

DEVELOPMENT SERVICES

49. Consider a resolution on a request to establish a private street name on 1.05-acres located in Lot 1A, Block 1, Midland Memorial Hospital Addition, Section 2. (Generally located south of North Garfield Street and east of Kent Street.) (Planning)

RESOLUTION NO. 2012 - 060

RESOLUTION APPROVING THE MIDLAND COUNTY HOSPITAL DISTRICT'S REQUEST TO NAME A PRIVATE STREET LOCATED AT THE MAIN CAMPUS OF MIDLAND MEMORIAL HOSPITAL "ROSALIND REDFERN GROVER PARKWAY" IN HONOR OF ROSALIND REDFERN GROVER

Planning Division Manager Walker gave an overview of the item.

Council Member Hailey moved to adopt Resolution No. 2012-060; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

MISCELLANEOUS

50. Presentation of the 2011 Midland Police Department Traffic Contact Report by Dr. Alex del Carmen of Del Carmen Consulting, LLC. (Police)

Police Chief Price Robinson and Dr. Del Carmen presented the 2011 Midland Police Department Contact Report.

51. 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 the applicant was requesting a deferral because they were trying to reroute their flow lines and needed additional time to get the required surveys. He noted it would likely be the second meeting in April before this item would return to the agenda.

Council Member Dufford moved to defer agenda items 51 a and b; seconded by Council Member Trost. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

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

RESOLUTION NO. 2012 - 10

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)

- 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 - 11

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

52. Consider a resolution on a request to construction a new house inside the 500' buffer from an oil well. Proposed structure is located at 4401 Roadrunner Trail, Lot 6E, Block 2, Country Sky Addition. (Code Administration)

RESOLUTION NO. 2012 - 061

RESOLUTION GRANTING A VARIANCE FOR LOT 6E, BLOCK 2, COUNTRY SKY ADDITION, SECTION 11, CITY AND COUNTY OF MIDLAND, TEXAS (COMMONLY KNOWN AS 4401 ROADRUNNER TRAIL), BY PERMITTING CONSTRUCTION OF A RESIDENCE AND AN ACCESSORY BUILDING WITHIN FIVE HUNDRED (500) FEET OF AN OIL AND GAS WELL; AND AUTHORIZING ISSUANCE OF A BUILDING PERMIT

Oil & Gas Compliance Officer Jenkins reported this was a request to build an accessory building within 500 feet from structure. He explained that the Building Official wanted this put through as a house, even though the initial use would be an accessory building. This would prevent the applicant from having to return in the future if the use changed.

Discussion ensued about the difference in the title and the caption of the Ordinance as printed on the agenda. City Attorney Stretcher noted that in his opinion, the resolution controls.

Council Member Sparks moved to adopt Resolution No. 2012-061; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

53. Consider a resolution on a request to construction a new house inside the 500' buffer from an oil well. Proposed structure is located at 4409 Roadrunner Trail, Lot 6D, Block 2, Country Sky Addition. (Code Administration)

RESOLUTION NO. 2012 - 062

RESOLUTION GRANTING A VARIANCE FOR LOT 6D, BLOCK 2, COUNTRY SKY ADDITION, SECTION 11, CITY AND COUNTY OF MIDLAND, TEXAS (COMMONLY KNOWN AS 4409 ROADRUNNER TRAIL), BY PERMITTING CONSTRUCTION OF A RESIDENCE AND AN ACCESSORY BUILDING WITHIN FIVE HUNDRED (500) FEET OF AN OIL AND GAS WELL; AND AUTHORIZING ISSUANCE OF A BUILDING PERMIT

Oil & Gas Compliance Officer Ron Jenkins reported that the applicant was requesting to build a house and accessory building within 500 feet of an oil well.

Council Member Sparks moved to adopt Resolution No. 2012-062; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

54. Consider a resolution on a request to construction a new house inside the 500' buffer from an oil well. Proposed structure is located at 4417 Roadrunner Trail, Lot 6C, Block 2, Country Sky Addition. (Code Administration)

RESOLUTION NO. 2012 - 063

RESOLUTION GRANTING A VARIANCE FOR LOT 6C, BLOCK 2, COUNTRY SKY ADDITION, SECTION 11, CITY AND COUNTY OF MIDLAND, TEXAS (COMMONLY KNOWN AS 4417 ROADRUNNER TRAIL), BY PERMITTING CONSTRUCTION OF A RESIDENCE AND AN ACCESSORY BUILDING WITHIN FIVE HUNDRED (500) FEET OF AN OIL AND GAS WELL; AND AUTHORIZING ISSUANCE OF A BUILDING PERMIT

Oil & Gas Compliance Officer Jenkins reported that the applicant was requesting to build a house and accessory building within 500 feet of an oil well.

Council Member Hailey moved to adopt Resolution No. 2012-063; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

55. Consider a resolution on a request to construction a new house inside the 500' buffer from an oil well. Proposed structure is located at 4501 Roadrunner Trail, Lot 6B, Block 2, Country Sky Addition. (Code Administration)

RESOLUTION NO. 2012-064

RESOLUTION GRANTING A VARIANCE FOR LOT 6B, BLOCK 2, COUNTRY SKY ADDITION, SECTION 11, CITY AND COUNTY OF MIDLAND, TEXAS (COMMONLY KNOWN AS 4501 ROADRUNNER TRAIL), BY PERMITTING CONSTRUCTION OF A RESIDENCE AND AN ACCESSORY BUILDING WITHIN FIVE HUNDRED (500) FEET OF AN OIL AND GAS WELL; AND AUTHORIZING ISSUANCE OF A BUILDING PERMIT

Oil & Gas Compliance Officer Jenkins reported the applicant was requesting to build a building within 500 feet of an oil well.

City Attorney Stretcher asked if these items were related to the previous item that was deferred. Oil & Gas Compliance Officer reported that all of these applications were within proximity to the well that had been deferred. City Attorney Stretcher clarified that although these variances were being granted, it would not affect the standing of the well and that it still needed to go through the approval process.

Council Member Hailey moved to adopt Resolution No. 2012-064; seconded by Council Member Trost. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

56. Consider a resolution approving a Developer Agreement for Midland RV Park. (Engineering)

RESOLUTION NO. 2012 - 065

RESOLUTION AUTHORIZING THE EXECUTION OF A PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH MIDCAMP PROPERTIES, LLC FOR DEVELOPMENT OF MIDLAND R V CAMPGROUND ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF MIDLAND DRIVE, APPROXIMATELY 650 FEET NORTH OF INTERSTATE 20); AND AUTHORIZING PAYMENT IN THE AMOUNT OF \$51,345.00 THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE

City Engineer David Beard gave an overview of the item noting that development agreement would help bring water to the park. He clarified that the shared cost was to get the water line to property line.

Council Member Hailey moved to adopt Resolution No. 2012-065; seconded by Council Member James. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

57. Consider an ordinance amending ordinance number 8400 which established fees and charges of the City of Midland Community Services Department, Animal Services, Parks and Recreation, Hogan Park Golf Course, Health and Senior Services, structure water rates and fees charged for water bacteriological testing. (Community Services)

ORDINANCE NO. 8990

AN ORDINANCE ESTABLISHING FEES AND CHARGES OF THE CITY OF MIDLAND COMMUNITY SERVICES DEPARTMENT, ANIMAL SERVICES, PARKS AND RECREATION, HOGAN PARK GOLF COURSE, HEALTH AND SENIOR SERVICES, AND UTILITIES DEPARTMENT; AND REPEALING ORDINANCES SPECIFICALLY IN CONFLICT WITH SUCH FEES AND CHARGES ESTABLISHED HEREIN

Community Services Director Tina Jauz noted a portion of the Ordinance was to make minor adjustment to fees at the MLK Center and Midland Parks Division. Utilities Director Stuart Purvis reported that the water testing labs had been closed for two years and the rates were being adjusted and rates for new tests were included.

Deputy City Secretary Reyes read the caption of Ordinance No. 8990.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 8990 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

58. Consider an ordinance on first reading for changing the structure of water rates. (Utilities)

ORDINANCE NO. 8991

AN ORDINANCE AMENDING TITLE III, "DEPARTMENTS", CHAPTER 1, "WATER DEPARTMENT", SECTION 2, "RATES," SUBSECTION (A), "CUSTOMERS INSIDE OF CITY LIMITS," OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO CHANGE THE RATES CHARGED FOR WATER AND SEWER SERVICES; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION; AND THE CITY MANAGER SHALL NOTIFY ALL CUSTOMERS OUTSIDE THE CITY LIMITS AS REQUIRED BY STATE LAW

Utilities Director Purvis noted that this was the first reading of the water rate increase as discussed during briefing session.

Deputy City Secretary Reyes read the caption of Ordinance No. 8991.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 8991 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

59. Consider a motion on a request from Bluestem Energy (Evans D #1) amending a Permit to Drill and Oil and Gas Well within the City Limits located 1021' FNL and 1041' FWL, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the North Midkiff Road, approximately ¾ mile north of Mockingbird Lane. (Planning)

Oil & Gas Compliance Officer Jenkins gave overview of the item noting the applicant was requesting to amend their permit and reported that they had paid the \$1000 fee. If approved, the applicant would be moving electrical lines and making changes to their drilling pad, frac pit and other items.

Council Member Hailey moved to approve a request from Bluestem Energy (Evans D #1) amending a Permit to Drill and Oil and Gas Well within the City Limits located 1021' FNL and 1041' FWL, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the North Midkiff Road, approximately ¾ mile north of Mockingbird Lane; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

60. Consider making appointments to various Boards and Commissions.

Council Member Hailey moved to appoint Karmen Hendrix Bryant to the Hotel/Motel Tax Advisory Board; seconded by Council Member Trost. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

Council Member Trost moved to appoint Kenny Harper to the Parks and Recreation Commission. The motion died due to a lack of a second.

Mayor Perry noted that he received notice from the Midland Central Appraisal District that Fred Poe had resigned and that the Council would need to make an appointment at their next meeting.

City Manager Sharp reported that the City Council would need to make three appointments to the Midland Fresh Water District Board in March.

At 12:03 p.m. Mayor Perry recessed the meeting to the basement conference room for the following items.

61. Receive a presentation from Dr. Ryder Warren of the Midland Independent School District regarding the upcoming bond election.

EXECUTIVE SESSION

62. 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

- a.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.

There being no other business to come before the City Council, the meeting was adjourned at 1:05 p.m.

PASSED AND APPROVED the 20th day of March, 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary