

AGENDA FOR CITY COUNCIL MEETING

April 08, 2014 – 10:00 AM

Council Chamber - City Hall

The Midland City Council agenda is posted for public notice at least 72 hours prior to the Tuesday meetings. All requests to be placed on the Council agenda by the public must be submitted to the City Manager, in writing, at least one week before the Council meetings. Such written requests must be in sufficient detail to identify the subject matter as well as the contact person who will represent the matter before the Council. The City Council reserves the right to not consider matters over which the City has no jurisdiction.

OPENING ITEMS

1. Invocation - Pastor Robert Pase, Grace Lutheran Church
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Presentation of a Proclamation for "Public Health Month"
 - b. Presentation of a Retirement Commendation to Gary Lynn Saunders
 - c. Presentation of a Proclamation for "Fair Housing Month"
 - d. Presentation of a Proclamation for "Financial Literacy Month"

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. (Please limit comments to three minutes or less.)

CONSENT AGENDA

5. Consider a motion approving the following minutes:
 - a. Regular meeting of March 25, 2014.

6. Consider a resolution amending the authorized representatives of the City of Midland, Texas, regarding investments of public funds; and that Pam Simecka, the City's new Director of Finance, replaces Bob McNaughton as a representative of the City of Midland on the Texas Local Government Investment Pool (Texpool/Texpool Prime); and Shelby Zuniga and Charlene Fox shall be authorized representatives of the City of Midland. (FINANCE) (2014 - 104)
7. Consider a resolution authorizing the execution of an agreement with the sole bidder, First Service Air Conditioning Contractors, Incorporated, for heating, ventilation and air conditioning services for various City buildings; the agreement term is for three (3) years at a total cost of \$369,384.00, \$123,128.00 annually; the City may renew at the end of the term for additional one year periods upon sixty 60 days written request prior to expiration. (PURCHASING) (2014 - 105)
8. Consider a resolution authorizing the execution of a contract for labor, material, equipment and supervision necessary to re-roof the buildings located at the baseball stadium and football stadium at the Scharbauer Sports Complex from the sole bidder, Lydick-Hooks Roofing Company of Midland, Incorporated, in the amount of \$798,439.00, plus contingencies of \$79,843.00, for a total cost of \$878,282.00; and appropriating funds. (PURCHASING) (2014 - 106)
9. Consider a resolution awarding the execution of a contract with the sole bidder, Pavement Restoration, Incorporated, of Tampa, Florida for the 2014 Residential Street Pavement Restoration Project in the amount of \$984,220.86, plus \$15,779.14 in contingencies, at a total cost of \$1,000,000.00; said contract provides for pavement restoration using reclamite preservative seal for streets located in area 9, Midland, Texas. (PURCHASING) (2014 - 107)
10. Consider a resolution authorizing the execution of a contract with the sole proposer, O'Mulligans, Limited, of Midland, Texas, for concession services for the Martin Luther King Jr. Community Center, Washington Pool, and Doug Russell Pool; under said contract, the City will receive ten percent (10%) of the concession revenues. (PURCHASING) (2014 - 108)
11. Consider a resolution approving the purchase of one (1) single axle cab and chassis for a 6-8 cubic yard dump truck; and the purchase of two (2) tandem axle cab and chassis for two 12-14 cubic yard dump bodies from Roberts Truck Center of Midland, Texas, at a total cost of \$252,140.00; and all other bids are rejected in favor of the local bidder pursuant to Texas Local Government Code Section 271.9051. (PURCHASING) (2014 - 109)
12. Consider a resolution authorizing and directing the City Manager to issue a Request for Qualifications for Professional Services for the widening of Fairgrounds Road and associated infrastructure from the intersection at Pecan Avenue to Loop 250 North. (PURCHASING) (2014 - 110)

13. Consider a resolution authorizing the execution of a Consent to Encroach Agreement between the City of Midland, Texas and COG Realty LLC, in order to allow a covered parking structure to be placed over a utility easement in front of the Concho Energy Hangar located in the new hangar development area at Midland International Airport. (AIRPORTS) (2014 - 111)
14. Consider a resolution approving a Professional Services Agreement between the Midland Development Corporation and Parkhill, Smith & Cooper, Inc. for engineering services related to the development of the Spaceport located at Midland International Airport. (AIRPORTS) (2014 - 112)
15. Consider a resolution approving an amendment to the Declaration of Protective Covenants applicable to Entrada Enterprise Park located in Midland International Airport Industrial Park, Section 5, Midland, Midland County, Texas; and ordering recordation. (DEVELOPMENT SERVICES) (2014 - 113)
16. Consider a motion on request by West Company of Midland, Inc. for the 349 Ranch Estates Section 18, to approve items requested for deferral in the amount of \$509,200.00, and to waive the associated costs of constructing the public improvements. The subject property is generally located on the northeast corner of the intersection at SH 349 and Arapahoe Road. (ENGINEERING SERVICES)
17. Consider a motion on request by Landgraf, Crutcher & Associates Inc. for the La Entrada Estates Section 4, to approve items requested for deferral, and to waive the associated costs of constructing the public improvements. The subject property is located in the City of Midland ETJ, approximately 700 feet north of SH 191 and approximately 400 feet west of County Road 1278. (ENGINEERING SERVICES)
18. Consider a motion on request by West Engineering Company of Midland, Inc. for the Freeland Addition Section 10, to approve items requested for deferral in the amount of \$304,300.00, and to waive the associated costs of constructing the public improvements. The subject property is generally located on the northwest corner of the intersection at Evans Lane and Golf Course Road. (ENGINEERING SERVICES)
19. Consider a resolution approving an amendment to the Economic Development Agreement between the Midland Development Corporation and the City of Midland for improvements to Briarwood Avenue, as authorized by Chapter 501 of the Texas Local Government Code; and authorizing the Mayor to execute said amendment. (ENGINEERING SERVICES) (2014 - 114)

20. Consider a resolution approving an amendment to the Economic Development Agreement between the Midland Development Corporation and the City of Midland for the South Midkiff Road Water Main Extension Project, as authorized by Chapter 501 of the Texas Local Government Code; and authorizing the Mayor to execute said amendment. (ENGINEERING SERVICES) (2014 - 115)
21. Consider a resolution authorizing the execution of a Public Improvement Development Agreement with Bernal Homes, Inc. for development of Mayfield Place Addition, Section 7, City and County of Midland, Texas (Generally located between Whitman Drive and Midland Draw, north of Midland Bible Church); and appropriating funds in the amount of \$422,210.00 therefor; said agreement being authorized by Section 395.081 of the Texas Local Government Code. (ENGINEERING SERVICES) (2014 - 116)
22. Consider a resolution authorizing the execution of a Letter Agreement with Fasken Land and Minerals, LTD., regarding the public improvement guarantees associated with the plats within the approximate 320-acre Vineyard development in the City and County of Midland, Texas; the Vineyard development is located on Holiday Hill Road north of Briarwood Avenue; and authorizing the City Manager to deposit, release, exchange or reduce said public improvement guarantees in accordance with said agreement. (ENGINEERING SERVICES) (2014 - 117)
23. Consider a resolution approving plans and specifications and authorizing advertisement for bids for the Water, Wastewater, and Fire Hydrant Taps Project; said project will provide for the installation of water, wastewater, and fire hydrant taps. (ENGINEERING SERVICES) (2014 - 118)
24. Consider a resolution approving plans and specifications and authorizing advertisement for bids for the Utility Installation Unit Price Project; said project will provide for the construction of small utility extension projects throughout the City on an as-needed basis. (ENGINEERING SERVICES) (2014 - 119)
25. Consider a resolution authorizing the execution of a Development Agreement between Fasken Land and Minerals, LTD., Casselman Land and Cattle LLC, and the City of Midland; said Development Agreement provides for the termination of certain water rights agreements, the relocation of water lines, the removal of water tanks and other structures, the transfer of ownership of water wells, the transfer of water rights, and the dedication of easement; and authorizing the City Manager and the City Attorney to make non-substantive modifications to said Development Agreement that do not change the intent of said Development Agreement. (ENGINEERING SERVICES) (2014 - 120)

26. Consider a resolution approving the Muscular Dystrophy Association's application to solicit charitable contributions in roadways on behalf of the Muscular Dystrophy Association by participating in the "Fill-the-Boot" Fundraiser; this is authorized by Section 552.0071 of the Texas Transportation Code; the dates and times of the solicitation are May 7th, 8th, and 9th, 2014 from 8:00 a.m. to 6:00 p.m.; alternate dates due to inclement weather are June 18th, 19th and 20th, 2014 from 8:00 a.m. to 6:00 p.m.; the intersection locations at which the solicitations shall occur are Midkiff Road and Wadley Avenue, Midland Drive and Loop 250, Midland Drive and Andrews Highway, and Garfield Street and Golf Course Road; there will be fifteen (15) solicitors involved in solicitations at each location; and the Muscular Dystrophy Association, Incorporated is required to provide general liability insurance prior to the event and the Fire Chief shall ensure that the insurance is received and approved prior to the "Fill the Boot" Fundraiser; members of the Midland Fire Department are authorized to solicit charitable contributions from roadways; and all other individuals are authorized to participate in solicitations if authorized by Section 552.0071 of the Texas Transportation Code. (FIRE) (2014 - 121)
27. Consider a resolution accepting a Fiscal Year 2014 Grant Award from the Southwest Border High Intensity Drug Trafficking Areas Program in the amount of \$160,400.00; this grant will be utilized for the purpose of enhancing and coordinating drug control efforts among federal, state, and local law enforcement agencies to better combat drug trafficking; and appropriating funds. (POLICE) (2014 - 122)

SECOND READINGS

28. Consider an ordinance on second reading prohibiting parking between 7:30 a.m. and 4:30 p.m. on school days only upon portions of certain streets in the vicinity of Henderson Elementary School described as on the north side of Graceland Drive from the north south alley west of Bentwood Drive continuing east a distance of 921 feet to the north south alley of Erie Drive, and from the west side of Bentwood Drive from the centerline of Graceland Drive continuing north a distance of 368 feet, and on the east side of Bentwood Drive from the centerline of Graceland Drive continuing north a distance of 398 feet, and on the west side of Wilshire Drive from the centerline of Graceland Drive continuing north a distance of 372 feet, and on the east side of Wilshire Drive from the centerline of Graceland Drive continuing north a distance of 271 feet, and on the west side of Erie Drive from the centerline of Graceland Drive continuing north a distance of 238 feet, and on the east side of Erie Drive from the centerline of Graceland Drive continuing north a distance of 397 feet except to residents whose property abuts such street and have obtained a valid parking permit; authorizing and directing the traffic engineer to erect appropriate signs; declaring any vehicle in violation of the provisions of this ordinance a nuisance and providing for the removal of same; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two hundred

dollars (\$200.00); and ordering publication. (ENGINEERING SERVICES)(First reading held April 9, 2013.)(9136)

29. Consider an ordinance on second reading changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting a 17.521-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 a PD, Planned District for an Office Center (Generally located on the west side of Holiday Hill Road at the west extension of Green Tree Boulevard); 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. (DEVELOPMENT SERVICES) (First reading held March 25, 2014.) (9248)
30. Consider an ordinance on second reading changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting a 4.114-acre tract of land out of Section 4, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas, which is presently zoned PD, Planned District for a Shopping Center, to be used as an Amended Planned District (Generally located near the northwest corner of the intersection of West Loop 250 North and Whitman Drive); containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (DEVELOPMENT SERVICES) (First reading held March 25, 2014.) (9249)
31. Consider an ordinance on second reading changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting Lot 21, Block 3, Wydeewood Estates, Section 33, City and County of Midland, Texas, which is presently zoned PD, Planned District for a Housing Development, to be used as an Amended Planned District (Generally located on the south side of West Wadley Avenue, approximately 140 feet west of Whittle Way); 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. (DEVELOPMENT SERVICES) (First reading held March 25, 2014.) (9250)
32. Consider an ordinance on second reading changing the zoning use classification of the property described as a 6,642 square foot portion of Lot 1, less 120 feet by 150 feet, Block 1, Myatt Addition, City and County of Midland, Texas (Generally located near the northeast corner of the intersection of north Garfield Street and West Wadley Avenue), which is presently zoned LR-2, Local Retail District, by permitting said property to be used under a Specific Use Permit with Term for the sale of all alcoholic beverages in a retail tobacco store 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. (DEVELOPMENT SERVICES) (First reading held March 25, 2014.) (9251)

33. Consider an ordinance on second reading changing the zoning use classification of the property described as Lot 20, Block 5, North Park, Section 16, City and County of Midland, Texas (Generally located on the north side of West Loop 250 North, approximately 450 feet east of Billingsley Boulevard), which is presently zoned PD, Planned District for a Shopping Center, 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. (DEVELOPMENT SERVICES) (First reading held March 25, 2014.) (9252)
34. Consider an ordinance on second reading changing the zoning use classification of the property described as Lot 21, Block 5, North Park, Section 16, City and County of Midland, Texas (Generally located on the north side of West Loop 250 North, approximately 700 feet west of Whitman Drive), which is presently zoned PD, Planned District for a Shopping Center, 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. (DEVELOPMENT SERVICES) (First reading held March 25, 2014.) (9253)
35. Consider an ordinance on second reading changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting Block 14, Block 4D, and a 0.103-acre portion of Neely Avenue service road right-of-way, Highland Park Townhouses, 2nd Section, City and County of Midland, Texas, which is presently zoned PD, Planned District for a Housing Development, to be used as an Amended Planned District (Generally located on the northwest corner of the intersection of north "A" Street and Neely Avenue); 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. (DEVELOPMENT SERVICES) (First reading held March 25, 2014.) (9254)

36. Consider an ordinance on second reading of the City Council of the City of Midland, Texas, ("City") approving a negotiated settlement agreement between the steering committee of cities served by Atmos West Texas ("Cities") and Atmos Energy Corporation, West Texas Division regarding the company's 2013 statement of intent to increase rates in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the tariffs attached to the settlement agreement to be just and reasonable; approving a new rate review mechanism; requiring the company to reimburse cities' reasonable ratemaking expenses; repealing conflicting resolutions or ordinances; determining that this ordinance was passed in accordance with the requirements of the Texas Open Meetings Act; adopting a savings clause; declaring an effective date; and requiring delivery of this ordinance to the company and the Cities' legal counsel. (CITY MANAGER'S OFFICE) (First reading held March 25, 2014.) (9255)
37. Consider an ordinance on second reading vacating and abandoning a 0.103-acre portion of the Neely Avenue Service Road right-of-way adjacent to Block 14, Highland Park Townhouses, 2nd Section, City and County of Midland, Texas. (Generally located on the northwest corner of the intersection of N. "A" Street and Neely Avenue.); adopting the appraisal of the City Manager of \$13,464.00 and ordering recordation by the City Secretary. (DEVELOPMENT SERVICES) (First reading held March 25, 2014.) (9256)

PUBLIC HEARINGS

38. At approximately 10:30 A.M. hold a public hearing and consider an ordinance changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting a 7.212-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 MF-1, Multiple-Family Dwelling District (Generally located on the west side of Holiday Hill Road at the west extension of Green Tree Boulevard); containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (DEVELOPMENT SERVICES) (9257)
39. At approximately 10:33 A.M. hold a public hearing and consider an ordinance adopting a site plan for Lot 12, Block 28, Wydeewood Estates, Section 21, City and County of Midland, Texas (Generally located on the east side of Sunburst Drive, approximately 450 feet south of West Wadley Avenue); subject to the following conditions and restrictions; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication. (DEVELOPMENT SERVICES) (9258)

40. At approximately 10:36 A.M. hold a public hearing and consider an ordinance changing the zoning use classification of Lot 7, Block 1, Highland Addition, City and County of Midland, Texas (Generally located on the north side of West Cuthbert Avenue, approximately 50 feet east of North Colorado Street), which is presently zoned 1F-2, 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. (DEVELOPMENT SERVICES) (9259)
41. At approximately 10:39 A.M. hold a public hearing and consider a resolution granting a variance for Lot 9, Block 3, Ranchland Heights, City and County of Midland, Texas (Generally located on the north side of Bedford Drive, approximately 90 feet west of West Broadway Street), by permitting access to said property from an unpaved alley that does not conform to City of Midland standard specifications. (DEVELOPMENT SERVICES) (2014 - 123)
42. At approximately 10:42 A.M. hold a public hearing and consider a resolution authorizing the temporary use of land for an outdoor amusement function on the 100 Block of East Texas Avenue, Original Town, City and County of Midland, Texas (Generally located on East Texas Avenue, between North Main Street and North Baird Street); and making said permit subject to certain special conditions and restrictions contained herein. (DEVELOPMENT SERVICES) (2014 - 124)

MISCELLANEOUS

43. Consider a motion on whether the financial backing, financial term sheet and/or commitment submitted by or on behalf of 301 Ventures, L.L.C. complies with the Agreement between the City of Midland and 301 Ventures, L.L.C. The evidence of adequate financial backing of the individual or entity constructing the Fuel Hotel was to be provided to the City of Midland by April 1, 2014. This evidence was to include current documentation from a bank or other lending institution stating that they are providing a specific funding level to support the hotel project without disclaimers, caveats, or exceptions. The City Council shall consider a motion on whether 301 Ventures, L.L.C. has complied with the requirement to "break ground" by April 1, 2014 toward the continued, sustained and meaningful construction toward the completion of the Fuel Hotel project in downtown Midland. (301 Ventures, L.L.C. is sometimes referred to as Texas 301 Ventures, L.L.C. in the contract documents). (CITY ATTORNEY'S OFFICE)

44. Consider an ordinance vacating and abandoning a 1.04-acre portion of Holiday Hill Road right-of-way adjacent to the reserve tract in Green Hill Terrace, out of Section 7, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas (Generally located on the east side of Holiday Hill Road, approximately 300 feet north of Mockingbird Lane); adopting the appraisal by the City Manager of \$10,400.00; retaining a general public utility easement; and ordering recordation by the City Secretary. (DEVELOPMENT SERVICES) (9260)
45. Consider a resolution authorizing the establishment of a fee pursuant to Texas Local Government Code Section 395.081 for the State Highway 349 and Fairgrounds Road Traffic Corridor Analysis; establishing the State Highway 349 Fairgrounds Road Traffic Corridor Development Area to be a 5,532.23-acre tract more specifically described by metes and bounds made a part hereof; providing that said fee shall be in the amount of \$10 per residential unit, \$20 per multiple-family parking space, and \$20 per commercial parking space included in each plat or building permit application within said development area; and providing that said fee shall be collected through Public Improvement Development Agreements which must be approved by the Midland City Council. (ENGINEERING SERVICES) (2014 - 125)
46. Consider motions making appointments to the Midland Football-Soccer and Baseball Complex Development Corporation Board of Directors; and consider motions appointing individuals to all other Boards and Commissions.
47. At approximately 1:30 p.m. hold a joint workshop with the Planning and Zoning Commission and the City Council to discuss with Freese/Nichols the proposed amendments to Title XI, of the Midland City Code (Zoning Code).

EXECUTIVE SESSION

48. 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 551.087 Deliberate Economic Development Negotiations
 - a.1. Discuss business prospects that the City seeks to have, locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.
 - b. Section 551.074 Personnel Matters
 - b.1. Deliberate the employment, evaluation, compensation and duties of the City Manager, the City Attorney, the City Secretary, the Municipal Court Presiding Judge and the Municipal Court Associate Judge.

- c. Section 551.072 Deliberation Regarding Real Property.
 - c.1. Discuss the purchase, exchange lease or value of real property described as Block 2, Lot 1, Commercial Bank Addition, Midland, Midland County, Texas.
- d. Section 551.071 Consultation with the City Attorney
 - d.1. 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.
 - d.2. Discuss Texas Attorney General Opinion by former Texas Attorney General Dan Morales, No. DM-232.

Respectfully Submitted,

Courtney B. Sharp
City Manager

MEETING ASSISTANCE INFORMATION: The Midland City Hall and Council Chamber are wheelchair accessible. If you need special assistance to participate in this meeting, please contact the City Secretary's Office at (432) 685-7430. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.