MIDLAND CITY COUNCIL
MINUTES
April 10, 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 April 10, 2012.

Council Members present:	Mayor W. Wesley Perry, Mayor Pro Tem Jerry Morales (At-Large), Council Member Jeff Sparks (District 1), Council Member Vicky Hailey (District 2), Council Member John James (District 3), and Council Member Michael Trost (District 4).
Council Members absent:	Council Member Scott Dufford (At-Large) (Dufford arrived at 9:03 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, Finance Director Bob McNaughton, Utilities Director Stuart Purvis, Solid Waste Director Morris Williams, Building Official Steve Thorpe, City Engineer David Beard, Public Information Officer Tasa Watts, Superintendent Johnny Womack, Assistant Code Administration Manager Ron Jenkins, and Customer Service Division Manager Tony Goyang.

1. Receive introduction to new Citizen Action Center.

   Tasa Watts gave an overview of the improved Citizen Action Center noting it is now automated and requests will now be routed automatically to the correct staff person. She explained that it is interactive with smart phones with a free download called City Reporter 311.

2. Receive history of the Litter Abatement Fee and its current use.

   Solid Waste Director Morris Williams gave an overview of litter abatement fees that were established in 2002 to be used exclusively for litter abatement and the subsequent changes made to the program noting that now that expenditures exceed the revenues.

   He presented three options: Increase the fee to $1 to cover expenditures; reduce the number of services to reduce expenditures; or make the litter abatement fee mandatory.

   Following discussion, City Manager Sharp reported that staff will come back with recommendations for the City Council to consider.

3. Receive information on the water conservation recommendation by Freese and Nichols.

   Stuart Purvis introduced Simone Kiel of Freese and Nichols and her staff Jeremy Rice, and Alice Darlick.

Ms. Kiel presented an overview of the project noting there were three basic phases and explained each of those phases and the components included in each.

Jeremy Rice reviewed their methodology which included literature review, city interviews, staff input, work group input, and professional experience. He recommended introducing a new residential landscape ordinance and modifying the commercial landscape ordinance. He touched on an education program and reviewed incentive opportunities noting that there would be a potential water savings down the road that could reduce use by 10 percent based on an assumed $500,000 per year budget. He reported that cities that have been doing water conservation for many years have seen a 30 percent savings in water.

Ms. Kiel noted that the final report would be coming in June.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:58 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:05 a.m., April 10, 2012.

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

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

The Agenda Items were heard in the following order: 1, 2, 3, 4, 5a, 5b, 6, 7, 8, 9, 10, 11, 12, 14, 15, 17, 13, 16, 15 (second time), 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36.

OPENING ITEMS

1. Invocation - Patrick Payton, Stonegate Fellowship Church

2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:

   a. Council Member Dufford presented the 17th Annual Distinguished Budget Presentation Award from the Government Finance Officers Association to Finance Director Bob McNaughton and his staff.

   b. Council Member Morales presented a proclamation for Parkinson's Disease

Awareness Month to Israel Robledo and his wife Chris.

c. Mayor Perry presented a proclamation for Fair Housing Month to Community Development Manager Sylvester Cantu and other organizations throughout the City that make fair housing possible.

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.

Randall Henson, 5610 Los Patios, noted he had a specific use permit for hauling trash in Midland. Since the permits were not enforced he requested a refund of his money. He also reported that on I-20 and Warehouse Road a business has a pipe yard permit. He noted that they were running 30-40 18 wheelers 24 hours a day 7 days a week and wondered how that could happen under a pipe permit. Mayor Perry noted that someone from the staff would contact him to address his concerns.

Paul Lewis, 3501 Gulf, asked the City to stop issuing permits for new water meters because the water system is currently overstrained. He heard an argument that a reason to install water meters was due to the housing shortage but in his own estimation there is not a housing shortage based on the number of homes listed for sale in the newspaper.

Mark Solari, 2005 Brentwood Drive, spoke in favor of a single use bag ban because of the amount of litter in the area. He provided an ordinance from another city regarding plastic bags and explained the benefits of the ordinance. He encouraged the City Council to adopt similar policies.

CONSENT AGENDA

Council Member James moved to approve Consent Agenda items 5 - 17 excluding 13, 16, 18; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

5. Approved a motion approving the following minutes:

a. Regular Meeting of March 20, 2012.

b. Special Meeting of March 28, 2012.

6. Approved a resolution amending authorized representatives for Texas Local Government Investment Pool (Texpool). (Finance)

RESOLUTION NO. 2012 - 096

RESOLUTION AMENDING THE AUTHORIZED REPRESENTATIVES OF THE CITY OF MIDLAND, TEXAS, REGARDING INVESTMENTS OF PUBLIC FUNDS

7. Approved a resolution amending authorized representatives for Local Government Investment Pool (Logic). (Finance)

RESOLUTION NO. 2012 - 097
RESOLUTION CHANGING THE AUTHORIZED REPRESENTATIVES FOR THE LOCAL GOVERNMENT INVESTMENT COOPERATIVE

8. Approved a resolution approving the purchase of 5 heavy duty cab and chassis' for the Garage Division. (General Services)

RESOLUTION NO. 2012 - 098
RESOLUTION APPROVING THE PURCHASE OF FIVE (5) HEAVY DUTY CAB & CHASSIS OF ASSORTED CONFIGURATIONS FROM ROBERTS TRUCK CENTER OF TEXAS, LLC, OF MIDLAND, TEXAS, AT A TOTAL COST OF $395,860.00

9. Approved a resolution approving the purchase of a boom truck body for the Garage Division. (General Services)

RESOLUTION NO. 2012 - 099
RESOLUTION APPROVING THE PURCHASE OF ONE (1) BOOM TRUCK BODY FROM EQUIPMENT SOUTHWEST, INCORPORATED, AT A TOTAL COST OF $55,500.00

10. Approved a resolution approving the purchase of three dump bodies for the Garage Division. (General Services)

RESOLUTION NO. 2012 - 100
RESOLUTION APPROVING THE PURCHASE OF THREE (3) DUMP TRUCK BODIES OF ASSORTED S IZE S FROM EQUIPMENT SOUTHWE ST , INCORPORATED, AT A TOTAL COST OF $50,508.00; AND EQUIPMENT SOUTHWEST, INCORPORATED, WAS THE SOLE BIDDER

11. Approved a resolution approving the purchase of four Backhoe Loader Combinations and two -3cy rubber tire loaders for the Garage Division. (General Services)

RESOLUTION NO. 2012 - 101
RESOLUTION APPROVING THE PURCHASE OF FOUR (4) CATERPILLAR MODEL 420F BACKHOE/LOADERSAND TWO (2) CATERPILLAR MODEL 930K 3-CUBIC-YARD RUBBER TIRE LOADERS FROM WARREN POWER AND MACHINERY, INCORPORATED, DBAWARREN CAT, OF ODESSA, TEXAS, AT A TOTAL COST OF $692,939.00; AND WARREN POWER AND MACHINERY, INCORPORATED, DBA WARREN CAT WAS NOT THE LOW BIDDER ON THE FOUR (4) BACKHOE/LOADERS; AND ACCEPTING THE CITY MANAGER'S RECOMMENDATION THAT THE LOW BID FOR THE FOUR (4) BACKHOE/LOADERS DID NOT MEET ADVERTISED SPECIFICATIONS

12. Approved a resolution approving a master agreement for an estimated annual supply of 3,000-5/8", 800-1", 150-1 1/2", 400-2", 20-3", 6-4" and 2-6" water meters for the Municipal Warehouse. (General Services)

RESOLUTION NO. 2012 - 102

RESOLUTION APPROVING THE PURCHASE OF FOUR THOUSAND THREE HUNDRED SEVENTY-EIGHT (4,378) WATER METERS OF VARIOUS CONFIGURATIONS, FROM THE LOW BIDDERS, HD SUPPLY WATERWORKS, LTD, AND BADGER METER, INCORPORATED, AT A TOTAL COST OF $365,221.58

14. Approved a resolution authorizing the acceptance and appropriation of $19,536 in reimbursement funds from the Texas Department of State Health Services to assist the Health and Senior Services Division with the delivery of Public Health Emergency Preparedness Services. (Community Services)

RESOLUTION NO. 2012 - 104

RESOLUTION AUTHORIZING THE ACCEPTANCE OF $19,536.00 IN REIMBURSEMENT FUNDS FROM THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES TO ASSIST THE HEALTH AND SENIOR SERVICE DIVISION WITH THE DELIVERY OF PUBLIC HEALTH EMERGENCY PREPAREDNESS SERVICES; AND AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS; AND APPROPRIATING FUNDS

15. Consider a resolution to assign a project number and allocate money ($25,147-collected from a development agreement) from the General Fund for the design and construction of paving and drainage improvements for Fairgrounds Rd. from Cloverdale Rd. (FM 307) to Garden City Hwy (SH 158). (Engineering)

RESOLUTION NO. 2012 - 105

RESOLUTION AUTHORIZING THE EXECUTION OF A PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH PECOS GATHERING AND MARKETING, LLC FOR THE EXPANSION OF FAIRGROUNDS ROAD; AND APPROPRIATING FUNDS THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE

Council Member James moved to approve Consent Agenda items 5 - 17 excluding 13, 16, 18; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member Dufford moved to defer; seconded by Council Member Morales.

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

Council Member James made a motion to reconsider Agenda Item number 15; seconded by Council Member Dufford. The motioned carried by the following vote: AYE: Morales, Trost, Perry, Dufford, James, Sparks. NAY: Hailey. ABSTAIN: None. ABSENT: None

City Engineer Beard reported that owner of the property had written a check. Mayor Perry clarified that he may not want to do the improvements if he could not get water to his property.

Council Member Dufford moved to defer the item until the next City Council meeting; seconded by Council Member Morales.

Council consensus was to move Agenda Item 16 to the next meeting as well for reconsideration.

Discussion ensued about the history of the property.

City Attorney Stretcher noted that the plat is still pending approval, but the final approval of the plat may require money being deposited for Fairgrounds Road. He does not want to send a message that the plat is approved and the public improvements have been waived. Even if this development agreement is not approved a public improvement may be required as part of the platting process. State law requires that he be platted to get water, and if he is not going to get water, he may wish to withdraw his platting request.

Discussion ensued about whether this property could be annexed. City Attorney Stretcher clarified that if he asked to be annexed it would be a voluntary annexation and the requirement to include a wide strip of land would not apply.

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

17. Approved a resolution accepting a grant award in the amount of $168,714 from the High Intensity Drug Trafficking Areas (HIDTA) Program and appropriating funds. (Police)

RESOLUTION NO. 2012 - 107

RESOLUTION ACCEPTING A GRANT FROM THE SOUTHWEST BORDER HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM IN THE AMOUNT OF $168,714.00; 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

13. Consider a resolution approving a contract for the Sparks target area development utility improvements for the Engineering Department. (General Services)

RESOLUTION NO. 2012 - 103

RESOLUTION AWARDING THE SPARKS PARK TARGET AREA DEVELOPMENT UTILITY IMPROVEMENTS PROJECT TO TEC EXCAVATION, INCORPORATED, OF MIDLAND, TEXAS, AT A TOTAL COST OF $333,328.00

Council Member Sparks suggested the contingency be changed from 15 percent to 10 percent. City Engineer Beard noted that the standard contingency in the past had been 15 percent but is okay with changing it to 10 percent.

Discussion ensued about whether this was a policy change across the board and about being consistent.

Council Member Trost moved to adopt Resolution No. 2012 - 103 with a contingency of 10 percent; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Perry, Sparks. NAY: Hailey, Dufford, James. ABSTAIN: None. ABSENT: None.

16. Consider a resolution to allow temporary water and wastewater service agreement for

1310 S. Fairgrounds road for Pecos Marketing and Gathering (City View Acres). (Engineering)

RESOLUTION NO. 2012 - 106

RESOLUTION AUTHORIZING THE EXECUTION OF A TEMPORARY WATER AND SEWER SERVICE AGREEMENT BETWEEN THE CITY OF MIDLAND AND PECOS GATHERING AND MARKETING, LLC FOR SERVICES TO 1310 SOUTH FAIRGROUNDS ROAD, MIDLAND, TEXAS, 79701; SAID PROPERTY IS OUTSIDE THE CITY LIMITS; PECOS GATHERING AND MARKETING, LLC HAS EXECUTED A LETTER AGREEING TO ANNEXATION IF AND WHEN THE PROPERTY IS ANNEXED; PECOS GATHERING AND MARKETING, LLC 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

Council Member Sparks expressed concern because they were not in the City limits but are looking to use City water and felt the timing was bad when the City has limited water. He felt that the City should not be delivering water outside of the City limits until the water situation is under control.

Discussion ensued about whether this was a policy decision. It was suggested that no other properties receive water until after they are annexed.

City Engineer David Beard reported that the applicant had signed a voluntary annexation letter but they are not adjacent to the current city limits and could not be annexed until the property above or below is annexed. His recommendation was to approve.

Discussion ensued about whether this tract would be annexed. Utilities Director Purvis clarified that all areas outside of the City pay water at a rate of one and a half times of the City rate.

City Manager Sharp reported that it was the Council's policy that allowed for water agreements outside of the city limits, and if the Council chooses to place a moratorium on water contracts outside of the City during the water shortage, then the staff will follow that direction.

Council Member Hailey moved to adopt Resolution No. 2012 - 106; seconded by Council Member James. The motion failed by the following vote: AYE: Hailey, Dufford, James. NAY: Morales, Trost, Perry, Sparks. ABSTAIN: None. ABSENT: None.

City Engineer Beard asked if the Council would like to allow the opportunity for the applicant to address them at the next meeting. Consensus was received.

18. Receive by motion the Water Conservation Report as developed by Freese and Nichols. (Utilities)

Council Member James noted he pulled the item to allow Freese and Nichols the opportunity to make public some of the recommendations they have made.

Simone Kiel, Ft. Worth, reported they have completed the first phase of the water conservation analysis where they evaluated 71 different conservation strategies and identified 21 strategies falling into three categories: regulation, education and incentives. With the assumption of a budget of $500,000 per year, she reported the City could save over 550 million gallons of water initially if implemented by 2013 and could grow to over a billion gallons by 2025-2030 timeframe.

Council Member Hailey moved to approve the Water Conservation Report as developed by Freese and Nichols; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

SECOND READINGS

19. Consider an ordinance on second reading annexing a 28.31-acre tract of land (Tract 7) 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)

ORDINANCE NO. 8992

ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 28.31-ACRE TRACT OF LAND OUT OF SECTION 24, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF BRIARWOOD AVENUE AND HOLIDAY HILL ROAD); AND APPROVING A PUBLIC SERVICE PLAN

Deputy City Secretary Reyes read the caption of Ordinance No. 8992.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8992 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Perry.

20. Consider an ordinance on second reading for initial zoning of annexed land to MF-1, Multiple Family Dwelling on a 20.21-acre tract of land (Tract 7A) 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)

ORDINANCE NO. 8993

ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 20.21-ACRE TRACT OF LAND OUT OF SECTION 24, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN MF-1, MULTIPLE-FAMILY DWELLING DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF BRIARWOOD AVENUE AND HOLIDAY HILL ROAD; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS

($2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Reyes read the caption of Ordinance No. 8993.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8993 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

21. Consider an ordinance on second reading for initial zoning of annexed land to LR-2, Local Retail District on an 8.11-acre tract of land (Tract 7B) 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)

ORDINANCE NO. 8994

ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING AN 8.11-ACRE TRACT OF LAND OUT OF SECTION 24, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN LR-2, LOCAL RETAIL DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF BRIARWOOD AVENUE AND HOLIDAY HILL ROAD; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Reyes read the caption of Ordinance No. 8994.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8994 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

22. Consider an ordinance on second reading annexing and adopting a service plan for a 108.453-acre tract of land (Tract 8) 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)

ORDINANCE NO. 8995

ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 108.453-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF(GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF TRADEWINDS BOULEVARD AND CHAMPIONS DRIVE); AND APPROVING A PUBLIC SERVICE PLAN

Deputy City Secretary Reyes read the caption of Ordinance No. 8995.

Council Member Hailey moved to approve the second and final reading of Ordinance

No. 8995 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

23. Consider an ordinance on second reading for initial zoning of annexed land to FD, Future Development District on a 108.453-acre tract of land (Tract 8) 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)

ORDINANCE NO. 8996

ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING AN 108.453-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN FD, FUTURE DEVELOPMENT DISTRICT; SAID TRACT IS GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF TRADEWINDS BOULEVARD AND CHAMPIONS 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

Deputy City Secretary Reyes read the caption of Ordinance No. 8996.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8996 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

PUBLIC HEARINGS

24. At approximately 10:30 A.M. hold a public hearing and consider an ordinance on a request by Mike Gilbert for a zone change from AE, Agriculture Estate District to C-3, Commercial District.

ORDINANCE NO. 9004

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 10.00-ACRE TRACT OF LAND OUT OF THE NORTHWEST QUARTER OF SECTION 40, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A C-3, COMMERCIAL DISTRICT (GENERALLY LOCATED ON THE NORTHEAST CORNER OF ELKINS ROAD AND EAST 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

Planning Division Manager Walker gave an overview of the item noting that staff supports the request, that Planning & Zoning voted 4-3 for approval and that three letters of objection had been received which would require a supermajority to approve.

Council Member Dufford asked why the three people at Planning & Zoning voted against it. City Planner Walker reported that the creation of the mud product put out dust and some noise and the surrounding neighbors were concerned about that. He further noted that Venture Mud has moved that portion of their operations to a site north of Loop 250 on the east side of Elkins Road.

Mayor Perry opened the public hearing at 11:10 a.m.

Chris Walker, 508 West Wall Street, applicant, gave an overview of their business and the services they provide. He noted they are looking for room for expansion. When looking for a property they were looking for space, accessible location, and usable with respect to neighbors. They felt this property met all of those qualifications. They did not realize the property was zoned agricultural. He reported they have added lighting, automatic fencing, caliche, and other building improvements. Their company is in growth mode and they are looking to add 30-40 more people and expect to increase their trucking company and diversify their business. He reported on their previous issue with their barite operation and a concern of blowing dust. They secured a property north of Loop 250 which solved the dust issue. He also noted that they water down their caliche pits to help alleviate dust. He felt that this property is perfect for his business and creates tax dollars for the community and asked Council to approve their request.

Council Member Trost asked about the noise factor. Mr. Walker reported that a majority of the trucking was due to the barite business and that portion of their business had been moved north of Loop 250, which has greatly reduced the noise.

Planning Division Manager reported that the property was already being used as an oil & gas type industry which is why the assumption was probably made that this type of business could be conducted at this location.

There being no one else wishing to speak, the public hearing was closed at 11:19 a.m.

Deputy City Secretary Reyes read the caption of Ordinance No. 9004.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9004 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

25. At approximately 10:33 A.M. hold a public hearing on a request by Vector Oil and Gas LP, to Drill an Oil and Gas Well within the City Limits, (Barron #1) located 1910.4' FNL and 820.8' FWL of the land described as Section 6, block 'X" H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the east side of Holiday Hill Road, approximately 1/2 mile south of Mockingbird Lane.) (Planning)

Oil and Gas Compliance Officer Ron Jenkins reported that this is the first of two wells for Vector Oil and Gas to be considered today. He reported this well had gone to the Oil & Gas Advisory Committee. They recommended use of multiple wells per pad site. Los Conchos has agreed on well locations and the routes for utilities. He reported the fencing and landscaping is consistent with the proposed subdivision. The tank battery and frac pit will be located to the northeast by the other well which will be considered next. A vapor recovery unit will be used as required by state rule. He reported that no letters of objection had been received and that there were no houses within 500 feet of the well site.

Mayor Perry opened the public hearing at 11:24 a.m.

Karen McNealy, 4515 Meadowlark, reported the two wells were to the west of her home. She asked if there would be gas flares. Mr. Jenkins reported that there would be a gas flare but only near the battery. Ms. McNealy asked if barriers would be put up to help alleviate sound noise during the drilling. She also asked if she would be notified when they drill through the water level. She reported she was told by the Railroad Commission that if they use their water while they are drilling at that level, any chemicals used would be pulled into their water system.

Jimmy Wright, 5212 Mathis, asked where the road route would be located and if there would be a shared access point. Mr. Jenkins reported the truck route would head east on Holiday Hill Road and there would be no shared access.

Discussion ensued regarding truck traffic along Briarwood.

Mike Wallace, 200 Blackberry Circle, representing Vector Oil and Gas, reported the current entrance would be off of Holiday Hill near Mockingbird. When asked if trucks could be brought down from 1788 he responded they could certainly suggest a route from the north when they hire their vendors. He reported they have no additional sound protection and that they submitted in accordance with the current Ordinance of the City. They have no intention of flaring gas and were already working with the gatherer to lay a line under the road to connect to the battery. There will be a flare stack at the battery. Mr. Wallace reported that in one day they would drill and cement in the well to protect the fresh water. Mr. Jenkins noted that the public within 860 feet was notified advising how to have their water well tested during and after drilling.

Ms. McNealy asked if she could be notified on the day they would drill. She was directed to contact the operator.

Mike Morgan, Los Conchos Ventures, LLC, developer of the tract, noted they support the application by Vector Oil and Gas. He reported the presence of the Oil & Gas Ordinance has served its application exactly as intended and it caused everyone to work together.

There being no one else wishing to speak, the public hearing was closed at 11:40 a.m.

No action was taken on this item.

26. At approximately 10:36 A.M. hold a public hearing on a request by Vector Oil and Gas LP, to Drill an Oil and Gas Well within the City Limits, (Barron #3) located 714' FNL and 730.4' FWL of the land described as Section 6, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the east side of Holiday Hill Road, approximately 720 feet south of Mockingbird Lane.) (Planning)

Oil & Gas Compliance Officer Jenkins reported that this was the same information as the previous item with the difference that this location contains the tank battery and a frac pit to the east of the location. He reported that no letters of objection had been received for this location.

Mayor Perry opened the public hearing at 11:41 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

No action was taken on this item.

27. At approximately 10:39 A.M. hold a public hearing on a request from Bluestem Energy Holding, LLC (Evans N 1) to drill an oil and gas well on property located 623' FSL and 2,035' FEL of the land described as Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the North Midkiff Road, approximately 625 north of Mockingbird Lane.) (Planning)

Oil & Gas Compliance Officer Jenkins reported this well was reviewed by the Oil & Gas Advisory Committee and they recommended that the landscape variance be limited to a period of not more than two years. He reported that the intermittent casing has changed to 4600 from the top instead of 5000 feet. He reported this would be a directional well, that it would include the required fencing, and that the tank battery was previously approved. He reported that nine letters of objection had been received as well as a petition with 94 signatures. He noted there were no houses within the 500 feet.

Mayor Perry opened the public hearing at 11:44 a.m.

Ted Gawloski, 3900 Edgebrook Court, believes this work could be done without having a well located where it is where it would not affect Mockingbird Heights. He presented a map showing the locations that would help the ecological footprint of the area. He reported he is against the item.

Joe Carrasco, 3902 Edgebrook Court, reported he is concerned about traffic because of the current high volume of truck traffic. He would prefer they drill another way.

Gary Simmons, 3905 Edgebrook Court, reported he is a chemical engineer and has been involved in oil and gas for some time. He reported his community involvements noting he has a vested interest in the community and is interested in the quality of the community. He is pro oil. He stated his companies would never take the risk drilling this close to communities. He reported he has gone out night after night to get the petitions signed and asked that the well location be moved.

Don Washburn, 3901 Baybrook, reported he doesn't think the map is correct, he feels it is way further south. He addressed noise issue concerns and emphasized that the Council's first responsibility should be to the citizens of Midland. He expressed concern that the first two wells they drilled were noisy and was concerned with how close they were getting to the neighborhood. He suggested setting a policy on noise abatement to force drillers to be good neighbors. He also addressed concerns about lighting in the area pouring into their neighborhood. He would like to see the pad site move to the east.

Council Member Trost asked if the movement of the drill site to the east would satisfy his concerns and cause him to withdraw his objections. Mr. Washburn stated it absolutely would.

There being no one else wishing to speak, the public hearing was closed at 12:03 p.m.

John Anderson, Fort Worth, representing BlueStem Energy, reported the end location would be close to 1000 feet south/southwest underneath of Mockingbird Heights. He clarified that eventually the location would have three wells and would be deviated well bores. He reported they were honoring the requirements of the ordinance regarding well placements and in compliance with the surface owner noting this was the only way they could access minerals on the southwest quarter of the location. On the M-1 location they were looking at a 1700 foot deviated well bore. He reported he is trying to accommodate homeowner and landowner requests. He noted they have not specifically addressed noise issues because it wasn't required in the Ordinance but they would if needed.

Council Member Sparks clarified that this location would have more than one well. Mr. Anderson affirmed that the plan was to have three wells on the pad site. When asked why they did not move the location further to the east, Mr. Anderson reported that the longest lateral was 900 feet and the further the location was moved, a longer lateral would be required.

Discussion ensued about noise concerns. When asked if he would be willing to address noise concerns if he would be open to the idea. Mr. Anderson reported he would be open to that conversation. Council suggested that he sit down with the neighbors and make concessions.

Ted Gawloski noted this was the first time he heard that three wells would be drilled from that pad and stated he was not notified of that fact. Mayor Perry clarified that they would be notified when they were formally permitted. Mr. Gawloski reaffirmed his belief that the wells could be drilled directionally from another location.

Gary Simmons reaffirmed that he is not opposed to the drilling but is opposed to the location citing there was no opposition to their first six wells primarily because they were outside of the 860 foot circle.

Joe Carrasco stated that the surface owner didn't want a well drilled in front of his house and that they did not want wells drilled in their back yards.

Don Washburn reaffirmed he is not opposed to the drilling but he wanted them to be a good neighbor. He asked for City representation if BlueStem would meet with the neighborhood and asked to see their whole plan.

Mayor Perry asked Mr. Anderson to connect with the neighborhood and suggested that Mr. Jenkins be a part of that process.

There being no one else wishing to speak, the public hearing was closed at 12:21 p.m.

No action was taken on this item.

28. At approximately 10:42 A.M. hold a public hearing on a request from Bluestem Energy Holding, LLC (Evans M 1) to drill an oil and gas well on property located 1,949' FSL and 1,927' FWL of the land described as Section 8, Block "X", H.P. Hilliard Survey, Midland

County Texas. (Generally located on the east side of the North Midland Drive, approximately 1/3 mile north of Mockingbird Lane.) (Planning)

Oil & Gas Compliance Officer Jenkins reported that this was another directional drill, noting the bottom hole goes to the southwest roughly 1700 feet. He reported this has the same recommendations as the previous item and that four letters of objection had been received.

Council Member Sparks asked where the tank battery would be located. Mr. Jenkins reported that the tank battery already exists and was approved with their other wells. He noted it is located at the northeast corner.

Mayor Perry opened the public hearing at 12:22 p.m.

Lauren Robinson, 4108 Timberglen Circle, reported her husband looked up the ordinance and found that work should be done between 7 a.m. and 7 p.m. She noted she has heard noise at 3 in the morning. Mayor Perry clarified that drilling can go 24 hours a day but fracing is limited from 7 a.m. to 7 p.m. She expressed concern about noise and about the gas flare and noted her concurrence with objections reported on the previous item.

There being no one else wishing to speak, the public hearing was closed at 12:24 p.m.

No action was taken on this item.

MISCELLANOUS

29. Consider a resolution on a request from Callon Petroleum Operating Company (Pecan Acres 23 #3) for a Permit to Drill an Oil and Gas Well within the City Limits. (Planning)

RESOLUTION NO. 2012 - 108

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO CALLON PETROLEUM OPERATING COMPANY (“OPERATOR”) TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 704 FEET FROM THE NORTH LINE AND 2,007 FEET FROM THE WEST LINE, SECTION 23, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF GOLDEN GATE DRIVE, APPROXIMATELY 3/4 OF A MILE NORTH OF BRIARWOOD AVENUE); 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 reported that the Oil & Gas Advisory Committee approved the item with the following stipulations: a steel coated tank be allowed for water containment, a vapor recovery unit be installed, that the landscaping variance be allowed for no longer than two years, and that multiple well sites on each pad be considered. He reported that this tank battery had already been approved previously by Council. No letters of objection had been received.

Council Member James moved to adopt Resolution No. 2012 - 108; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT:

None.

30. Consider a resolution on a request from Callon Petroleum Operating Company (Pecan Acres 23 #6) for a Permit to Drill an Oil and Gas Well within the City Limits. (Planning)

RESOLUTION NO. 2012 - 109

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO CALLON PETROLEUM OPERATING COMPANY ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 651 FEET FROM THE SOUTH LINE AND 2,040 FEET FROM THE WEST LINE, SECTION 23, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF GOLDEN GATE DRIVE, APPROXIMATELY 650 FEET NORTH OF BRIARWOOD AVENUE); 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 reported this was the same circumstances with the only difference in the location and that no letters of objection had been received.

Council Member Hailey moved to adopt Resolution No. 2012 - 109; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

31. Consider a resolution of a request from Callon Petroleum Operating company (Pecan Acres 23 #12) for a Permit to Drill and Oil and Gas Well within the City Limits. (Planning)

RESOLUTION NO. 2012 - 110

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO CALLON PETROLEUM OPERATING COMPANY ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 1,911 FEET FROM THE EAST LINE AND 2,009 FEET FROM THE NORTH LINE, SECTION 23, BLOCK 40, T-1- S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF GOLDEN GATE DRIVE, APPROXIMATELY ½ MILE NORTH OF BRIARWOOD AVENUE); 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 reported this was the same circumstances with the only difference in the location and that no letters of objection had been received.

Council Member Hailey moved to adopt Resolution No. 2012 - 110; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

32. Consider a motion on a request by SMBC Inc. to approve street/paving improvement deferrals in the amount of $24,855, and to waive the associated public improvement guarantee for 601 West Florida . This property is positioned in the City Limits, generally located on the northeast corner of side of West Florida Avenue and Connell Street.

(Engineering)

City Engineer Beard noted that any time public improvements are required the City requires the owner to construct the improvements or put up the money to have them constructed at a later date. Mr. Sanchez of SMBC is not opposed to constructing the road but would like to wait to pay his share until after the road is constructed.

Council Member Hailey suggested that consideration be given to this item because deferrals were granted in the past. Discussion ensued about previous deferrals and how they were handled and if money was paid how long the City had to construct the improvements.

Assistant City Manager Nichols reported that the City has been working with the development community to work on a deferral process and expected to be back in the near future for Council consideration.

Council Member Hailey asked if anyone from SMBC was present to speak. No one came forward.

Discussion ensued about being consistent, trying to be aware of small business owner needs, that development fosters future development, and that this deferral should be tied into the new deferral policy.

Assistant City Manager Nichols noted he would bring back the deferral process for City Council approval at the first meeting in May.

Council Member James moved to deny a request by SMBC Inc. to approve street/paving improvement deferrals in the amount of $24,855, and to waive the associated public improvement guarantee for 601 West Florida . This property is positioned in the City Limits, generally located on the northeast corner of side of West Florida Avenue and Connell Street. ; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Perry, Dufford, James, Sparks. NAY: Trost, Hailey. ABSTAIN: None. ABSENT: None.

33. Consider a resolution to recommend award of the Ward Street Bridge Project. (General Services)

RESOLUTION NO. 2012 - 111

RESOLUTION AWARDING THE WARD STREET BRIDGE REHABILITATION AND GARFIELD STREET BRIDGE RAIL RETROFIT PROJECT TO ONYX CONTRACTORS OPERATIONS, LP, OF MIDLAND, TEXAS, AT A TOTAL COST OF $735,178.90

City Engineer Beard reported that the project was put out for bid last month and opened a couple of weeks ago. When the bids were opened, the apparent low bidder was Onyx Construction. Upon further review of their bid there was a mistake. The bid required filling in a number and multiplying it by the cost of each unit. For example the cost of each unit is $10 and there were 780 units which would be a total cost of $7,800. Onyx wrote in each unit cost $7,800 and they did that for every item on the bid. If each item was corrected for the written bid, their bid would be over $3 million. They contacted the contractor to find out if that is what he intended and found out that the total of the entire bid he had written down was the amount he had intended to bid. Staff wanted to move forward realizing he had made mistake. They contacted the number two bidder to let them know what they were going to do and sent a certified letter which contained his recommendation and to give them the opportunity to come talk with the City if they felt like they were not being treated fairly. They told Mr. Beard they would not show up at the Council meeting. Staff recommendation is to award the bid to Onyx Construction for what they intended to bid, discounting their mistake.

City Attorney Stretcher verified that he is comfortable with the recommendation noting the Council could reject all bids and go back to bid.

Capell Construction, the number two bidder was invited to speak. No one was present from Capell Construction.

Council Member Sparks moved to adopt Resolution No. 2012 - 111; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

34. Consider a resolution authorizing the Mayor to execute an Amended and Restated Interlocal Agreement between the City of Midland the Midland County Fresh Water Supply District No. 1 regarding the delivery of water from the T-Bar Ranch; The T-Bar Ranch is located in Winkler County and Loving County, Texas. (City Attorney)

RESOLUTION NO. 2012 - 112

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN AMENDED AND RESTATED INTERLOCAL AGREEMENT BETWEEN THE CITY OF MIDLAND AND THE MIDLAND COUNTY FRESH WATER SUPPLY DISTRICT NO. 1. REGARDING THE DELIVERY OF WATER FROM THE T-BAR RANCH; THE T-BAR RANCH IS LOCATED IN WINKLER COUNTY AND LOVING COUNTY, TEXAS

City Attorney Stretcher reported on the changes to the contract, noting they were trying to keep their delivery date of May 31, 2013 for water from T-Bar. On page 2 under section 1.05 the delivery date is May 31, 2013. Another date in the agreement showed that they were going to enter into a wholesale water supply contract on or before May 31, 2012. On page 3, section 1.15 Interim Loan, the District has no assets and would be issuing bonds likely in September of this year. In the meantime, they need interim loans from area banks and the banks are requiring a guarantee before they will make those loans. The only entity that is available to make the payment is the City of Midland. In section 1.15, the City of Midland is guaranteeing up to $70 million for this project. The water district will take this Interlocal Agreement and present it to the Attorney General for approval because it will then be valid under all state laws. They can then take the agreement to the banks and acquire the interim loans because the City of Midland is backing it. Section 1.17 the City of Midland is guaranteeing payment for the pipe, right-of-way, water wells and an additional payment of $9 million for professional services, all of which cannot exceed $70 million. Section 1.27 page 4, the agreement will expire on May 31 or will expire when the City of Midland approves a wholesale water supply contract whichever is first. Page 6, section 2.02(b) if the District does not complete the delivery of water by May 31, 2013, they will be fined $150,000 per month. If they get water sooner than May 31, 2013, the City of Midland will pay an extra $150,000 per month. They cannot place any liens on T-Bar. If someone does place a lien, the District has agreed to put up a bond within five days in the amount of the liens, and the liens must then be released. The water from T-Bar can only be used by the City of Midland and cannot be diverted to any other entity. The District has agreed to create a local office in Midland City limits.

Mr. Stretcher noted a very important issue was that the title to the water remains in the City of Midland even though it is in the water district system. Water rates will be $2.78 per 1000 gallons with an escalator that in three years it can go up no more than five percent. However, the City Manager can increase that at his discretion.

The City of Midland is guaranteeing payment for all pipe, right-of-way, waterways, and professional services up to maximum of $70 million. This is being done to keep this project moving. If the City doesn't do this, the project will stop because the District has no assets.

Discussion ensued about why this problem was not anticipated and what the process would be if the District defaults.

Robert Rendall clarified that the City would still own the asset. He reported that the District was present because they were moving faster than they had anticipated with the purchase of the right-of-ways and they needed to purchase the pipe. He reported they were on schedule and felt that $70 million was a very conservative number. By taking the agreement to the Attorney General for their blessing, they could obtain the interim loans and when the notes or bonds were sold, they could pay off the interim agreements with the proceeds from the bond sale.

Discussion ensued about what would happen if the Attorney General declined. Mr. Rendall reported that the City would then have the opportunity to issue its own bonds and take the project over. Mr. Rendall clarified that there was no profit built in for the District, there were no employees, and the board was volunteering. He reported that only the professionals were being compensated. He reported that all contracts were specifically assignable to the City of Midland. He noted that the Council chose to go with a public entity because it would save money and clarified that there was always a known for interim financing.

Discussion ensued about how the Council would be updated in the future.

Council Member Morales moved to adopt Resolution No. 2012 - 112; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

35. Consider making appointments to various Boards and Commissions.

No appointments were made.

City Manager Sharp noted that Council has the ability to appoint three representatives to the Midland County Fresh Water District. Mayor Perry suggested that names be ready for the next meeting.

EXECUTIVE SESSION

36. 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 551.071, Consultation with the City Attorney

        a.1. Discuss potential litigation with Cajun Constructors, Inc. regarding its claims under the construction contract for the City of Midland Water Purification Plant Improvement project and Progress Pay Application, and the change order requests to said contract.

    b. Section 551.074, Personnel Matters

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

Mayor Perry recessed the meeting to Executive Session at 1:34 p.m. The entire Council met in executive session until 2:45 p.m.

PASSED AND APPROVED the 24th day of April, 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary