MIDLAND CITY COUNCIL
MINUTES
April 23, 2013

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:00 a.m. on April 23, 2013.

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

Council Members absent: Mayor W. Wesley Perry (Perry 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, General Services Director Robert Patrick, Community Services Director Tina Jauz, Engineering Director Jose Ortiz, Senior Planner Ken VanDyne, City Engineer David Beard, Building Official Steve Thorpe, Public Information Officer Sara Higgins, Assistant City Attorney Natasha Brooks, Parks & Recreation Manager Laurie Williams, Downtown Development Director Genora Young, Assistant Code Administration Manager Ron Jenkins, and Assistant Utilities Director Holly Rosas.

1. Receive and discuss information regarding Residential Development Density.

   Assistant City Manager Jim Nichols reported that the current City Code allows for density up to 16 units per acre. The Council has approved density up to 24 units per acre on a case by case basis. There have been about a dozen requests to exceed the current density. He explained the options were to continue bringing cases to the City Council, hold firm to 16 and below, or negotiate exceeding density in exchange for needs.

   Discussion ensued about the different options. Council gave direction for staff to come up with a list of items that could be negotiated such as requiring green space. Staff will have another briefing in the future to share a list of potential item that could be negotiated.

2. Receive an update regarding the naming rights of the baseball stadium located at the Scharbauer Sports Complex.

   Deputy City Manager Tommy Hudson reported that the City Council would consider the naming rights at the Scharbauer Sports Complex on today's agenda (Item #10).

   Community Services Director Tina Jauz noted that the City received notification from Citibank last October that they would be opting out of the naming rights as of December 2013. Staff put together a Request for Proposals (RFP). She noted it has generated

some interest and they are excited to see who their next partner will be. Once Council approves the RFP, it will go out for six weeks. A subcommittee will be assembled with representatives from staff, the Rockhounds and the 4B to review the proposals received.

3. Receive an update from the Planning Division regarding the Code Update Project.

   Senior Planner Ken VanDyne gave an overview of the code update project noting the kickoff was held in early March. It will take about 13 months for the entire rewrite of the Zoning Codes noting it would require public hearings and public input. He reviewed the schedule of the project.

   Discussion ensued about Planned Districts with Mr. VanDyne noting it is difficult to keep up and maintain Planned Districts.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:45 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:01 a.m., April 23, 2013.

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

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, 28, 5, 9, 10, 11, 12, 13, 14, 15, 6, 7, 8, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38.

OPENING ITEMS

1. Invocation - Rev. Pat Bryant, Travis Baptist 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 18th 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 Police Week Memorial to

Police Chief Price Robinson and his staff.

c. Council Member Sparks presented a Proclamation for Employee Appreciation Week to various City of Midland employees.

d. Wanda Morris was not present to receive her retirement proclamation.

e. Mayor Perry and City Manager Sharp presented a retirement proclamation to Roger Hal Johnston.

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.

Molly Murphy, 4745 Boulder Drive, representing Basin PBS, thanked the Council for their support and announced that they have officially reached their capital campaign goal.

Ignacio Lopez, 5105 San Antonio, reported he had a problem with one of his diesel trucks on Andrews Highway and relayed his negative experience with a Police Officer.

Quinton Walter, 1206 South Dallas, reported he was being harassed by a Police Officer and asked that the officer leave him and his family alone.

Glenda Southerland, 728 Beckley, reported her continued problem with trash in alleys. She shared pictures with the Council and asked that the Code Compliance Officers be given the ability to write citations instead of Police Officers and suggested that inmates be used to pick up alleys.

Rosa Gonzalez, 4407 Brookdale, reported she is a volunteer at Henderson Elementary. She expressed concern that if the parking is changed it would endanger the safety of the children who attend the school.

CONSENT AGENDA

Council Member Morales moved to approve Consent Agenda items 5 - 15 excluding 6, 7, 8; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

5. Approved a motion approving the following minutes:

a. Regular meeting of April 9, 2013.

9. Approved a resolution authorizing a master agreement for an annual supply of brass fittings and valves for the Municipal Warehouse. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 128

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR THE PURCHASE OF BRASS FITTINGS AND VALVES OF ASSORTED SIZES FOR USE BY THE CITY'S WATER AND WASTEWATER AND CUSTOMER SERVICE DIVISIONS, FROM BENMARK SUPPLY COMPANY, INCORPORATED, OF MIDLAND, TEXAS, AT AN ESTIMATED TOTAL COST OF $90,773.49

10. Approved a resolution authorizing the issuance of a request for proposals for naming rights of the baseball stadium located at the Scharbauer Sports Complex. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 129

RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS FOR NAMING RIGHTS AT THE BASEBALL STADIUM LOCATED AT THE SCHARBAUER SPORTS COMPLEX

11. Approved a resolution authorizing the Office of the City Attorney to represent the City of Midland in a lawsuit styled Nada McMahan v. City of Midland. (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2013 - 130

RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO FILE ALL DOCUMENTS, EMPLOY ALL NECESSARY EXPERTS AND MAKE ALL NECESSARY APPEARANCES TO REPRESENT THE CITY OF MIDLAND IN A LAWSUIT STYLED, NADA MCMAHAN V. CITY OF MIDLAND; COUNTY COURT AT LAW NO. 2, MIDLAND COUNTY, TEXAS; CAUSE NO. CC16957

12. Approved a resolution authorizing the Office of the City Attorney to represent the City of Midland and Police Chief Price Robinson in a lawsuit styled Perry Laszlo Harsman v. Price Robinson, Chief of Police City of Midland, Texas (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2013 - 131

RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO FILE ALL DOCUMENTS, EMPLOY ALL NECESSARY EXPERTS AND MAKE ALL NECESSARY APPEARANCES TO REPRESENT THE CITY OF MIDLAND AND THE CHIEF OF POLICE IN A LAWSUIT STYLED PERRY LASZLO HARSMAN V. PRICE ROBINSON, CHIEF OF POLICE, CITY OF MIDLAND, TEXAS; 441ST JUDICIAL DISTRICT COURT, MIDLAND COUNTY, TEXAS; CAUSE NO. CV49369; AND AUTHORIZING THE PAYMENT OF ALL COSTS

13. Approved a resolution approving the purchase of bleachers for Midland United Girls Softball and appropriating funds. (CITY SECRETARY'S OFFICE)

RESOLUTION NO. 2013 - 132

RESOLUTION AUTHORIZING THE PURCHASE OF BLEACHERS FOR MIDLAND UNITED GIRLS SOFTBALL IN ORDER TO PLACE BLEACHERS AT THE FREDDIE EZELL COMPLEX LOCATED AT ULMER PARK, AT A TOTAL COST OF $22,265.00; SAID PURCHASE WAS NOT BID; AND APPROPRIATING FUNDS

14. Approved a resolution approving the purchase of fence slating for Midland United Girls Softball and appropriating funds. (CITY SECRETARY'S OFFICE)

RESOLUTION NO. 2013 - 133

RESOLUTION AUTHORIZING THE PURCHASE OF FENCE SLATING AND INSTALLATION FOR MIDLAND UNITED GIRLS SOFTBALL IN ORDER TO PLACE FENCE SLATING AT THE FREDDIE EZELL COMPLEX LOCATED AT ULMER PARK, AT A TOTAL COST OF $49,639.00; SAID PURCHASE WAS NOT BID; AND APPROPRIATING FUNDS

15. Approved a resolution authorizing the execution of a Public Improvement Development Agreement in the amount of $24,966 with M. Jackson Construction 1 Ltd., (Mike Jackson) for the utility and paving improvements to serve the Mayfield Place Addition - Section 5. Said agreement being authorized by Section 395.081 of the Texas Local Government Code. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 134

RESOLUTION AUTHORIZING THE EXECUTION OF A PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH M. JACKSON CONSTRUCTION 1 LTD. FOR DEVELOPMENT OF MAYFIELD PLACE ADDITION, SECTION 5, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF MIDKIFF ROAD, APPROXIMATELY 2,500 FEET NORTH OF MOCKINGBIRD LANE); AND AUTHORIZING PAYMENT IN THE AMOUNT OF $24,966.00 THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE

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

6. Consider a resolution rejecting all bids received for Centennial Plaza - Phase II Improvements for the Engineering Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 125

RESOLUTION REJECTING ALL BIDS RECEIVED FOR BID NUMBER 6079-13 FOR THE CENTENNIAL PLAZA PHASE II IMPROVEMENTS PROJECT

Following brief discussion noting all bids would be rejected, Council Member James moved to adopt Resolution No. 2013 - 125; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

7. Consider a resolution authorizing a sole source contract for 2013 pictometry imagery updates of the City of Midland for the GIS Division. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 126

RESOLUTION AUTHORIZING THE EXECUTION OF A LICENSE AGREEMENT FOR PICTOMETRY IMAGERY WITH PICTOMETRY INTERNATIONAL CORPORATION, OF ROCHESTER, NEW YORK, AT A TOTAL COST OF $82,067.00; AND THIS ITEM WAS NOT BID BUT PURCHASED AS A SOLE SOURCE

Council Member Morales asked how the City could take advantage of pictometry and how it could be utilized by Council at meetings. City Manager Sharp suggested the Council be given information at a future briefing session. Staff noted that this will likely be updated every few years and would look into cost-sharing with other entities so the

information could be updated more frequently.

Council Member Morales moved to adopt Resolution No. 2013 - 126; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

8. Consider a resolution authorizing a contract for FY2013 Pavement Restoration for the Engineering Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 127

RESOLUTION AWARDING THE FISCAL YEAR 2013 PAVEMENT RESTORATION PROJECT TO PAVEMENT RESTORATION, INCORPORATED, OF TAMPA, FLORIDA, AT A TOTAL COST OF $899,999.66

Council Member Dufford asked for a brief overview of the project.

Transportation Manager Gary Saunders reported that there is no gravel involved in this process and that this process is currently utilized by many other cities. He reported the process slows down the aging of the streets: This project would include approximately 43 miles of street restoration and is less expensive when compared to the amount of the time the street life is extended.

Council Member Dufford moved to adopt Resolution No. 2013 - 127; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

SECOND READINGS

16. Consider an ordinance on second reading on a request for the vacation of the 0.23-acre north/south and east/west alley adjacent to Lot 1, Block 10, and to Lot 15, Block 11, Trueland Addition, Section 2, City and County of Midland, Texas. (Generally located near the southwest corner of E. Scharbauer Drive and N. Fairgrounds Road.) (DEVELOPMENT SERVICES) (First reading held January 8, 2013.)

ORDINANCE NO. 9102

AN ORDINANCE VACATING AND ABANDONING A 0.23-ACRE NORTH/SOUTH AND EAST/WEST ALLEY ADJACENT TO LOT 1, BLOCK 10, AND LOT 15, BLOCK 11, TRUELAND ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NEAR THE SOUTHWEST CORNER OF THE INTERSECTION OF SCHARBAUER DRIVE AND NORTH FAIRGROUNDS ROAD); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF $902.00; WAIVING THE FEE FOR THE COST OF THE RIGHT-OF-WAY; AND ORDERING RECORDATION BY THE CITY SECRETARY.

Deputy City Secretary Adriana Moreno read the caption of Ordinance No. 9102.

Senior Planner Ken VanDyne clarified that the reason for the delay in having the second reading was due to a delay in getting correct line work for the drainage from the engineer.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 9102 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

17. Consider an ordinance on second reading for the vacation of a 700 square foot portion of the right-of-way of East Wall Street adjacent to the south 50 feet of Lot 2, Block 47, Original Town, City and County of Midland, Texas. (Generally located on the northwest corner of the intersection of East Wall Street and North Marshall Street.) (DEVELOPMENT SERVICES) (First reading held March 26, 2013.)

ORDINANCE NO. 9124

AN ORDINANCE VACATING AND ABANDONING A 700 SQUARE FOOT PORTION OF EAST WALL STREET RIGHT-OF-WAY ADJACENT TO LOT 2, BLOCK 47, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF EAST WALL STREET AND NORTH MARSHALL STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF $560.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Adriana Moreno read the caption of Ordinance No. 9124.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 9124 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

18. Consider an ordinance on second reading on a request by KTJ LP One Hundred Twenty Five (south) for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District on 2.00-acre portion of Lot 6, Block 2, Westridge Park Addition, Section 11, City and County of Midland, Texas. (Generally located on the west side of North Loop 250 West, approximately 300 feet north of Deauville Boulevard.) (DEVELOPMENT SERVICES) (First reading held April 9, 2013.)

ORDINANCE NO. 9125

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 2.00-ACRE PORTION OF LOT 6, BLOCK 2, WESTRIDGE PARK ADDITION, SECTION 11, 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 (FOR A HOTEL DEVELOPMENT) (GENERALLY LOCATED ON THE WEST SIDE OF NORTH LOOP 250 WEST, APPROXIMATELY 300 FEET NORTH OF DEAUVILLE 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

Deputy City Secretary Adriana Moreno read the caption of Ordinance No. 9125.

Council Member Morales moved to approve the second and final reading of Ordinance No. 9125 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

19. Consider an ordinance on second reading on a request by Larry Carrasco for a zone change from MH, Manufactured Home District to LR-3, Local Retail District on Lot 9, Block 189, Southern Addition, City and County of Midland, Texas. (Generally located on the east side of South Fort Worth Street, approximately 150 feet south of East Florida Avenue.) (DEVELOPMENT SERVICES) (First reading held April 9, 2013.)

ORDINANCE NO. 9126

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 9, BLOCK 189, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED MH, MANUFACTURED HOME DWELLING DISTRICT, TO BE USED AS AN LR-3, LOCAL RETAIL DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF SOUTH FORT WORTH STREET, APPROXIMATELY 150 FEET SOUTH OF EAST FLORIDA AVENUE); 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 Adriana Moreno read the caption of Ordinance No. 9126.

Council Member Morales moved to approve the second and final reading of Ordinance No. 9126 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

20. Consider an ordinance on second reading on a request by KTJ LP One Hundred Twenty Five (north) for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District on a 2.12-acre portion of Lot 6, Block 2, Westridge Park Addition, Section 11, City and County of Midland, Texas. (Generally located on the west side of North Loop 250 West, approximately 300 feet north of Deauville Boulevard.) (DEVELOPMENT SERVICES) (First reading held April 9, 2013.)

ORDINANCE NO. 9127

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 2.12-ACRE PORTION OF LOT 6, BLOCK 2, WESTRIDGE PARK ADDITION, SECTION 11, 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 (FOR A HOTEL DEVELOPMENT) (GENERALLY LOCATED ON THE WEST SIDE OF NORTH LOOP 250 WEST, APPROXIMATELY 300 FEET NORTH OF DEAUVILLE 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

Deputy City Secretary Adriana Moreno read the caption of Ordinance No. 9127.

Council Member Love moved to approve the second and final reading of Ordinance No. 9127 in accordance with the Charter of the City of Midland; seconded by Council Member Trost.

Council Member James asked if staff was able to confirm the potential flag for the property.

Senior Planner Ken VanDyne reported that the northern hotel would be Cambria Suites and that due to a non-disclosure statement the City was unable to determine the flag for the southern hotel. They were told it would be an upscale property and the flag name would be revealed after the zoning was approved.

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

21. Consider an ordinance on second reading on a request by Midland Park Mall for a zone change from PD, Planned District for a Shopping Center to an Amended Planned District on a 0.791-acre portion of Lot 1, Block 17, Skyline Terrace, Unit 2, City and County of Midland, Texas. (Generally located on the west side of North Midkiff Road, approximately 200 feet south of West Loop 250 North.) (DEVELOPMENT SERVICES) (First reading held April 9, 2013.)

ORDINANCE NO. 9128

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 0.791-ACRE PORTION OF LOT 1, BLOCK 17, SKYLINE TERRACE, UNIT 2, 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 SOUTHWEST CORNER OF LOOP 250 AND MIDKIFF ROAD); 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 Adriana Moreno read the caption of Ordinance No. 9128.

Council Member Love moved to approve the second and final reading of Ordinance No. 9128 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

22. Consider an ordinance on second reading on a request by Mike Massey for a zone change from PD, Planned District for an Office Center on Lot 1 and the north 40 feet of Lot 2, Block 5; from O-1, Office District, on the south 160 feet of Lot 2 and Lots 3 through 5, Block 5 and on Lots 11 through 14, Block 6; from MF-1 Multiple Family Dwelling District on Lot 10, Block 6; and from 2F-Two-Family Dwelling District on Lots 1

through 9, Block 6, and Lots 1 through 9, Block 7, to PD, Planned District for a Housing Development, all out of Corporate Plaza, Section 4, City and County of Midland, Texas. (Generally located on the east side of Edwards Street, approximately 870 feet north of East Wadley Avenue.) (DEVELOPMENT SERVICES) (First reading held April 9, 2013.)

ORDINANCE NO. 9129

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 1-5, BLOCK 5, LOTS 10-14, BLOCK 6, LOTS 1-9, BLOCK 6, AND LOTS 1-9, BLOCK 7, CORPORATE PLAZA, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 2F, TWO-FAMILY DWELLING DISTRICT, IN PART, MF-1, MULTIPLE-FAMILY DWELLING DISTRICT, IN PART, O-1, OFFICE DISTRICT, IN PART, AND PD, PLANNED DISTRICT FOR AN OFFICE CENTER, IN PART, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE NORTHEAST CORNER OF EDWARDS STREET AND SPRING PARK 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 Adriana Moreno read the caption of Ordinance No. 9129.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9129 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

23. Consider an ordinance on second reading on a request by Charlie Nicholas for a zone change from MF-1, Multiple Family Dwelling District to PD, Planned District for a Housing Development on Lot 11A, Block 9, City and County of Midland, Texas. (Generally located on the northwest corner of the intersection of Briarwood Avenue and Mathis Street.) (DEVELOPMENT SERVICES) (First reading held April 9, 2013.)

ORDINANCE NO. 9130

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 11A, BLOCK 2, GREATHOUSE ADDITION, SECTION 9, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED MF-1, MULTIPLE-FAMILY DWELLING DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF BRIARWOOD AVENUE AND MATHIS 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 Adriana Moreno read the caption of Ordinance No. 9130.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9130 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost,

Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

24. Consider an ordinance on second reading on a request by Grace Partnership, LLC for a zone change from LR-2, Local Retail District to PD, Planned District for a Shopping Center, Lots 1 through 4, Block 3, Gateway Plaza, Section 3, City and County of Midland, Texas. (Generally located on the north side of Starboard Drive, west of South Loop 250 West.) (DEVELOPMENT SERVICES) (First reading held April 9, 2013.)

ORDINANCE NO. 9131

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 1-4, BLOCK 3, GATEWAY PLAZA, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A SHOPPING CENTER (FOR A HOTEL DEVELOPMENT) (GENERALLY LOCATED ON THE NORTH SIDE OF STARBOARD DRIVE, WEST OF SOUTH LOOP 250 WEST); 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 Adriana Moreno read the caption of Ordinance No. 9131.

Council Member Love moved to approve the second and final reading of Ordinance No. 9131 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

25. Consider an ordinance on second reading on a request by Ron Childress for zone change from PD, Planned District for a Shopping Center to an Amended Planned District on a 0.30-acre portion of Lot 19, Block 5, North Park, Section 15, City and County of Midland, Texas. (Generally located on the north side of West Loop 250 North, approximately 700 feet west of Whitman Drive.) (DEVELOPMENT SERVICES) (First reading held April 9, 2013.)

ORDINANCE NO. 9132

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 0.30-ACRE PORTION OF LOT 19, BLOCK 5, NORTH PARK, SECTION 15, 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 NORTH SIDE OF LOOP 250, APPROXIMATELY 700 FEET WEST OF WHITMAN 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 Adriana Moreno read the caption of Ordinance No. 9132.

Council Member Love moved to approve the second and final reading of Ordinance No. 9132 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

26. Consider an ordinance on second reading on a request by The Blue Door, LLC for a Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a bar, on a 2,108 square feet portion of Lot 1, Block 8, Polo Park Section III, City and County of Midland, Texas. (Generally located on the northeast corner of the intersection of North Garfield Street and W. Loop 250 North.) (DEVELOPMENT SERVICES) (First reading held April 9, 2013.)

RESOLUTION NO. 9133

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 2,108 SQUARE FOOT PORTION OF LOT 1, BLOCK 8, POLO PARK SECTION III, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH GARFIELD STREET AND WEST LOOP 250 NORTH), 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 LOUNGE FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Adriana Moreno read the caption of Ordinance No. 9133.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9133 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Perry.

27. Consider an ordinance on second reading changing the Parade and Special Events Ordinance. (CITY MANAGER'S OFFICE) (First reading held April 9, 2013.)

ORDINANCE NO. 9135

AN ORDINANCE AMENDING TITLE X, “TRAFFIC REGULATIONS”, CHAPTER 1, “GENERAL TRAFFIC REGULATIONS”, SECTION 2, “PERMIT REQUIRED FOR PARADES AND PROCESSIONS”, OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO CLARIFY THE PERMITTING PROCESS AND OTHER REGULATIONS RELATED TO SPECIAL EVENTS; CONTAINING A PROCESS FOR APPEALING THE DENIAL OF A PERMIT; CONTAINING A CUMULATIVE CLAUSE AND EXPRESSLY REPEALING ANY ORDINANCE OR PORTION THEREOF IN CONFLICT WITH THIS ORDINANCE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS ($500.00) AND NOT REQUIRING A CULPABLE MENTAL STATE; ESTABLISHING AN EFFECTIVE DATE OF MAY 10, 2013; AND ORDERING PUBLICATION; AND THIS ORDINANCE

SHALL APPLY TO ALL PERMITS ISSUED ON OR AFTER MAY 10, 2013

Deputy City Secretary Adriana Moreno read the caption of Ordinance No. 9135.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9135 in accordance with the Charter of the City of Midland; seconded by Council Member Love.

Council Member Love asked what the phrase “not requiring a culpable mental state” meant. City Attorney Keith Stretcher reported it meant that the City would not have to prove intent.

Discussion ensued about recommending insurance. A suggestion was made to have a disclaimer on the permit noting that if they do not carry insurance they could be liable for any damages.

City Attorney Keith Stretcher noted there is no provision for insurance in the Ordinance.

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

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; except to residents whose property abuts such streets and have obtained a valid parking permit. (ENGINEERING SERVICES) (First reading held April 9, 2013.)

ORDINANCE NO. 9136

AN ORDINANCE 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

Traffic Engineer Gary Saunders gave an overview of the item noting it was discussed at a prior meeting and reported that it would only affect addresses of those who signed the petition. He emphasized that staff did not make a recommendation.

Mark Torrence, 4719 Erie, spoke in support of the permit to prohibit parking due to increased traffic, people parking in their driveways, blocking their driveways, and leaving their cars unattended. He also reported problems with trash, people walking in their yards, speeding and talking on cell phones while in the school zone. He also addressed health issues noting ambulances would not be able to get to their homes in the event of an emergency.

Tomas Hernandez, 4736 Wilshire Drive, reported he is also having problems with people blocking his driveway, parking in his driveway and throwing cigarette butts in his yard. When he gets home, he would like to be able to pull in his driveway.

Ryder Warren, MISD Superintendent, reported he has an enrollment at Henderson Elementary of 630 students. An analysis of the 24 elementary schools found a 60/40 split meaning that of the children who are dropped off, 60 percent go through the car lane and drop their children off at the school and the other 40 percent park their cars in the area and walk the child to the school or crosswalk. At Henderson that means 200 cars are on the street who park to drop off their children. He expressed concern if cars are not allowed to park in the surrounding area. He asked that the school district be allowed to investigate different options noting he would make himself available to the surrounding homeowners to help address their issues and offered to educate the parents through any means possible that they are a guest of the neighborhood.

Council Member Love asked if there was anything the City could do to help design drop off areas for children. Mr. Warren responded that there were plans in place at some campuses to address parking issues and bus lanes. When asked about the jurisdiction of the school district police, Mr. Warren responded their jurisdiction is wide but asked that the school Police Chief work with the City Police Chief to understand the needs of the parents as well as the neighbors' needs.

Deputy City Secretary Adriana Moreno read the caption of Ordinance No. 9136.

It was noted that the conversations with the school district, Police Chief and others needed to include the neighborhood and that the solution could be found and implemented by the new school year in the fall.

Council Member Dufford moved to defer the item to the July 23, 2013 City Council Meeting; seconded by Council Member Trost. The motion to defer carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

29. Consider an ordinance on second reading 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) (First reading held April 9, 2013.)

ORDINANCE NO. 9137

AN ORDINANCE AMENDING TITLE III, "DEPARTMENTS", CHAPTER 1, "WATER DEPARTMENT", SECTION 2, "RATES," SUBSECTION (A), "CUSTOMERS INSIDE OF CITY LIMITS," SUB-SUBSECTION 1, "WATER RATES," OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO CHANGE THE RATES CHARGED FOR WATER SERVICES AND REQUIRE INSTALLATION OF SEPARATE WATER METERS FOR OUTSIDE IRRIGATION BY COMMERCIAL CUSTOMERS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM FINE OR PENALTY OF FIVE HUNDRED ($500.00) DOLLARS; AND ORDERING PUBLICATION; AND THE CITY MANAGER SHALL NOTIFY ALL CUSTOMERS OUTSIDE THE CITY LIMITS AS REQUIRED BY STATE LAW

Deputy City Secretary Adriana Moreno read the caption of Ordinance No. 9137.

Council Member Trost moved to approve the second and final reading of Ordinance No. 9137 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

PUBLIC HEARINGS

30. At approximately 10:30 A.M. hold a public hearing and consider an ordinance on a request by D.R. Horton to establish the initial zoning of annexed land (Tract 1) as PD, Planned District for a Housing Development on a 104.5-acre tract of land out of Section 38, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located at the south extension of Avalon Drive, approximately 960 feet south of Deauville Boulevard.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9138

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 104.50-ACRE TRACT OF LAND OUT OF SECTION 38, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; SAID TRACT IS GENERALLY LOCATED ON THE WEST SIDE OF THE AVALON DRIVE EXTENSION, SOUTH OF STATE HIGHWAY 191; 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

Mayor Perry stated he would be abstaining on this item and left the dais.

Senior Planner Ken VanDyne gave an overview of the item noting that the mineral owner had reviewed and was in favor of the plan and answered questions about location of flow lines.

Council Member Dufford reported he spoke with the oil and gas operator and confirmed

they had met with DR Horton and had approved the end product.

Mayor Pro Tem Sparks opened the public hearing at 11:53 a.m.

Eric West, 1700 West Wall, of Parkhill Smith and Cooper, reviewed the revised items including the buffer that was increased from 135 feet to 250 feet, giving the mineral owner direct access to the well site, eliminating the need to go through the neighborhood, and moving the flow lines. He answered questions about common areas and who would maintain those areas.

Don Allen, of DR Horton, Fort Worth, reported they had worked with the mineral owner to give them direct access to flow lines and wells noting the mineral owner would have their own roads separate from the home owners association. The gate and access driveways to the well sites would be maintained by the mineral rights owner and the landscaping would be maintained by the homeowners association.

There being no one else wishing to speak, the public hearing was closed at 12:02 p.m.

Deputy City Secretary Adriana Moreno read the caption of Ordinance No. 9138.

Council Member Love moved approval of the first of two readings of Ordinance No. 9138 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Dufford, James, Sparks. NAY: None. ABSTAIN: Perry. ABSENT: None.

31. At approximately 10:33 A.M. hold a public hearing and consider a resolution on a request by Our Lady of Guadalupe Catholic Church for a Temporary Land Use Permit for a Church Fair on Lots 8 and 13A, Block 7; Glendale, Section 2, City and County of Midland, Texas. (Generally located near the northeast corner of the intersection of Garden Lane and North Tyler Street.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 135

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A CHURCH FAIR ON LOTS 8 AND 13A, BLOCK 7, GLENDALE, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NEAR THE NORTHEAST CORNER OF THE INTERSECTION OF GARDEN LANE AND NORTH TYLER STREET); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Senior Planner Ken VanDyne gave an overview of the item noting it was for a church fair picnic with no carnival rides or street closures. He reported no prior neighborhood complaints had been received and answered questions about restroom availability.

Mayor Perry opened the public hearing at 12:06 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Love moved to adopt Resolution No. 2013 - 135; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

32. At approximately 10:36 A.M. hold a public hearing and consider an ordinance on a

request by Arthur Zuniga for a zone change from FD, Future Development District to 1F-3, One-Family Dwelling District on a 38.60-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 southwest corner of the intersection of Sherwood Drive and Sandstone Drive, approximately 1,000 feet west of Holiday Hill Road.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9139

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 38.60-ACRE TRACT OF LAND OUT OF SECTION 13, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A 1F-3, ONE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE CORNER OF SHERWOOD DRIVE AND SANDSTONE DRIVE, APPROXIMATELY 1,000 FEET WEST OF 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

Senior Planner Ken VanDyne gave an overview of the item noting there were three existing oil wells on the site and that all well sites would remain 500 feet from structures and answered questions about the choice of zoning.

Mayor Perry opened the public hearing at 12:08 p.m.

Buck Benson, 6101 Holiday Hill Road, of Fasken Land and Minerals noted he was available to answer any questions.

There being no one else wishing to speak, the public hearing was closed at 12:09 p.m.

Deputy City Secretary Adriana Moreno read the caption of Ordinance No. 9139.

Council Member Love moved approval of the first of two readings of Ordinance No. 9139 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

MISCELLANEOUS

33. Consider a motion on a request by Ranchland Hills Country Club for approval of a site plan for the demolition and reconstruction of the club house. (DEVELOPMENT SERVICES)

Building Official Steve Thorpe gave an overview of the item noting this would allow them to demolish the existing clubhouse and have it rebuilt and answered questions.

Council Member Sparks moved to approve a motion on a request by Ranchland Hills Country Club for approval of a site plan for the demolition and reconstruction of the club house. ; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

34. Consider an ordinance request for the vacation of a 0.632-acre right-of-way dedication contained within Lots 7-12, Block 93; Lots 1, 2, 5 and 6, the adjacent vacated 20 foot alley and the adjacent vacated right-of-way of W. Kentucky Avenue, Block 109, all out of Original Town, City and County, Midland Texas. (Generally located on the north side of W. Front Street between S. Marienfeld Street and S. Big Spring Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9140

AN ORDINANCE VACATING AND ABANDONING A 0.632-ACRE RIGHT-OF-WAY DEDICATION WITHIN LOTS 7-12, BLOCK 93, LOTS 1, 2, 5 AND 6, THE ADJACENT VACATED 20-FOOT ALLEY AND THE ADJACENT VACATED RIGHT-OF-WAY OF WEST KENTUCKY AVENUE, BLOCK 109, ALL OUT OF ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST FRONT STREET BETWEEN SOUTH MARIENFELD STREET AND SOUTH BIG SPRING STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF $38,267.00; WAIVING THE FEE FOR THE COST OF THE RIGHT-OF-WAY; AND ORDERING RECORDATION BY THE CITY SECRETARY

Senior Planner Ken VanDyne gave an overview of the item noting this would be the future location of Susie's South Forty and explained the history of the land.

Deputy City Secretary Adriana Moreno read the caption of Ordinance No. 9140.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9140 in accordance with the Charter of the City of Midland; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

35. Consider an ordinance annexing and adopting a service plan for certain areas adjoining the present City limits, being a 104.50-acre tract of land out of Section 38, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof (Generally located on the west side of the extension of Avalon Drive, south of SH 191). (DEVELOPMENT SERVICES)

ORDINANCE NO. 9141

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 104.50-ACRE TRACT OF LAND OUT OF SECTION 38, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE WEST SIDE OF THE AVALON DRIVE EXTENSION, SOUTH OF STATE HIGHWAY 191); AND APPROVING A PUBLIC SERVICE PLAN

Mayor Perry noted he would be abstaining on this item.

Senior Planner Ken VanDyne gave an overview of the item noting staff recommended approval of the item.

Deputy City Secretary Adriana Moreno read the caption of Ordinance No. 9141.

Council Member James moved approval of the first of two readings of Ordinance No. 9141 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Dufford, James, Sparks. NAY: None. ABSTAIN: Perry. ABSENT: None.

36. Continue consideration of an ordinance on a request by Richard Tatsch (Douglas Avenue) for a zone change from 1F-1, One-Family Dwelling District to PD, Planned District for Housing Development on Lots 1 through 6, Block 7, Langford-Weatherred Addition, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of North "A" Street and Douglas Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9134

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 1-6, BLOCK 7, LANGFORDWEATHERRED ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 1F-1, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF NORTH "A" STREET AND DOUGLAS AVENUE); 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

Senior Planner Ken VanDyne gave an overview of the item noting it was previously considered by Council and that the developer had met with the local community.

Andrew Mellon, Maverick Engineering, 1909 Wall Street, reported he met with Council Member James and several other neighbors. The main concern was traffic issues and reviewed the plan that was developed to address the neighborhood concerns.

Council Member James reported that it was a productive meeting and that the developer made concessions for the benefit of the neighborhood. He stated this was a good example of reasonable people meeting and getting to an agreement from both sides.

Richard Tatsch, 4717 Boulder Drive, reported that as the developer he was vested in the neighborhood.

Deputy City Secretary Adriana Moreno read the caption of Ordinance No. 9134.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9134 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

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

Council Member Trost moved to confirm Midland College's appointment of Steve Castle to the Tax Increment Reinvestment Zone Board; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford,

James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

EXECUTIVE SESSION

38. 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 Section 36.121 of the Texas Water Code with the City Attorney.

    b. Section 551.071, Consultation with the City Attorney

        b.1. Discuss with the City Attorney, litigation styled in Re: Heritage Consolidated, LLC, et al., Case No.10-36484-hdh, Chapter 11, Jointly Administered, in the United States Bankruptcy Court, Northern District of Texas, Dallas Division.

    c. Section 551.071, Consultation with the City Attorney

        c.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.

    Mayor Perry recessed the meeting to Executive Session at 12:39 p.m. The Council met in Executive Session until 1:35 p.m.

All of the business at hand having been completed, the meeting adjourned at 1:35 p.m.

PASSED AND APPROVED the 14th day of May, 2013.

_____
W. Wesley Perry, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary