

**MIDLAND CITY COUNCIL  
MINUTES  
May 08, 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 May 08, 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), and Council Member Michael Trost (District 4).

Council Members absent: Council Member Scott Dufford (At-Large), Council Member John James (District 3) (James arrived at 9:02 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, Community Services Director Tina Jauz, Parks & Recreation Manager Michelle James, Building Official Steve Thorpe, City Engineer David Beard, Multimedia Developer Ryan Stout, First Assistant City Attorney John Ohnemiller, City Planner Ken VanDyne, and Oil & Gas Compliance Officer Ron Jenkins.

1. Discuss the proposed process for developers of required public improvements.

Assistant City Manager Jim Nichols provided an overview of the proposed deferral process noting staff was still working on details. He explained a deferral is a temporary delay in meeting a city standard. The intent was to be fair to development customers, by being predictable, consistent and providing reasonable assurance to the City that the work will be completed.

He explained the proposed details of the program including triggering requirements, cash deposits, and that all deferral would be registered with the County Clerk to ensure the property was registered. He explained how deposits could be refunded if work had not been completed in 5, 10, 15 or 20 years.

Following discussion, it was noted that the next steps would be to get feedback from the development community on the rebate process and clear plans with Legal, Finance, and other necessary staff members. The final product would be brought back before City Council for approval.

2. Discuss the process by which the proposed Floyd Acres housing development may use a portion of Beal Park as a retention basin pursuant to Chapter 26 of the Texas Parks and Wildlife Code.

City Manager Sharp reported that this is an issue on the Council agenda. There is a residential housing development where the developer is proposing to divert run-off onto Beal Park and in exchange will create park improvements.

Community Services Director Jauz and Parks & Recreation Manager Michelle James reported on their meeting with the developer explaining that they would like to divert their run-off from the development into an undeveloped portion of Beal Park. They also explained what improvements would be done in exchange noting how those changes were consistent with the Parks Master Plan.

City Attorney Stretcher noted the Council will need to make certain findings at the end of the public hearing and that the City is neutral and would listen to all of the pros and cons of the project before making a determination.

3. Receive an update from Alonda Massey of EZ-Rider regarding the status of their projects and operations.

Alonda Massey reviewed the EZ-Rider ridership report, gave an update on the route study, explained the green initiatives planned for the new building, provided an update on their budget process, and explained how in-kind services helped their organization.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 10:01 a.m.

### **REGULAR SESSION**

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:09 a.m., May 08, 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).

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

The Agenda Items were heard in the following order: 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 8, 14, 15, 22, 23, 24, 25, 26, 27, 28, 29, 37, 16, 17, 18, 19, 20, 21, 31, 32, 33, 34, 35, 36, 39, 40, 38, 30.

### **OPENING ITEMS**

1. Invocation – Council Member Jerry Morales.
2. Pledge of Allegiance

### **PRESENTATIONS**

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

No presentations were made.

## **PUBLIC COMMENT**

4. Receive public comments where individuals may address the City Council on City related issues and projects. Any deliberation of or decision by the City Council regarding the item being discussed shall be limited to a motion to place the item on the agenda for a subsequent meeting.

Donald DeVoru, 700 W. Scharbauer, requested a new van for the Senior Center. He noted they have funds to buy a new van but there is confusion as to who would own it and asked for assistance.

Rosa Arizpe, 2102 S. Terrell Street, asked for assistance in surveying the land behind her property noting she could not sell the land without it being surveyed. She noted she had a home demolished but did not do it in time and owed \$7,000 and asked for assistance. She also spoke about a mobile home they bought and moved onto their property and are now being told to move it off the land. She asked that the mobile home be allowed to stay.

Shorty Shaw, 3201 Todd Road, spoke about a project in their area where they are selling water to the oil companies and complained about the water trucks going up and down their residential neighborhood roads. He asked Council to stop this from happening.

Joel Rodgers, 2200, N. "H" Street, spoke about an article he read in the paper regarding Planning & Zoning Commission. He noted that when people make comments that they are in favor of more housing he finds those comments offensive. He suggested that the apartments be two stories instead of three and expressed concern for increased traffic. He felt the growth of the town was out of control and asked the Council to practice moderation.

## **CONSENT AGENDA**

Council Member Hailey moved to approve Consent Agenda items 5 - 13 excluding 8; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

5. Approved a motion approving the following minutes:
  - a. Regular meeting of April 24, 2012
6. Approved a resolution approving the purchase of a water tank, pump and installation on an existing 1987 Caterpillar 615 Auger Scraper for the Garage Division. (GENERAL SERVICES)

### **RESOLUTION NO. 2012 - 130**

**RESOLUTION AUTHORIZING THE PURCHASE AND INSTALLATION OF A WATER TANK ON ONE OF THE CITY LANDFILL'S CATERPILLAR 615 AUGER SCRAPERS FROM THE SOLE BIDDER, WARREN POWER AND MACHINERY, INCORPORATED, DBA WARREN CAT, OF ODESSA, TEXAS, AT A TOTAL COST OF \$118,750.00**

7. Approved a resolution approving a master agreement for an estimated annual supply of Emulsified Asphalt for the Transportation Division. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 131

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR THE PURCHASE OF TWENTY EIGHT THOUSAND (28,000) GALLONS OF EMULSIFIED ASPHALT FOR USE BY THE TRANSPORTATION DIVISION FROM CLEVELAND ASPHALT PRODUCTS, INCORPORATED, OF SHEPHERD, TEXAS, AT AN ESTIMATED TOTAL COST OF \$77,187.60

9. Approved a resolution authorizing the City Manager to advertise a Request for Qualification (RFQ) for engineering firms to provide professional services (engineering and surveying) for the construction of a water main to provide fire protection and domestic service to the current property owners along the west side of FM 1788 south of SH 191. (Engineering)

RESOLUTION NO. 2012 - 133

RESOLUTION AUTHORIZING THE CITY MANAGER TO ADVERTISE A REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL SERVICES FOR THE CONSTRUCTION OF A WATER MAIN TO SERVE PROPERTY LOCATED ON THE WEST SIDE OF FARMTO-MARKET ROAD 1788 AND SOUTH OF STATE HIGHWAY 191; AUTHORIZING THE CITY MANAGER TO NEGOTIATE A PROFESSIONAL SERVICES AGREEMENT FOR SAID SERVICES; AND PROVIDING THAT SAID AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL

10. Approved a resolution awarding the MBR Satellite Reclaimed Water Production Facility Project to Red River Construction Company and appropriating funds. (Utilities)

RESOLUTION NO. 2012 - 134

RESOLUTION AWARDING THE MEMBRANE BIOLOGICAL REACTOR SATELLITE RECLAIMED WATER PRODUCTION FACILITY PROJECT TO RED RIVER CONSTRUCTION COMPANY, AT A TOTAL COST OF \$6,540,000.00; AND APPROPRIATING FUNDS; AND THE PROJECT WILL INCLUDE THE CONSTRUCTION OF A WATER RECLAMATION FACILITY TO PROVIDE IRRIGATION WATER TO MIDLAND COLLEGE

11. Approved a resolution approving the amended Bylaws of the Midland Development Corporation. (City Attorney)

RESOLUTION NO. 2012 - 135

RESOLUTION APPROVING THE AMENDED BYLAWS OF THE MIDLAND DEVELOPMENT CORPORATION

12. Approved a resolution approving an economic development agreement between the Midland Development Corporation and the City of Midland for the extension of a water line along Midkiff Road, south of Business Interstate 20, as authorized by Chapter 501 of the Texas Local Government Code; and appropriating funds therefor. (City Attorney)

RESOLUTION NO. 2012 - 136

RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND THE CITY OF MIDLAND FOR THE SOUTH MIDKIFF ROAD WATER MAIN EXTENSION PROJECT, AS AUTHORIZED BY CHAPTER 501 OF THE TEXAS LOCAL GOVERNMENT CODE; AND APPROPRIATING FUNDS THEREFOR

13. Approved a resolution regarding the City's Water Purification Plant Improvements Project with Cajun Constructors. (City Attorney)

RESOLUTION NO. 2012 - 137

RESOLUTION AUTHORIZING THE CITY ATTORNEY AND CITY MANAGER TO EMPLOY EXPERTS AND PROFESSIONALS TO ASSIST IN EVALUATING ISSUES INVOLVING PAYMENT TO CAJUN CONSTRUCTORS, INCORPORATED, REGARDING THE CITY OF MIDLAND'S WATER PURIFICATION PLANT IMPROVEMENTS PROJECT; AND AUTHORIZING PAYMENT

The following item was pulled from consent calendar and considered individually.

8. Consider a resolution authorizing the execution of a Professional Service Agreement with Parkhill Smith & Cooper for surveying, design, right-of-way acquisition and construction administration services in connection with construction of wastewater collection system along the SH 191 corridor. (Engineering)

RESOLUTION NO. 2012 - 132

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INC. FOR ENGINEERING SERVICES IN CONNECTION WITH THE HIGHWAY 191 SEWER LINE PROJECT; AND APPROPRIATING FUNDS THEREFOR

Discussion ensued about water service in the area.

Council Member Hailey moved to approve Resolution No. 2012 - 132; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

**SECOND READINGS**

14. Consider an ordinance on second reading on a request by Second Baptist Church for a Planned District Site Plan on Lot 18D, Block 14, Briarwood Addition, Section 20, City and County of Midland, Texas. (Generally located on the north side of Briarwood Avenue, approximately 520 feet east of Oriole Drive.) (Development Services)

ORDINANCE NO. 9005

ORDINANCE ADOPTING A SITE PLAN FOR LOT 18D, BLOCK 14, BRIARWOOD ADDITION, SECTION 20, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 520 FEET EAST OF ORIOLE DRIVE); SUBJECT TO THE FOLLOWING CONDITIONS AND RESTRICTIONS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY

OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Reyes read the caption of Ordinance No. 9005.

Council Member Morales moved to approve the second and final reading of Ordinance No. 9005 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

15. Consider an ordinance on second reading on a request by Louie Caraveo for a Specific Use Permit without Term for an accessory building for living or sleeping quarters on Lot 20, Block 4, Solomon Estates, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of Alysheba Lane and Sir Barton Parkway.) (Development Services)

ORDINANCE NO. 9008

ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF LOT 20, BLOCK 4, SOLOMON ESTATES, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF ALYSHEBA LANE AND SIR BARTON PARKWAY), WHICH IS PRESENTLY ZONED CE, COUNTRY ESTATE DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR AN ACCESSORY BUILDING TO BE USED FOR LIVING OR SLEEPING QUARTERS; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Reyes read the caption of Ordinance No. 9008.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9008 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

16. Consider an ordinance on second reading to zone annexed land (Tract 1) on a 40.46-acre tract of land out of Section 45, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located north of Midland International Airport.) (Development Services)

ORDINANCE NO. 9009

ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 40.46-ACRE TRACT OF LAND OUT OF SECTION 45, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN IP-3, INDUSTRIAL PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED NORTH OF MIDLAND INTERNATIONAL AIRPORT; 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. 9009.

Council Member Morales moved to approve the second and final reading of Ordinance No. 9009 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

17. Consider an ordinance on second reading to zone annexed land (Tract 2) on a 96.28-acre tract of land out of Section 43 and 44, Block 40, T-1-S and Sections 5 and 6, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located northwest of Midland International Airport.) (Planning)

ORDINANCE NO. 9010

ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 96.28-ACRE TRACT OF LAND OUT OF SECTIONS 43 AND 44, BLOCK 40, T-1-S, AND SECTIONS 5 AND 6, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN IP-3, INDUSTRIAL PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED NORTHWEST OF MIDLAND INTERNATIONAL AIRPORT; 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. 9010.

Council Member Trost moved to approve the second and final reading of Ordinance No. 9010 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

18. Consider an ordinance on second reading to zone annexed land (Tract 3) on a 55.08-acre tract of land out of Sections 8, 9, 16 and 17, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located south of Midland International Airport.) (Development Services)

ORDINANCE NO. 9011

ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 55.08-ACRE TRACT OF LAND OUT OF SECTIONS 8, 9, 16 AND 17, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN IP-3, INDUSTRIAL PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED SOUTH OF MIDLAND INTERNATIONAL AIRPORT; 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. 9011.

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

No. 9011 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

19. Consider an ordinance on second reading to zone annexed land (Tract 4) on a 2.25-acre tract of land out of Section 10, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located northeast of Midland International Airport.) (Development Services)

ORDINANCE NO. 9012

ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 2.25-ACRE TRACT OF LAND OUT OF SECTION 10, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN IP-3, INDUSTRIAL PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED NORTHEAST OF MIDLAND INTERNATIONAL AIRPORT; 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. 9012.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9012 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

20. Consider an ordinance on second reading to zone annexed land (Tract 5) on a 3.88-acre tract of land out of Section 4, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located southeast of Midland International Airport.) (Development Services)

ORDINANCE NO. 9013

ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 3.88-ACRE TRACT OF LAND OUT OF SECTION 4, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN IP-3, INDUSTRIAL PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED SOUTHEAST OF MIDLAND INTERNATIONAL AIRPORT; 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. 9013.

Council Member Morales moved to approve the second and final reading of Ordinance No. 9013 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

21. Consider an ordinance on second reading to zone annexed land (Tract 6) on a 3.57-

acre tract of land out of Section 13, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located at the future extension of Mockingbird Lane east of Avalon Drive.) (Development Services)

ORDINANCE NO. 9014

ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 3.57-ACRE TRACT OF LAND OUT OF SECTION 13, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN FD, FUTURE DEVELOPMENT DISTRICT; SAID TRACT IS GENERALLY LOCATED AT THE FUTURE EXTENSION OF MOCKINGBIRD LANE, EAST OF AVALON 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. 9014.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9014 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

22. Consider an ordinance on second reading amending the Fiscal Year 2011-2012 Budget to provide additional funds to the Sports and Entertainment Association of Midland (SEAM) in the amount of \$95,000. (City Secretary)

ORDINANCE NO. 9015

ORDINANCE AMENDING THE OFFICIAL MUNICIPAL BUDGET FOR FISCAL YEAR 2011-2012 IN ORDER TO PROVIDE ADDITIONAL FUNDS TO THE SPORTS AND ENTERTAINMENT ASSOCIATION OF MIDLAND; THE ADDITIONAL FUNDING PROVIDED TO THE SPORTS AND ENTERTAINMENT ASSOCIATION OF MIDLAND WILL BE USED FOR UPCOMING EVENTS; THE ADDITIONAL FUNDS WILL ALLOW FOR THE PROMOTION OF TOURISM IN THE CITY OF MIDLAND; AND ORDERING RECORDATION; AND APPROPRIATING FUNDS

Deputy City Secretary Reyes read the caption of Ordinance No. 9015.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9015 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

**PUBLIC HEARINGS**

23. At approximately 10:30 a.m. hold a public hearing and consider an ordinance on a request by Grace Partnership for a zone change from PD, Planned District for a Housing Development and from PD Planned District of a Transition District, to an Amended Planned District on Lots 1 and 2, Block 4, Gateway Plaza, Section 2, City and County of Midland, Texas. (Generally located on the west side of Tradewinds Boulevard, approximately 800 feet north of Business I-20 - District 2) (Development Services)

ORDINANCE NO. 9016

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 1 AND 2, BLOCK 4, GATEWAY PLAZA, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, IN PART, AND PD, PLANNED DISTRICT FOR A TRANSITION DISTRICT, IN PART, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE WEST SIDE OF TRADEWINDS BOULEVARD, APPROXIMATELY 800 FEET NORTH OF BUSINESS INTERSTATE 20); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Walker gave an overview of the item noting the applicant is taking two different plats with different zoning and combining for the development of another apartment complex. Staff had concern for traffic and would require a traffic study. He noted the City Code allows a maximum density of 16 units per acre but explained that exceptions have been made going up to 21 units per acre. Staff and Planning & Zoning Commission support the item.

Discussion ensued about the density.

Mayor Perry opened the public hearing at 10:46 a.m.

Max Richardson, 110 W. Louisiana, reported he is working with Endeavor to move the well and would have to have concurrence with the landowner. He noted the maximum units would be 300 but if the well was not moved it would create a property that was undevelopable.

Discussion ensued about the process of filing for a permit with the Railroad Commission and that this well had not applied for a permit with the City of Midland. If this plat was filed and approved prior to the oil and gas permit, it would control the variance for the oil and gas well.

Janice Havens, 38 Sunnygrove, Odessa, with Havens Group Real Estate reported they had lost a number of deals because buyers felt there were too many issues to deal with because the permit had been filed with the Railroad Commission. She noted a developer would not begin architectural drawings knowing there potentially would be an oil and gas well. Their goal was to do a letter agreement with Endeavor, the seller, the buyer, and the owner of the house where the well site would be moved to. She noted that there are not enough tracts to do multi-family housing and expressed concern for the need for more housing.

Joel Rodgers noted that although there was a housing shortage now it was due to an imbalance and later there would be a housing glut if too many houses were built. He spoke in favor of balance.

There being no one else wishing to speak, the public hearing was closed at 11:04 a.m.

Deputy City Secretary Reyes read the caption of Ordinance No. 9016.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9016 in accordance with the Charter of the City of Midland with the amendment to change the density from 24 to 21; seconded by Council Member James.

Council Member Morales moved to amend the motion by requiring a traffic study be done prior to any building permit issuance. Due to the lack of a second, the motion died.

Discussion ensued about a traffic study.

Council Member Morales moved to amend the motion by requiring the traffic study prior to the approval of the site plan; seconded by Council Member James. The motion to amend carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

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

24. At approximately 10:33 hold a public hearing and consider an ordinance on a request by GRACO Real Estate for a zone change from PD, Planned District for a Shopping Center to Amended Planned District. (Development Services)

#### ORDINANCE NO. 9017

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 6.61-ACRE TRACT OF LAND OUT OF SECTION 4, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 435 FEET EAST OF BILLINGSLEY 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

Planning Division Manager Walker gave an overview of the item noting the request was to bring a group of retail development with the potential future expansion of two restaurants. He reported no letters of objection had been received.

Mayor Perry opened the public hearing at 11:26 a.m.

Ron Childress, Ransom Canyon, reported he was from Graco Real Estate. He noted they previously developed the Talbots and Chico's in Midland in the late 1990's and that the majority of their business was to develop shopping centers.

Discussion ensued about traffic flow and parking if the two restaurants were to be built.

There being no one else wishing to speak, the public hearing was closed at 11:31 a.m.

Deputy City Secretary Reyes read the caption of Ordinance No. 9017.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9017 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

25. At approximately 10:36 a.m. hold a public hearing and consider an ordinance on a request by Milton Lary for a zone change from AE, Agriculture Estate District to PD, Planned District for a Shopping Center on Lot 87, 87A, 88 and 89, Block 3, Skyview Development, City and County of Midland, Texas. (Generally located on the south side of East Loop 250 North, between Cynthia Drive and Kniffen Avenue.) (Development Services)

#### ORDINANCE NO. 9018

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 87, 87A, 88 AND 89, BLOCK 3, SKYVIEW DEVELOPMENT, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED ON THE SOUTH SIDE OF EAST LOOP 250 NORTH, BETWEEN CYNTHIA DRIVE AND KNIFFEN 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

Planning Division Manager Walker gave an overview of the item noting it was a proposal for storage units with a single entrance off of Cynthia Drive.

Mayor Perry opened the public hearing at 11:39 a.m.

Milton Lary, 6807 Executive Court, reported he is the owner of the property and that he desires to build a storage building on the property explaining he would keep it as attractive as possible. He also explained that this use would have the least impact on the surrounding residential neighborhood.

There being no one else wishing to speak, the public hearing was closed at 11:42 a.m.

Deputy City Secretary Reyes read the caption of Ordinance No. 9018.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9018 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

26. At approximately 10:39 a.m. hold a public hearing and consider an ordinance on a request by COM Aquatics, Inc. for the vacation of the east/west 20 foot alley out of

Block 3, "A" Street Community Center, Section 3, being a 0.16-acre portion of land adjacent to Lot 1C, Block 3, "A" Street Community Center, Section 7, City and County of Midland, Texas (Generally located near the southwest corner of the intersection of West Wadley Avenue and North "A" Street). (Development Services)

ORDINANCE NO. 9019

AN ORDINANCE VACATING AND ABANDONING A 0.16-ACRE PORTION OF THE EAST/WEST 20-FOOT ALLEY LOCATED WITHIN BLOCK 3, "A" STREET COMMUNITY CENTER, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NEAR THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST WADLEY AVEUNE AND NORTH "A" STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$17,400.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Planning Division Manager Walker gave an overview of the item noting COM Aquatics would like to build another pool in what is currently used as a parking area. The applicant was intending to replat and vacate a portion of the alley. Any utilities located in the alley would need to be relocated at the applicant's expense. He reported the applicant was seeking a determination if there was interest in vacating that portion of the alley and that it would not come back for second reading until the details had been worked out. He reported no letters of objection had been received.

Mayor Perry opened the public hearing at 11:45 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Reyes read the caption of Ordinance No. 9019.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9019 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

27. At approximately 10:42 a.m. hold a public hearing and consider a resolution on a request by Lone Star Sanctuary for Animals for a Temporary Land Use Permit for a Manufactured Home on 111.50-acre tract of land out of Section 30, Block 38, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the southeast corner of the intersection of North Fairgrounds Road and East Loop 250 North). (Development Services)

RESOLUTION NO. 2012 - 138

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A MANUFACTURED HOME ON A 111.50-ACRE TRACT OF LAND OUT OF SECTION 30, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF FAIRGROUNDS ROAD AND LOOP 250); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Planning Division Manager Walker gave an overview of the item noting the current animal sanctuary had outgrown their facilities and was addressing their long-term needs. They were requesting permission to locate a manufactured home on site to house a vet they brought in from out of state to care for the animals. He noted the home

is 501 feet from a proposed well site and that the property was served by a private water well and septic system.

Mayor Perry opened the public hearing at 11:49 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member James moved to adopt Resolution No. 2012 - 138; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

28. At approximately 10:45 hold a public hearing and consider an ordinance on a request by CY Houston Management Company for a Specific Use Permit with Term for the sale of alcoholic beverages, for on-premises consumption in a bar, on Lot 8, Block 2, Westridge Park Addition, Section 20, City and County of Midland, Texas. (Generally located on the northwest corner of Illinois Avenue and Andrews Highway.) (Development Services)

#### ORDINANCE NO. 9020

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 8, BLOCK 2, WESTRIDGE PARK ADDITION, SECTION 20, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH LOOP 250 WEST AND DEAUVILLE BOULEVARD), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A BAR 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

Planning Division Manager Walker gave an overview of the item noting it was the future site of the Hilton Garden Inn. He explained the request was to consider on-premises sale of alcoholic beverages. He noted no letters of objection had been received.

Mayor Perry opened the public hearing at 11:52 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Reyes read the caption of Ordinance No. 9020.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9020 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

29. At approximately 10:48 a.m. hold a public hearing and consider an ordinance on a request by CVS Pharmacy for approval of a Municipal Setting Designation on Lot 1A, Block 1, Permian Shopping Center, Section 2, City and County of Midland, Texas. (Generally located on the northeast corner of Illinois Avenue and Andrews Highway). (Engineering)

#### ORDINANCE NO. 9021

AN ORDINANCE APPROVING A MUNICIPAL SETTING DESIGNATION SITE FOR LOT 1A, BLOCK 1, PERMIAN SHOPPING CENTER, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (COMMONLY KNOWN AS CVS PHARMACY, 301 ANDREWS HIGHWAY, MIDLAND, TEXAS 79701); PROVIDING FOR THE PROHIBITION OF THE USE OF GROUNDWATER FOR POTABLE AND IRRIGATION PURPOSES ; 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

City Engineer David Beard gave an overview of the item noting staff provided a briefing on this item at the last Council meeting. He reported he received one letter back from the owner who was not opposed.

Mayor Perry opened the public hearing at 11:55 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Reyes read the caption of Ordinance No. 9021.

Council Member James moved approval of the first of two readings of Ordinance No. 9021 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, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

30. At approximately 7:00 p.m. hold a public hearing on the 2012/2013 Community Development Block Grant Program. (Development Services)

It was noted that the public hearing would be held at 7:00 p.m.

#### MISCELLANEOUS

31. Consider a motion approving an amendment to an oil and gas well drilling permit for Callon Petroleum Operating Company (Pecan Acres 23A No. 1) inside the City Limits on 467' FEL and 1,958' FNL, located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of Golden Gate Drive, approximately ¾ mile north of Briarwood Avenue) (Development Services)

Oil & Gas Compliance Officer Ron Jenkins gave an overview of the item noting the tank battery was being moved further to the east and further from residences. He noted the frac pit was also being moved and that the battery and pit served all six wells on this agenda.

Council Member Sparks moved to approve an amendment to an oil and gas well drilling permit for Callon Petroleum Operating Company (Pecan Acres 23A No. 1) inside the City Limits on 467' FEL and 1,958' FNL, located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of Golden Gate Drive, approximately ¾ mile north of Briarwood Avenue); seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

32. Consider a motion approving an amendment to an oil and gas well drilling permit for

Callon Petroleum Operating Company (Pecan Acres 23A No. 2) inside the City Limits on 467' FEL and 1,983' FNL, located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of Golden Gate Drive, approximately  $\frac{3}{4}$  mile north of Briarwood Avenue) (Development Services)

Oil & Gas Compliance Officer Jenkins reported this was the same information as the previous item.

Council Member James moved to approve an amendment to an oil and gas well drilling permit for Callon Petroleum Operating Company (Pecan Acres 23A No. 2) inside the City Limits on 467' FEL and 1,983' FNL, located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of Golden Gate Drive, approximately  $\frac{3}{4}$  mile north of Briarwood Avenue); seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

33. Consider a motion approving an amendment to an oil and gas well drilling permit for Callon Petroleum Operating Company (Pecan Acres 23A No. 3) inside the City Limits on 467' FEL and 2,008' FNL, located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of Golden Gate Drive, approximately  $\frac{3}{4}$  mile north of Briarwood Avenue) (Development Services)

Oil & Gas Compliance Officer Jenkins reported this was the same information as the previous item.

Council Member Sparks moved to approve an amendment to an oil and gas well drilling permit for Callon Petroleum Operating Company (Pecan Acres 23A No. 3) inside the City Limits on 467' FEL and 2,008' FNL, located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of Golden Gate Drive, approximately  $\frac{3}{4}$  mile north of Briarwood Avenue); seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

34. Consider a motion approving an amendment to an oil and gas well drilling permit for Callon Petroleum Operating Company (Pecan Acres 23 No. 3) inside the City Limits on 704' FNL and 2,007' FWL, located in 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  $\frac{3}{4}$  mile north of Briarwood Avenue) (Development Services)

Oil & Gas Compliance Officer Jenkins reported this was the same information as the previous item.

Council Member Morales moved to approve a motion approving an amendment to an oil and gas well drilling permit for Callon Petroleum Operating Company (Pecan Acres 23 No. 3) inside the City Limits on 704' FNL and 2,007' FWL, located in 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  $\frac{3}{4}$  mile north of Briarwood Avenue); seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

35. Consider a motion approving an amendment to an oil and gas well drilling permit for Callon Petroleum Operating Company (Pecan Acres 23 No. 6) inside the City Limits on 651' FSL and 2,040' FWL, located in 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' north of Briarwood Avenue) (Development Services)

Oil & Gas Compliance Officer Jenkins reported this was the same information as the previous item.

Council Member Sparks moved to approve a motion approving an amendment to an oil and gas well drilling permit for Callon Petroleum Operating Company (Pecan Acres 23 No. 6) inside the City Limits on 651' FSL and 2,040' FWL, located in 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' north of Briarwood Avenue); seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

36. Consider a motion approving an amendment to an oil and gas well drilling permit for Callon Petroleum Operating Company (Pecan Acres 23 No. 12) inside the City Limits on 1911' FEL and 2,009' FNL, located in 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) (Development Services)

Oil & Gas Compliance Officer Jenkins reported this was the same information as the previous item.

Council Member Hailey moved to approve a motion approving an amendment to an oil and gas well drilling permit for Callon Petroleum Operating Company (Pecan Acres 23 No. 12) inside the City Limits on 1911' FEL and 2,009' FNL, located in 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); seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

37. Consider a motion interpreting City of Midland Ordinance No. 8980 determining that the proposed hotel building to be located on a 4.18-acre tract of land out of Section 37, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas, is in compliance with Ordinance No. 8980 which governs said property. Said property is generally located on the northeast corner of the intersection of Deauville Boulevard and Loop 250. (Engineering)

Planning Division Manager Walker gave an overview of the item noting that staff was asking for Council to make a determination that a hotel can be built even though the Ordinance calls for an office building.

City Attorney Stretcher reported that this case was approved by a Planned District explaining that although the Ordinance says office building it was really meant to be broader to include a hotel. He noted the site plan showed a motel. The Council had a

choice, they could tell the developer to go back through the whole process or they could make a ruling that said it was meant to include a hotel. He noted staff recommended that Council approve the item and allow the developer to move forward with building a hotel.

Council Member Sparks moved to approve interpreting City of Midland Ordinance No. 8980 determining that the proposed hotel building to be located on a 4.18-acre tract of land out of Section 37, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas, is in compliance with Ordinance No. 8980 which governs said property; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

39. Consider making appointments to various Boards and Commissions.

Following discussion, Council Member Sparks moved to defer making appointments; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

## **EXECUTIVE SESSION**

40. 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 with the City Attorney, a matter in which the duty of the attorney of the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.
  - a.2. Discuss with the City Attorney and Attorney(s) with the law firm of Cotton, Bledsoe, Tighe, and Dawson, litigation styled in Re: Heritage Consolidated, LLC, Case No. 10-36484-hdh, Chapter 11, Jointly Administered, in the United States Bankruptcy Court, Northern District of Texas, Dallas Division.
  - a.3. Discuss Section 255.003 of the Texas Election Code.
  - a.4. Discuss legal issues involving the proposed Wholesale Water Delivery Agreement with the Midland County Fresh Water Supply District No. 1. This proposed agreement involves the delivery of water from the T-Bar Ranch in Winkler County and Loving County, Texas.
- b. Section 551.087, Deliberation Regarding Economic Development Negotiations.
  - b.1. Discuss business prospects that the Midland Development Corporation seeks to have locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.

Mayor Perry recessed the meeting to executive session at 12:23 p.m. The Council met in executive session until 1:20 p.m.

38. Discuss the proposed Wholesale Water Delivery Agreement between the City of Midland and the Midland County Fresh Water Supply District No. 1. This proposed Agreement involves the delivery of water from the T-Bar Ranch in Winkler County and Loving County, Texas.

Discussion ensued regarding the details of the agreement.

#### **RECESS**

Mayor Perry recessed the meeting at 2:10 p.m.

Mayor Perry reconvened the meeting at 7:00 p.m. in the Council Chamber with the following Council Members present: Hailey, Perry, James, Sparks.

#### **CDBG PUBLIC HEARING**

30. At approximately 7:00 p.m. hold a public hearing on the 2012/2013 Community Development Block Grant Program. (Development Services)

Community Development Manager Sylvester Cantu gave an overview of the item noting that the purpose for the public hearing was to allow for public input and to consider proposals for the coming year. He reviewed the list of proposals received and noted that the second public hearing would be held on June 12, 2012, and that final approval was scheduled for July 24, 2012.

Brief discussion ensued about the maximum cap on public services.

Mayor Perry opened the public hearing at 7:15 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

All of the business at hand having been completed, the meeting adjourned at 7:16 p.m.

PASSED AND APPROVED the 22nd day of May, 2012.

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W. Wesley Perry, Mayor

ATTEST:

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Amy M. Turner, City Secretary