

**MIDLAND CITY COUNCIL
MINUTES
May 10, 2016**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at ____ a.m. on May 10, 2016.

Council Members present: Mayor Jerry F. Morales, Mayor Pro Tem J. Ross Lacy (District 4), Council Member Scott Dufford (At-Large), Council Member Spencer Robnett (At-Large), Council Member Jeff Sparks (District 1), Council Member John B. Love, III (District 2), and Council Member Sharla Hotchkiss (District 3).

Council Members absent: None.

Staff members present: City Manager Courtney Sharp, City Attorney John Ohnemiller, Deputy City Manager Tommy Hudson, Assistant City Manager Robert Patrick, Assistant City Manager Frank Salvato, City Secretary Amy Turner, Police Chief Price Robinson, Fire Chief Robert Isbell, Utilities Director Laura Wilson, Administrative Services Director Catherine Clifton, Finance Director Pam Simecka, Development Services Director Charles Harrington, Community Services Director Tina Jauz, Engineering Services Director Jose Ortiz, Director of Airports Justine Ruff, General Services Director Fred Reyes, Planning Division Manager Jessica Carpenter, Building Official Steve Thorpe, and Public Information Officer Sara Bustilloz.

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

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at ____ a.m., May 10, 2016.

Council Members present: Mayor Jerry F. Morales, Mayor Pro Tem J. Ross Lacy (District 4), Council Member Scott Dufford (At-Large), Council Member Spencer Robnett (At-Large), Council Member Jeff Sparks (District 1), Council Member John B. Love, III (District 2), and Council Member Sharla Hotchkiss (District 3).

Staff members present at the annex table: City Manager Courtney Sharp, City Attorney John Ohnemiller, Deputy City Manager Tommy Hudson, Assistant City Manager Robert Patrick, and Assistant City Manager Frank Salvato.

The Agenda Items were heard in the following order:

OPENING ITEMS

cto 10:05 a.m.

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

PRESENTATIONS

- a. Hotchkiss
 - C. Sparks
 - D. Love
 - B. Mayor Morales
3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Proclamation presentation for Children's Mental Health Awareness Day
 - b. Presentation of Proclamation for Willy Nilly and Thumper Book Launch
 - c. Proclamation presentation for Police Memorial Week
 - d. Presentation of proclamation for South East Senior Center Day

PUBLIC COMMENT

no citizens wishing to speak. Moved to end.

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.

CONSENT AGENDA

Council Member Robnett moved to approve Consent Agenda items 5 - 19 excluding 6; seconded by Council Member Love.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

5. Approved a motion approving the following minutes:
 - a. Regular Meeting of April 26, 2016.
7. Approved a resolution approving the purchase of three (3) PowerEdge M630 Blade Servers and four (4) Dell Force10 MXL 10/40 GbE DCB Blade Switches from Dell Marketing LP through the Texas Department of Information Resources contract DIR-SDD-1951 for a total cost of \$99,559.70. (PURCHASING)

RESOLUTION NO. 2016 - 136

RESOLUTION APPROVING THE PURCHASE OF THREE (3) POWEREDGE M630 BLADE SERVERS AND FOUR (4) DELL FORCE10 MXL 10/40 GBE DCB BLADE SWITCHES FROM DELL MARKETING, LP, THROUGH THE TEXAS DEPARTMENT OF INFORMATION RESOURCES AT A TOTAL COST OF \$99,559.70

8. Approved a resolution approving a professional services agreement with Parkhill, Smith & Cooper, Inc. to prepare construction plans for the first phase of construction at Dennis the Menace Park for the Community Services Department. (PURCHASING)

RESOLUTION NO. 2016 - 137

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INCORPORATED, TO PROVIDE CONSULTING SERVICES FOR THE FIRST PHASE OF THE DENNIS THE MENACE PARK RENOVATION PROJECT

9. Approved a resolution approving specifications for the Fiscal Year 2016 Miscellaneous Concrete Program for the Engineering Services Department. (PURCHASING)

RESOLUTION NO. 2016 - 138

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE FISCAL YEAR 2016 MISCELLANEOUS CONCRETE PROGRAM; SAID PROGRAM WILL PROVIDE FOR THE COMPLETION OF VARIOUS TASKS FOR WHICH CONCRETE IS NEEDED

10. Approved a resolution approving the issuance of a request for proposals for City of Midland, Texas Primary Depository/Banking Services and Secondary Depositories for the Finance Department. (PURCHASING)

RESOLUTION NO. 2016 - 139

RESOLUTION AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR PRIMARY DEPOSITORY / BANKING SERVICES AND SECONDARY DEPOSITORY SERVICES; SAID REQUEST FOR PROPOSALS WILL PROVIDE FOR THE SELECTION OF A BANK TO PERFORM AS THE PRIMARY DEPOSITORY FOR THE INVESTMENT OF CITY FUNDS AND SOURCE OF COMMERCIAL BANKING SERVICES, AND FOR THE SELECTION OF A BANK OR BANKS TO PERFORM AS A SECONDARY DEPOSITORY OR DEPOSITORIES FOR THE INVESTMENT OF CITY FUNDS

11. Approved a resolution authorizing the execution of Amendment #1 to Parkhill, Smith & Cooper's Professional Services Agreement, and appropriate necessary funds. (AIRPORTS)

RESOLUTION NO. 2016 - 140

RESOLUTION AUTHORIZING THE EXECUTION OF AMENDMENT NUMBER ONE TO THE PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INCORPORATED, FOR PROFESSIONAL ENGINEERING AND ARCHITECTURAL SERVICES AT THE MIDLAND INTERNATIONAL AIR & SPACE

PORT AND MIDLAND AIRPARK AIRPORT; SAID AMENDMENT TO INCLUDE PROJECTS DESCRIBED AS THE RECONSTRUCT RUNWAY 16L/34R, TERMINAL BUILDING CHECKPOINT QUEUING EXPANSION, AND AIRPARK NEW HANGAR DEVELOPMENT PLANNING; AND APPROPRIATING NECESSARY FUNDS

12. Approved a resolution amending Resolution 2016-127 for an oil and gas well drilling permit to RSP Permian, L.L.C. (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Mask HZ Unit No 1006H) located 230 feet from the north line and 830 feet from the west line located in Section 10, Block X, Hilliard Survey, City of Midland and County of Midland, Texas (Generally located 806 feet east of North Garfield Street and 1,095 feet north of Passage Way Extension.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 141

RESOLUTION APPROVING AN AMENDMENT TO THE PERMIT ISSUED TO RSP PERMIAN, L.L.C. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 230 FEET FROM THE NORTH LINE AND 830 FEET FROM THE WEST LINE, SECTION 10, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 806 FEET EAST OF NORTH GARFIELD STREET AND 1,095 FEET NORTH OF PASSAGE WAY EXTENSION); SAID AMENDMENT AUTHORIZING TWO FRAC PIT LOCATIONS

13. Approved a resolution authorizing the transfer of a total \$49,082.00 in Community Development Block Grant funds from the 2015-2016 contingency account into the 2015-2016 Homebuyer Assistance Program. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 142

RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS IN THE AMOUNT OF \$49,082.00 FROM THE CDBG CONTINGENCY TO THE 2015-2016 HOMEBUYER ASSISTANCE PROGRAM

14. Approved a resolution authorizing the execution of a Public Improvement Development Agreement between the City of Midland and Real Property Resources Inc., in the amount of \$195,838 for the purpose of constructing a water main in Green Tree Boulevard to serve Lone Star Trails Section 1 and Section 5; and appropriating funds therefor; said agreement being authorized by Section 395.081 of the Texas Local Government Code. (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 143

RESOLUTION AUTHORIZING THE EXECUTION OF A PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH REAL PROPERTY RESOURCES, INC. FOR DEVELOPMENT OF LONE STAR TRAILS ADDITION, SECTIONS 1, 2 AND 5, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH BIG SPRING STREET, APPROXIMATELY 2.2 MILES NORTH OF LOOP 250); AND AUTHORIZING PAYMENT IN THE AMOUNT OF \$195,837.40 THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE

15. Approved a resolution authorizing the execution of a Municipal Maintenance Agreement with the State of Texas for the maintenance of certain state highways within the city limits. (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 144

RESOLUTION APPROVING A MUNICIPAL MAINTENANCE AGREEMENT WITH THE STATE OF TEXAS TO PROVIDE FOR THE MAINTENANCE, CONTROL, SUPERVISION AND REGULATION OF CERTAIN STATE HIGHWAYS AND PORTIONS OF STATE HIGHWAYS IN THE CITY OF MIDLAND; AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE SAID AGREEMENT; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO CERTIFY THIS RESOLUTION TO THE STATE OF TEXAS AND TO TRANSMIT THE EXECUTED AGREEMENT TO THE STATE OF TEXAS

16. Approved a resolution granting a 0.038 acre Utility Easement, located in Lot 4, Block 5, Westridge Park Addition, Section 6, Midland, Midland County, Texas, approximately 0.25 miles west of Loop 250 and immediately north of Champions Drive, for the purpose of allowing Oncor Electric Delivery Company LLC., to construct and maintain electric lines and any associated facilities for the Auxiliary Field at the Scharbauer Sports Complex; authorizing the execution of said Utility Easement; and ordering recordation by the City Secretary (City of Midland, Midland County). (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 145

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, ON BEHALF OF THE CITY OF MIDLAND, AN INSTRUMENT GRANTING A 0.038-ACRE UTILITY EASEMENT AND RIGHT-OF-WAY LOCATED IN LOT 4, BLOCK 5, WESTRIDGE PARK ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF CHAMPIONS DRIVE, APPROXIMATELY 0.25 MILES WEST OF LOOP 250), TO ONCOR ELECTRIC DELIVERY COMPANY LLC

17. Approved a resolution accepting two Pedestrian Access Easements by NBY Rankin Hwy, Midland, LLC, located near the intersections of Gist Avenue and Rankin Highway, and Rankin Highway and Stokes Avenue, for the purpose of allowing pedestrian access across private property; and ordering recordation by the City Secretary. (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 146

RESOLUTION AUTHORIZING THE ACCEPTANCE OF A 62-SQUARE FOOT PEDESTRIAN ACCESS EASEMENT AND A 122-SQUARE FOOT PEDESTRIAN ACCESS EASEMENT LOCATED IN LOT 1A, BLOCK 40, BELMONT ADDITION, SECTION 18, MIDLAND, MIDLAND COUNTY, TEXAS; AND ORDERING RECORDATION BY THE CITY SECRETARY

18. Approved a resolution authorizing the City Manager to acquire, on behalf of the City of Midland, any real property interests necessary or appropriate, by any instruments of conveyance necessary or appropriate, for the use and benefit of the public for street, road, pedestrian access, drainage and public utility purposes, and for any other ancillary public use as is usual and customary in connection therewith at or near the following-described location: from the intersection of Business State Highway (BS) 158 (Andrews Highway) and Woodcrest Drive to the intersection of Sinclair Avenue and Lindora Way. (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 147

RESOLUTION AUTHORIZING THE CITY MANAGER TO ACQUIRE, ON BEHALF OF THE CITY OF MIDLAND, ANY REAL PROPERTY INTERESTS NECESSARY OR APPROPRIATE, BY ANY INSTRUMENTS OF CONVEYANCE NECESSARY OR APPROPRIATE, FOR THE USE AND BENEFIT OF THE PUBLIC FOR STREET, ROAD, PEDESTRIAN ACCESS, DRAINAGE AND PUBLIC UTILITY PURPOSES, AND FOR ANY OTHER ANCILLARY PUBLIC USE AS IS USUAL AND CUSTOMARY IN CONNECTION THEREWITH FROM A POINT AT OR NEAR THE INTERSECTION OF BUSINESS STATE HIGHWAY 158 (ANDREWS HIGHWAY) AND WOODCREST DRIVE TO A POINT AT OR NEAR THE INTERSECTION OF SINCLAIR AVENUE AND LINDORA WAY; AUTHORIZING THE CITY MANAGER TO OBTAIN APPRAISALS, NEGOTIATE, EXECUTE AND FILE ALL DOCUMENTS NECESSARY TO ACQUIRE SAID REAL PROPERTY INTERESTS, PURCHASE TITLE INSURANCE POLICIES AND HOLD THE CLOSINGS FOR SAID ACQUISITIONS; AUTHORIZING PAYMENT FOR SAID APPRAISALS, TITLE INSURANCE POLICIES AND CLOSING COSTS; AND ORDERING THE CITY SECRETARY TO RECORD, OR ENSURE THAT THE TITLE COMPANY HAS RECORDED, ALL INSTRUMENTS OF CONVEYANCE

19. Approved a resolution allowing the City of Midland to enter an Interlocal Agreement with The City of San Angelo for fire training. (FIRE)

RESOLUTION NO. 2016 - 148

RESOLUTION AUTHORIZING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS AND THE CITY OF SAN ANGELO, TEXAS REGARDING COOPERATION BETWEEN THE MIDLAND FIRE DEPARTMENT AND THE SAN ANGELO FIRE DEPARTMENT FOR THE COMPLETION OF TRAINING REQUIRED BY THE TEXAS COMMISSION ON FIRE PROTECTION COURSE ON AIRCRAFT RESCUE AND FIRE FIGHTING

6. Approved a resolution awarding a contract for Landscaping at the Airport Terminal Building to the sole bidder Clint Co Corporation of Midland, Texas for a total cost of \$66,974.00 for the Department of Airports. (PURCHASING)

RESOLUTION NO. 2016 - 135

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE AIRPORT LANDSCAPING PROJECT AT THE MIDLAND INTERNATIONAL AIR & SPACE PORT TERMINAL BUILDING TO THE SOLE BIDDER, CLINT CO CORPORATION, OF MIDLAND, TEXAS, AT A TOTAL COST OF \$66,974.00

Robnett problems with landscaping bids only received one. Fred Reyes slowly starting to see more bids. Robnett

Council Member Robnett moved to adopt Resolution No. 2016 - 135; seconded by Council Member Love.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

SECOND READINGS

20. Consider a request on second reading by Fivestones Ventures for a Zone Change from LR-1, Local Retail District, to LR-2, Local Retail District, on Lot 1A, Block 20, Northgate

Addition, Section 25, City and County of Midland, Texas (Generally located on the east side of Holiday Hill Road, approximately 240-feet south of Briarwood Avenue.) (DEVELOPMENT SERVICES) (First reading held on April 26, 2016)

ORDINANCE NO. 9558

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1A, BLOCK 20, NORTHGATE ADDITION, SECTION 25, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED LR-1, LOCAL RETAIL DISTRICT, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF HOLIDAY HILL ROAD, APPROXIMATELY 240 FEET SOUTH OF BRIARWOOD 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 Karla Mata read the caption of Ordinance No.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 9558 in accordance with the Charter of the City of Midland; seconded by Council Member Love.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

21. Consider an ordinance on second reading on a request by Arturo Trillo for a Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on a 2,831 square foot portion of Lot 5, Block 1, Amaron Addition, Section 7, City and County of Midland, Texas (Generally located on the north side of West Interstate 20, approximately 400-feet east of Johnston Street.) (DEVELOPMENT SERVICES) (First reading held on April 26, 2016)

ORDINANCE NO. 9559

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 2,831-SQUARE FOOT PORTION OF LOT 5, BLOCK 1, AMARON ADDITION, SECTION 7, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST INTERSTATE HIGHWAY 20, APPROXIMATELY 400 FEET EAST OF JOHNSTON STREET), WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9559.

Council Member Hotchkiss moved to approve the second and final reading of Ordinance No. 9559 in accordance with the Charter of the City of Midland; seconded by Council

Member Lacy.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

22. Consider an ordinance on second reading on a request by Bynum School for a zone change from FD, Future Development District, to 1F-1, One-Family Dwelling District, on a 64.96-acre tract of land out of Section 24, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of Avalon Drive, approximately 1800-feet north of Briarwood Avenue.)- District 4 (DEVELOPMENT SERVICES) (First reading held April 26, 2016)

ORDINANCE NO. 9560

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 64.96-ACRE TRACT OF LAND OUT OF SECTION 24, 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-1, ONE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF AVALON DRIVE, APPROXIMATELY 1,800 FEET NORTH OF BRIARWOOD 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 Karla Mata read the caption of Ordinance No. 9560.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9560 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

23. Consider an ordinance on a second reading adopting a Site Plan on Lot 1, Block 10, Arbor Park Addition, Section 5, City and County of Midland, Texas (Generally located southwest of the intersection of Sunshine Parkway and Idlewilde Drive.) (DEVELOPMENT SERVICES) (First reading held April 26, 2016)

ORDINANCE NO. 9561

AN ORDINANCE ADOPTING A SITE PLAN FOR LOT 1, BLOCK 10, ARBOR PARK ADDITION, SECTION 5, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF SUNSHINE PARKWAY AND IDLEWILDE DRIVE); SUBJECT TO CERTAIN 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 Karla Mata read the caption of Ordinance No. 9561.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9561 in accordance with the Charter of the City of Midland; seconded by Council Member Love.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

24. Consider an ordinance on second reading on a request by Reed's Super Bowl for a Specific Use Permit with Term for the sale of alcoholic beverages, for on-premises consumption, in a bowling center on Lot 21-25, Block 82, Permian Estates Addition, City and County of Midland, Texas (Generally located on the north side of West Wall Street, approximately 600-feet west of Fasken Drive.) (DEVELOPMENT SERVICES) (First reading held April 26, 2016)

ORDINANCE NO. 9562

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 4,300-SQUARE FOOT PORTION OF LOTS 21-25, BLOCK 82, PERMIAN ESTATES ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST WALL STREET, APPROXIMATELY 600 FEET WEST OF FASKEN DRIVE), WHICH IS PRESENTLY ZONED LR-3, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A BOWLING CENTER 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 Karla Mata read the caption of Ordinance No. 9562.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9562 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett.

The motion carried by the following vote: AYE: Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: Hotchkiss. ABSTAIN: None. ABSENT: None.

25. Consider an ordinance on second reading on a request by Braxton LP for a vacation of the 2.2-acre portion of utility easement located out of Lots 1, 2 and 14, Block 8, Sunridge Ranch Estates, Section 3, Midland County, Texas (Generally located northwest of the intersection of North County Road 1240 and West County Road 44.) (DEVELOPMENT SERVICES) (First reading held April 26, 2016)

ORDINANCE NO. 9563

AN ORDINANCE VACATING AND ABANDONING A 2.20-ACRE PORTION OF A UTILITY EASEMENT LOCATED IN LOTS 1, 2 AND 14, BLOCK 8, SUNRIDGE RANCH ESTATES, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY

LOCATED NORTHWEST OF THE INTERSECTION OF NORTH COUNTY ROAD 1240 AND WEST COUNTY ROAD 44); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$89,100.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9563.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9563 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

26. Consider an ordinance on second reading on a request by Mark Brown, for a Special Exception to the Zoning Code concerning a detached accessory structure that is not incidental to another permitted use on Tract 4, less the south 31.3-feet, Parker Acres Addition, City and County of Midland, Texas (Generally located on the west side of Todd Drive, approximately 400-feet south of East Golf Course Road.) (DEVELOPMENT SERVICES) (First reading held April 26, 2016)

ORDINANCE NO. 9564

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR TRACT 4, LESS THE SOUTH 31.3 FEET, PARKER ACRES ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF TODD DRIVE, APPROXIMATELY 400 FEET SOUTH OF EAST GOLF COURSE ROAD), BY PERMITTING A DETACHED ACCESSORY BUILDING THAT IS NOT INCIDENTAL TO ANOTHER PERMITTED USE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9564.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9564 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

27. Consider an ordinance on second reading on a request by Midland Humane Coalition for a zone change from AE, Agriculture Estate District, to PD, Planned District for a Transition District, on a 7.00-acre tract of land out of Section 5, Block 38, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas (Generally located on the west side of North Elkins Road, approximately 100-feet north of Crownridge Drive.) (DEVELOPMENT SERVICES) (First reading held April 26, 2016)

ORDINANCE NO. 9565

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 7.00-ACRE TRACT OF LAND OUT OF SECTION 5, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A TRANSITION DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF NORTH ELKINS ROAD, APPROXIMATELY 100 FEET NORTH OF CROWNRIDGE 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 Karla Mata read the caption of Ordinance No. 9565.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9565 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford.

Mayor attended meeting yesterday with residents and humane coalition. promised allow citizens to speak.

Keith Petty 2033 CR ?? Not able to make first reading, like to ask that consider delay until get a traffic count for safety issues before add more stuff no residential. Appreciate Council coming out to see City. Mayor citizens said 4000 cars a day on road.

Mayor concern for road and traffic. Robnett those concerns there before. Lacy whose responsible for maintaining the road. Courtney part in County/City they will get staff to look at it.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

28. Consider an ordinance on second reading re-naming a portion of Northrup Drive in Park Place Addition Section 2, between Princeton Avenue and its southern terminus, as Silver Star Way. (ENGINEERING SERVICES) (First reading held April 26, 2016)

ORDINANCE NO. 9566

AN ORDINANCE CHANGING THE NAME OF THE PORTION OF NORTHRUP DRIVE THAT IS ADJACENT TO LOT 6, BLOCK 1, AND LOT 1, BLOCK 2, PARK PLACE ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED BETWEEN PRINCETON AVENUE AND THE SOUTHERN TERMINUS OF NORTHRUP DRIVE), TO "SILVER STAR WAY"; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND DIRECTING THE CITY SECRETARY TO SEND THE MIDLAND EMERGENCY COMMUNICATIONS DISTRICT A CERTIFIED COPY OF THIS ORDINANCE

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9566.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9566 in accordance with the Charter of the City of Midland; seconded by Council

Member Robnett.

Mayor comment about changing road. Saw Steve Hardy Road rededicating poortion of his road in Cleveland on top called it Steve Harvey pathway. Morales because have concern can add honorary title (Mike) special street name sign. Dufford in favor of doing that because don't want to change the name of existing sstreet. Mayor keep as named and change on top. Courtney something minor staff can do. .

The motion Failed by the following vote: AYE: Lacy, Robnett. NAY: Hotchkiss, Sparks, Morales, Dufford. ABSTAIN: Love. ABSENT: None.

John if doesn't pass on next meeting put item on agend approving honorary naming. don't have to do my ord. Can not just defer and . john can amend to make honorary. love withdraw motion robnett second.

Council Member Love Moved to keep name as is and add memorial to person being honored.; seconded by Council Member Sparks.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

PUBLIC HEARINGS

29. Hold a public hearing regarding a proposed oil and gas permit to XTO Energy Inc. (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Robbie 2401BH) located 802 feet from the west line and 255 feet from the north line located in Section 24, Block 40, T-1-S, T&P RR Co. Survey, City of Midland and County of Midland, Texas (Generally located 645 feet east of Avalon Drive and 255 feet south of West Mockingbird Lane extension.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Ron Jenkins similar to permit in Feb 50 feet to east of previious app same variance ffor landscape and irrigation to maek dontaiton to city of midland parks. second var for 24 hour frac. been to O& G and approved. Any other wells landscape. ron yes one 50 feet away (Lacy/Ron) closest 1000 feet to northwest. no objections received.

Mayor Morales opened the public hearing at 10:48 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

30. Hold a public hearing and consider an ordinance on a request by Jorge Villalobos for a Zone Change from LR-2, Local Retail District, to LR-3, Local Retail District, on Lot 2, Block 10, Lynside Addition, Section 3, City and County of Midland, Texas (Generally located southeast of the intersection of East Scharbauer and North Lamesa Road.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9567

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 2, BLOCK 10, LYN-side ADDITION, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, TO BE USED AS AN LR-3, LOCAL RETAIL DISTRICT

(GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF EAST SCHARBAUER DRIVE AND NORTH LAMESA ROAD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9567.

Chuck Harrington request by Jorge Villalibos operaating auto repair at location. PPropozing to rezone to bring auto shop into commpliaance and expaand the building services that he currently offers. Auto zone requires Ir3 vs Ir2 on property. Future zone calls for retail so found current proposed used acceptable. P7Z rec approval no loj.

Love invited Steve Thorpe talk about history of property non compliance repeated request for cleaning up.

Steve Thorpe, had issues for some time withoutdoor storage of vehicles, car parts and turn into something current zoning does not offer. Request ot make busienss a legal business by rezone. Business had not operated for some period of time and now oeprating again it has been troublesome for enforcement to gain compliance. Love instead of correcting and cleaning up making reapplication for zone to solve problems. Sparks are we saying when change to to Ir3 which is right next door to Ir3 then doesn't have to clean up. Steve there iss notning in violation of zoning code because outdoor display can be in Ir3 zoning district. Hotchkiss new owner how long there. Love not a new owner a new tenant. Lacy Ir2 does not allow auto repair shop but how issued a building permit to begin with he just moved in. Sparks the pictures seeeing is what t alking about. Sparks those are not junk cars but autos looking at. Morales cars stacked to south. Duffford in district. Love adamantly opposed ot this for seve3ral reaason don't like to solve problem by changing zoning code, been asked to clean up when he made request he stacked not really clean up. next to Ir3 and laready haave problem with Ir3 and how affect neighborhood. comp plan says should stay Ir2. in his opinion severe detriment. vote against not appropriate for district or area or idea of chsolving problems by changing zonign code.

Mayor Morales opened the public hearing at 10:54 a.m.

David Diaz 208 S. Marienfeeld, there is a bigger issue undeveeloped for a number of years. That street shown there on paper but does not exist. Don't know what want to do about it but if need to be improved, sold or made available ot people that are there. Love would like to see develeoped but wrong direction. This is a brownfield property with gas tanks underground that has not been removed so just sit there.

Morales going back to original problem with landowner how get cleaned up? Chuck persue owenr for zoning violation iin code enforcement. Dufford if dies for lack of motion what happens? would not passand can in brought back again in two weeks.

Jaustin Quiroz, 1230 Hampton own business, here for to see how going to be voted if going to pass Ir3 a big mistake as it is right now you can check and see form videos will look abad all the tiime. Another one next to it garage have called code enforcmeent to go over there and remove some of vehicles there 6-7 monhtths. Owner is just one eprson always 10-20 vehicels some without motors tops gone, no wheels if this passed

for Ir3 and becomes another place big mistake. Asked Council to consider expenses done to improve lanes and this is main road lamesa and scharbauer.

There being no one else wishing to speak, the public hearing was closed at 10:59 a.m.

Council Member Love moved to deny item.; seconded by Council Member Hotchkiss.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

31. Hold a public hearing and consider an ordinance on a request by La Mision for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, in Lot 7, less the west 5 feet, and Lots 8 through 10, Block 20, Belmont Addition, City and County of Midland, Texas. Generally located northeast of the intersection of Rankin Highway and W. Francis Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9568

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 7, LESS THE WEST FIVE FEET, AND LOTS 8, 9 AND 10, BLOCK 20, BELMONT ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF RANKIN HIGHWAY AND WEST FRANCIS AVENUE), WHICH IS PRESENTLY ZONED LR-3, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9567.

Development Services Director Chuck Harrington gave a brief overview of the item noting request made for Javi's restaurant, currently have active SUP changes to restaurant itself. used to have banquet but now separate dining room. Javi's not operate as strictly restaurant in south portion strictly sports bar. requesting to have operating hours amended from 7 a.m. to 2 p.m. Javi's rest 2 p.m. to 2 a.m. the following day. asking for amendment to amend hours to accommodate proposed development 6000 sf. no schools churches in 300 feet. as meets all requirements rec approval. Sparks 2 a.m. yes. lacy rest or bar? both. original hours 11 a.m. to 2 p.m.. Lacy seeing every place in town wants 2 a.m. It is not a restaurant going to 2 a.m. if you're a bar admit you're a bar. Love why have to be mutually exclusive. NOT asking for restaurant asking for full service. Chucik has to go under 60/40. chuck building had to be broken up to avoid sprinkling the building. Basically two separate businesses. This is for restaurant side

Mayor Morales opened the public hearing at 11:06 a.m.

Christina Cooper 4718 W. Inyo? Sell breakfast 7-2. They remodeled can't remodel

again. Always in restaurant have oil field warm dinner and a beer. askign to extend horus a little bit. Lacy amending hours of operation to 2 am on bar side. yes.

There being no one else wishing to speak, the public hearing was closed at 11:07 a.m.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9568 in accordance with the Charter of the City of Midland; seconded by Council Member Love.

Love anyone concern with hours before motion? Two business split up into two buildings but looking at as one ordinance so very confused. Ought to have ord for each business. Morales if it has one tax id number then can be seperated. Sparks doing so dont' sprinkle building. Love the seperation occured before he came on Council. Morales portion will be bar mix and portion will be food. 60/40 bar mix and 60/40 restaurant mix. Robnett anyone know how many go to 2 a.m.

The motion carried by the following vote: AYE: Hotchkiss, Love, Morales, Dufford, Lacy. NAY: Sparks, Robnett. ABSTAIN: None. ABSENT: None.

32. Hold a public hearing and consider an ordinance on a request by Clifford Ray/Permian Sign Company for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District on Lot 1, Block 45, Fairmont Park Addition, Section 10, City and County of Midland, Texas (Generally located on the west side of North Midland Drive, approximately 390-feet north of Fairbanks Drive.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9569

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1, BLOCK 45, FAIRMONT PARK ADDITION, SECTION 10, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 390 FEET NORTH OF FAIRBANKS 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 Karla Mata read the caption of Ordinance No. 9569.

Development Services Director Chuck Harrington gave a brief overview of the item noting request made by Permian Sign Co to change signs at Target STore. Originally done in PD and going through process wasn't build like PD trying to clean up item sign portion of PD> second want to add one small sign. all meet sign code and rec approval of request. Love was there a violation on this application because of PD and height? Chuck the signs didn't meet what was put in orig ord what trying to do is clean up. JEssica Carpener PI Mg old is not what was build. current elevations are boundary to boundary for lot from 1995 impossible to build ask remove exhibitt when adopt new ordinance. Remove exhibit it solves problems of conforming to planned district.

Mayor Morales opened the public hearing at 11:14 a.m.

Cliff Gray 7100 Carolina Rd our customers are asking for a directional.

There being no one else wishing to speak, the public hearing was closed at 11:14 a.m.

Council Member Love moved approval of the first of two readings of Ordinance No. 9569 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

33. Hold a public hearing and consider an ordinance on a request by Midland Neme's LLC for a Specific Use Permit with Term for the sale of alcoholic beverages, for on-premises consumption, in a restaurant on a 500 square foot portion of Lot 1, Block 1, Claydesta Plaza North, Section 4, City and County of Midland, Texas (Generally located southwest of the intersection of West Loop 250 North and North Big Spring.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9570

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 500-SQUARE FOOT PORTION OF LOT 1, BLOCK 1, CLAYDESTA PLAZA NORTH, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF WEST LOOP 250 NORTH AND NORTH BIG SPRING STREET), WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9570.

Chuck Harrington small taco restaurant on site proposing to sell beer hors 11 a.m. to 12 a.m. monday through ? serviceable area 500 sf. adequate restraunt no chruch or school. rec approval cond a thorough e. Love didn't know what it was now alcohol in small area is alcohol cconfined ot alcohol on inside. and take and leave. chuck picnic are where people can sit because on premise consumption at picnic tables. Anytime outdoor consumption talk about fencing how will this be addressed? Chuck TABC changed rules dont' ahve to be fenced but in seperated area Proposing to sell on deck area. Love concern is enforcement how can they enforcesomeone on deck? Morales how does anybody enforce any area. Chuck as Mayorr said restarants post signs no alcohol beyond this point. Enforcement TABC has ability to enforce. Love eskimo hut wehere people drive through.

Robnett laws on books that discourage people from doing.

Lacy why is condiiton D already have CO. Chuck standard.

Mayor Morales opened the public hearing at 11:20 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Love moved approval of the first of two readings of Ordinance No. 9570 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss.

The motion carried by the following vote: AYE: Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: Sparks. ABSTAIN: None. ABSENT: None.

34. Hold a public hearing and consider a resolution on a request by Robert Cory for a Temporary Land Use Permit for a Carnival on Lot 1A, 7 & 8, Block 17, Skyline Terrace, Unit 7, City and County of Midland, Texas (Generally located south of West Loop 250 North, approximately 300-feet west of North Midkiff Road.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 149

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A CARNIVAL ON LOTS 1A, 7 AND 8, BLOCK 17, SKYLINE TERRACE, UNIT 7, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 300 FEET WEST OF NORTH MIDKIFF ROAD); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; AND PROVIDING THAT THE CHIEF OF POLICE SHALL ENSURE THAT ALL PARTICIPANTS ARE LICENSED PURSUANT TO TITLE V, CHAPTER 9 OF THE MIDLAND CITY CODE

Development Services Director Chuck Harrington gave a brief overview of the item noting, relocated site back to north side close to loop 250 where been in past. proposing to hold annual carnival may ?? hours?? carnival music volume reduced after 10 p.m. no alco 6 port rest min 2 cert peace officer and 4 from 6 p.m. and closign. IN veiw of fact changed to beter accomodate neighborhods staff rec approval.

Love in regaards to communication between applicant and owner of mall. We've seen repalitted and put restaurants which is why located odwn south. now back here is there any information on communicationb etween them two in subsequent years. Chuck that is to be determined only mall can answer that question. At this time not ready to start construcion of restaurant sidte. next eyar different issue if the case why didn't they jsut let them be there orig. chuck doesn't know.

Mayor Morales opened the public hearing at 11:24 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Dufford moved to adopt Resolution No. 2016 - 149; seconded by Council Member Love.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Robnett. NAY: Lacy. ABSTAIN: None. ABSENT: None.

35. At approximately 7:00 p.m. hold a public hearing regarding the Fiscal Year 2016/2017 Community Development Block Grant funding application request. This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

MISCELLANEOUS

36. Approved a motion on a proposed preliminary plat of Bynum School Addition, being a 64.96-acre tract of land out of Section 24, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of Avalon Drive, approximately 1800-feet north of Briarwood Avenue.) (DEVELOPMENT SERVICES)

Development Services Director Chuck Harrington gave a brief overview of the item noting during zoning process started last meeting had preliminary plat info that had to be changed. Had plat 64 acres since large has to come back to council for subdivision plan. will be requesting variance of permitted wells request to shore 500 foot perimeter until get variance. P&Z approval with stip ?? 11:26 a.m.

Council Member Lacy moved to approve a motion on a proposed preliminary plat of Bynum School Addition, being a 64.96-acre tract of land out of Section 24, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of Avalon Drive, approximately 1800-feet north of Briarwood Avenue.); seconded by Council Member Love.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

37. Consider a proposed Ordinance amending Title V, "Business Regulation," Chapter 12, "Transportation Network Companies," of the Midland City Code. (CITY MANAGER'S OFFICE)

ORDINANCE NO. 9571

AN ORDINANCE AMENDING TITLE V, "BUSINESS REGULATIONS", CHAPTER 12, "TRANSPORTATION NETWORK COMPANIES", OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO AMEND THE PROGRAM TO REGISTER AND REGULATE TRANSPORTATION NETWORK COMPANIES WITHIN THE CITY OF MIDLAND; NEGATING AND DISPENSING WITH THE CULPABLE MENTAL STATE REQUIREMENT; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; ORDERING PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE OF JUNE 1, 2016

Mayor Morales read the caption of Ordinance No. 9571.

Nicolas Toulet Legal member tasked by Robnett for regulation transportation network companies. summarize. First new ordinance does away with number of provisions including licensing requirement of drivers, that TNC share info of drivers on semi annual, and upkeep of vehicles before give rides out. With regard to background checks on TNC provide on drivers. in current ord TNC has option of performing background check or request chief of police perform on its behalf. included provision allow for yearly audit procedures to ensure comply with rest of requirements in ord. Lastly decreases fee including yearly permit and airport pick up fee. yearly fee currently 3000 no 1500 per year and airport 2.50 per ride cut to 1.00 per ride. Love what is purpose if current ord gives option of either them providing background or city what is purpose of getting rid of that and only allow providers to do background check. Nicolas they wanted it to be

more autonomous operation on their part they didn't want drivers come to to PD. Love its a choice there are other companies don't agree doesn't make any sense. Sparks if TNC multiple companies are allowed flexibility to do either don't know why would be serious problem. It was put in orig ord because had to address all companies. Already had choice. Robnett can amend if another company comes can provide. Love or can do it now or risk TNC. Dufford they keep data we don't get to see data. Nicholas TNC shares data of who drivers type of car and this ord wouldn't give ability to look at data have to rely on audit provision and work with TNC to make audit happen. Gives TNC fair amount of discretion. Dufford call for an audit they can quickly comply and we would never know. Morales in Austin had multiple sexual predators behind wheel but TNC wouldn't do anything. Robnett inherit risk but don't operate on fear of what if. Morales want to make sure this public has concern about safety about community. Love we spend 70% of budget on public safety number one thing we do. For a company not want to share info with local police don't understand. If its because it costs too much then putting profit above public safety. Morales cut fees in half. Hotchkiss really concerned with part that can have control over which is what put burden put upon uber but what discovered is they have separate concern that has to do with public safety. They would like to be secure can get a ride home if go out and get a drink providing for safety of community. Speaks to her strongly because brother killed by drunk driver. Why do they feel need for uber outpace our need for oversight of it. Valid concern for safety on both sides. Robnett places a lot of responsibility on TNC and limited number of intoxicated drivers on road. Morales did you ask for anymore background checks. response one background check only on each person. Dufford want to make sure we have access to every single driver whether they drive for a week or a year. Nicolas in interest of full disclosure and fairness there are mechanisms by which can obtain info in case incident comes up. Do need TNC company to go ahead and exercise good faith to help us along because don't have much enforcement mechanisms. As far as seeing the individual backgrounds checks come through it will not happen in ord. Dufford will it happen in audit. Nicolas terms of audit will have to be mutually agreed upon. Robnett what would we do if did get them. Love have police dept so can police they contract to drive people around. Morales trying to prevent then prevent problems from happening. Love how much do uber drivers make? Love asking info says drivers make is inflated because don't factor into 54 cents per mile and make less than minimum wage. need \$10 dollars to make rent 400 but factor in depreciation and maintenance comes like predatory lending. That is recipe for creating disgruntled employees. Not concerns with other cities but want in Midland. Sparks from his standpoint don't understand personally why don't want to share background checks except that there has become a lot of angst of sharing with government. We can see how this works and change ord later if not working. If we continue along path of this ord need to look at taxi ord make it more paring with what doing here. Don't thing should have completely different standards. Not in disagreement not crazy about govt looking over his shoulder either but understand from that standpoint. Morales is there an Uber representative present. Mayor asked whose in favor and who is against. Dufford don't care about sharing info with MPD just want to know that performing background check on every driver they hire. John ord requires them to perform background check on every driver. and the audit city shall have right to visually inspect sample of records. audit language does not provide look at everyone but a sample. If issue within sample then have remedies in ord that allow city to suspend their permit. Ord is a little different from one currently on books. Nicolas done extraordinary job researching what different cities have done this certainly is not his ordinance. This is a policy question and a tough question not necessarily legal. Lacy if complaint made about ind driver what recourse does PD have? Nicholas if

something that City would like to investigate could go to TNC and request the pertinent info it would be on TNC co to see what is pertinent to request. Love they get to choose what give. John can seek court order. Complaint against driver (Spencer) can be handled through app. Morales this a business friendly ordinance but not a safe ordinance. Give everything but not taking anything.

Becky Ferguson 1704 Story, thank for revisiting ordinance. Uber makes community safer for those who have been drinking. Like City Uber is very safety oriented there have been instances read about but it doesn't serve them to be careless about how they hire. Having Uber is good for prosperity of City it is such a convenience and for folks that come to Midland as way to get around shows to be modern city. Taxi's are not always available. Support new ordinance understand sensitivity about safety but think Uber equally sensitive like what Sparks said about Government not too involved in business.

Corey McDowell 911 Douglass, thank Robnett on hard work and congrats on securing written agreement if ord approved without change. When passing new ord important to ask safety, support economy or improves quality of life. Existing ord does none of those things but he proposed does none of them. Less accidents and less deaths where ride sharing services are not available. Bar owners and party goers uber used to take folks off road who been drinking. Uber signed up over 100 drivers before ord passed. Ability to bring important jobs to Midland. Visiting with drivers in Uber losing 10,000 X taxi drivers can make more money with Uber than taxi a lot full time not minimum wage job. One driver said he made \$60,000 a year and kept good records. Midlanders want safe transportation 1600 people signed petition 300 people signed facebook several had to have come to talk at first had thousand of people to bring uber back. each heard from constituents. Taken time to study. Don't vote against if haven't already done. Love current ord does not promote business growth or when this same ord is in other cities exact same. Corey mistaken haven't seen other city ordinances. There are restrictions more restrictive such as fingerprint now leaving Houston. Could take attitude just as good as Houston or New York don't want service if don't think so. Getting into weeds in perfect world might be great thing to do. such as alcohol check to require business owners background checks. Morales 56% of voters are concerned about safety and they denied ord. Corey legislation proposed in Austin is liberal city to say least safety. disagree that 56% didn't disagree.

Gary Sullivan 3302 Rosemont, what no one address is insurance that covers rider or driver of car. There are other companies wanting to offer rides to uber drivers that have been displaced. Took it upon himself to start limo service to pick up riders from airport and followed all rules and got commercial insurance. Uber will protect rider when in accident. but if hurt insurance covers them. Other companies flying under radar are rebel riders uninsured driver creating underlying problem. nobody's addressed that which is more dangerous. One accident with rebel driver.

Love that is illegal activity regulated under taxi ord has nothing to do today.

Daniel King, 4415 Northcrest drive. COM allows taxi to do background checks if get in wreck get drug tested immediately. Another thing that Austin bigger city than us is kicking them out. Only getting one time background check if person commits crime can't be checked. That is scary. If out there on street drunk and riding with somebody in taxi or other company they don't do background check. Just had incident where uber

drive committed credit card fraud on his customers account. Uber driver committed credit card fraud emptied saving and banking account out. That person also had outstanding warrants outside of Midland. Might as well work on oil field. Dufford what cost to do background check and how many times. Daniel do regularly every time get a chance. \$27 to do background check. Done by PD go get a permit. Permian Basin, Imperial, Metro Ai Taxi, elite. Dufford if address ord and do something just like you would be happy. Dufford if we do this then need to look at all taxi ordinance.

Daniel Kingsmill city not big city where can. Dufford get where coming from if pass today will come back and revisit every taxi and limo service and do something similar a whole lot cheaper to operate in City. At 3,000/year paying for permits. Morales that is policy is giving in to Uber.

Love one question for MR. King on background checks on once or annual or? Daniel once a year background every year on drivers. Every driver has to go to PD to get background check. Lacy it will apply to to Uber drivers renew background check every year. Patrick Kirk 3014 SCR 1213 owner Permian Basin Taxi.

Thomas Sigh, they are as business people want to be treated equally. If level up then fine with taxi drivers. Not because don't want Uber or Lyft but treat us all equally. Free competition. They have app, they also have app. Taxi do background checks on every driver every year, drug test and training. Dufford if passes today then will level playing field in theory. Have to do inspection every month.

Shafik Tajani 4113 Ratliff Court, can pass ordinance but have to get taxi one done at same time because giving Uber unfair advantage to guys that have been here. can't pass will in all fairness to businesses been here.

But he is for Uber.

Love in favor of Uber, used it, like it, but adamant about safety of citizens and gives great concern. This would be easier to negotiate with Uber if hadn't done what did originally such as negotiate with them and then dropped a story it is a tactic use in every community to get their way. They are an 800 pound gorilla that leaves distaste when talking about safety.

Spencer also offended with what happened on previous ord but got to move past that but benefit Midland has outweighs past feelings. Lacy struggled with issue because did have agreement and so will not in support or against he will abstain.

Dufford hopes to turn out to be a moot point hope state legislatures come up with statewide ordinance. Have to live with ord as well willing to give it a year if don't like what is happened then can kick them out. willing to try it. Sparks ought to at least try it. should bring up taxi ordinance and make parity between businesses. Courtney not by next meeting but first meeting in June. John needs to start with Police and Legal will work with them. Caution that TNC operating ordinance they take time to get together to do it right. Morales hear message going to update taxi ordinance to support discussion today. Love cautions that Robnett negotiated if we approve this today then he has written agreement. Robnett plan to resume business in midland if proposed ord approved without change. Love not against Uber but sharing info is important. Mayor Uber has been given a lot of leniency, safety was major issues for all Council will watch

very closely if approved. and work with jTaxi service.

Council Member Robnett moved approval of the first of two readings of Ordinance No. 9571 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss.

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Robnett. NAY: Love. ABSTAIN: Lacy. ABSENT: None.

EXECUTIVE SESSION

recessed to executive session at 12:19 p.m.

38. Pursuant to Texas Government Code §551.101, the Council will hold an Executive Session which is closed to the public to discuss the following matters as permitted under the following Texas Government Code Sections:

- a. Section §551.087 Deliberate Economic Development Negotiations.
 - a.1. Discuss business prospects that the City seeks to have, locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.

All of the business at hand having been completed, the meeting adjourned at ____ p.m.

PASSED AND APPROVED the __ day of ____, 2016.

Jerry F. Morales, Mayor

ATTEST:

Amy M. Turner, City Secretary