

**MIDLAND CITY COUNCIL
MINUTES
May 14, 2013**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:00 a.m. on May 14, 2013.

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

Council Members absent: Council Member Jerry Morales (At-Large) (Morales arrived at 9:05 a.m.), and Council Member Michael Trost (District 4) (Trost arrived at 9:03 a.m.).

Staff members present: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, Assistant City Manager Jim Nichols, City Secretary Amy Turner, General Services Director Robert Patrick, Utilities Director Stuart Purvis, Administrative Services Director Catherine Clifton, Engineering Services Director Jose Ortiz, Airports Director Marv Esterly, Chief Information Officer Sharlett Chowning, Solid Waste Director Morris Williams, Downtown Development Director Genora Young, City Engineer David Beard, Building Official Steve Thorpe, GIS Manager Bill Hodge, Acting Planning Division Manager Ken VanDyne, Transportation Manager Gary Saunders, Assistant Code Administration Manager Ron Jenkins, and Public Information Officer Sara Higgins.

1. Receive a report from Administrative Service on the proposed Compensation and Classification study.

Deputy City Manager Tommy Hudson reported the City will be conducting a Compensation and Classification study noting the last study was done in-house in 1999. This briefing will tie into Agenda Item number 7 on the regular agenda.

Administrative Services Director Catherine Clifton reported that everyone understands the compensation portion of the study but the other portion is the classification. They will be looking at ways the City values and places employees in specific job categories. Recommendations for suggested changes will be made. She reported it will take the consultant about 4-5 months to complete the study.

When asked how this would tie into the budget, City Manager Sharp noted the study would not be completed before the next year's budget is in place but he intended to set aside money in the budget to address a portion of the recommendations made. Deputy City Manager Hudson noted that the City is losing employees such as mechanics to the private sector and that the consultant will make recommendations on changes that need to be implemented.

Ms. Clifton confirmed that the study will also look at similar positions in the private sector noting the difficulty to obtain accurate information because the private sector is not required to share information; she also noted that the implementation may be made over several years.

2. Receive a presentation regarding the proposed Transportation Action Plan.

Engineering Services Director Jose Ortiz, in response to concerns of the City Council expressed at the retreat, put together a proposed Transportation Action Plan. He reported that over the last 4 years there has been a 33 percent increase in traffic. He noted his plan included short term enhancements that could be completed in less than one year, mid-term enhancements that would take one to five years to complete and long-term enhancements that would take more than five years.

Short term enhancements included conducting a citywide traffic analysis (re-time and re-phase signals and capacity improvements), preparing guidelines for the Traffic Impact Analysis, developing an Access Management Guidelines, coordinating with TXDOT, MOTOR MPO, and EZ Rider, and evaluating multi-modal alternatives.

Mid-term enhancements included installing Pan-Tilt-Zoom cameras at numerous signalized intersections, capital improvement projects, mid-term construction projects, other recommendations to be identified in the Citywide Traffic Analysis, and the introduction of traffic calming devices to minimize speeding and cut through traffic.

Long-term enhancements included other enhancements identified in Traffic Study currently under review, Loop 250 improvements, extending Avalon from Highway I-20 to Business I-20, Fairground Road expansion, and implementation of the Master Thoroughfare Plan.

Mr. Ortiz also identified they were looking at signal communication to provide better progression through intersections. City Manager Sharp noted that in the short term the Police Department will be addressing enforcement issues.

3. Receive a presentation on Pictometry Imagery and its use within the City.

Due to a lack of time, this item was moved to the Briefing Session of the May 28, 2013 City Council Agenda.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:55 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:04 a.m., May 14, 2013.

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

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

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

OPENING ITEMS

1. Invocation - Father Ricardo Lopez, Saint Ann's Catholic Church
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Council Member Sparks presented a Proclamation for National Missing Children's Day.
 - b. Council Member Love presented a Proclamation for Motorcycle Safety Awareness Month.
 - c. Mayor Perry received a presentation from Midland Retired School Personnel Program. There were 177,787 volunteer hours in Midland for a value of \$3,936,204.18.

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.

Ryan Lovell, 1917 Huntington, distributed letters to the City Council and spoke regarding Fire Station Number 5. He asked the Council to overturn the decision of Fire Chief Isbell and return the fire truck to the station.

Brent Hilliard, 4800 Island Drive, spoke regarding Fire Station 5. He reported he met with Fire Chief Isbell and reviewed data. He noted that a very small percentage of calls were fire related and that fire trucks spend most of their time chasing EMS calls. He noted the Fire Department is first focused on saving lives and reported they have done their job. He acknowledged it is an emotional decision but should be based on community needs.

Chad Clark, 4605 Woodbar Court, spoke regarding Fire Station 5. He is a retired fire fighter and was involved in the process of deliberating the response time for calls. He

felt the issue needed to be resolved by the Fire Chief and his staff, as they are the most competent and knowledgeable about what the community needs. He felt that resources should be placed at appropriate places based on the data.

Council Member Morales reported he has received many calls regarding Fire Station 5 and the citizens are concerned. He suggested a town hall meeting so that the decision that was made could be clarified to the public.

Council Member James noted that of the three fundamental things cities do, public safety is the largest responsibility. The community leaders need to ensure that the citizens feel safe. He backs the decision that was made to move the fire truck because it was data-driven but that information has not been conveyed to the public. He suggested the fire truck be brought back, communicate with the members of the community about the data, and then make a decision together as a community.

Council Member Sparks felt it would be a shame to move the fire engine back noting what matters most is that the fire fighters arrive at the scene. He is in favor of overall faster response times and noted that the situation on Sinclair is a prime example of how critical response times are.

CONSENT AGENDA

Council Member Dufford moved to approve Consent Agenda items 5 - 16 excluding 9, 15, 16; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

5. Approved a motion approving the following minutes:
 - a. Regular Meeting of April 23, 2013.
6. Received information regarding second quarter Fiscal Year 2012 - 2013 Investment Report. (FINANCE)
7. Approved a resolution authorizing a professional services agreement for a Classification and Compensation Study for the Administrative Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 136

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH PUBLIC SECTOR PERSONNEL CONSULTANTS, INCORPORATED, OF DALLAS, TEXAS, TO PERFORM A CLASSIFICATION AND COMPENSATION STUDY FOR THE ADMINISTRATIVE SERVICES DEPARTMENT; AND APPROPRIATING FUNDS

8. Approved a resolution approving the purchase of 27 Panasonic CF-31 laptops including 3 years of Panasonic Protection Plus for police vehicles through Texas DIR Contract SDD-1365 from Visual Pro 360 for the Garage Division. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 137

RESOLUTION APPROVING THE PURCHASE OF TWENTY-SEVEN (27) PANASONIC

CF-31 LAPTOP COMPUTERS FOR USE IN POLICE VEHICLES, INCLUDING A 3-YEAR PROTECTION PLAN, THROUGH THE TEXAS DEPARTMENT OF INFORMATION RESOURCES AT A TOTAL COST OF \$111,105.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A STATE OF TEXAS COOPERATIVE PROGRAM

10. Approved a resolution authorizing the execution of first amendment to the Lease Agreement for Hangar Facility between COG Realty LLC, a Texas Limited Liability Company and the City of Midland, Texas. (AIRPORTS)

RESOLUTION NO. 2013 - 139

RESOLUTION AUTHORIZING THE EXECUTION OF A FIRST AMENDMENT TO THE LEASE AGREEMENT BETWEEN COG REALTY LLC AND THE CITY OF MIDLAND REGARDING AN AIRPORT HANGAR FACILITY AT MIDLAND INTERNATIONAL AIRPORT

11. Approved a resolution authorizing the execution of a Memorandum of Lease Agreement for Airport Hangar Facility between COG Realty LLC, a Texas Limited Liability Company and the City of Midland, Texas. (AIRPORTS)

RESOLUTION NO. 2013 - 140

RESOLUTION AUTHORIZING THE EXECUTION OF A MEMORANDUM OF LEASE AGREEMENT FOR AIRPORT HANGAR FACILITY BETWEEN COG REALTY LLC AND THE CITY OF MIDLAND; AND ORDERING RECORDATION BY THE CITY SECRETARY

12. Approved a resolution authorizing the execution of an Affidavits and Indemnity as to Debts, Liens and Possession Amendment with reference to the Lease Agreement for Hangar Facility between COG Realty LLC, a Texas Limited Liability Company and the City of Midland, Texas. (AIRPORTS)

RESOLUTION NO. 2013 - 141

RESOLUTION AUTHORIZING THE EXECUTION OF AN AFFIDAVITS AND INDEMNITY AS TO DEBTS, LIENS AND POSSESSION REGARDING THE AIRPORT HANGAR FACILITY LEASE AGREEMENT BETWEEN COG REALTY LLC AND THE CITY OF MIDLAND

13. Approved a resolution accepting preclearance from the U.S. Department of Justice regarding annexations effective April 26, 2013. (CITY SECRETARY'S OFFICE)

RESOLUTION NO. 2013 - 142

RESOLUTION ACCEPTING PRECLEARANCE FROM THE UNITED STATES DEPARTMENT OF JUSTICE REGARDING ANNEXATIONS BY ORDINANCE NOS. 9077, 9078, 9079 AND 9080 EFFECTIVE IN 2012; PRECLEARANCE BEING EFFECTIVE APRIL 26, 2013

14. Approved a resolution authorizing the acceptance of a \$20,000.00 grant award from Community National Bank for the Owner Occupied Housing Assistance Program; and appropriating funds. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 143

RESOLUTION AUTHORIZING THE ACCEPTANCE OF A GRANT AWARD FROM COMMUNITY NATIONAL BANK FOR THE OWNER OCCUPIED HOUSING ASSISTANCE PROGRAM; THE GRANT AWARD IS IN THE AMOUNT OF \$20,000.00; THE AWARD WILL BE UTILIZED FOR RECONSTRUCTION PROJECT COSTS FOR THE CITY'S OWNER OCCUPIED HOUSING ASSISTANCE PROGRAM; AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS; AND APPROPRIATING GRANT FUNDS THEREFOR

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

9. Consider a resolution rescinding resolution 2013-065, rejecting all bids and authorizing re-advertisement for bids for Lamesa Road Pedestrian Access Improvements for the Engineering Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 138

RESOLUTION RESCINDING RESOLUTION NO. 2013-065; REJECTING ALL BIDS RECEIVED FOR BID NUMBER 6078-13 FOR THE LAMESA ROAD PEDESTRIAN ACCESS PROJECT; AND RATIFYING ALL ACTIONS TAKEN BY THE ENGINEERING SERVICES DEPARTMENT AND THE GENERAL SERVICES DEPARTMENT REGARDING THE RE-BID OF THE LAMESA ROAD PEDESTRIAN ACCESS PROJECT

Council Member Love noted that the Lamesa Road Project had been going on since 2009 and asked that the process be expedited.

City Manager Sharp reported that the contractor was unable to comply with the terms of the contract and explained the bid process.

When asked about Council's prior direction about not rejecting all bids, City Attorney Stretcher replied that staff needs to make sure the specs allows for the opportunity to go to the second lowest bidder.

City Engineer Beard noted the bids would open on May 22 and an item for approval would be on the May 28 agenda.

Council Member Love moved to adopt Resolution No. 2013 - 138; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

15. Consider a resolution authorizing the execution of a Right-of-Way License Agreement between the City of Midland and Rust Oil Company for the purpose of placement, operation and maintenance of a four (4) inch poly gas pipeline contained within a thirteen and three/eighths (13 3/8) inch diameter steel casing pipe, in a portion of Garfield Street right-of-way and a portion of the Midland Draw Floodway, Section 9, Block "X", H.P. Hilliard Survey, City of Midland, Midland County, Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 144

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND RUST OIL CORPORATION; SAID RIGHT-OF-WAY LICENSE

IS FOR THE PURPOSE OF ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACEMENT, OPERATION AND MAINTENANCE OF A FOUR (4) INCH POLY GAS PIPELINE CONTAINED WITHIN A THIRTEEN AND THREE/EIGHTS (13 3/8) INCH DIAMETER STEEL CASING PIPE, IN A PORTION OF GARFIELD STREET RIGHT-OF-WAY AND A PORTION OF THE MIDLAND DRAW FLOODWAY; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTION 9, BLOCK "X", H.P. HILLIARD SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR TWENTY-FIVE (25) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL TWENTY-FIVE (25) YEAR TERM UPON 90 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

It was noted this item was pulled for the Mayor to abstain on items 15 and 16.

Council Member Love moved to adopt Resolution No. 2013 - 144; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Dufford, James, Sparks. NAY: None. ABSTAIN: Perry. ABSENT: None.

16. Consider a motion on a request by Landgraf, Crutcher & Associates for the Lost Mountain Addition - Section 3, to approve items requested for deferral in the amount of \$29,000, and to waive the associated public improvement guarantee. The subject property is located between Midkiff Road and Garfield Street along the extension of Greentree Boulevard. (ENGINEERING SERVICES)

City Engineer David Beard gave an overview of the item noting the property owner wants to split the land into three sections, that the use of a septic tank is okay, and that water will be extended to the property at the cost of the owner. The property owner has agreed to cover the cost of future improvements.

City Engineer Beard answered questions about the extension of Green Tree Boulevard noting it would circumvent this property.

Council Member Love moved to approve a motion on a request by Landgraf, Crutcher & Associates for the Lost Mountain Addition - Section 3, to approve items requested for deferral in the amount of \$29,000, and to waive the associated public improvement guarantee. The subject property is located between Midkiff Road and Garfield Street along the extension of Greentree Boulevard; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Dufford, James, Sparks. NAY: None. ABSTAIN: Perry. ABSENT: None.

SECOND READINGS

17. Consider an ordinance on second reading annexing and adopting a service plan for certain areas adjoining the present City limits, being a 104.50-acre tract of land out of Section 38, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, and being more specifically described by metes and bounds in Section One hereof (Generally located on the west side of the extension of Avalon Drive, south of SH 191). (DEVELOPMENT SERVICES) (First reading held April 23, 2013.)

ORDINANCE NO. 9141

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND,

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

Deputy City Secretary Reyes read the caption of Ordinance No. 9141.

Council Member Love moved to approve the second and final reading of Ordinance No. 9141 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Dufford, James, Sparks. NAY: None. ABSTAIN: Perry. ABSENT: None.

18. Consider an ordinance on second reading on a request by D.R. Horton to establish the initial zoning of annexed land (Tract 1) as PD, Planned District for a Housing Development on a 104.5-acre tract of land out of Section 38, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located at the south extension of Avalon Drive, approximately 960 feet south of Deauville Boulevard.) (DEVELOPMENT SERVICES) (First reading held April 23, 2013.)

ORDINANCE NO. 9138

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 104.50-ACRE TRACT OF LAND OUT OF SECTION 38, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; SAID TRACT IS GENERALLY LOCATED ON THE WEST SIDE OF THE AVALON DRIVE EXTENSION, SOUTH OF STATE HIGHWAY 191; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Reyes read the caption of Ordinance No. 9138.

Council Member Trost moved to approve the second and final reading of Ordinance No. 9138 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Dufford, James, Sparks. NAY: None. ABSTAIN: Perry. ABSENT: None.

19. Consider an ordinance on second reading on a request by Arthur Zuniga for a zone change from FD, Future Development District to 1F-3, One-Family Dwelling District on a 38.60-acre tract of land out of Section 13, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the southwest corner of the intersection of Sherwood Drive and Sandstone Drive, approximately 1,000 feet west of Holiday Hill Road.) (DEVELOPMENT SERVICES) (First reading held April 23, 2013.)

ORDINANCE NO. 9139

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY

PERMITTING A 38.60-ACRE TRACT OF LAND OUT OF SECTION 13, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A 1F-3, ONE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE CORNER OF SHERWOOD DRIVE AND SANDSTONE DRIVE, APPROXIMATELY 1,000 FEET WEST OF HOLIDAY HILL ROAD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Reyes read the caption of Ordinance No. 9139.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9139 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

20. Consider an ordinance on second reading on a request for the vacation of a 0.632-acre right-of-way dedication contained within Lots 7-12, Block 93; Lots 1, 2, 5 and 6, the adjacent vacated 20 foot alley and the adjacent vacated right-of-way of West Kentucky Avenue, Block 109, all out of Original Town, City and County, Midland Texas. (Generally located on the north side of West Front Street between South Marienfeld Street and South Big Spring Street.) (DEVELOPMENT SERVICES) (First reading held April 23, 2013.)

ORDINANCE NO. 9140

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

Deputy City Secretary Reyes read the caption of Ordinance No. 9140.

Council Member Trost moved to approve the second and final reading of Ordinance No. 9140 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks.

Susie Hitchcock-Hall of Susie's South Forty Confections reported her candy factory would be relocated to the downtown and that they would be open for tours.

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

21. Consider an ordinance on second reading on a request by Richard Tatsch (Douglas Avenue) for a zone change from 1F-1, One-Family Dwelling District to PD, Planned District for Housing Development on Lots 1 through 6, Block 7, Langford-Weatherred

Addition, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of North "A" Street and Douglas Avenue.) (DEVELOPMENT SERVICES) (First reading held April 23, 2013.)

ORDINANCE NO. 9134

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 1-6, BLOCK 7, LANGFORDWEATHERED ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 1F-1, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF NORTH "A" STREET AND DOUGLAS AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Reyes read the caption of Ordinance No. 9134.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 9134 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

PUBLIC HEARINGS

22. At approximately 10:30 A.M. hold a public hearing and consider an ordinance on a request by Michael Postar for a zone change from LR-1, Local Retail District on Lot 1, Block 10 and from MF-1, Multiple Family Dwelling District on Lot 15, Block 11 and the vacated 0.23-acre alley right-of-way, to PD, Planned District for a Shopping Center, all out of Trueland Addition, Section 2, City and County of Midland, Texas. (Generally located on the southwest corner of the intersection of East Scharbauer Drive and North Fairgrounds Road.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9142

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1, BLOCK 10, LOT 15, BLOCK 11, AND THE ADJACENT VACATED 0.23-ACRE ALLEY RIGHT-OF-WAY, ALL OUT OF TRUELAND ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED LR-1, LOCAL RETAIL DISTRICT, IN PART, AND MF-1, MULTIPLE-FAMILY DWELLING DISTRICT, IN PART, TO BE USED AS A PD, PLANNED DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF EAST SCHARBAUER DRIVE AND NORTH FAIRGROUNDS ROAD); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Senior Planner Ken VanDyne gave an overview of the item noting the item was for a proposed mini storage facility and that no letters of objection had been received.

Mayor Perry opened the public hearing at 11:07 a.m.

Michael Postar, 3110 Kentucky, reported this was their third storage facility and it would include surveillance cameras and would be gated. He expected the monthly rates to be about \$80-\$120 a month.

Jim Prince, 6101 State Highway 349, reported there was a great need for storage space considering the current conditions in Midland. He noted that many GPS units guide drivers down Fairgrounds from I-20 and that this project would improve the view on Fairgrounds and be a good thing for Midland.

There being no one else wishing to speak, the public hearing was closed at 11:13 a.m.

Deputy City Secretary Reyes read the caption of Ordinance No. 9142.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9142 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

23. At approximately 10:33 A.M. hold a public hearing and consider a resolution on a request by Katherine and Clint Williamson for a variance for the required paving of an alley for rear entry access on the east 1/3 of Lot 9, all of Lot 10 and the west 2/5 of Lot 11, Block 14, North Park Hill Addition, City and County of Midland, Texas. (Generally located on the north side of Country Club Drive, approximately 270 feet west of North "G" Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 2013 - 149

RESOLUTION GRANTING A VARIANCE FOR THE EAST 1/3 OF LOT 9, ALL OF LOT 10 AND THE WEST 2/5 OF LOT 11, BLOCK 14, NORTH PARK HILL ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF COUNTRY CLUB DRIVE, APPROXIMATELY 270 FEET WEST OF NORTH "G" STREET), BY PERMITTING ACCESS TO SAID PROPERTY FROM AN UNPAVED ALLEY WHICH DOES NOT CONFORM TO CITY OF MIDLAND STANDARD SPECIFICATIONS

Senior Planner Ken VanDyne gave an overview of the item noting the applicant was looking for a variance to the subdivision code to not be required to pave the alley up to the garage he plans to construct. This item went before Planning & Zoning and was approved 5-4. Staff recommends against approval. He reviewed what other properties currently have garages in the alley.

Mayor Perry opened the public hearing at 11:20 a.m.

Clint Williamson, 1410 Country Club, stated he wanted to build the garage for a safety reason for his wife to load and unload their 3 and 5 year old children. He presented several letters of support from his neighbors. He indicated it would be cost prohibitive to pave the entire alley and still have enough money to build the garage.

There being no one else wishing to speak, the public hearing was closed at 11:26 a.m.

Council Member James moved to adopt Resolution No. 2013 - 149; seconded by Council Member Dufford.

Discussion ensued about the number of garages in the alley. It was determined that there were four garages; two were paved and two were unpaved.

When asked about putting up money for paving his portion in the future, Assistant City Manager Nichols noted they could use the existing deferral process.

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

24. At approximately 10:36 A.M. hold a public hearing regarding a proposed Oil and Gas Permit to Petroplex Energy, Inc. (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (Western T-8 #3) located 467 feet from north line and 2058 feet from west line, Section 8, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the east side of extension of North Midland Drive, approximately 1 mile north of Green Tree Boulevard.) Public hearing only, no further action required. (DEVELOPMENT SERVICES)

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting that no letters of objection had been received.

Mayor Perry opened the public hearing at 11:39 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

MISCELLANEOUS

26. Consider a resolution approving the issuance of a permit to Callon Petroleum Operating Co. (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (Pecan Acres 22C #2) located 467 feet from east line and 467 feet from south line, Section 22, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located approximately 430 feet north of Briarwood Avenue, north of North County Road 1250.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 145

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO CALLON PETROLEUM OPERATING COMPANY ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 467 FEET FROM THE EAST LINE AND 467 FEET FROM THE SOUTH LINE, SECTION 22, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED APPROXIMATELY 430 FEET NORTH OF BRIARWOOD AVENUE, NORTH OF NORTH COUNTY ROAD 1250); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting that no letters of objection had been received and that the Oil & Gas Advisory Committee had recommended that no landscape variance be granted.

Council Member Morales moved to adopt Resolution No. 2013 - 145; seconded by Council Member Love.

Council Member Trost moved to amend the motion by requiring landscaping when the permit is issued; seconded by Council Member Morales. The motion to amend carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: Sparks. ABSTAIN: None. ABSENT: None.

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

27. Consider a resolution approving the issuance of a permit to Vector Oil and Gas (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (Barron #2) located 2050 feet from north line and 2071 feet from west line, Section 6, Block "X", H. P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the Oriole Drive, approximately ½ mile south of Mockingbird Lane.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 146

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO VECTOR OIL & GAS LP ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 2,050 FEET FROM THE NORTH LINE AND 2,071 FEET FROM THE WEST LINE, SECTION 6, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF ORIOLE DRIVE, APPROXIMATELY ½ MILE SOUTH OF MOCKINGBIRD LANE); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting that one letter of objection had been received, no variances were being requested, and the Road Repair Agreement would be consolidated with the existing Road Repair Agreement.

Council Member Sparks moved to adopt Resolution No. 2013 - 146; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

28. Consider a motion appealing the Building Official's denial of a sign permit application by Cinergy Cinemas. (Generally located on Lots 1A and 2A, Block 2, Gateway Plaza Addition, Section 3.) (DEVELOPMENT SERVICES)

Senior Planner Ken VanDyne gave an overview of the item and reviewed the proposed signs.

City Manager Sharp reported the City needed to take a look at its current sign ordinance.

Council Member Dufford moved to approve a motion appealing the Building Official's denial of a sign permit application by Cinergy Cinemas. (Generally located on Lots 1A

and 2A, Block 2, Gateway Plaza Addition, Section 3.); seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

29. Consider an ordinance amending Title III, Chapter 1, Section 10 of the City Code. (SOLID WASTE)

ORDINANCE NO. 9144

AN ORDINANCE AMENDING TITLE III, "DEPARTMENTS," CHAPTER 1, "WATER DEPARTMENT," SECTION 10, "PERMITTED USES OF THE OPTIONAL LITTER ABATEMENT AND BEAUTIFICATION FEE," OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO REFLECT THE CURRENT ORDINANCE NO. 9065 WHICH MADE SAID FEE MANDATORY; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

Solid Waste Director Morris Williams gave an overview of the item noting this change was to clarify in the Code that the litter abatement fee is mandatory.

Deputy City Secretary Reyes read the caption of Ordinance No. 9144.

Council Member Love moved approval of the first of two readings of Ordinance No. 9144 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

30. Consider an ordinance amending Title III, Chapter 1, Section 11 of the City Code. (SOLID WASTE)

ORDINANCE NO. 9145

AN ORDINANCE AMENDING TITLE III, "DEPARTMENTS," CHAPTER 1, "WATER DEPARTMENT," SECTION 11, "BILLING OF THE OPTIONAL LITTER ABATEMENT AND BEAUTIFICATION FEE," OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO REFLECT THE CURRENT ORDINANCE NO. 9065 WHICH MADE SAID FEE MANDATORY; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

Deputy City Secretary Reyes read the caption of Ordinance No. 9145.

Council Member Love moved approval of the first of two readings of Ordinance No. 9145 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

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

No appointments were made.

32. Consider a resolution authorizing the employment of the law firm of Lloyd Gosselink Rochelle and Townsend to assist in representing the City of Midland for the Railroad Commission of Texas. (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2013 - 147

RESOLUTION AUTHORIZING THE CITY ATTORNEY TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH JASON HILL OF THE LAW FIRM OF LLOYD GOSSELINK ROCHELLE AND TOWNSEND, P.C. OF AUSTIN, TEXAS IN CONNECTION WITH THE PROTEST OF A COMMERCIAL SALTWATER DISPOSAL WELL IN SECTION 7, BLOCK 74, PUBLIC SCHOOL LAND SURVEY, WINKLER COUNTY, TEXAS; AND ALLOCATING FUNDS; AND THE CITY ATTORNEY AND ATTORNEYS WITH THE LAW FIRM OF LLOYD GOSSELINK ROCHELLE AND TOWNSEND, P.C. ARE HEREBY AUTHORIZED TO EMPLOY NEEDED EXPERTS AND MAKE ALL APPEARANCES BEFORE THE RAILROAD COMMISSION OF TEXAS

Council Member Trost moved to adopt Resolution No. 2013 - 147; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

33. Consider a resolution ratifying the action of the City of Midland's Oil and Gas Coordinator, sent to the Railroad Commission of Texas protesting the drilling of a commercial saltwater disposal well at the T-Bar Ranch. (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2013 - 148

RESOLUTION RATIFYING THE ACTIONS OF THE CITY OF MIDLAND'S OIL AND GAS COORDINATOR IN RELATION TO PROTESTING THE APPLICATION OF HERITAGE GATHERING CORPORATION FOR THE DEVELOPMENT OF A COMMERCIAL SALTWATER DISPOSAL WELL IN SECTION 7, BLOCK 74, PUBLIC SCHOOL LAND SURVEY, WINKLER COUNTY, TEXAS; RATIFYING AND AFFIRMING ALL PRIOR ACTS OF THE MAYOR, CITY MANAGER, AND CITY ATTORNEY IN ANY WAY RELATED TO THE T-BAR RANCH WATER FIELD IN WINKLER AND LOVING COUNTY, TEXAS; AND AUTHORIZING THE CITY MANAGER TO PURCHASE WATER RIGHTS AND/OR THE SURFACE OF PROPERTY IN WINKLER AND LOVING COUNTY, TEXAS, IN THE VICINITY OF THE T-BAR WATER FIELD; AND APPROPRIATING FUNDS

Council Member Trost moved to adopt Resolution No. 2013 - 148; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

At 12:57 p.m. Mayor Perry recessed the meeting until 7:00 p.m. when Item number 25 would be considered.

EXECUTIVE SESSION

34. 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 legal issues related to a hearing before the Railroad Commission of Texas regarding the application of Heritage Gathering Corporation for development of a commercial saltwater disposal well in Section 7, Block

74, Public School Land Survey, Winkler County, Texas.

- a.2. Discuss a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code.

Mayor Perry recessed the meeting to Executive Session at 12:06 p.m. The entire Council met in Executive Session until 12:35 p.m.

Mayor Perry reconvened the meeting to Regular Session at 12:55 p.m. to consider Agenda Items 32 and 33.

CDBG PUBLIC HEARING

Mayor Perry reconvened the meeting to regular session at 7:03 p.m. with the following Council Members present: Love, Morales, Trost, Perry and James.

25. At approximately 7:00 p.m. hold a public hearing on the 2013-2014 Community Development Block Grant Program. This is a public hearing only; no further action will be taken. (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 11, 2013, and that final approval was scheduled for July 23, 2013.

Discussion ensued about the possibility of moving the funding of some programs to the General Fund and instead use CDBG funding for rental assistance. Mr. Cantu noted he would need to research the item. Discussion continued about different funding opportunities, the way HUD funds money, and the different target areas the City has addressed.

Mayor Perry opened the public hearing at 7:25 p.m.

Michael Wallace, 1210 E. Cuthbert stated he owns a 6-acre tract of land and would be willing to donate half of the land if the City would install infrastructure including a street that would be named "Brenda Myers Wallace Street."

David Diaz, 208 S. Marienfeld, and Alynda Best, 305 E. Texas spoke regarding the Sparks Park Target Area expressing concern that there were no more target areas left. Mr. Diaz also addressed that the State of Texas has a program for rental assistance called Tenant Based Rental Voucher (TBRV) that any non-profit can tap into as long as they are administered by a non-profit.

There being no one else present wishing to speak, the public hearing was closed at 7:37 p.m.

All of the business at hand having been completed, the meeting adjourned at 7:37 p.m.

PASSED AND APPROVED the 28th day of May, 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary