

**MIDLAND CITY COUNCIL
MINUTES
May 22, 2012**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:00 a.m. on May 22, 2012.

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

Staff members present: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, City Secretary Amy Turner, Development Services Director Rick Crownover, Fire Chief Robert Isbell, General Services Director Robert Patrick, Utilities Director Stuart Purvis, Building Official Steve Thorpe, Senior Planner Ken VanDyne, Oil & Gas Compliance Officer Ron Jenkins, and Multimedia Developer Ryan Stout.

1. Receive an update from the Fire Department regarding the use of squad trucks for improved response times.

Fire Chief Isbell reported on the pilot program to use squad trucks instead of fire engines on any call that did not require fire hoses in an effort to lower response times. He reported that overall citywide response times have decreased. Discussion ensued about potential fuel savings and about making this a permanent program.

2. Receive an update from the Midland County Freshwater Supply District No. 1 regarding the delivery of water from T-Bar Ranch located in Winkler County and Loving County, Texas.

Jay Edwards provided an update to the City Council reporting that 30% of the right-of-way had been purchased, tanks were in prefabrication, the first geotechnical testing began on the elevated storage tank site, and provided an update on SCADA control system. Conversations continue with Oncor for power delivery and the system has been designed by Oncor. He provided an operations update.

Following discussion, Jay reported that they will have a link on Parkhill, Smith and Cooper website with updates on the project in order to be as transparent as possible, noting that every piece of pipe would be able to be tracked throughout the project.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:46 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:01 a.m., May 22, 2012.

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

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

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

OPENING ITEMS

1. Invocation - Monsignor Larry Droll, St. 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. Mayor Perry presented Certificates to the Midland 101 Class of 2011-12 Graduates.

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.

There was no one present from the public wishing to speak.

CONSENT AGENDA

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

5. Approved a motion approving the following minutes:
 - a. Regular meeting of May 8, 2012.
6. Approved a resolution approving a master agreement for Flexible Base "City Base"

Caliche - Bid 4843-12 (GENERAL SERVICES)

RESOLUTION NO. 2012 - 139

RESOLUTION APPROVING THE PURCHASE OF FIVE THOUSAND (5,000) TONS OF FLEXIBLE BASE CALICHE FROM JONES BROTHERS PARTNERSHIP, OF ODESSA, TEXAS, FOR A TOTAL COST OF \$63,750.00

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

RESOLUTION NO. 2012 - 140

RESOLUTION AUTHORIZING THE EXECUTION OF AMENDMENT NUMBER 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INCORPORATED, FOR IMPROVEMENTS CONTAINED IN THE AIRPORT CAPITAL IMPROVEMENT PROGRAM; SAID AMENDMENT TO INCLUDE THE FOLLOWING PROJECTS: EXECUTIVE APRON RECONSTRUCTION AREA B, NORTHWEST TAXILANE EXTENSION PROJECT PHASE 2, EMERGENCY ROADWAY AND GATES REHABILITATION, ACCESS CONTROL SYSTEM SOFTWARE AND CABLE UPGRADE, AIRPARK HANGAR EXPANSION, REPLAT AND REZONE PROPERTY AT MIDLAND INTERNATIONAL AIRPORT; THE CITY WILL UP-FRONT THE FEDERAL AVIATION ADMINISTRATION AND TEXAS DEPARTMENT OF TRANSPORTATION PORTION OF THE DESIGN PHASE OF THESE PROJECTS AND BE REIMBURSED OUT OF THE 2013 FEDERAL AVIATION ADMINISTRATION AND TEXAS DEPARTMENT OF TRANSPORTATION ENTITLEMENT FUNDS; THE CITY SHARE FOR THE PROJECT IS \$97,750.00, THE FEDERAL AVIATION ADMINISTRATION SHARE IS \$173,700.00, AND THE TEXAS DEPARTMENT OF TRANSPORTATION SHARE IS \$6,750.00; AND APPROPRIATING NECESSARY FUNDS

9. Approved a resolution authorizing the City of Midland Police Department in conjunction with the Midland County Sheriff's Department to apply for the Fiscal Year 2012 Justice Assistance Grant Funds. (POLICE)

RESOLUTION NO. 2012 - 141

RESOLUTION AUTHORIZING THE CITY OF MIDLAND TO FILE A JOINT APPLICATION WITH MIDLAND COUNTY FOR FISCAL YEAR 2012 JUSTICE ASSISTANCE GRANT FUNDS PROGRAM TOTALING \$31,908.00; AND AUTHORIZING THE EXECUTION OF AN AGREEMENT REGARDING THE DIVISION OF SAID GRANT FUNDS; THE CITY OF MIDLAND WILL RECEIVE \$19,145.00 (60%) AND MIDLAND COUNTY WILL RECEIVE \$12,763.00 (40%) OF THE GRANT FUNDS RESPECTIVELY; THIS AGREEMENT DOES NOT SUPERSEDE, MODIFY OR AMEND ANY OTHER PRIOR AGREEMENTS

10. Approved a resolution to approve Change Order Number 1 for the Headworks Improvements - Replacement of Influent Screens Project with Red River Construction Company and Appropriate Funds (UTILITIES)

RESOLUTION NO. 2012 - 142

RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER ONE WITH RED RIVER CONSTRUCTION COMPANY, INCORPORATED, ADDING \$503,102.00 FOR ADDITIONAL WORK TO THE EXISTING CONTRACT FOR THE

HEADWORKS IMPROVEMENTS - REPLACEMENT OF INFLUENT SCREENS PROJECT; AND APPROPRIATING \$503,102.00; THE ORIGINAL CONTRACT WAS FOR \$5,357,080.00; THIS CHANGE ORDER BRINGS THE TOTAL CONTRACT PRICE TO \$5,860,182.00

11. Received for information the Second Quarter Fiscal Year 2011 - 2012 Investment Report (FINANCE)
12. Approved a resolution to deny the effective date of an Atmos West Texas proposed rate increase. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2012 - 143

RESOLUTION OF THE CITY OF MIDLAND, TEXAS, DENYING ATMOS ENERGY CORPORATION - WEST TEXAS DIVISION'S ("ATMOS WEST TEXAS") REQUESTED RATE CHANGE; REQUIRING THE COMPANY TO REIMBURSE THE CITY'S REASONABLE RATEMAKING EXPENSES; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND THE CITY'S LEGAL COUNSEL

13. Approved a resolution authorizing the Mayor to negotiate and execute a Wholesale Water Delivery Agreement with the Midland County Fresh Water Supply District No. 1 (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2012 - 144

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A WHOLESALE WATER DELIVERY AGREEMENT WITH THE MIDLAND COUNTY FRESH WATER SUPPLY DISTRICT NO. 1 REGARDING THE TRANSPORTATION OF CITY-OWNED WATER FROM THE T-BAR RANCH WATER FIELD TO THE CITY OF MIDLAND; THE T-BAR RANCH WATER FIELD IS LOCATED IN LOVING COUNTY AND WINKLER COUNTY, TEXAS

The following item was pulled from Consent Calendar and considered individually.

8. Consider a motion on a request by Newton Engineering for Southwest Baptist Church to approve items requested for deferral in the amount of \$32,804, and to enter into a development agreement to accept funds for the construction of a water main extension along SH 191 frontage and to waive the associated public improvement guarantee. This property is positioned in the City Limits, generally located on the north side of SH 191 approximately 4 miles west of Loop 250. (ENGINEERING SERVICES)

City Engineer David Beard reported that the applicant requested the item be heard at a future date.

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

SECOND READINGS

14. Consider an ordinance on second reading on a request by Grace Partnership for a zone change from PD, Planned District for a Housing Development and from PD Planned District of a Transition District, to an Amended Planned District on Lots 1 and 2, Block 4, Gateway Plaza, Section 2, City and County of Midland, Texas. (Generally located on the west side of Tradewinds Boulevard, approximately 800 feet north of Business I-20 - District 2) (Development Services)

ORDINANCE NO. 9016

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

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

Council Member Morales moved to approve the second and final reading of Ordinance No. 9016 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

15. Consider an ordinance on second reading on a request by GRACO Real Estate for a zone change from PD, Planned District for a Shopping Center to Amended Planned District. (Development Services)

ORDINANCE NO. 9017

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 6.61-ACRE TRACT OF LAND OUT OF SECTION 4, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 435 FEET EAST OF BILLINGSLEY BOULEVARD); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

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

Council Member Trost moved to approve the second and final reading of Ordinance No. 9017 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

16. Consider an ordinance on second reading on a request by Milton Lary for a zone change from AE, Agriculture Estate District to PD, Planned District for a Shopping Center on Lot 87, 87A, 88 and 89, Block 3, Skyview Development, City and County of Midland, Texas. (Generally located on the south side of East Loop 250 North, between Cynthia Drive and Kniffen Avenue.) (Development Services)

ORDINANCE NO. 9018

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 87, 87A, 88 AND 89, BLOCK 3, SKYVIEW DEVELOPMENT, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED ON THE SOUTH SIDE OF EAST LOOP 250 NORTH, BETWEEN CYNTHIA DRIVE AND KNIFFEN DRIVE); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

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

Council Member Dufford moved to approve the second and final reading of Ordinance No. 9018 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

17. Consider an ordinance on second reading on a request by CVS Pharmacy for approval of a Municipal Setting Designation on Lot 1A, Block 1, Permian Shopping Center, Section 2, City and County of Midland, Texas. (Generally located on the northeast corner of Illinois Avenue and Andrews Highway). (Engineering)

ORDINANCE NO. 9021

AN ORDINANCE APPROVING A MUNICIPAL SETTING DESIGNATION SITE FOR LOT 1A, BLOCK 1, PERMIAN SHOPPING CENTER, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (COMMONLY KNOWN AS CVS PHARMACY, 301 ANDREWS HIGHWAY, MIDLAND, TEXAS 79701); PROVIDING FOR THE PROHIBITION OF THE USE OF GROUNDWATER FOR POTABLE AND IRRIGATION PURPOSES ; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

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

Council Member Morales moved to approve the second and final reading of Ordinance No. 9021 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

18. Consider an ordinance on second reading on a request by CY Houston Management Company for a Specific Use Permit with Term for the sale of alcoholic beverages, for on-premises consumption in a bar, on Lot 8, Block 2, Westridge Park Addition, Section 20, City and County of Midland, Texas. (Generally located on the northwest corner of Illinois Avenue and Andrews Highway.) (Development Services)

ORDINANCE NO. 9020

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 8, BLOCK 2, WESTRIDGE PARK ADDITION, SECTION 20, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH LOOP 250 WEST AND DEAUVILLE BOULEVARD), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A BAR FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

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

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9020 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

PUBLIC HEARINGS

19. At approximately 10:30 a.m. hold a public hearing and consider an ordinance on a City-initiated proposal to delete Section 11-2-1(E) 9 of the Subdivision Code. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9022

AN ORDINANCE AMENDING TITLE XI, "PLANNING AND DEVELOPMENT", CHAPTER 2, "PLATS AND SUBDIVISIONS", SECTION 1, "GENERAL PROVISIONS", SUBSECTION (E), "JURISDICTION", OF THE CITY CODE OF MIDLAND, TEXAS, BY REPEALING PARAGRAPH 9, WHICH PROHIBITS THE ISSUANCE OF A SEPTIC PERMIT FOR A NEW OR EXPANDED SEPTIC SYSTEM FOR PROPERTY FOR WHICH A PLAT HAS NOT BEEN APPROVED; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE; AND ORDERING PUBLICATION

Senior Planner Ken VanDyne reported the City initiated the request to amend the

subdivision code to strike the requirement of a septic permit in the ETJ. Staff felt it was ineffective for its intended use of stopping illegal platting. The item was approved by Planning & Zoning Commission and no letters of objection had been received.

Mayor Perry opened the public hearing at 10:33 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9022.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9022 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

20. At approximately 10:33 a.m. hold a public hearing and consider an ordinance on a request by Glenn Miller Homes for a zone change from PD, Planned District for a Housing Development to Amended Planned District. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9023

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 10A-29A, AND LOTS 31 AND 32, BLOCK 5, GREATHOUSE ADDITION, SECTION 8, 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 BOTH SIDES OF QUICKSAND COVE, WEST OF SPENCE DRIVE); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Senior Planner VanDyne reported this was a request by Glen Miller Homes noting the developer received sign-off from the three occupants of the 22-acre lot northeast of Holiday Hill Road and Briarwood. The applicant is changing the existing 15 foot setback to 10 feet. This item was approved 6-1 by Planning & Zoning and staff concurred with approval of this item. He noted there was a typo in the Ordinance. In the caption and Section One it says, "Planned District for a Shopping Center" but it should say, "Planned District for a Housing Development." He reported no letters of objection had been received.

Mayor Perry opened the public hearing at 10:37 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9023.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9023 in accordance with the Charter of the City of Midland with the amendment to change the wording "Planned District for a Shopping Center" to "Planned District for a Housing Development"; seconded by Council Member James. The motion carried by

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

21. At approximately 10:36 a.m. hold a public hearing and consider an ordinance on a request by Mockingbird Oaks Development for a zone change from FD, Future Development District to 1F-3, One-Family Development District and TH, Townhouse Development District. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9024

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 36.81-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A 1F-3, ONE-FAMILY DWELLING DISTRICT; BY PERMITTING A 3.98-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A TH, TOWNHOUSE DISTRICT; SAID TRACTS BEING LOCATED IN SECTION 25, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS; SAID TRACTS BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS MADE A PART HEREOF; SAID TRACTS ARE GENERALLY LOCATED ON THE WEST SIDE OF HOLIDAY HILL ROAD, APPROXIMATELY 450 FEET SOUTH OF BRIARWOOD AVENUE; 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 VanDyne reported this item was a request by the developer to rezone the property from FD, Future Development to put in a residential subdivision of 135 lots and four acres of townhomes. The item was approved by Planning & Zoning and staff concurs with their recommendation. Two letters of objection were received out of 57 letters that were mailed out.

Mayor Perry opened the public hearing at 10:42 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9024.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9024 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

MISCELLANEOUS

22. Consider a resolution approving the issuance of a permit to Vector Oil & Gas LP (Operator) for a Permit to Drill an Oil and Gas Well within the City Limits, (Barron #1) located 1,910.4 feet from the north line and 820.8 feet from the west line of Section 6, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the east side of Holiday Hill Road, approximately 1/2 mile south of Mockingbird Lane.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 145

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 1,910.4 FEET FROM THE NORTH LINE AND 820.8 FEET FROM THE WEST LINE, SECTION 6, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF HOLIDAY HILL ROAD, APPROXIMATELY ½ MILE SOUTH OF MOCKINGBIRD LANE)

Oil & Gas Compliance Officer Jenkins reported that this item previously went to a public hearing and no letters of objection had been received. The Oil & Gas Advisory Committee approved the item with the following recommendation of using multiple wells per pad site for possible directional drilling. There were no residences within 500 feet and no variances were needed.

Council Member Sparks moved to adopt Resolution No. 2012 - 145; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

23. Consider a resolution approving the issuance of a permit to Vector Oil & Gas LP (Operator) for a Permit to Drill an Oil and Gas Well within the City Limits, (Barron #3) located 714 feet from the north line and 730.4 feet from the west line located in Section 6, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the east side of Holiday Hill Road, approximately 720 feet south of Mockingbird Lane.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 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 714 FEET FROM THE NORTH LINE AND 730.4 FEET FROM THE WEST LINE, SECTION 6, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF HOLIDAY HILL ROAD, APPROXIMATELY 720 FEET SOUTH OF MOCKINGBIRD LANE)

Oil & Gas Compliance Officer Jenkins reported this well was to the north of the previous well, the same information applies from the previous item, no letters of objection had been received, the same recommendations apply from the Oil & Gas Advisory Committee, and the tank battery was located to the east of the location.

Council Member Sparks moved to adopt Resolution No. 2012 - 146; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

24. Consider a resolution authorizing the execution of a road repair agreement with Vector Oil & Gas LP regarding its applications to drill oil and gas wells within the City Limits, in Section 6, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. The Road Repair Agreement will cover Briarwood Avenue and Holiday Hill Road in the amount of \$75,000.00. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 147

RESOLUTION AUTHORIZING THE EXECUTION OF A ROAD REPAIR AGREEMENT WITH VECTOR OIL & GAS LP REGARDING ITS APPLICATIONS TO DRILL OIL AND GAS WELLS WITHIN THE CITY LIMITS IN SECTION 6, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS

Oil & Gas Compliance Officer Jenkins reported they would be using Briarwood and Holiday Hill Road to access the location where Mockingbird Lane will be connected.

Discussion ensued regarding the construction of Briarwood and the potential of using a cash deposit in lieu of a letter of credit.

Council Member Dufford moved to adopt Resolution No. 2012 - 147; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

25. Consider a motion approving an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "C" 1) inside the City Limits located 1021 feet from the north line and 2310 feet from the west line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the east side of the North Midland Drive, approximately 3/4 mile north of Mockingbird Lane - Resolution 2011-281) (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins reported that all of the following wells were for the same amendment to their permits and that fees have been paid for each permit. He described what items would be changed to the tank battery.

Council Member Sparks moved to approve an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "C" 1) inside the City Limits located 1021 feet from the north line and 2310 feet from the west line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the east side of the North Midland Drive, approximately 3/4 mile north of Mockingbird Lane - Resolution 2011-281); seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

26. Consider a motion approving an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "D" 1) inside the City Limits located 1021 feet from the north line and 1041 feet from the west line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the east side of the North Midland Drive, approximately 3/4 mile north of Mockingbird Lane - Resolution 2011-282) (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Jenkins reported everything was exactly the same as the previous item and the changes were strictly dealing with the tank battery.

Council Member Sparks moved to approve Approved a motion approving an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "D" 1) inside the City Limits located 1021 feet from the north line and 1041 feet from the west line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas.

(Generally located on the east side of the North Midland Drive, approximately $\frac{3}{4}$ mile north of Mockingbird Lane – Resolution 2011-282); seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

27. Consider a motion approving an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "G" 1) inside the City Limits located 1650 feet from the north line and 2310 feet from the east line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the North Midkiff Road, approximately $\frac{3}{4}$ mile north of Mockingbird Lane. – Resolution 2011-283) (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Jenkins reported this item contained the same changes.

Council Member Sparks moved to approve an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "G" 1) inside the City Limits located 1650 feet from the north line and 2310 feet from the east line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the North Midkiff Road, approximately $\frac{3}{4}$ mile north of Mockingbird Lane. – Resolution 2011-283); seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

28. Consider a motion approving an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "H" 1) inside the City Limits located 1650 feet from the north line and 990 feet from the east line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the North Midkiff Road, approximately $\frac{3}{4}$ mile north of Mockingbird Lane. – Resolution 2011-284) (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Jenkins reported this item contained the same changes.

Council Member Trost moved to approve an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "H" 1) inside the City Limits located 1650 feet from the north line and 990 feet from the east line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the North Midkiff Road, approximately $\frac{3}{4}$ mile north of Mockingbird Lane. – Resolution 2011-284); seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

29. Consider a motion approving an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "I" 1) inside the City Limits located 2310 feet from the south line and 990 feet from the east line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the North Midkiff Road, approximately $\frac{1}{2}$ mile north of Mockingbird Lane. – Resolution 2011-285) (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Jenkins reported this item contained the same changes.

Council Member Dufford moved to approve an amendment to an oil and gas well drilling

permit from Bluestem Energy Holdings, LLC. (Evans "I" 1) inside the City Limits located 2310 feet from the south line and 990 feet from the east line, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the North Midkiff Road, approximately ½ mile north of Mockingbird Lane. – Resolution 2011-285); seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

30. Consider a motion approving an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "J" 1) inside the City Limits located 2322 feet from the south line and 2310 feet from the east line, Section 8, Block "X", H. P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the North Midkiff Road, approximately ½ mile north of Mockingbird Lane. – Resolution 2011-301) (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Jenkins reported this item contained the same changes.

Council Member Hailey moved to approve an amendment to an oil and gas well drilling permit from Bluestem Energy Holdings, LLC. (Evans "J" 1) inside the City Limits located 2322 feet from the south line and 2310 feet from the east line, Section 8, Block "X", H. P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the North Midkiff Road, approximately ½ mile north of Mockingbird Lane. – Resolution 2011-301); seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

31. Consider a motion interpreting City of Midland Ordinance No. 8640 and determining that a proposed apartment development to be located on Lot 1, Block 11 and the north 100 feet of Lot 1, Block 10, Claydesta Plaza, City and County of Midland, Texas, is in compliance with Ordinance No. 8640 which governs said property. Said property is generally located on the southeast corner of the intersection of North "A" street and Veterans' Airpark Lane. (DEVELOPMENT SERVICES)

Senior Planner VanDyne reported this item was brought forward by the developer for interpretation of Ordinance 8640. The Ordinance had a site plan and associated elevations for the building for a multi-family unit near Midland Airfield. The developer would like an interpretation of their proposed site plan versus the site plan that was approved several years ago. By Council making a determination it could save approximately three months by not having to take the item back to Planning & Zoning. He noted Robert Rendall was present representing the developer. There were changes to the building orientation, architectural facades and structural materials.

Robert Rendall, 550 W. Texas Avenue, Suite 800, noted he was here on behalf of Claydesta L.P. The property was in contract to Mr. Urby who was ready to build the apartment complex in basically the same configuration that was approved four years ago. The only difference to the proposed site plan is a slight variation in four buildings. The primary reason for the change was to reorient the pool and club house which caused a slight movement to two of the other buildings. The other variations would be instead of stucco, the builder would prefer to build with brick and vertical wood plank which complies with the current façade building ordinance, and a slight variation of the entrance off of "A" Street. The Property Owners Association of Claydesta has approved

the item and likes the outside exterior better. They do not believe it would impact any neighborhoods and due to the current housing needs in City of Midland, the owner thought it would be in the best interest to have the Council make an interpretation in order to get more units on the ground.

Council Member Dufford moved to approve interpreting City of Midland Ordinance No. 8640 and determine that a proposed apartment development to be located on Lot 1, Block 11 and the north 100 feet of Lot 1, Block 10, Claydesta Plaza, City and County of Midland, Texas, is in compliance with Ordinance No. 8640 which governs said property. Said property is generally located on the southeast corner of the intersection of North "A" street and Veterans' Airpark Lane. ; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

32. Consider an ordinance on request for the vacation of right-of-way by Duke Edwards. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9025

AN ORDINANCE VACATING AND ABANDONING A 0.032-ACRE PORTION OF WEST LOUISIANA AVENUE RIGHT-OF-WAY ADJACENT TO THE NORTH 75 FEET OF THE EAST HALF OF BLOCK 29, HOMESTEAD ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST LOUISIANA AVENUE AND NORTH COLORADO STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$1,400.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Senior Planner VanDyne reported this was a request by the applicant to vacate 10 feet by 140 feet of right-of-way on the building side of the property that would not affect traffic. The reason for the request was to obtain more parking. The plans were to put a burger restaurant at this location. The additional 10 feet allows for parking on both sides and doubles their parking. Staff has approved the item and it has also been approved by Transportation. All franchise utilities have been contacted and an electrical easement would be maintained in that property.

Deputy City Secretary Garcia read the caption of Ordinance No. 9025.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9025 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

33. Consider a resolution selecting a Depository Institution and Authoring the City Manager to Negotiate and Execute a Contract for Depository Services (FINANCE)

RESOLUTION NO. 2012 - 148

RESOLUTION SELECTING WELLS FARGO BANK TO PROVIDE DEPOSITORY AND OTHER BANKING SERVICES FOR THE CITY OF MIDLAND; AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH WELLS FARGO BANK FOR SAID SERVICES

Finance Director McNaughton reported this item was in compliance with the Public Funds Investment Act and State statutes governing the selection of a depository and would allow the City Manager to conclude negotiations with Wells Fargo Bank and sign the contract.

Council Member Morales moved to adopt Resolution No. 2012 - 148; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

34. Consider a resolution authorizing the City Manager and City attorney to negotiate the purchase of property described as approximately 2.5 acres out of a 14.28 acre tract of land out of Wallace Heights, Section 4, an addition to the City of Midland as per plat of record in Cabinet "C", page 174, Plat Records, Midland County, Texas. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 149

RESOLUTION AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO NEGOTIATE TERMS FOR THE PURCHASE OF PROPERTY LOCATED IN THE 4500 BLOCK OF SINCLAIR AVENUE, MIDLAND, TEXAS

Council Member Dufford moved to adopted Resolution No. 2012 – 149; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

35. Consider a resolution authorizing the Mayor to execute an Employment Agreement with the City Attorney (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2012 - 150

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT WITH THE CITY ATTORNEY

Council Member Sparks moved to adopt Resolution No. 2012 - 150; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

36. Consider making appointments to various Boards and Commissions.

Council Member Dufford moved to appoint Mayor Wes Perry, Wayne Merritt and Gary Harris to the Midland County Fresh Water Supply District #1; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

37. At approximately 12:00 noon, recess to Midland International Airport, 9506 La Force Boulevard, for lunch and an Airport Department update in the Airport Media Room.

EXECUTIVE SESSION

38. Mayor Perry announced that pursuant to Texas Government Code §551.101, the

Council will hold an Executive Session which is closed to the public to discuss the following matters as permitted under the following Texas Government Code Sections:

- a. Deliberation Regarding Real Property, Section 551.072
 - a.1. Discuss the purchase and value of property described as approximately 2.5 acres out of a 14.28 acre tract of land out of Wallace Heights, Section 4, an addition to the City of Midland as per plat of record in Cabinet "C", page 174, Plat Records, Midland County, Texas.
- b. Section 551.074 Personnel Matters
 - b.1. Deliberate the employment, evaluation, duties, and salary of the Presiding Municipal Court Judge, the Associate Municipal Court Judge, the City Manager, the City Attorney and the City Secretary.
- c. Section 551.087, Deliberation Regarding Economic Development Negotiations.
 - c.1. Discuss business prospects that the City of Midland and/or the Midland Development Corporation seeks to have locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.

Mayor Perry recessed the meeting to executive session at 11:07 a.m. The Council came out of executive session at 11:30 a.m. and heard Agenda Item number 34. At 11:33 a.m. the Council convened back into executive session.

Mayor Perry reconvened the meeting in open session at 12:15 p.m. and went to Midland International Airport for Agenda Item number 37.

All of the business at hand having been completed, the meeting adjourned at 12:40 p.m.

PASSED AND APPROVED the 12th day of June, 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary