**MIDLAND CITY COUNCIL**
**MINUTES**
**June 12, 2012**

## BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:30 a.m. on June 12, 2012.

Council Members present: Mayor W. Wesley Perry, 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).

Council Members absent: Mayor Pro Tem Jerry Morales (At-Large) (Morales arrived at 9:32 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, Utilities Director Stuart Purvis, City Engineer David Beard, Community Services Director Tina Jauz, Parks & Recreation Manager Michelle James, and Multimedia Developer Ryan Stout.

1. Receive a presentation from Community Services on initiatives being implemented and considered including Hike and Bike Trails.

   Community Services Director introduced Michelle James Parks & Recreation Manager.

   Parks & Recreation Manager Michelle James reviewed the current map of hike and bike trails in Midland. She presented ideas of how future improvements could be made to the Hike and Bike Trail System, noting that many of the trails were not well marked. She suggested the parks be rebranded by placing signs in all of the parks marking the trails as fitness trails and showing the distance of each loop to encourage residents to engage in a more active lifestyle at a cost of just over $14,000. This would show an immediate result to the residents while more extensive hike and bike trails could be planned and developed. She reviewed other areas of potential expansion.

   Discussion ensued about using QR codes on signage to promote upcoming events or for advertising purposes. Consensus was received to move forward.

The foregoing agenda item was discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 10:02 a.m.

## REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:08 a.m., June 12, 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, 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, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20, 13, 21, 22, 23, 24, 25, 26, 27, 28, 29, 4 (second time), 30, 31, 32, 33, 34, 35.

**OPENING ITEMS**

1. Invocation - Pastor Robert Pase, Grace Lutheran Church

2. Pledge of Allegiance

**PRESENTATIONS**

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

    a. Council Member Dufford presented a Proclamation for Midland Christian Track & Field Team Day.

    b. Mayor Perry and City Manager Sharp presented a Retirement Commendation to retiring city employee Robert Brian Bogart.

**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 were no requests by citizens to speak.

**CONSENT AGENDA**

Council Member Hailey moved to approve Consent Agenda items 5 - 20 excluding 13; 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.

5. Approved a motion approving the following minutes:

    a. Regular Meeting of May 22, 2012

    b. Special Meeting of May 30, 2012

6. Approved a resolution approving a contract to remove and replace the Uninterrupted

Power System at the Police & Communications Building - RFP 4849-12 (GENERAL SERVICES)

RESOLUTION NO. 2012 - 170

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH Y&S TECHNOLOGIES, INCORPORATED, TO REMOVE AND REPLACE THE UNINTERRUPTED POWER SYSTEM AT THE POLICE AND COMMUNICATIONS BUILDING LOCATED AT 601 NORTH LORAINE STREET, MIDLAND, TEXAS, AT A COST OF $160,480.00

7. Approved a resolution approving a professional services agreement with Rhotenberry-Wellen Architects for the renovation of Midland Center. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 171

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH RHOTENBERRY-WELLEN ARCHITECTS & PLANNERS, INCORPORATED, FOR RENOVATIONS TO THE MIDLAND CENTER, AT A TOTAL COST OF $220,000.00; AND APPROPRIATING $2,000,000.00 TO THE MIDLAND CENTER IMPROVEMENTS PROJECT

8. Approved a resolution approving the purchase of a boom mower for the Garage Division. Bid 4848-12 (GENERAL SERVICES)

RESOLUTION NO. 2012 - 172

RESOLUTION APPROVING THE PURCHASE OF ONE (1) BOOM MOWER FROM SOUTH PLAINS IMPLEMENT LTD, AT A TOTAL COST OF $52,441.00; SAID MOWER WILL BE USED TO MOW RIGHT OF WAY AND OTHER SLOPED AREAS WHICH ARE MAINTAINED BY THE CITY OF MIDLAND

9. Approved a resolution approving a contract for audio and video equipment for the Council Chambers for the Communications and Information Systems Department. RFP 4983-12 (GENERAL SERVICES)

RESOLUTION NO. 2012 - 173

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH BUSINESS INFORMATION SYSTEMS, INCORPORATED, DBA BIS DIGITAL, INCORPORATED, OF FORT LAUDERDALE, FLORIDA, TO PROVIDE AND INSTALL NEW VIDEO AND AUDIO EQUIPMENT IN THE COUNCIL CHAMBERS AT CITY HALL, AT A COST OF $43,519.00

10. Approved a resolution approving a contract and appropriating funds for windows at the Martin Luther King Jr. Community Center for the Parks Division. Bid 5040-12 (GENERAL SERVICES)

RESOLUTION NO. 2012 - 174

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH A RENDON RAMIREZ CORPORATION DBA RRC, OF LEANDER, TEXAS, FOR THE ADDITION OF WINDOWS AT THE MARTIN LUTHER KING JR. COMMUNITY CENTER TRAINING ROOM AT A COST OF $165,000.00; AND APPROPRIATING FUNDS

11. Approved a resolution approving the purchase of LED traffic lights for the Transportation Division. Bid 5046-12 (GENERAL SERVICES)

RESOLUTION NO. 2012 - 175

RESOLUTION APPROVING THE PURCHASE OF LED TRAFFIC LIGHTS IN ASSORTED CONFIGURATIONS FROM LEOTEK ELECTRONICS USA CORPORATION, AT A TOTAL COST OF $85,666.00

12. Approved a resolution approving the purchase of an asphalt distributor body for the Garage Division. Bid 5072-12 (GENERAL SERVICES)

RESOLUTION NO. 2012 - 176

RESOLUTION APPROVING THE PURCHASE OF ONE (1) ASPHALT DISTRIBUTOR BODY FROM YELLOWHOUSE MACHINERY COMPANY, OF ODESSA, TEXAS, AT A TOTAL COST OF $94,500.00; AND YELLOWHOUSE MACHINERY COMPANY WAS THE SOLE BIDDER

14. Approved a resolution authorizing the execution of Land Lease Agreement for Airport Hangar Facility between W-T Hangar, LLC and the City of Midland, Texas (AIRPORTS)

RESOLUTION NO. 2012 - 178

RESOLUTION AUTHORIZING THE EXECUTION OF A LAND LEASE AGREEMENT WITH W-T HANGAR, LLC FOR HANGAR DEVELOPMENT LOCATED ON A 0.48 ACRE TRACT OF LAND LOCATED IN LOT 4B, BLOCK 11, MIDLAND INTERNATIONAL AIRPORT, INDUSTRIAL PARK ADDITION, SECTION 6, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

15. Approved a resolution approving the acceptance of a bid for the purchase of real property located at 309 South Stonewall Street. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2012 - 179

RESOLUTION APPROVING THE ACCEPTANCE OF A BID MADE FOR THE PURCHASE OF REAL PROPERTY DESCRIBED AS LOTS 7 AND 8, BLOCK 34, GREENWOOD ADDITION, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

16. Approved a motion authorizing the staff to proceed with the voluntary annexation of approximately 77 acres including 76 acres in Section 37, Block 40 and a 1/2 acre tract located in Section 26, Block 40. (DEVELOPMENT SERVICES)

17. Approved a motion on a request by Newton Engineering on behalf of Southwest Baptist Church for the Midland City Council to approve items requested for deferral in the amount of $32,804, and to waive the associated public improvement guarantee; and authorizing the City Manager to negotiate a development agreement, which must be approved by City Council, regarding the construction of a water main extension along State Highway 191 frontage. This property is positioned in the City Limits, generally located on the north side of State Highway 191 approximately four miles west of Loop 250. (ENGINEERING SERVICES)

18. Approved a resolution accepting additional grant funding in the amount of $22,000 from the High Intensity Drug Trafficking Areas (HIDTA) Program and appropriating funds (POLICE)

RESOLUTION NO. 2012 - 180

RESOLUTION ACCEPTING ADDITIONAL GRANT FUNDING FROM THE SOUTHWEST BORDER HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM IN THE AMOUNT OF $22,000.00; THESE FUNDS WILL BE DIRECTED TO THE FISCAL YEAR 2012 HIGH INTENSITY DRUG TRAFFICKING AREAS PROJECT 7080; AND APPROPRIATING FUNDS

19. Approved a resolution approving to apply to the U.S. Department of Homeland Security Transportation Security Administration's FY2013 LEO Reimbursement Program for partial reimbursement for costs associated with the deployment of a Law Enforcement Officer at the Airport passenger screening checkpoint (POLICE)

RESOLUTION NO. 2012 - 181

RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY TRANSPORTATION SECURITY ADMINISTRATION’S FISCAL YEAR 2013 LAW ENFORCEMENT OFFICER REIMBURSEMENT PROGRAM; THIS APPLICATION WILL BE FOR PARTIAL REIMBURSEMENT FOR COSTS ASSOCIATED WITH THE DEPLOYMENT OF A LAW ENFORCEMENT OFFICER AT THE AIRPORT PASSENGER SCREENING CHECKPOINT; THIS REIMBURSEMENT, IF AWARDED, WILL BE USED TO OFFSET THE COST OF PROVIDING A MANDATED LAW ENFORCEMENT OFFICER AT THE PASSENGER SCREENING CHECKPOINT AT THE MIDLAND INTERNATIONAL AIRPORT

20. Approved a resolution accepting grant funds from the Permian Basin Regional Planning Commission for the Backyard Composting Grant and appropriating funds. (SOLID WASTE)

RESOLUTION NO. 2012 - 182

RESOLUTION ACCEPTING A GRANT FROM THE PERMIAN BASIN REGIONAL PLANNING COMMISSION IN THE AMOUNT OF $8,000.00 FOR BACKYARD COMPOSTING PROJECTS; AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS; AND APPROPRIATING THE GRANT FUNDS TO THE BACKYARD COMPOSTING GRANT PROJECT; THE GRANT FUNDS WILL BE USED TO PURCHASE COMPOSTING BINS AND ASSOCIATED TOOLS; AND THE GRANT FUNDS CONSIST OF A PORTION OF THE $1.25 PER TON TIPPING FEE THAT CITIES ACROSS THE STATE COLLECT AT LANDFILLS

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

13. Consider resolution authorizing issuance of Request for Proposals for City Owned Facilities. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 177

RESOLUTION AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR DEVELOPMENT OF FACILITIES TO BE USED BY THE CITY OF MIDLAND, OTHER GOVERNMENTAL ENTITIES AND THE PRIVATE SECTOR

Discussion ensued regarding the new municipal courthouse. It was determined that this will not slow down the progress. General Services Director Patrick clarified this item would address the needs for City facilities for the next 30 years.

Council Member Hailey moved to adopt Resolution No. 2012 - 177; 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.

**SECOND READINGS**

21. Consider an ordinance on second reading 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

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

Council Member Morales moved to approve the second and final reading of Ordinance No. 9022 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

22. Consider an ordinance on second reading 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 HOUSING DEVELOPMENT, 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

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

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

No. 9023 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.

23. Consider an ordinance on second reading 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

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

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9024 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

24. Consider an ordinance on second reading on a 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

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

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9025 in accordance with the Charter of the City of Midland; seconded by Council

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

**PUBLIC HEARINGS**

25. At approximately 10:30 a.m. conduct a Public Hearing for the 2012/13 Community Development Block Grant (CDBG) Program. (DEVELOPMENT SERVICES)

Community Development Manager Sylvester Cantu reported this public hearing was a continuation of the CDBG process in which the funds for the upcoming year would be distributed. He reported that the final resolution would come to the City Council for approval at the second meeting in July.

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. No further action was taken.

26. At approximately 10:33 a.m. hold a public hearing and consider an ordinance on a request by Mike Jackson for a Zone Change from PD, Planned District for a Housing Development to Amended Planned District. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9031

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 1-33, BLOCK 1, AND LOTS 1-51, BLOCK 2, MOCKINGBIRD OAKS, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF MOCKINGBIRD LANE, 700 FEET WEST OF GARFIELD STREET); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Walker gave an overview of the item noting the proposal was to reduce the front yard setback to 15 feet. No letters of objection had been received and staff recommended approval.

Mayor Perry opened the public hearing at 10:44 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Reyes read the caption of Ordinance No. 9031.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9031 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

27. At approximately 10:36 a.m. hold a public hearing and consider an ordinance on a request by San Miguel Archangel Catholic Church for a Temporary Land Use Permit for

a Church Fair. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 183

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A CHURCH FAIR ON LOT 1A, BLOCK 19, MIDLAND HEIGHTS ADDITION, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF CAMP STREET AND DAKOTA AVENUE); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Planning Division Manager Walker gave an overview of the item noting the request was for a Temporary Land Use Permit for the church to hold a fair July 21-22. No alcoholic beverages would be served, the applicant would have five security officers on site, and additional restroom facilities would be brought to the location. One letter of objection had been received citing concern for ability to get in and out of their driveway.

Mayor Perry opened the public hearing at 10:46 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Hailey moved to adopt Resolution No. 2012 - 183; 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.

**MISCELLANOUS**

28. Consider a resolution approving the issuance of a permit to Bluestem Energy Holdings, LLC (Operator), to Drill an Oil and Gas Well within the City Limits, (Evans M 1) located 1,949 feet from the south line and 1,927 feet from the west line located in Section 8, Block "X", H.P Hilliard Survey, City and County of Midland, Texas. (Generally located on the east side of N. Midland Drive, approximately 1/3 mile north of Mockingbird Lane.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 184

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO BLUESTEM ENERGY HOLDINGS, LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 1,949 FEET FROM THE SOUTH LINE AND 1,927 FEET FROM THE WEST LINE, SECTION 8, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 1/3 OF A MILE NORTH 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 & Gas Compliance Officer Ron Jenkins reported that a public hearing for this item was held on April 10th and that six letters of objection had been received. Council gave direction to Bluestem to hold a neighborhood meeting which was held on May 3rd at Midland College. Since that time Bluestem has altered their application to include the following changes: changed the contact representative on the application page to match the previously amended permits, the pad location on survey was rotated away from the Mockingbird Heights Addition, they added a sound impact barrier on the north and south as well as on the rig floor, hospital grade mufflers would be used on the drilling rig, access routes would be off Midkiff, a polymer will be used in the pits to prevent foul odors, and a new pad site and drainage plan was included for the battery and well sites. The Oil & Gas Advisory Committee is recommending that the landscape variance be for no more than two years.

Council Member Sparks moved to adopt Resolution No. 2012 - 184; seconded by Council Member Hailey.

Discussion ensued about the consolidation of the road repair agreement deposits and sound barrier walls.

A representative from Bluestem was invited forward to answer questions.

Jim Mason, Andrews, Texas, representing Bluestem, reported that the sound impact wall would be in place during fracing and drilling and that the wall would be 24 feet on the neighborhood side. When asked to clarify if the wall would be 16 feet on the ground and 8 feet on the drilling rig or would it be one wall of 24 feet Mr. Mason reported it would be one wall 24 feet tall. He asked the Acoustic Mitigation Engineer to clarify.

Tyler Boswell, Weatherford, Texas, reported that the wall on the west side would be 24 feet tall, and the other sides of the wall would be 16 feet tall. In addition there would be a treatment on the platform at the 16 foot level so that on the 24 foot side there would be a double treatment at the 16 foot level.

Discussion ensued about redirecting traffic. It was reported that traffic coming off of Midkiff would have less impact because it would not be going through residential neighborhoods.

Council Member Sparks moved to amend the motion to change the wall from 16 feet to 24 feet on the residential side and to allow for a landscape variance for no more than two years; seconded by Council Member Hailey.

Discussion ensued about road repair agreements.

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

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

29. Consider a resolution approving the issuance of a permit to Bluestem Energy Holdings, LLC (Operator), to Drill an Oil and Gas Well within the City Limits, (Evans N 1) located 623 feet from the south line and 2,035 feet from the east line located in Section 8, Block "X", H.P Hilliard Survey, City and County of Midland, Texas. (Generally located on the west side of N. Midkiff Road, approximately 625 feet north of Mockingbird Lane.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 185

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO BLUESTEM ENERGY HOLDINGS, LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE

CITY LIMITS LOCATED 623 FEET FROM THE SOUTH LINE AND 2,035 FEET FROM THE EAST LINE, SECTION 8, BLOCK “X”, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDKIFF ROAD, APPROXIMATELY 625 FEET NORTH 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 & Gas Compliance Officer Jenkins reported that this well was discussed at the same neighborhood meeting as the last item on the agenda. Nine letters of objection had been received as well as a petition containing 94 signatures. This well had the same changes as the previous item including rotation of the pad site further away from the neighborhood, same barrier on the outside with an 8-foot barrier on the rig, hospital grade mufflers on the drilling rig, access will be off Midkiff, the same monitoring of the odors with the pits, and updated drainage plans. The Oil & Gas Advisory Committee recommended allowing a landscape variance of no more than two years. He clarified that the 94 signatures on the petition were from the Mockingbird neighborhood and not necessarily within the 1000 feet of the well.

Council Member Sparks moved to adopt Resolution No. 2012 - 185 with the amendment to allow a landscape variance of no more than two years and changing the wall height from 16 feet to 24 feet on the neighborhood side; 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.

Council Member James moved to reconsider Agenda Item number 4; 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 COMMENT (Continued)**

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.

Gary Simmons, 3905 Edgebrook, stated he lived in Mockingbird Heights and reported on their meeting with Bluestem Energy. He asked that before the City Council approved the item, he would like to suggest some amendments. Mayor Perry reported that both of the permits were just approved.

Don Washburn, 3901 Baybrook, reported that he was not privy to what was included in the ordinance and felt it would be beneficial if Bluestem notified the residents of changes that had been made. He suggested better communication would be helpful.

There were no other requests by citizens to speak.

30. Receive notification regarding no legal action filed pertaining to dilapidated structures Ordinance No. 8907, approved March 20, 2012. (DEVELOPMENT SERVICES)

Building Official Steve Thorpe reported this was a new step that was the result of a

Supreme Court ruling. He reported that no lawsuits had been filed with the County Court System, the City Attorney, the City Manager or with him. He reported they would now proceed with the demolition of the previously approved dilapidated structures.

31. Consider an ordinance establishing No Parking except by Permit - Faulkner Drive (ENGINEERING SERVICES)

ORDINANCE NO. 9032

AN ORDINANCE PROHIBITING PARKING ON THE NORTH SIDE OF FAULKNER DRIVE FROM A POINT 185 FEET WEST OF THE CENTERLINE OF MELVILLE DRIVE AND CONTINUING EAST A DISTANCE OF 640 FEET TO THE NORTH/SOUTH ALLEY AND THE EAST AND WEST SIDES OF MELVILLE DRIVE BEGINNING AT THE CENTERLINE OF FAULKNER DRIVE AND CONTINUING NORTH A DISTANCE OF 130 FEET TO THE EAST/WEST ALLEY EXCEPT TO RESIDENTS WHOSE PROPERTY ABUTS SUCH STREET AND HAVE OBTAINED A VALID PARKING PERMIT; AUTHORIZING AND DIRECTING THE TRAFFIC ENGINEER TO ERECT APPROPRIATE SIGNS; DECLARING ANY VEHICLE IN VIOLATION OF THE PROVISIONS OF THIS ORDINANCE A NUISANCE AND PROVIDING FOR THE REMOVAL OF SAME; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS ($200.00); AND ORDERING PUBLICATION

Transportation Manager Gary Saunders reported that this item was similar to the parking restrictions previously approved by the City Council on Northrup near Midland Christian. He reported the apartments in the area were saturating on-street parking. A petition was circulated and signed by every property that would be affected by the parking restriction. Those residents could obtain a permit from the Police Department.

Joanna Wagman, 2524 Faulkner Drive, reported that ever since the apartment complex placed restrictions on parking on their property, it has caused parking problems for her neighborhood and asked the Council to approve the item.

Deputy City Secretary Reyes read the caption of Ordinance No. 9032.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9032 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

32. Consider an ordinance establishing intersection stops at various locations within the City of Midland. (ENGINEERING SERVICES)

ORDINANCE NO. 9033

AN ORDINANCE ESTABLISHING INTERSECTION STOPS AT VARIOUS LOCATIONS WITHIN THE CITY OF MIDLAND, TEXAS; REQUIRING AND AUTHORIZING THE POSTING OF APPROPRIATE SIGNS AT INTERSECTIONS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS ($200.00); AND ORDERING PUBLICATION

Transportation Manager Gary Saunders noted this was to update new stop signs.

Deputy City Secretary Reyes read the caption of Ordinance No. 9033.

Council Member James moved approval of the first of two readings of Ordinance No. 9033 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

33. Consider an ordinance on a request by BRW Investments for the vacation of a 0.08-acre portion of the rights-of-way of W. Louisiana Avenue and N. Colorado Street adjacent to the south 200 feet of the west half of Block 12, Homestead Addition, City and County of Midland, Texas. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9034

AN ORDINANCE VACATING AND ABANDONING A 0.08-ACRE PORTION OF WEST LOUISIANA AVENUE RIGHT-OF-WAY AND NORTH COLORADO STREET RIGHT-OF-WAY ADJACENT TO THE SOUTH 200 FEET OF THE WEST HALF OF BLOCK 12, HOMESTEAD ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHEAST CORNER OF NORTH COLORADO STREET AND WEST LOUISIANA AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF $1,742.40; RETAINING A GENERAL UTILITY EASEMENT; AND ORDERING RECORDATION BY THE CITY SECRETARY

Planning Division Manager gave an overview of the item noting the applicant is requesting to purchase the ten feet of right-of-way and would maintain the utility easement.

Deputy City Secretary Reyes read the caption of Ordinance No. 9034.

Council Member James moved approval of the first of two readings of Ordinance No. 9034 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.

34. Consider making appointments to various Boards and Commissions.

No appointments were made.

**EXECUTIVE SESSION**

35. Mayor Perry announced 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 litigation styled Lemon v. Kurtzman, 403 U.S. 602 (1971) and cases that have interpreted the Lemon decision. The Lemon test will also be discussed and how it relates to the First Amendment to the United

States Constitution and the Establishment Clause.

a.2. Discuss with the City Attorney contemplated litigation with the U.S. Fish and Wildlife Service regarding the Dunes Sagebrush Lizard.

b. Section 551.087, Deliberation Regarding Economic Development Negotiations

b.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 11:39 a.m.

All of the business at hand having been completed, the meeting adjourned at 1:05 p.m.

PASSED AND APPROVED the 26th day of June, 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary