

**MIDLAND CITY COUNCIL
MINUTES
June 25, 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 June 25, 2013.

Council Members present: Mayor W. Wesley Perry, Council Member Jerry Morales (At-Large), Council Member Scott Dufford (At-Large), Council Member John Love (District 2), and Council Member John James (District 3).

Council Members absent: Mayor Pro Tem Jeff Sparks (District 1) and Council Member Michael Trost (District 4) (Trost arrived at 9:02 a.m.).

Staff members present: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, Assistant City Manager Jim Nichols, City Secretary Amy Turner, Utilities Director Stuart Purvis, Community Services Director Tina Jauz, Downtown Development Director Genora Young, Engineering Director Jose Ortiz, Parks & Recreation Manager Laurie Williams, Assistant Utilities Director Holly Rosas, Transportation Manager Gary Saunders, Building Official Steve Thorpe, Assistant Code Administration Manager Ron Jenkins, Assistant City Attorney Natasha Brooks, Interim Planning Division Manager Ken VanDyne, and Public Information Officer Sara Higgins.

1. Receive an update from the Parks & Recreation Division regarding parks rebranding.

Community Services Director Tina Jauz reported that there was an action item on the regular agenda and the purpose of this briefing was to bring the City Council up to speed about parks rebranding.

Parks & Recreation Manager Laurie Williams shared a sign that was recently created noting there are a total of 33 signs that will be posted along the side of parks indicating there is a wellness loop and indicated the distance of the loop. She shared another sign that shows the trail layout and indicated each sign had QR Codes. Any person with a smart phone and barcode app could scan the QR Code and would be directed the City of Midland website where they could find more information about parks, recreation, and hike and bike trails. All signs should be in place by the end of July.

She shared a map of the hike and bike trail system current routes indicating that some of the routes are not striped at this time. They are asking for a RFQ to hire a consultant to work on a comprehensive plan for the hike and bike trail system.

2. Receive a presentation from AMD Engineering regarding the conceptual layout for Tradewinds Boulevard Extension (Thomason Drive - Gateway Plaza Addition).

Engineering Director Jose Ortiz introduced Leslie Bruce and Jimmy McDaniel of AMD Engineering.

Mr. Bruce gave a brief history and background on himself, Mr. McDaniel and AMD Engineering. He indicated the scope of the project is to: 1) complete the design and construction of Tradewinds Boulevard, Anetta Drive, and Leisure Drive; and 2) do additional conceptual planning on Avalon Drive, the connector between Avalon and Tradewinds, and regional drainage.

He reviewed the schedule noting they expected construction to be completed around September 2014. Discussion ensued about expedited construction options.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:45 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:01 a.m., June 25, 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, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 26, 27, 28, 29, 30, 31, 20, 21, 22, 23, 24, 25, 32, 33, 34, 35, 37, 36.

OPENING ITEMS

1. Invocation - Pastor Randell Everett, First Baptist Church
2. Pledge of Allegiance

PRESENTATIONS

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

No presentations were made.

PUBLIC COMMENT

4. Receive public comments where individuals may address the City Council on City related issues and projects. Any deliberation of or decision by the City Council regarding

the item being discussed shall be limited to a motion to place the item on the agenda for a subsequent meeting.

There were no citizens present wishing to speak.

CONSENT AGENDA

Council Member Trost moved to approve Consent Agenda items 5 - 18; seconded by Council Member James. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

5. Approved a motion approving the following minutes:
 - a. Regular meeting of June 11, 2013.
6. Approved a resolution adding one special meeting, on August 6, 2013, and two regular meetings, one on August 20, 2013, and the second on August 26, 2013, to the City Council meetings scheduled for the 2013 calendar year. (FINANCE)

RESOLUTION NO. 2013 - 177

RESOLUTION ADDING ONE (1) SPECIAL MEETING, ON AUGUST 6, 2013, AND TWO (2) REGULAR MEETINGS, ONE ON AUGUST 20, 2013, AND THE SECOND ON AUGUST 26, 2013, TO THE CITY COUNCIL MEETINGS SCHEDULED FOR THE 2013 CALENDAR YEAR

7. Approved a resolution authorizing a Consultant Services Agreement with Berry, Dunn, McNeil & Parker, LLC dba Berry, Dunn, McNeil & Parker PLLC to provide assistance in preparing a requirements definition and Request for Proposal for an integrated Planning, Code Administration and Building Administration system as well as a Financial and Human Resources software needs assessment through DIR contract DIR-SDD-2053 for the Communication and Information Systems Department. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 178

RESOLUTION APPROVING THE EXECUTION OF AN AGREEMENT FOR COMPUTER RELATED CONSULTATION SERVICES THROUGH THE TEXAS DEPARTMENT OF INFORMATION RESOURCES AT A TOTAL COST OF \$139,505.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A STATE OF TEXAS COOPERATIVE PROGRAM

8. Approved a resolution approving a contract for the Water, Wastewater and Fire Hydrant Taps project for the Engineering Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 179

RESOLUTION AWARDING A CONTRACT FOR THE WATER, WASTEWATER AND FIRE HYDRANT TAPS PROJECT TO TEC EXCAVATION, INCORPORATED, OF MIDLAND, TEXAS, AT A TOTAL COST OF \$500,000.00; AND APPROPRIATING FUNDS

9. Approved a resolution authorizing the advertisement of Request for Qualifications (RFQ) for Hike/Bike Master Plan development. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 180

RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR QUALIFICATIONS FOR AN ENGINEERING/ARCHITECTURAL FIRM TO ANALYZE AND DEVELOP THE HIKE AND BIKE TRAIL PLAN FOR THE COMMUNITY SERVICES DEPARTMENT

10. Approved a resolution approving the sole source purchase of 13 - M7300 mobile radios with accessories, 2 - XG-100M mobile radios with accessories and 2 - M5300 mobile radios with accessories for the Garage Division. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 181

RESOLUTION AUTHORIZING THE PURCHASE OF SEVENTEEN (17) MOBILE RADIOS IN ASSORTED CONFIGURATIONS, WITH ACCESSORIES, FROM HOLSUM BAKERS, INCORPORATED, DBA CAPROCK COMMUNICATIONS OF MIDLAND, TEXAS; SAID PURCHASE WAS NOT BID BUT PURCHASED AS A SOLE SOURCE; AND THE COSTS FOR THE RADIOS SHALL BE APPROXIMATELY \$77,579.25

11. Approved a resolution authorizing advertisement for bids for Airport Capital Improvement Projects. (AIRPORTS)

RESOLUTION NO. 2013 - 182

RESOLUTION APPROVING PLANS AND SPECIFICATIONS PREPARED BY PARKHILL, SMITH AND COOPER, INCORPORATED, AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE CAPITAL IMPROVEMENT PROJECTS DESCRIBED AS NORTHWEST TAXIWAY EXTENSION PROJECT - PHASE II (7083); PERIMETER EMERGENCY ROADWAY AND GATES REHABILITATION (7082); AND TAXIWAY P RUN-UP (7103) AT THE MIDLAND INTERNATIONAL AIRPORT

12. Approved a resolution to approve the execution a renewal right of way license (2006-306) with Atlas Pipeline Mid-Continent WestTex (contract rights assumed from the original license holder, Western Gas Resources, 2007) for the maintenance of a pipeline located in Block 38, Section 9 and 10, T-2-S, Midland County, Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 183

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND ATLAS PIPELINE MID-CONTINENT WESTTEX; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING ONE (1) PIPELINE, FOR THE TRANSPORTATION OF OIL AND GAS MATERIALS AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTIONS 9 AND 10, BLOCK 38, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR FIVE (5) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL FIVE (5) YEAR TERM UPON 120 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

13. Approved a resolution to approve the execution of a renewal right of way license (2005-306) with Atlas Pipeline Mid-Continent WestTex (contract rights assumed from the original license holder, Western Gas Resources, 2007) for the maintenance of a pipeline

located in Block 38, Section 10, T-2-S, Midland County, Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 184

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND ATLAS PIPELINE MID-CONTINENT WESTTEX; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING ONE (1) PIPELINE, FOR THE TRANSPORTATION OF OIL AND GAS MATERIALS AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTION 10, BLOCK 38, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR FIVE (5) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL FIVE (5) YEAR TERM UPON 120 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

14. Approved a resolution to approve the execution of a renewal right of way license (2001-256) with Atlas Pipeline Mid-Continent WestTex (contract rights assumed from the original license holder, Western Gas Resources, 2007) for the maintenance of two pipelines located in Block 37, Section 4, 9, and 16, T-3-S, Midland County, Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 185

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND ATLAS PIPELINE MID-CONTINENT WESTTEX; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING TWO (2) PIPELINES, FOR THE TRANSPORTATION OF OIL AND GAS MATERIALS AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINES ARE LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTIONS 4, 9, AND 16, BLOCK 37, T-3-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR FIVE (5) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL FIVE (5) YEAR TERM UPON 120 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

15. Approved a resolution to approve the execution of a renewal right of way license (1993-999) with Atlas Pipeline Mid-Continent WestTex (contract rights assumed from the original license holder, Western Gas Resources, 2007) for the maintenance of a pipeline located in Block 37, Section 2 and 3, T-3-S, Midland County, Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 186

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND ATLAS PIPELINE MID-CONTINENT WESTTEX; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING ONE (1) PIPELINE, FOR THE

TRANSPORTATION OF OIL AND GAS MATERIALS AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTIONS 2 AND 3, BLOCK 37, T-3-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR FIVE (5) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL FIVE (5) YEAR TERM UPON 120 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

16. Approved a resolution to approve the execution of a renewal right of way license (2005-267) with Atlas Pipeline Mid-Continent WestTex (contract rights assumed from the original license holder, Western Gas Resources, 2007) for the maintenance of a pipeline located in Block 38, Section 44, T-1-S, Midland County, Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 187

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND ATLAS PIPELINE MID-CONTINENT WESTTEX; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING ONE (1) PIPELINE, FOR THE TRANSPORTATION OF OIL AND GAS MATERIALS AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTION 44, BLOCK 38, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR FIVE (5) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL FIVE (5) YEAR TERM UPON 120 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

17. Approved a resolution to approve the execution of a renewal right of way license (2001-255) with Atlas Pipeline Mid-Continent WestTex (contract rights assumed from the original license holder, Western Gas Resources, 2007) for the maintenance of a pipeline crossing in and along Todd Drive in Block 38, Section 30, 32, and 41, T-1-S, T&P RR Co. Survey, Midland County, Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 188

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND ATLAS PIPELINE MID-CONTINENT WESTTEX; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING ONE (1) PIPELINE, FOR THE TRANSPORTATION OF OIL AND GAS MATERIALS AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTIONS 30, 32, AND 41, BLOCK 38, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR FIVE (5) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL FIVE (5) YEAR TERM UPON 120 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

18. Approved a resolution authorizing the execution of a Public Improvement Development Agreement in the amount of \$26,110 with SBC, LP (Doug Henson) for the construction of an oversized wastewater main in Deauville Blvd. along the north frontage of Westridge Park Addition - Section 23 (Chevron site). Said agreement being authorized by Section 395.081 of the Texas Local Government Code. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 189

RESOLUTION AUTHORIZING THE EXECUTION OF A PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH SBC, LP FOR DEVELOPMENT OF WESTRIDGE PARK ADDITION, SECTION 23, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF AVALON DRIVE AND DEAUVILLE BOULEVARD); AND AUTHORIZING PAYMENT IN THE AMOUNT OF \$26,110.00 THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE

SECOND READINGS

19. Consider an ordinance on second reading temporarily closing the east/west alleys abutting the north and south boundary lines of Lot 1, Block 1, Fairgrounds Addition from the east right-of-way line of Fairgrounds Road east to their intersection with the north/south alley at Midland Draw and the north/side alley abutting the east boundary line of Lot 1, Block 1, Fairgrounds Addition at Midland Draw. (ENGINEERING SERVICES)

ORDINANCE NO. 9151

AN ORDINANCE TEMPORARILY CLOSING A PORTION OF THE EAST/WEST ALLEYS ABUTTING THE NORTH AND SOUTH BOUNDARY LINES OF LOT 1, BLOCK 1, FAIRGROUNDS ADDITION, FROM THE EAST RIGHT-OF-WAY LINE OF FAIRGROUNDS ROAD EAST TO THEIR INTERSECTION WITH THE NORTH/SOUTH ALLEY AT MIDLAND DRAW AND THE NORTH/SOUTH ALLEY ABUTTING THE EAST BOUNDARY LINE OF LOT 1, BLOCK 1, FAIRGROUNDS ADDITION AT MIDLAND DRAW IN THE CITY OF MIDLAND, TEXAS; 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

Deputy City Secretary Moreno read the caption of Ordinance No. 9151.

Council Member James moved to approve the second and final reading of Ordinance No. 9151 in accordance with the Charter of the City of Midland; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

PUBLIC HEARINGS

20. At approximately 10:30 A.M. hold a public hearing and consider a resolution on a request by San Miguel Catholic Church for a Temporary Land Use Permit 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 the intersection of Camp Street and Dakota Avenue.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 190

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 THE INTERSECTION OF CAMP STREET AND DAKOTA AVENUE); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting the item was a request for a Temporary Land Use Permit for a church fair. There will be no sale of alcohol and the proposed hours of operation are July 21 from 12:00 p.m. to 12:00 a.m. and July 22 from 12:00 p.m. to 10:00 p.m. He reported there will be adequate security guards and restrooms.

Mayor Perry opened the public hearing at 10:47 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Love moved to adopt Resolution No. 2013 - 190; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

21. At approximately 10:33 A.M. hold a public hearing and consider an ordinance on a request by Real Property Resources (Tract 1) the initial zoning of annexed land to FD, Future Development District, on a 40.498-acre tract of land out of Section 37, 38 and 48, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located at the south extension of Avalon Drive, approximately 700 feet south of Hall of Fame Boulevard.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9152

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 40.498-ACRE TRACT OF LAND OUT OF SECTIONS 37, 38 AND 48, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN FD, FUTURE DEVELOPMENT DISTRICT; SAID TRACT IS GENERALLY LOCATED AT THE SOUTH EXTENSION OF AVALON DRIVE, APPROXIMATELY 700 FEET SOUTH OF HALL OF FAME BOULEVARD; 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

Interim Planning Division Manager Ken VanDyne provided an overview of item noting this was for the initial zoning of land to be annexed.

Mayor Perry opened the public hearing at 10:49 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Moreno read the caption of Ordinance No. 9152.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9152 in accordance with the Charter of the City of Midland; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost,

Perry, Dufford. NAY: None. ABSTAIN: None. ABSENT: James, Sparks.

22. At approximately 10:36 A.M. hold a public hearing and consider an ordinance on a request by Covington (Tract 2) the initial zoning of annexed land to LI, Light Industrial District, on a 305.17-acre tract of land out of Section 37, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the north side of State Highway 191 west side of N. FM 1788.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9153

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 305.17-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 41, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN LI, LIGHT INDUSTRIAL DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, WEST OF NORTH FARM-TO-MARKET ROAD 1788; 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

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting this was a 305-acre tract located near the performing arts center. There are several active oil wells and there are a number of flow lines running through the property that will be rerouted.

Mayor Perry opened the public hearing at 10:55 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Moreno read the caption of Ordinance No. 9153.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9153 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. NAY: None. ABSTAIN: None. ABSENT: Sparks.

23. At approximately 10:39 A.M. hold a public hearing and consider an ordinance on a request by Younger Properties (Tract 3) the initial zoning of annexed land to IP-2, Industrial Park District, on a 2.47-acre tract of land out of Section 8, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the west side of Wright Drive, approximately 850 feet south of Loop 40.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9154

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 2.47-ACRE TRACT OF LAND OUT OF SECTION 8, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN IP-2, INDUSTRIAL PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE WEST SIDE OF WRIGHT DRIVE, APPROXIMATELY 850 FEET SOUTH OF LOOP 40; 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

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting this was for the initial zoning of land that is proposed to be annexed.

Council Member Dufford opened the public hearing at 10:58 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Moreno read the caption of Ordinance No. 9154.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9154 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. NAY: None. ABSTAIN: None. ABSENT: Perry, Sparks.

24. At approximately 10:42 A.M. hold a public hearing and consider an ordinance on a request by David Miller for a zone change from PD, Planned District for a Housing Development, to an Amended Planned District on Lot 21, Block 3, Wydewood Estates, Section 33, City and County of Midland, Texas. (Generally located at the south side of W. Wadley Avenue, approximately 450 feet east of Sunburst Drive.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9155

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 21, BLOCK 3, WYDEWOOD ESTATES, SECTION 33, 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 SOUTH SIDE OF WADLEY AVENUE, APPROXIMATELY 450 EAST OF SUNBURST 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

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting this would be the second amendment to the Site Plan for apartments on Wadley next to Buffalo Wild Wings. The applicant desires to add another 620 square feet to the club house which is positioned towards the center of the development. Staff has no objections to the request. There is also an additional change for signage; rather than using the two signs they are allowed, at 40 square feet, they are requesting one larger sign of 80 square feet when the maximum allowed is 64 square feet.

Mayor Perry opened the public hearing at 11:05 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Moreno read the caption of Ordinance No. 9155.

Council Member James moved approval of the first of two readings of Ordinance No. 9155 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,

Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

25. At approximately 10:45 A.M. hold a public hearing and consider an ordinance on a request by COM Aquatics for a zone change from PD, Planned District for a Community Center and a Planned District for a Shopping Center, to an Amended Planned District on Lot 3, Block 3, and the vacated 0.162-acre east/west alley, "A" Street Community Center, Section 7, City and County of Midland, Texas. (Generally located near the southwest corner of the intersection of W. Wadley Avenue and N. "A" Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9156

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 3, BLOCK 3, THE ADJACENT VACATED 0.162-ACRE EAST/WEST ALLEY, "A" STREET COMMUNITY CENTER, SECTION 3, AND LOT 1C, BLOCK 3, "A" STREET COMMUNITY CENTER, SECTION 7, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A COMMUNITY CENTER, IN PART, AND PD, PLANNED DISTRICT FOR A SHOPPING CENTER, IN PART, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED NEAR THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST WADLEY AVENUE AND NORTH "A" 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

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting this vacation was for the purpose of building a new swimming pool. Staff is comfortable that there is plenty of overflow parking.

Mayor Perry opened the public hearing at 11:09 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

City Secretary Turner read the caption of Ordinance No. 9156.

Council Member James moved approval of the first of two readings of Ordinance No. 9156 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, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

DEVELOPMENT SERVICES

26. Consider an ordinance amending City Code Sections 5-10-2 and 5-10-9 to include Midland County Courthouse, 500 N. Loraine. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9157

AN ORDINANCE AMENDING TITLE V, "BUSINESS REGULATIONS", CHAPTER 10, "SIDEWALK SALES AND SELLING FROM FIXED LOCATIONS", SECTION 2, "PERMIT AND LICENSE REQUIRED IF SELLING FROM A FIXED LOCATION", AND SECTION 9, "DUTY OF POLICE", SO AS TO ALLOW LICENSED FOOD VENDORS

TO SELL FOOD AT A LOCATION ADJACENT TO THE MIDLAND COUNTY COURTHOUSE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); AND ORDERING PUBLICATION

Building Official Steve Thorpe gave an overview of item noting it was a request of the County to allow a food vendor to work along the north curb of Tennessee Avenue in front of the Midland County Courthouse. This is identical to what was done at Centennial Plaza. A vendor can be on site for one week, then must be gone for one week and then can return for another week. The vendor must have a mobile vendor license from the Health Department, approval from the Police Department, and their food cart must be aesthetically pleasing.

Deputy City Secretary Moreno read the caption of Ordinance No. 9157.

Council Member Love moved approval of the first of two readings of Ordinance No. 9157 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

MISCELLANEOUS

27. Consider a resolution approving the issuance of a 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 N. Midland Drive, approximately 1 mile north of Green Tree Boulevard.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 191

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO PETROPLEX ENERGY, INC. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 467 FEET FROM THE NORTH LINE AND 2,058 FEET FROM THE WEST LINE, SECTION 8, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF THE EXTENSION OF NORTH MIDLAND DRIVE, APPROXIMATELY 1 MILE NORTH OF GREEN TREE BOULEVARD); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

Ron Jenkins gave an overview of item noting that no letters of objection had been received, the Oil & Gas Advisory Committee reviewed the application, and Petroplex is requesting a waiver of the Road Repair Agreement as they will not be using City streets to access their well.

Council Member James moved to adopt Resolution No. 2013 - 191; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

28. Consider an ordinance on a request for the annexation of a 40.498-acres tract (Tract 1) of land out of Section 37, 38 and 48, Block 40, T-1-S, T&P RR Co. Survey, Midland

County, Texas. (Generally located at the south extension of Avalon Drive, approximately 700 feet south of Hall of Fame Boulevard.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9158

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 40.498-ACRE TRACT OF LAND OUT OF SECTIONS 37, 38 AND 48, 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 AT THE SOUTH EXTENSION OF AVALON DRIVE, APPROXIMATELY 700 FEET SOUTH OF HALL OF FAME BOULEVARD); AND APPROVING A PUBLIC SERVICE PLAN

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting this was for Betenbough Homes housing development noting it had gone through two public hearings.

Deputy City Secretary Moreno read the caption of Ordinance No. 9158.

Council Member Love moved approval of the first of two readings of Ordinance No. 9158 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. NAY: None. ABSTAIN: None. ABSENT: Sparks.

29. Consider an ordinance on a request of the annexation of a 305.17-acre (Tract 2) of land out of Section 37, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the north side of State Hwy 191 west of N. FM 1788.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9159

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 305.17-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 41, 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 NORTH SIDE OF STATE HIGHWAY 191, WEST OF NORTH FARM-TOMARKET ROAD 1788); AND APPROVING A PUBLIC SERVICE PLAN

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting it was a 305.17 acre tract of land and that the item had gone through two public hearings.

Deputy City Secretary Moreno read the caption of Ordinance No. 9159.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9159 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. NAY: None. ABSTAIN: None. ABSENT: Sparks.

30. Consider an ordinance on a request for the annexation of a 2.47-acres tract (Tract 3) of

land out of Section 8, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the west side of Wright Drive, approximately 850 feet south of Loop 40.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9160

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 2.47-ACRE TRACT OF LAND OUT OF SECTION 8, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE WEST SIDE OF WRIGHT DRIVE, APPROXIMATELY 850 FEET SOUTH OF LOOP 40); AND APPROVING A PUBLIC SERVICE PLAN

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting there are several oil wells on the property.

Deputy City Secretary Moreno read the caption of Ordinance No. 9160.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9160 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

31. Consider an ordinance on a request for the vacation of alley right-of-ways being a 0.13-acre portion adjacent to Lots 18 – 21, Block 166; of the 0.25-acres adjacent to Lots 1 – 15, Block 165; of the 0.14-acres adjacent to Lots 1 – 4, Block 167; and for the vacation of street right-of-ways being the 1.78-acres of Leslie Drive and of the 0.64-acres of Kristie Lane, all out of Wilshire Park Addition, Section 11, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of Leisure Drive and Beal Parkway.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9161

AN ORDINANCE VACATING AND ABANDONING A 0.13-ACRE PORTION OF ALLEY RIGHT-OF-WAY ADJACENT TO LOTS 18-21, BLOCK 166, A 0.25-ACRE PORTION OF ALLEY RIGHT-OF-WAY ADJACENT TO LOTS 1-15, BLOCK 165, A 0.14-ACRE PORTION OF ALLEY RIGHT-OF-WAY ADJACENT TO LOTS 1-4, BLOCK 167, A 1.78-ACRE PORTION OF LESLIE DRIVE RIGHT-OF-WAY, AND A 0.64-ACRE PORTION OF KRISTIE LANE RIGHT-OF-WAY, ALL OUT OF WILSHIRE PARK ADDITION, SECTION 11, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF LEISURE DRIVE AND BEAL PARKWAY); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$192,073.50; AND ORDERING RECORDATION BY THE CITY SECRETARY

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting this is for a senior living center. The zoning allows for construction up to 50 feet but he indicated this will be a two-story building. He noted some of the initial opposition fell by the wayside when they learned it will be a two-story building.

Granger MacDonald, Kerrville, Texas, stated this was an affordable senior project and noted that they were working in conjunction with MCDC. He felt that the asking price of

\$192,000 was too much and asked the Council to consider a lesser amount. When prompted, he thought \$35,000 was a fair asking price.

Deputy City Secretary Moreno read the caption of Ordinance No. 9161.

Council Member Love moved approval of the first of two readings of Ordinance No. 9161 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

City Attorney Stretcher reported that the City owns the land and that they can reduce the value at their discretion. It was noted that the City Manager came up with the value based on Midland Central Appraisal Districts' assessment.

Discussion ensued regarding the need for the project and the viability if the asking price was too high.

David Diaz, 5101 Sherwood, reported there are other non-profits in town that could be doing the same thing but they are not. Council has long history of providing donation of land noting they were not asking for a donation but would like a fairer price.

Council Member Trost moved to amend the motion by setting the price at \$35,000; seconded by Council Member Love. The motion to amend failed by the following vote: AYE: Love, Morales, Trost. NAY: Perry, Dufford, James. ABSTAIN: None. ABSENT: Sparks.

Discussion ensued about what would be considered a fair value of the property. The developer was encouraged to research recent sales of property and to make a recommendation of price at the next Council Meeting. Mr. Granger indicated that anything more than \$70,000 would likely kill the deal.

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

32. Consider a motion directing staff to begin the process of annexation for approximately 36 acres of land per the terms of an Agriculture Exemption Agreement which the owner now wishes to develop. (DEVELOPMENT SERVICES)

Interim Planning Division Manager Ken VanDyne reported this proposed annexation is to the west of North of Loop 250 by 1788. The initial plat received indicates an interest in the tenant developing the area for an office development on one of the tracts and staff is in support of annexing the area.

Council Member Dufford moved to approve a motion directing staff to begin the process of annexation for approximately 36 acres of land per the terms of an Agriculture Exemption Agreement which the owner now wishes to develop; seconded by Council Member Love. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James. NAY: None. ABSTAIN: None. ABSENT: Sparks.

33. Continued consideration of an ordinance on a request by GBT Realty Corporation for a zone change from PD, Planned District for an Office Center to PD, Planned District for a Transition District, on a 1.011-acre tract of land being the north 141.00 feet of Block 1,

Harrison Tract, City and County of Midland, Texas. (Generally located at the east side of North Midland Drive, approximately 160 feet north of Shell Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9149

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 1.011-ACRE TRACT OF LAND BEING THE NORTH 141 FEET OF BLOCK 1, HARRISON TRACT, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR AN OFFICE CENTER, TO BE USED AS A PD, PLANNED DISTRICT FOR A TRANSITION DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 160 FEET NORTH OF SHELL 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

Interim Planning Division Manager Ken VanDyne gave an overview of the item.

Deputy City Secretary Moreno read the caption of Ordinance No. 9149.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9149 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

When asked about the deed restriction, City Attorney Stretcher reported that a deed restriction does not bind the City Council noting that zoning is a separate function. Zoning is public and a deed restriction is private.

Council Member James reported that many of the issues of the community had been addressed by the developer but noted the developer had expressed that if he did not have the 47 signatures required by the deed restriction he would not move forward on the project.

Mayor Perry clarified that if the Council votes against this item no changes can be made for one year. Mr. VanDyne explained that if the developer was able to show extenuating circumstances, that time could be dropped down to six months.

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

34. Discuss the City's legislative agenda in the 83rd Regular Session of the Texas Legislature. (CITY ATTORNEY'S OFFICE)

City Attorney Keith Stretcher gave an overview of the various bills that affected the City of Midland during the 83rd Regular Session of the Texas Legislature.

Council commended Mr. Stretcher for his work and thanked him for doing a good job.

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

No appointments were made.

EXECUTIVE SESSION

37. 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 551.087 Deliberate Economic Development Negotiations

- a.1. Discuss business prospects that the City seeks to have, locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives. (Ask Courtney if this is going on).

Mayor Perry announced that the Council would recess to Executive Session and then would reconvene at the Airport for Agenda Item 36 at approximately 12:30 p.m. He recessed the meeting at 11:42 a.m. The entire Council met in Executive Session until 12:25 p.m.

36. 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.

Director of Airports Marv Esterly presented an update on the airports.

All of the business at hand having been completed, the meeting adjourned at 2:34 p.m.

PASSED AND APPROVED the 9th day of July, 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary