MIDLAND CITY COUNCIL
MINUTES
June 26, 2012

REGULAR SESSION
The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:02 a.m., June 26, 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, 12, 13, 15, 16, 17, 18, 20, 21, 22, 24, 25, 10, 11, 14, 19, 23, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 30 (2nd time).

OPENING ITEMS

1. Invocation - Dr. Tim Walker, First United Methodist 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 given.

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 - 25 excluding, 10, 11, 14, 19, 23; 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.

5. Approved a motion approving the following minutes:

   a. Regular Meeting of June 12, 2012

6. Approved a resolution adding one (1) Special Meeting on August 7, 2012 and Two (2) Regular Meetings, one on August 21, 2012 and the Second on August 27, 2012 to the City council Meetings Scheduled for the 2012 Calendar Year. (FINANCE)

RESOLUTION NO. 2012 - 186

RESOLUTION ADDING ONE (1) SPECIAL MEETING, ON AUGUST 7, 2012, AND TWO (2) REGULAR MEETINGS, ONE ON AUGUST 21, 2012, AND THE SECOND ON AUGUST 27, 2012, TO THE CITY COUNCIL MEETINGS SCHEDULED FOR THE 2012 CALENDAR YEAR

7. Approved a resolution approving a service agreement for a license plate recognition system through TXMAS contract 8-840130 from John Wright and Associates, Inc. for the Police Department. File 4187-11 (GENERAL SERVICES)

RESOLUTION NO. 2012 - 187

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR THE PURCHASE OF A LICENSE PLATE RECOGNITION SYSTEM WITH ASSOCIATED SERVICE PLAN FOR USE BY THE MIDLAND POLICE DEPARTMENT FROM JOHN WRIGHT ASSOCIATES, INCORPORATED, FOR $21,200.00 THROUGH THE TEXAS MULTIPLE AWARD SCHEDULE PURCHASING PROGRAM; AND ACCEPTING THE CITY MANAGER'S RECOMMENDATION THAT THE PURCHASE OF SAID LICENSE PLATE RECOGNITION SYSTEM FROM JOHN WRIGHT ASSOCIATES, INCORPORATED, ALTHOUGH NOT THE LOWEST BID, IS THE BEST VALUE

8. Approved a resolution rejecting the single bid received from Onyx Contractors Operations, LP for the construction of a pavilion at Hogan Park for the Community Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 188

RESOLUTION REJECTING THE SINGLE BID RECEIVED FOR BID NUMBER 4440-12 FOR CONSTRUCTION OF A PAVILION AT HOGAN PARK

9. Approved a resolution approving the purchase of 1000 – 3 CY Refuse Containers, 300 – 3.5 CY Refuse Containers, 3 – 35 to 50 CY Self Contained Compactors and 5 – 30 CY Open Top Roll-Off Containers for the Solid Waste Department. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 189

RESOLUTION APPROVING THE PURCHASE OF ONE THOUSAND (1,000) THREE CUBIC YARD REFUSE CONTAINERS WITH LIDS, THREE HUNDRED (300) THREE AND ONE-HALF CUBIC YARD REFUSE CONTAINERS WITH LIDS, THREE (3) THIRTY-FIVE TO FIFTY CUBIC YARD SELF-CONTAINED COMPACTORS, AND FIVE (5) THIRTY CUBIC YARD OPEN TOP ROLL-OFF CONTAINERS FROM ROLL-OFFS USA, INCORPORATED, OF DURANT, OKLAHOMA, AT A TOTAL COST OF $627,625.00

12. Approved a resolution authorizing the advertisement of a Request for Proposals (RFP) for Terminal Food & Beverage Concessions at the Midland International Airport.

(AIRPORTS)

RESOLUTION NO. 2012 - 192

RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS FOR TERMINAL FOOD AND BEVERAGE CONCESSIONS AT THE MIDLAND INTERNATIONAL AIRPORT

13. Approved a resolution authorizing the advertisement of a Request for Proposals (RFP) for Terminal News and Gift Concessions at the Midland International Airport, City of Midland, Midland County, Texas. (AIRPORTS)

RESOLUTION NO. 2012 - 193

RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS FOR TERMINAL GIFT AND NEWS CONCESSIONS AT THE MIDLAND INTERNATIONAL AIRPORT

15. Approved a resolution regarding allocation of funds to the Software Upgrade Project (CISD)

RESOLUTION NO. 2012 - 195

RESOLUTION APPROPRIATING $350,000.00 TO THE SOFTWARE UPGRADE PROJECT

16. Approved a resolution regarding allocation of funds to the Computer and Accessories Upgrade Project (CISD)

RESOLUTION NO. 2012 - 196

RESOLUTION APPROPRIATING $400,000.00 TO THE COMPUTER AND ACCESSORIES UPGRADE PROJECT

17. Approved a resolution regarding allocation of funds to the Central Hardware Upgrade Project (CISD)

RESOLUTION NO. 2012 - 197

RESOLUTION APPROPRIATING $258,500.00 TO THE CENTRAL HARDWARE UPGRADE PROJECT

18. Approved a resolution authorizing an agreement with Rock the Desert Ministries, Inc. (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2012 - 198

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH ROCK THE DESERT MINISTRIES, INCORPORATED AS AUTHORIZED BY CHAPTER 351 OF THE TEXAS TAX CODE; THE FUNDS ALLOCATED BY THIS RESOLUTION SHALL BE USED TO PROMOTE TOURISM AND THE MOTEL AND HOTEL INDUSTRY; THE ALLOCATED FUNDS ARE EXPENDED IN A MANNER DIRECTLY ENHANCING AND PROMOTING TOURISM AND THE MOTEL AND HOTEL INDUSTRY; THE USE AND ALLOCATION OF THESE FUNDS ARE AUTHORIZED BY CHAPTER 351 OF THE TEXAS TAX CODE; AND THE APPROVAL OF THIS RESOLUTION SHOULD NOT BE CONSTRUED OR INTERPRETED AS ENDORSING THE MESSAGE OR ACTIVITIES PROMOTED BY ROCK THE DESERT MINISTRIES,

INCORPORATED; AND ALLOCATING FUNDS

20. Approved a resolution approving a Professional Services Agreement with Parkhill, Smith & Cooper authorizing additional geotechnical services in the amount of $9,500 for the Sparks Park Target Area. (ENGINEERING SERVICES)

RESOLUTION NO. 2012 - 200
RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INC. REGARDING THE DEVELOPMENT OF THE SPARKS PARK TARGET AREA; AND AUTHORIZING PAYMENT THEREFOR

21. Approved a resolution allowing the Midland Fire Department to apply for Assistance to Firefighters Grant (AFG) 2012. (FIRE)

RESOLUTION NO. 2012 - 201
RESOLUTION AUTHORIZING THE MIDLAND FIRE DEPARTMENT TO FILE AN APPLICATION WITH THE UNITED STATES GOVERNMENT FOR THE 2012 ASSISTANCE TO FIREFIGHTERS GRANT; SAID FUNDS WILL BE USED TO PURCHASE INDIVIDUAL BREATHING REGULATORS FOR FIREFIGHTERS; SAID GRANT IS A MATCHING FUNDS GRANT IN WHICH THE ASSISTANCE TO FIREFIGHTERS GRANT WOULD FUND 80% ($40,000.00) OF THE TOTAL AMOUNT ($50,000.00) AND THE CITY OF MIDLAND WOULD FUND 20% ($10,000.00) OF THE TOTAL AMOUNT

22. Approved a resolution accepting and appropriating $60,339 awarded to the Midland Police Department by the Governor's Office through the Edward Byrne Memorial Justice Assistance Grant Program. (POLICE)

RESOLUTION NO. 2012 - 202
RESOLUTION AUTHORIZING THE CITY OF MIDLAND POLICE DEPARTMENT TO ACCEPT THE FISCAL YEAR 2012 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT IN THE AMOUNT OF $60,339.00 PROVIDED BY THE GOVERNOR'S OFFICE; SAID GRANT FUNDS WILL BE USED FOR A USE-OF-FORCE TRAINING TECHNOLOGY PROJECT; AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS; AND APPROPRIATING FUNDS

24. Approved a resolution approving the execution of a Task Order for additional design services and construction management costs for the MBR Satellite Reclaimed Water Production Facility Project with CDM Smith Inc. and appropriate funds. (UTILITIES)

RESOLUTION NO. 2012 - 204
RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT TASK ORDER WITH CDM SMITH INC., FOR PROFESSIONAL ENGINEERING SUPPORT SERVICES REGARDING THE MEMBRANE BIOLOGICAL REACTOR SATELLITE RECLAIMED WATER PRODUCTION FACILITY PROJECT, AT AN ESTIMATED TOTAL COST OF $585,980.00; AND APPROPRIATING FUNDS

25. Approved a resolution approving Change Order Number 1 for the water system improvements: Rehabilitation & Lead Abatement of Airport and Shell Elevated Storage Tanks Project with A & M Construction and Utilities, Inc. and appropriate funds.

(UTILITIES)

RESOLUTION NO. 2012 - 205

RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER ONE WITH A&M CONSTRUCTION & UTILITIES, INCORPORATED, ADDING $163,970.00 FOR ADDITIONAL WORK TO THE EXISTING CONTRACT FOR THE WATER SYSTEM IMPROVEMENTS - REHABILITATION AND LEAD ABATEMENT OF AIRPORT AND SHELL ELEVATED STORAGE TANKS PROJECT; AND APPROPRIATING $163,970.00; THE ORIGINAL CONTRACT WAS FOR $1,432,500.00; THIS CHANGE ORDER BRINGS THE TOTAL CONTRACT PRICE TO $1,596,470.00

The following items were pulled from consent agenda and considered individually.

10. Consider a resolution approving the purchase of 9 LAWS Hazard Alert Warning Systems (Outdoor NOAA Weather Alert System) from DFW Communications of Fort Worth, Texas through the Buyboard for the Fire Department. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 190

RESOLUTION APPROVING THE PURCHASE OF NINE (9) LOCAL AREA OUTDOOR WEATHER WARNING SYSTEMS FROM DFW COMMUNICATIONS FOR $124,750.00; AND THIS ITEM WAS NOT BID, BUT WAS PURCHASED THROUGH THE LOCAL GOVERNMENT PURCHASING COOPERATIVE

Discussion ensued regarding the frequency of the warning system tests, community notifications and county participation.

Council Member James moved to adopt Resolution No. 2012 - 190; 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.

11. Consider a resolution approving plans and specifications and authorizing advertisement for bids for playground and recreational equipment for the Community Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 191

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR LABOR, MATERIAL, EQUIPMENT AND SUPERVISION NECESSARY TO PROVIDE AND INSTALL PLAYGROUND EQUIPMENT AT BUTLER PARK, GRAFA PARK, HOUSE PARK, PIONEER PARK, SPARKS PARK, ULMER PARK AND A PAVILION AT HOGAN PARK; THE CONTRACT WILL ALSO INCLUDE THE PURCHASE AND INSTALLATION OF TRASH RECEPTACLES, PARK BENCHES, PICNIC TABLES, BARBEQUE GRILLS, BASKETBALL BACKBOARDS, DRINKING FOUNTAINS, SHADE STRUCTURES, GOAL POSTS, DUG OUT BENCHES, DISC GOLF NETS, ATHLETIC BLEACHERS AND SENIOR ACCESS WELLNESS STATIONS FOR VARIOUS MIDLAND PARKS

Brief discussion ensued regarding the purchase of Big Belly trash receptacles and the possibility of getting private sector sponsorships.

Council Member James moved to adopt Resolution No. 2012 - 191; 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.

14. Consider a resolution regarding allocation of funds to the Wireless System Project (CISD)

RESOLUTION NO. 2012 - 194

RESOLUTION APPROPRIATING $250,000.00 TO THE WIRELESS SYSTEM PROJECT

Brief discussion was held regarding the complete overhaul of infrastructure and software. These were projects that were part of the Certificates of Obligations that were previously approved.

Council Member James moved to adopt Resolution No. 2012 - 194; 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.

19. Consider a resolution establishing Project Number 8996 "Hike and Bike Trail Development" for further development of a Hike Bike Trail System; and appropriating $200,000. (COMMUNITY SERVICES)

RESOLUTION NO. 2012 - 199

RESOLUTION ESTABLISHING PROJECT NUMBER 8996 “HIKE AND BIKE TRAIL DEVELOPMENT" FOR FURTHER DEVELOPMENT OF A HIKE AND BIKE TRAIL; AND APPROPRIATING FUNDS IN THE AMOUNT OF $200,000.00

Brief discussion ensued regarding the need to appropriate the Certificate of Obligation money in order to continue the hike/bike trail system project and the possibility of using in-kind investors.

Council Member Morales moved to adopt Resolution No. 2012 - 199; 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.

23. Consider a resolution approving the execution of a Task Order for the design and construction management of the T-Bar Chlorination Station with CDM Smith Inc. and appropriate funds. (UTILITIES)

RESOLUTION NO. 2012 - 203

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT TASK ORDER WITH CDM SMITH INC., FOR PROFESSIONAL ENGINEERING SUPPORT SERVICES REGARDING THE DESIGN AND CONSTRUCTION MANAGEMENT OF THE T-BAR CHLORINATION STATION, AT AN ESTIMATED TOTAL COST OF $551,066.00; AND APPROPRIATING FUNDS

Brief discussion ensued regarding whether this was a separate item from the original directive to the Midland Fresh Water District and that CDM would be designing it. The Water District will be constructing it under their contract for extended infrastructure and the City will be pay for the design.

Council Member Morales moved to adopt Resolution No. 2012 - 203; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Hailey, Perry, Dufford, James, Sparks. NAY: Trost. ABSTAIN: None. ABSENT: None.

SECOND READINGS

26. Consider an ordinance on second reading 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

City Secretary Turner read the caption of Ordinance No. 9031.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9031 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.

27. Consider an ordinance on second reading 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

City Secretary Turner read the caption of Ordinance No. 9032.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9032 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.

28. Consider an ordinance on second reading 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

City Secretary Turner read the caption of Ordinance No. 9033.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 9033 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.

29. Consider an ordinance on second reading 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

City Secretary Turner read the caption of Ordinance No. 9034.

Council Member Hailey moved to approve the second and final reading 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.

PUBLIC HEARINGS

30. At approximately 10:30 a.m. hold a public hearing and consider an ordinance on a request by D. K. Boyd for a zone change from PD, Planned District for a Shopping Center to Amended Planned District. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9035

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 20.22-ACRE TRACT OF LAND OUT OF SECTION 9, 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 NORTHEAST CORNER OF MOCKINGBIRD LANE AND MIDKIFF ROAD); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Walker gave an overview of the item noting this was a request for zoning a site plan review for property located at Mockingbird Lane and Midkiff Road. The request was for adoption of a site planned as a Planned District Site Plan, which is for a mixed-use development including retail and residential uses. One letter of objection had been received which was concerning traffic at that intersection.

Discussion ensued regarding the need for a traffic impact analysis, screening the storage units, height restrictions, landscaping, lighting and fencing.

Mayor Perry opened the public hearing at 10:49 a.m.

Eric West, Parkhill, Smith & Cooper, 1700 West Wall, spoke about the storage units in the development which would not be open to the public. The architecture of the storage units would be similar to office/retail buildings. He addressed parking concerns noting there would be less traffic because it was 55 percent office space.

Matt Hanson, 4605 East Highway 80, noted that xeriscaping should be considered when planning the landscape due to a limited water supply.

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

Discussion ensued regarding the widening of Midkiff, the potential need for a traffic study and the developer’s part of the improvement of Mockingbird Lane and Midkiff Road.

City Secretary Turner read the caption of Ordinance No. 9035.

Discussion ensued regarding the landowner's participation in half of Mockingbird to the end of their property and half of Midkiff to the end of their property as part of the purchase of the land.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9035 in accordance with the Charter of the City of Midland with the amendment to require a traffic study; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, James, Sparks. NAY: Hailey, Perry, Dufford. ABSTAIN: None. ABSENT: None. (Note: This item was reconsidered later in the meeting.)

31. At approximately 10:33 a.m. hold a public hearing and consider an ordinance on a request by Bill McClain for a zone change from an O-1, Office District to a Planned District for an Office Center. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9036

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING BLOCK 31A, THE VACATED 0.10-ACRE NORTH/SOUTH ALLEY, AND THE VACATED ADJACENT 0.05-ACRE PORTION OF NORTH MARIENFELD STREET RIGHT-OF-WAY, HOMESTEAD ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED O-1, OFFICE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR AN OFFICE CENTER (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST KANSAS AVENUE AND NORTH MARIENFELD 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 it was a request to change the zoning from O-1 District to PD for an Office Center primarily to allow for some additional building height. The building fits in the downtown area and is in the TIRZ #1 District. No letters of objection had been received and staff recommended approval.

Discussion ensued regarding the current parking lot and a potential parking structure.

Mayor Perry opened the public hearing at 11:29 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. 9036.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9036 in accordance with the Charter of the City of Midland; 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.

32. At approximately 10:36 a.m. hold a public hearing and consider a resolution on a request by Matt Hanson for a Temporary Land Use Permit for an Outdoor Sales Event.

(DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 – 206

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR OUTDOOR SALES ON LOTS 1, 2, 10, 11 AND 12, BLOCK 58, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST TEXAS AVENUE, BETWEEN PECOS STREET AND MARIENFELD STREET); MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Planning Division Manager Walker gave an overview of the item noting it was a request for a continuation of the Downtown Farmer's Market. The event occurs every Saturday from 9:00 a.m. to 1:00 p.m. The landowner has constructed shade structures used for covered parking and it provides shade and cooling for those in attendance. There were no records of concerns or problems related to the use and no letters of objection had been received. Staff recommended approval.

Mayor Perry opened the public hearing at 11:31 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Morales moved to adopt Resolution No. 2012 - 206; 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.

MISCELLANOUS

33. Consider a resolution approving the issuance of a permit to Callon Petroleum Operating Company (Operator), to Drill a Non-Commercial Salt-Water Disposal Well within the City Limits, (Pecan Acres 23 #1D) located 1,066 feet from the west line and 2,480 feet from the north line located in Section 23, Block 40, T & P RR Co. Survey, City and County of Midland, Texas. (Generally located on the west side of Golden Gate Drive, approximately ½ mile north of Briarwood Avenue.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 – 207

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO CALLON PETROLEUM OPERATING COMPANY ("OPERATOR") TO DRILL A NON-COMMERCIAL SALT-WATER DISPOSAL WELL WITHIN THE CITY LIMITS LOCATED 1,066 FEET FROM THE WEST LINE AND 2,480 FEET FROM THE NORTH LINE, SECTION 23, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF GOLDEN GATE DRIVE, APPROXIMATELY 1/2 OF A MILE NORTH OF BRIARWOOD AVENUE)

Oil & Gas Compliance Officer Ron Jenkins reported that this was an application for a non-commercial salt-water disposal well by Callon Petroleum, which would be located near the battery and that Council approved previous applications for this property. This well will be used for water produced from their wells permitted previously and in the future. The Callon well is the first salt-water disposal to be brought before Council and it will reduce the truck traffic that goes to the battery. Callon was requesting a variance from the installation of landscaping until future development occurs. Irrigation would be installed within two years from the time the permit was approved. The closest occupied residence to this well is 1,950 feet.

Discussion ensued regarding groundwater contamination and an incident that happened in Stanton which was a different type operation.

Jimmy Wright, 5212 Mathis, reported that they would be disposing the produced water into the San Andres Formation, which was significantly below any potable fresh water zones. The railroad commission requires that they undertake very specific standards of practice when drilling through any fresh water zones whether it is a salt-water disposal well or a commercial production well. There would be additional casing to protect them as they get through the Santa Rosa Zone just to go above and beyond any concerns. The main function of the salt-water disposal well is to provide for disposal of the produced water in Section 22 and 23 wells to reduce the truck traffic that comes in and out of the entrance to the tank battery.

Council Member James moved to adopt Resolution No. 2012 - 207; 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 551.074 Personnel Matters

a.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.

b. Section 551.072 Deliberation Regarding Real Property

b.1. Discuss the purchase, lease and value of real property described as approximately 2.066 acres, all of Block 055, Original Town Addition, City of Midland, Midland County, Texas.

b.2. Discuss the purchase, lease and value of real property described as approximately 2.0 acres, all of Block 039, Original Town Addition, City of Midland, Midland County, Texas.

b.3. Discuss the purchase, lease and value of real property described as approximately 2.0 acres, Lot 10, Block 007, Original Town Addition, City of Midland, Midland County, Texas.

b.4. Discuss the purchase, lease and value of real property described as approximately 2.0 acres, all of Block 008, Original Town Addition, City of Midland, Midland County, Texas.

b.5. Discuss the purchase, lease and value of real property described as approximately 2.0 acres, all of Block 063, Homestead Addition, City of Midland, Midland County, Texas.

b.6. Discuss the purchase, lease and value of real property described as approximately 2.0 acres, all of Block 088, Original Town Addition, City of Midland, Midland County, Texas.

b.7. Discuss the sale, lease and value of two City of Midland-owned properties located east of the Midland Center described as:

(i) 100 North Main Street (parking lot due east of the Midland Center), being approximately 0.884 acres, Block 053, Lots 013 through 023, Original Town Addition, Midland, Texas. Recorded in Volume 0858, page 0111, Midland County, Texas.

(ii) North Baird Street (parking east and north of Wall Street Grill), being approximately 0.886 acres, Block 053, Lots 1 through 8 & 9 (N8 of W75), and the E65 of Lots 9 through 12, Original Town Addition, Midland, Texas. Recorded in Volume 0649, page 0762, Midland County, Texas.

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 11:43 a.m. The Council met in executive session until 2:40 p.m.

Mayor Perry reconvened the meeting to regular session at approximately 2:41 p.m.

Council Member Sparks moved to reconsider agenda item number 30 as presented; 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.

30. At approximately 10:30 a.m. hold a public hearing and consider an ordinance on a request by D. K. Boyd for a zone change from PD, Planned District for a Shopping Center to Amended Planned District. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9035

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 20.22-ACRE TRACT OF LAND OUT OF SECTION 9, 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 NORTHEAST CORNER OF MOCKINGBIRD LANE AND MIDKIFF ROAD); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

Discussion ensued regarding Council's desire not to impact the project by requiring a traffic study. Consensus was to do the traffic study in house.

Council Member Sparks moved to approve the first reading of Ordinance No. 9035 in accordance with the Charter of the City of Midland without a traffic study requirement; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Hailey, Perry, Dufford, James, Sparks. NAY: Trost. ABSTAIN: None. ABSENT: None.

All of the business at hand having been completed, the meeting adjourned at 2:50 p.m.

PASSED AND APPROVED the 10th day of July, 2012.

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W. Wesley Perry, Mayor

ATTEST:

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Amy M. Turner, City Secretary