

**MIDLAND CITY COUNCIL
MINUTES
July 09, 2013**

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 July 09, 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), and Council Member John James (District 3).

Council Members absent: Council Member Michael Trost (District 4) (arrived at 9:33 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, First Assistant City Attorney John Ohnemiller, Engineering Director Jose Ortiz, City Engineer David Beard, Building Official Steve Thorpe, Public Information Officer Sara Higgins, Downtown Development Director Genora Young, Transportation Manager Gary Saunders, and Assistant Code Administration Manager Ron Jenkins.

Mayor Perry called the meeting to order at 9:30 a.m.

1. Receive a presentation from Parkhill, Smith & Cooper regarding the conceptual layout for the Briarwood Avenue Extension (Holiday Hill Road - Avalon Drive).

Eric West of Parkhill, Smith and Cooper introduced Jonathan Ziegner, Transportation Team Leader, and John Hellinghausen, Project Manager.

Jonathan Ziegner reported this project is one mile from Holiday Hill Road to Avalon Avenue. The construction funding is already in place and ultimately the construction will continue down the next two mile to State Highway 158. He reviewed the current conditions and proposed changes that will include two lanes in each direction, a left turn lane, and a bicycle lane. An area for pedestrians and drainage would also be encompassed in the 120 foot right of way. He addressed some special design considerations including alternatives to pavement structure, raised continuous medians, a right turn lane at Holiday Hill Road, deceleration lanes at the Bush Tennis Center, ultimate conditions at Avalon Drive (approach of intersection at full width for when Avalon is built out), and interim safety during construction. He addressed the benefits of a raised median section with left turn points at specific locations. The plans for the first mile section should be completed by mid-November.

Discussion ensued about how conflict points are reduced, acquiring right of way, how the road would be aligned, and retention ponds to decrease flooding issues.

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

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., July 09, 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, 17, 20, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 46, 48, (recess), 16, 18, 19, 21, 22, 23, 24, 40, 42, 43, 44, 45, 47.

OPENING ITEMS

1. Invocation - Reverend Pat Bryant, Travis Baptist Church
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Doreen Womack highlighted the several different awards Keep Midland Beautiful received.

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.

Tom Miller, 4311 Valley Drive, Executive Director of Family Promise, Midland, brought to the attention of Council that a two bedroom apartment costs \$1,400 per month noting that this price is out of reach for most single mothers. He shared the story of a family who is in that situation. The mother works full-time and has four children at home and is unable to afford an apartment when she only earns \$8.18 per hour. He urged the Council to bring affordable housing to Midland.

Paul Grimes, P.O. Box 61871, gave the Council a complaint and spoke about illegal gambling practices at Hogan Golf Course. Council Member Love noted he has asked for this to be investigated.

CONSENT AGENDA

Council Member Morales moved to approve Consent Agenda items 5 - 14; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

5. Approved a motion approving the following minutes:
 - a. Regular meeting of June 25, 2013.
6. Approved a resolution authorizing the Office of the City Attorney to file all documents, etc. in a lawsuit. (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2013 - 192

RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO FILE ALL DOCUMENTS, EMPLOY ALL NECESSARY EXPERTS AND MAKE ALL NECESSARY APPEARANCES TO REPRESENT THE CITY OF MIDLAND IN A LAWSUIT STYLED COLONIAL COUNTY MUTUAL INSURANCE COMPANY V. CITY OF MIDLAND; COUNTY COURT AT LAW NO. 2, MIDLAND COUNTY, TEXAS; CAUSE NO. CC17101; AND AUTHORIZING THE PAYMENT OF ALL COSTS

7. Approved a resolution affirming the City of Midland's policy of non-discrimination regarding all city programs, activities and services; adopting a non-discrimination policy statement; authorizing the City Manager to handle all inquiries regarding said policy; and appointing the Administrative Services Director as the City's ADA liaison. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2013 - 193

RESOLUTION AFFIRMING THE CITY OF MIDLAND'S POLICY OF NON-DISCRIMINATION REGARDING ALL CITY PROGRAMS, ACTIVITIES AND SERVICES; ADOPTING A NON-DISCRIMINATION POLICY STATEMENT; AUTHORIZING THE CITY MANAGER TO HANDLE ALL INQUIRIES REGARDING SAID POLICY; AND APPOINTING THE DIRECTOR OF ADMINISTRATIVE SERVICES AS THE CITY OF MIDLAND'S AMERICANS WITH DISABILITIES ACT (ADA) LIAISON

8. Approved a resolution approving plans and specifications and authorizing advertisement for bids for the Animal Services Building Renovation Project for the Community Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2013 - 194

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE ANIMAL SERVICES BUILDING RENOVATION PROJECT

9. Approved a resolution to amend the Public Improvement Development Agreement with Playa Del Pueblo Ltd. by authorizing the additional allocation of funds in the amount of \$88,461. The site is generally located on the north side of I-20 approximately 300' east of Terrell Street. Said agreement being authorized by Section 395.081 of the Texas Local Government Code. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 195

RESOLUTION AUTHORIZING THE EXECUTION OF AN ADDENDUM TO THE PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH PLAYA DEL PUEBLO, LTD. FOR DEVELOPMENT OF PLAY DEL PUEBLO ADDITION; AND APPROPRIATING FUNDS IN THE AMOUNT OF \$88,461 THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE

10. Approved a resolution to accept a modification to the FY2013 grant award in the amount of \$75,816 from the Southwest Border High Intensity Drug Trafficking Areas (HIDTA) Program and appropriate funds. (POLICE)

RESOLUTION NO. 2013 - 196

RESOLUTION ACCEPTING A MODIFICATION TO THE FISCAL YEAR 2013 GRANT AWARD FROM THE SOUTHWEST BORDER HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM IN THE AMOUNT OF \$75,816.00; THESE FUNDS WILL BE DIRECTED TO THE FISCAL YEAR 2013 HIGH INTENSITY DRUG TRAFFICKING AREAS GRANT PROJECT 7107; AND APPROPRIATING FUNDS

11. Approved a resolution approving application to the FY 2013 Justice Assistance Grant (JAG) Program. (POLICE)

RESOLUTION NO. 2013 - 197

RESOLUTION AUTHORIZING THE CITY OF MIDLAND TO FILE A JOINT APPLICATION WITH MIDLAND COUNTY FOR FISCAL YEAR 2013 JUSTICE ASSISTANCE GRANT FUNDS PROGRAM TOTALING \$29,554.00; AND AUTHORIZING THE EXECUTION OF AN AGREEMENT REGARDING THE DIVISION OF SAID GRANT FUNDS; THE CITY OF MIDLAND WILL RECEIVE \$17,732.00 (60%) AND MIDLAND COUNTY WILL RECEIVE \$11,822.00 (40%) OF THE GRANT FUNDS RESPECTIVELY; THIS AGREEMENT DOES NOT SUPERSEDE, MODIFY OR AMEND ANY OTHER PRIOR AGREEMENTS

12. Approved a resolution approving Change Order Number 3 for the Headworks Improvements - Replacement of Influent Screens Project with Red River Construction Company and appropriate funds. (UTILITIES)

RESOLUTION NO. 2013 - 198

RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER THREE WITH RED RIVER CONSTRUCTION COMPANY, INCORPORATED, ADDING \$22,660.56 FOR ADDITIONAL WORK TO THE EXISTING CONTRACT FOR THE HEADWORKS IMPROVEMENTS - REPLACEMENT OF INFLUENT SCREENS PROJECT; AND APPROPRIATING \$22,660.56; THE ORIGINAL CONTRACT WAS FOR \$5,357,080.00; THIS CHANGE ORDER BRINGS THE TOTAL CONTRACT PRICE TO \$6,208,395.56

13. Approved a resolution approving a Discharge License with Holly Energy Partners-Operating, L.P. (UTILITIES)

RESOLUTION NO. 2013 - 199

RESOLUTION AUTHORIZING THE EXECUTION OF A DISCHARGE LICENSE AGREEMENT WITH HOLLY ENERGY PARTNERS - OPERATING, L.P., FOR THE

PURPOSE OF DISCHARGING TREATED WASTEWATER

14. Approved a resolution authorizing the employment of a law firm to represent the City of Midland in a lawsuit. (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2013 - 200

RESOLUTION AUTHORIZING THE EMPLOYMENT OF THE LAW FIRM OF COTTON, BLEDSOE, TIGHE & DAWSON, P.C. TO REPRESENT CITY OF MIDLAND EMPLOYEES IN DEPOSITIONS ARISING FROM THE LAWSUIT STYLED RICHARD SANCHEZ, ET AL. V. UNION PACIFIC RAILROAD, INC. AND SMITH INDUSTRIES, INC. (441st JUDICIAL DISTRICT COURT, MIDLAND COUNTY, TEXAS; CAUSE NO. CV-49,117) OR THE LAWSUIT STYLED CATHERINE STOUFFER, ET AL. V. UNION PACIFIC RAILROAD, INC. AND SMITH INDUSTRIES, INC. (116th JUDICIAL DISTRICT COURT, DALLAS COUNTY, TEXAS; CAUSE NO. 12-15024); AND AUTHORIZING THE PAYMENT OF ALL COSTS

SECOND READINGS

15. Consider an ordinance on second reading 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

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

Mayor Perry noted the applicant has requested that his application be withdrawn.

City Attorney Stretcher reported that the City Council took action on first reading and needs to take action on the applicant's request to withdraw.

Council Member James moved to withdraw the application per the applicant's request. If a new application is resubmitted, the applicant would need to go through the normal process as a new applicant; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY:

None. ABSTAIN: None. ABSENT: None.

16. Consider an ordinance on second reading 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

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

Council Member James moved to approve the second and final reading of Ordinance No. 9158 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

17. Consider an ordinance on second reading on a request of the annexation of a 305.17-acres (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

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

Council Member Love moved to approve the second and final reading of Ordinance No. 9159 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

18. Consider an ordinance on second reading 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

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

Council Member James moved to approve the second and final reading of Ordinance No. 9160 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

19. Consider an ordinance on second reading 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

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

Council Member Dufford moved to approve the second and final reading 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, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

20. Consider an ordinance on second reading 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

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

Council Member Sparks moved to approve the second and final reading 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, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

21. Consider an ordinance on second reading 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

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

Council Member Dufford moved to approve the second and final reading of Ordinance No. 9154 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, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

22. Consider an ordinance on second reading 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, Wyndwood Estates, Section 33, City and County of Midland, Texas. (Generally located at the south side of West 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

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

Council Member Morales moved to approve the second and final reading 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, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

23. Consider an ordinance on second reading 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

Deputy City Secretary Reyes read the caption of Ordinance No. 9156.

Council Member Trost moved to approve the second and final reading of Ordinance No. 9156 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, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

24. Consider an ordinance on second reading 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

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

Council Member Love moved to approve the second and final reading of Ordinance No. 9157 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, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

25. Consider an ordinance on second reading 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

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

Council Member Trost moved to approve the second and final reading of Ordinance No. 9161 in accordance with the Charter of the City of Midland; seconded by Council Member Love.

Mayor Perry noted that this item passed its first reading but there were questions about the value of the property.

Granger MacDonald, Kerrville, reported he found comparable properties priced at both

10 cents a square foot and 29 cents a square foot and offered the City Council 29 cents a square foot which would equal \$45,000.

Council Member James moved to amend the ordinance by changing the price to 29 cents a square foot for a total of \$45,000; seconded by Council Member Dufford.

Discussion ensued about the price variations with City Manager Sharp noting the City gets the appraisal amount from Midland Central Appraisal District.

Discussion ensued about how to ensure that prices are fair to all. It was suggested that when a question is raised about the price of a property to have the developer do the same as Mr. MacDonald.

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

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

26. Consider an ordinance on second reading on a request by Leslie Diann Hahn and L. H. Hahn for a zone change from 1F-2, One-Family Dwelling District to PD, Planned District for a Housing Development on Lots 1 through 15, Block 165; Lots 1 through 25, Block 166; Lots 1 through 4, Block 167, and the adjacent to be vacated 1.79-acres of Leslie Drive, the 0.43-acre of Kristie Lane and the 0.45-acres of alley rights-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.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9150

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A LOTS 1-15, BLOCK 165, LOTS 1-25, BLOCK 166, LOTS 1-4, BLOCK 167, THE ADJACENT TO BE VACATED 1.79 ACRES OF LESLIE DRIVE, THE 0.43 ACRES OF KRISTIE LANE, AND THE 0.45 ACRES OF ALLEY RIGHTS-OF-WAY, ALL OUT OF WILSHIRE PARK ADDITION, SECTION 11, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED 1F-2, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF LEISURE DRIVE AND BEAL PARKWAY); 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. 9150.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9150 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

PUBLIC HEARINGS

27. At approximately 10:30 A.M. hold a public hearing regarding a proposed oil and gas permit to Vector Oil & Gas (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (Barron #4) located 838 feet from north line and 2186 feet from west line, Section 6, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the Oriole Drive, approximately 840 feet south of Mockingbird Lane.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting it had been reviewed by the Oil and Gas Advisory Committee and that this was the fourth of four wells in the area. Two letters of objection had been received with objection to potential lower property values, concern for fresh water and noise concerns.

Mayor Perry opened the public hearing at 10:43 a.m.

Tim McNealy, 1545 Meadowlark, reported he contacted the oil company and they agreed to test his two water wells before and after drilling. He asked Council to change regulations to require noise barriers on wells noting some wells included sound buffers.

Mayor Perry asked Mr. Jenkins if concern for sound was raised during the Oil & Gas Advisory Committee meeting. Mr. Jenkins confirmed that it had not.

Mike Wallace, 200 Blackberry Circle, representing Vector Oil and Gas, reported that this is the fourth of four wells they plan to drill in that area. He said he is cognizant of sound issues and is trying to be proactive in minimizing sound. Normal conversation is 60 decibels and that at 120 feet from the well the sound decibel is 60. He spoke about a previous experience where pipe was being dropped at night noting they have changed that practice and try to only drop pipe during daytime hours. He expressed concern over the cost of sound walls.

There being no one else wishing to speak, the public hearing was closed. 10:49 a.m.

28. At approximately 10:33 A.M. hold a public hearing regarding a proposed oil and gas permit to Petroplex Energy, Inc. (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (Western T-8 #4) located 2173 feet from south line and 2173 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 the extension of North Midland Drive, approximately ½ mile north of Green Tree Boulevard.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting it had been reviewed by the Oil and Gas Advisory Committee. A landscape and irrigation variance had been requested as well as waiver of the Road Repair Agreement as they will not be accessing the site through City streets. No letters of objection had been received.

Mayor Perry opened the public hearing at 10:50 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

29. At approximately 10:36 A.M. hold a public hearing regarding a proposed oil and gas permit to Midland Energy, Inc. (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (Wimberley 1 #4) located 832 feet from south line and 982 feet from east line, Section 1, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the north side of the E. Loop 250 North, north of N. Fairgrounds Road.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting the item had been reviewed by the Oil & Gas Advisory Committee. A landscape and irrigation variance had been requested as well as a waiver to the Road Repair Agreement because no City streets will be used to access the well. No letters of objection were received.

Mayor Perry opened the public hearing at 10:51 a.m.

Mark Payne, 1603 Idyllwild, reported he just purchased acreage to the west of this property.

There being no one else wishing to speak, the public hearing was closed at 10:51 a.m.

30. At approximately 10:39 A.M. hold a public hearing regarding a proposed oil and gas permit to Crownquest Operating, LLC (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (COM Nail #1) located 1550 feet from south line and 1980 feet from east line, Section 36, Block 39, T-1-N, T&P RR Co. Survey, Martin County, Texas. (Generally located on the east side of the State Highway 349, approximately 2 ½ mile north of Arapahoe Road.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting that a request for waiver was received for landscape and irrigation, fence slating and the Road Repair Agreement. He reported they have a right of way agreement for the permit and no letters of objection had been received.

Mayor Perry opened the public hearing at 10:52 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

31. At approximately 10:42 A.M. hold a public hearing regarding a proposed oil and gas permit to Crownquest Operating, LLC (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (COM Nail #2) located 660 feet from north line and 2173 feet from east line, Section 36, Block 39, T-1-N, T&P RR Co. Survey, Martin County, Texas. (Generally located on the east side of the State Highway 349, approximately three miles north of Arapahoe Road.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

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

Mayor Perry opened the public hearing at 10:53 a.m. There being no one present wishing to speak the public hearing was immediately closed.

32. At approximately 10:45 A.M. hold a public hearing regarding a proposed oil and gas permit to Crownquest Operating, LLC (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (COM Nail #3) located 467 feet from north line and 467 feet from east line, Section 36, Block 39, T-1-N, T&P RR Co. Survey, Martin County, Texas. (Generally located on the east side of the State Hwy 349, approximately three miles north of Arapahoe Road.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting this well had the same circumstance and was in the same location as the previous item. No letters of objection had been received.

Mayor Perry opened the public hearing at 10:54 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

33. At approximately 10:48 A.M. hold a public hearing regarding a proposed oil and gas permit to Callon Petroleum Energy (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (Pecan Acres 23 #8) located 660 feet from north line and 660 from west line, Section 23, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the south side of the west extension of Mockingbird Lane, approximately $\frac{3}{4}$ mile west of Golden Gate Drive.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting it had been reviewed by the Oil & Gas Advisory Committee and that the Committee recommended a two-year landscape and irrigation variance due to the location of the well. No letters of objection had been received.

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.

34. At approximately 10:51 A.M. hold a public hearing regarding a proposed oil and gas permit to Callon Petroleum Energy (Operator) for a Permit to Drill an Oil & Gas Well within the City Limits, (Pecan Acres 22A #3) located 660 feet from north line and 587 from east line, Section 22, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the south side of the west extension of Mockingbird Lane, approximately one mile north of Briarwood Avenue.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting it had been reviewed by the Oil & Gas Advisory Committee and that one letter of objection had been received. He reported a surface agreement is not in place on the property and the one letter of objection received was from the surface owner.

Mayor Perry opened the public hearing at 10:56 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

35. At approximately 10:54 A.M. hold a public hearing and consider an ordinance on a request by Grassland 2 Dev. Co., LLP for a zone change from PD, Planned District for a Housing Development to an Amended Planned District for a Housing Development on a 5.32-acre tract of land (Tract 1) and from 1F-1, One-Family Dwelling District to 1F-2,

One-Family Dwelling District on 5.35-acre tract of land (Tract 2), all out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located at the east side of State Highway 158 and at the west extension of Mosswood Drive.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9162

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 5.32-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS AN AMENDED PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; BY PERMITTING A 5.35-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED 1F-1, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A 1F-2, ONE-FAMILY DWELLING DISTRICT; SAID TRACTS BEING OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 158 AND AT THE WEST EXTENSION OF MOSSWOOD DRIVE); 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 it was a rezone for two tracts of land and the applicant was planning to create smaller tracts of land.

Mayor Perry 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 Reyes read the caption of Ordinance No. 9162.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9162 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, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

36. At approximately 10:57 A.M. hold a public hearing and consider an ordinance on a request by Innovative Land Development for a zone change from 1F-3, One-Family Dwelling District to TH, Townhouse Dwelling District on a 10.32-acre tract of land out of Section 1, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located at the east side of Lamesa Road, approximately ½ mile north of E. Loop 250 North.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9163

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 10.32-ACRE TRACT OF LAND OUT OF SECTION 1, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 1F-3, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A TH, TOWNHOUSE DWELLING DISTRICT (GENERALLY LOCATED AT THE EAST SIDE OF NORTH LAMESA ROAD, APPROXIMATELY ½ MILE NORTH OF EAST LOOP 250 NORTH); 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 overview of the item noting it was a request to rezone a 10.32 acre tract of land to slightly increase the density while still maintaining medium density in order to accommodate a demand for housing.

Mayor Perry opened the public hearing at 11:00 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. 9163.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9163 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

37. At approximately 11:00 A.M. hold a public hearing and consider an ordinance on a City initiated request by for a zone change from PD, Planned District for a Mixed Use District to PD, Planned District for Housing Development on a 2.50-acre portion of Lot 1, Block 3, Wallace Heights Addition, Section 4, City and County of Midland, Texas. (Generally located on the south side of Sinclair Avenue, approximately 380 feet west of N. Midland Drive.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9164

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 2.50-ACRE PORTION OF LOT 1, BLOCK 3, WALLACE HEIGHTS ADDITION, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A MIXED USE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE SOUTH SIDE OF SINCLAIR AVENUE, APPROXIMATELY 380 FEET WEST OF NORTH MIDLAND 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 it was a request for City initiated zoning for the new fire station. When asked he noted this zoning was specific to a fire department building in order to protect the property in case the fire house is not built. Any other type of structure would require rezoning.

Mayor Perry opened the public hearing at 11:03 a.m.

Jim Blischke, 2104 Freeport, asked if only a fire station could be built there. Mr. VanDyne confirmed that it could only be used for a fire station.

There being no one else wishing to speak, the public hearing was closed at 11:04 a.m.

Deputy City Secretary Reyes read the caption of Ordinance No. 9164.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9164 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

38. At approximately 11:03 A.M. hold a public hearing and consider an ordinance on a City initiated request for a zone change from MH, Manufactured Home District on Lot 1A, Block 5, and Lots 2A – 5A, & 7A, Block 4, Bizzell-Kiser; from MH, Manufactured Home, Section 5; Lot 6B, Block 4, Bizzell-Kiser, Section 6; a 0.45-acre portion of Tract 4, Bizzell-Kiser; on Lots 10A – 16A, Block 7, Bizzell-Kiser, Section 5; a 0.145-acre portion of Tract 7, Bizzell-Kiser; from 1F-3, One-Family Dwelling District and all of Block 3, Bizzell-Kiser, Sections 4 & 5; Lots 1A, 10A – 12A, Block 4, Bizzell-Kiser, Section 5; Lots 8B & 9B, Block 4, Bizzell-Kiser, Section 6; Lot 2A, Block 5, Bizzell-Kiser, Section 5; Lots 1A – 3A, 5A – 9A, 12A – 22A, Block 6, Bizzell-Kiser, Section 5; Lots 10A & 11A, Block 6, Bizzell-Kiser, Section 4; a 0.166-acre portion of Tract 6, Bizzell-Kiser; Lots 1A & 2A, Block 7, Bizzell-Kiser, Section 4; Lots 3A – 9A, Block 7, Bizzell-Kiser, Section 5; 0.656-acre portions (DEVELOPMENT SERVICES)

ORDINANCE NO. 9165

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1A, BLOCK 5, AND LOTS 2A-5A AND 7A, BLOCK 4, BIZZELL-KISER, SECTION 5, AND LOT 6B, BLOCK 4, BIZZELL-KISER, SECTION 6, AND A 0.45-ACRE PORTION OF TRACT 4, BIZZELL-KISER, AND LOTS 10A-16A, BLOCK 7, BIZZELL-KISER, SECTION 5, AND A 0.145-ACRE PORTION OF TRACT 7, BIZZELL-KISER, AND ALL OF BLOCK 3, BIZZELL-KISER, SECTIONS 4 AND 5, AND LOTS 1A, 10A-12A, BLOCK 4, BIZZELL-KISER, SECTION 5, AND LOTS 8B AND 9B, BLOCK 4, BIZZELL-KISER, SECTION 6, AND LOT 2A, BLOCK 5, BIZZELL-KISER, SECTION 5, AND LOTS 1A-3A, 5A-9A, 12A-22A, BLOCK 6, BIZZELL-KISER, SECTION 5, AND LOTS 10A AND 11A, BLOCK 6, BIZZELL-KISER, SECTION 4, AND A 0.166-ACRE PORTION OF TRACT 6, BIZZELL-KISER, AND LOTS 1A AND 2A, BLOCK 7, BIZZELL-KISER, SECTION 4, AND LOTS 3A-9A, BLOCK 7, BIZZELL-KISER, SECTION 5, AND A 0.656-ACRE PORTION OF TRACT 7, BIZZELL-KISER, AND LOTS 1A-4A, BLOCK 9, BIZZELL-KISER, SECTION 4, AND A 0.45-ACRE PORTION OF TRACT 9, BIZZELL-KISER, AND ALL OF BLOCK 10, BIZZELL-KISER, SECTION 4, AND LOTS 1A-7A, BLOCK 11, BIZZELL-KISER, SECTION 4, AND LOT 8A, BLOCK 11, BIZZELL-KISER, SECTION 5, AND A 0.87-ACRE PORTION OF TRACT 11, BIZZELL-KISER, AND ALL OF BLOCK 12, BIZZELL-KISER, SECTION 4, AND LOTS 1A-21A, BLOCK 13, BIZZELL-KISER, SECTION 7, AND LOTS 22B AND 23B, BLOCK 13, BIZZELL-KISER, SECTION 8, AND LOTS 1A-18A, BLOCK 14, BIZZELL-KISER, SECTION 4, AND A 0.18-ACRE PORTION OF TRACT 14, BIZZELL-KISER, AND BLOCKS 45 AND 46, BELMONT ADDITION, AND ALL ADJACENT AND PREVIOUSLY VACATED RIGHTS-OF-WAY, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED MH, MANUFACTURED HOME DWELLING DISTRICT, IN PART, AND 1F-3, ONE-FAMILY DWELLING DISTRICT, IN PART, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED SOUTH OF EAST GIST AVENUE, BETWEEN SOUTH MAIN STREET AND SOUTH TERRELL 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 it was City initiated zoning to help clean up the windowpane area which was annexed in 2009. Staff would like to help facilitate development in the area.

Council Member James noted that zoning the property this way was not consistent with what drove the City to annex it in the first place.

Mr. VanDyne noted it would preserve the setbacks and increase right of way on narrow streets.

Discussion ensued that this zoning does not improve the area when stick built homes can be built next to mobile homes. The City should zone the property the way they would like to have it ultimately end up.

Council Member Love noted it is an economically challenged area and expensive homes would not be built in this area. This item was discussed with the neighborhood and staff. The neighborhood feels that this is the perfect solution to a unique situation.

Building Official Steve Thorpe reported that when speaking with the neighborhood they tried to come up with a solution that would work for everyone. In the ordinance there would be criteria that every mobile home would have to meet and this would be taking baby steps towards code compliance.

Max Cuellar reported they wanted to help people progress and to enhance upgrades in the neighborhood. He suggested that zoning another way would make it too strict for the neighborhood and no changes would be made.

Due to technical difficulties, Mayor Perry recessed the meeting at 11:29 a.m. The meeting was reconvened at 11:37 a.m.

Mr. Cuellar completed his comments noting that people cannot get financed for homes in that area for \$200,000 like a person could in another area of town.

Adriana Miranda, 505 E. Peck, reported her family owns a huge portion of land and understands that the City is trying to make it a better area. She reported that people cannot afford to make big improvements and the highest value in the area would probably be \$150,000. She reported most of the people cannot get loans from banks so they save as much money as they can and slowly make the improvements themselves. She felt like the whole area will be turned into apartments and that they will have to give up and move off of their land.

There being no one else wishing to speak, the public hearing was closed at 11:46 a.m.

Deputy City Secretary Reyes read the caption of Ordinance No. 9165.

Council Member Love moved approval of the first of two readings of Ordinance No. 9165 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

Discussion ensued about the current zoning. With the current plan, every time someone wanted to build in this area they would have to have plans drawn up and come before the Council for approval. A point was made that if the tough decision is not made now, it only prolongs what needs to be done.

Mr. VanDyne stated there were other mechanisms that could be used such as setting up an empowerment zone to encourage developers to bring areas up to par.

Council Member Love stated he wished other members had attended the community meeting emphasizing this was a compromise the citizens could embrace. He asked the Council to attend any future meetings in that area.

Discussion ensued about using CDBG funds to help in this area and that David Diaz of Midland Community Development Commission should be contacted about potential resources that could be brought to the area.

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

39. At approximately 11:06 A.M. hold a public hearing and consider a resolution on a request for a Temporary Land Use Permit for a School Faculty Housing on Lot 1, Block 2, Parkway South Addition, Section 2, City and County of Midland, Texas. (Generally located on the southwest corner of the intersection of South Lamesa Road and East Gist Avenue.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 201

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR SCHOOL FACULTY HOUSING ON LOT 1, BLOCK 2, PARKWAY SOUTH ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF SOUTH LAMESA ROAD AND EAST GIST 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 it was a request by the MISD Superintendent for temporary housing for school teachers due to the rising cost of housing and increasing population. He noted the district intends to place 70 manufactured homes on school owned property, noting this was a temporary land use permit that would be good for one year. He reported that all requirements for setbacks would be adhered to as well as the Fire Code and Building Code.

Mayor Perry opened the public hearing at 12:15 p.m.

Eric West, 1700 W. Wall, of Parkhill, Smith and Cooper reported they have been working with MISD on finding a location for this unique situation due to demand for bringing in teachers and a need to find affordable housing. The school district understands this is a temporary situation and hopes the housing market will catch up with the population growth.

There being no one else wishing to speak, the public hearing was closed at 12:17 p.m.

Council Member James moved to adopt Resolution No. 2013 - 201; seconded by Council Member Sparks.

Discussion ensued about being able to revoke the permit due to violation of terms. City Attorney Stretcher clarified that the City reserves the right to rescind to avoid a situation where someone thinks this is a permanent rezoning. He noted that Council has never activated that clause.

Discussion ensued about whether the possibility this property could be sold as a mobile home park, illegal dumping that is currently taking place on this property off of Terrell, and how trash will be picked up.

Council Member James moved to amend the motion by requiring that the property cannot be sold to a third party as a mobile home park; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member Love moved to amend the motion by requiring fencing to be installed along Terrell to prohibit dumping; seconded by .; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

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

MISCELLANEOUS

40. Consider an ordinance amending the Fiscal Year 2012-2013 Budget to provide additional funds to the Sports and Entertainment Association of Midland (SEAM) in the amount of \$50,000. (CITY SECRETARY'S OFFICE)

ORDINANCE NO. 9166

AN ORDINANCE AMENDING THE OFFICIAL MUNICIPAL BUDGET FOR FISCAL YEAR 2012-2013 IN ORDER TO PROVIDE ADDITIONAL FUNDS TO THE SPORTS AND ENTERTAINMENT ASSOCIATION OF MIDLAND; THE ADDITIONAL FUNDING PROVIDED TO THE SPORTS AND ENTERTAINMENT ASSOCIATION OF MIDLAND WILL BE USED FOR UPCOMING EVENTS; THE ADDITIONAL FUNDS WILL ALLOW FOR THE PROMOTION OF TOURISM IN THE CITY OF MIDLAND; AND ORDERING RECORDATION; AND APPROPRIATING FUNDS

Deputy City Secretary Reyes read the caption of Ordinance No. 9166.

Council Member Love moved approval of the first of two readings of Ordinance No. 9166 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

41. 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 #2) located 1260 feet from north line and 672 feet from east line, Section 8, Block 39, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the west side of the extension of N. Midkiff Road, approximately ¾ mile north of the extension of Green Tree Boulevard.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 202

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO PETROPLEX ENERGY, INC. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 1,260 FEET FROM THE NORTH LINE AND 672 FEET FROM THE EAST LINE, SECTION 8, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF THE EXTENSION OF NORTH MIDKIFF ROAD, APPROXIMATELY ¾ OF A MILE NORTH OF THE EXTENSION OF GREEN TREE BOULEVARD); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting that no letters of objection had been received; the item was approved by the Oil & Gas Advisory Committee with the recommendation of granting a landscape and irrigation variance until the property changes ownership and waiving the requirement for a Road Repair Agreement.

Council Member Dufford moved to adopt Resolution No. 2013 - 202; seconded by Council Member Morales. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

42. Consider a motion on a request by James Grose (Tradewinds Apartments) for interpretation of City of Midland Ordinance No. 9090 which approved site plans for a Planned District for a Housing Development on Lot 1A, Block 4, Gateway Plaza, City and County of Midland, Texas. This request relates to the removal of dormers from the front and rear elevations of building and reduced stone on buildings. This property is generally located on the west side of Tradewinds Boulevard, approximately 800 feet north of Business Interstate 20. This motion involves the City Council's interpretation of a Planned District. (DEVELOPMENT SERVICES)

Interim Planning Division Manager Ken VanDyne shared changes that are proposed to be made noting staff feels the changes are minor.

Jim Grose, Dallas, reported he is the developer and a general partner. He reported he was available to answer any questions.

Council Member Love moved to approve a motion on a request by James Grose (Tradewinds Apartments) for interpretation of City of Midland Ordinance No. 9090 which approved site plans for a Planned District for a Housing Development on Lot 1A, Block 4, Gateway Plaza, City and County of Midland, Texas. This request relates to the removal of dormers from the front and rear elevations of building and reduced stone on buildings. This property is generally located on the west side of Tradewinds Boulevard, approximately 800 feet north of Business Interstate 20. This motion involves the City Council's interpretation of a Planned District; seconded by Council Member Trost. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, Sparks.

NAY: None. ABSTAIN: None. ABSENT: James.

43. Consider an ordinance on a request for the vacation of a 0.138-acre portion of the right-of-way of E. Spruce Avenue adjacent to Lots 23 and 24, Block 6 and to Lots 1 and 2, Block 5, Sun Garden Village, Second Section, City and County of Midland, Texas. (Generally located on the west side of North Carver Street, approximately 270 feet south of Dormard Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9167

AN ORDINANCE VACATING AND ABANDONING A 0.138-ACRE PORTION OF EAST SPRUCE AVENUE RIGHT-OF-WAY ADJACENT TO LOTS 23 AND 24, BLOCK 6, AND TO LOTS 1 AND 2, BLOCK 5, SUN GARDEN VILLAGE, SECOND SECTION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH CARVER STREET, APPROXIMATELY 270 FEET SOUTH OF DORMARD AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$599.20; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Reyes read the caption of Ordinance No. 9167.

Interim Planning Division Manager Ken VanDyne gave an overview of the item noting this was the first of three vacations.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9167 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Love, Morales, Trost, Perry, Dufford, Sparks. NAY: None. ABSTAIN: None. ABSENT: James.

44. Consider an ordinance on a request for the vacation of a 0.098-acre portion of the right-of-way of North Carver Street adjacent to Lot 1, Block 5, Sun Garden Village, Second Section, City and County of Midland, Texas. (Generally located on the south of East Spruce Avenue, approximately 150 feet north of East Pine Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9168

AN ORDINANCE VACATING AND ABANDONING A 0.098-ACRE PORTION OF NORTH CARVER STREET RIGHT-OF-WAY ADJACENT TO LOT 1, BLOCK 5, SUN GARDEN VILLAGE, SECOND SECTION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON SOUTH SIDE OF EAST SPRUCE AVENUE, APPROXIMATELY 150 FEET NORTH OF EAST PINE AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$424.90; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Reyes read the caption of Ordinance No. 9168.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9168 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, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

45. Consider an ordinance on a request for the vacation of a 0.185-acre portion of the right-of-way of Spruce Avenue adjacent to Lot 4, Block 12 and to Lot 1, Block 11, Sun

Garden Village, Second Section, City and County of Midland, Texas. (Generally located on the east side of Jackson Street, approximately 270 feet south of Dormard Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9169

AN ORDINANCE VACATING AND ABANDONING A 0.185-ACRE PORTION OF EAST SPRUCE AVENUE RIGHT-OF-WAY ADJACENT TO LOT 4, BLOCK 12, AND TO LOT 1, BLOCK 11, SUN GARDEN VILLAGE, SECOND SECTION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH JACKSON STREET, APPROXIMATELY 270 FEET SOUTH OF DORMARD AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$804.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Reyes read the caption of Ordinance No. 9169.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9169 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, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

46. Consider 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. (ENGINEERING SERVICES)

ORDINANCE NO. 9170

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 reported this Ordinance is done every few months when new traffic control devices are installed.

Deputy City Secretary Reyes read the caption of Ordinance No. 9170.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9170 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, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Love.

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

No appointments were made.

EXECUTIVE SESSION

48. 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.
- b. Section 551.072 Deliberation Regarding Real Property.
 - b.1. Discuss the purchase, exchange lease or value of real property described as Acres: 0.321, Block 035, Lots 5 & 6, Block 35 Addition, Original Town, Midland, Midland County, Texas.
 - b.2. Discuss the purchase, exchange lease or value of real property described as Acres: 0.321; Block: 035, Lots 7 & 8, Original Town, Midland, Midland County, Texas.

Mayor Perry recessed the meeting to Executive Session at 1:45 p.m. noting they would reconvene in open session no earlier than 1:45 p.m. to hear the remainder of items.

Mayor Perry reconvened the meeting in Regular Session at 2:20 p.m. with all Council Members present.

All of the business at hand having been completed, the meeting adjourned at 2:45 p.m.

PASSED AND APPROVED the 23rd day of July, 2013.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary