MIDLAND CITY COUNCIL
MINUTES
July 10, 2012

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 8:15 a.m. on July 10, 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).

Council Members absent: None.

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, Police Chief Price Robinson, General Services Director Robert Patrick, Finance Director Robert McNaughton, Administrative Services Director Catherine Clifton, Chief Information Officer Sharlett Chowning, City Engineer David Beard, Downtown Development Director Genora Young, Transportation Manager Gary Saunders, Public Information Officer Persephone Dakopolos, Accounting Manager Charlene Fox, Comptroller Tommy Howell, and Multimedia Developer Ryan Stout.

1. Conduct a budget work session for the purpose of reviewing and discussing the proposed 2012-2013 City of Midland budget.

   City Manager Sharp and Finance Director McNaughton provided an overview of the 2012-2013 City of Midland budget. Mr. McNaughton reported that all funds were in good condition except for water and sewer because of a rate increase from CRMWD. He provided a comparison with other like cities noting that the only other city that had lower comparative tax rate was Tyler. He reviewed the tax rates for the last 10 years.

   City Manager Sharp reported the proposed tax rate is .47305 compared to the current rate of .47054. He reviewed sales tax and other revenue resources. The General Fund Budget includes facility renovations, technology, a proposed decrease in water and $4.3 million for street maintenance. He reviewed proposed enhancements for the various departments and reviewed the enterprise funds which includes Water and Sewer, Sanitation, Golf Course and Airport. He reviewed the internal services fund, spoke about personnel costs and other various funds.

   Discussion ensued about the Hotel/Motel Fund. Consensus was received to have a meeting to talk about Hotel/Motel funding and to set policy direction and philosophical guidelines. Council Members were asked to send their suggestions to the City Manager.

Mr. Sharp reviewed funding for the Scharbauer Sports Complex and the MDC. Discussion ensued about matching funds. It was determined it was best to deal with those on a case by case basis.

Mr. McNaughton reviewed the next actions that needed to be taken in the budget process. Consensus was received to hold an evening public hearing for the budget on Tuesday, August 14, 2012, at 6:00 p.m.

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

REGULAR SESSION

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

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

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

The Agenda Items were heard in the following order: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 14, 16, 17, 23, 18, 19, 20, 21, 22, 22a, 25, 26, 24.

OPENING ITEMS

1. Invocation

2. Pledge of Allegiance

PRESENTATIONS

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

    a. Doreen Womack of Keep Midland Beautiful explained the various awards received and given by their organization.

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.

Seberiano Velasquez, 604 Spraberry Drive, stated his business is located at 700 South Marienfeld and expressed concern over the current state of the street near his business after repairs were completed by Atmos Energy.

Larry Sims, 400 South Pecos, spoke in favor of the development of an apartment complex in downtown (Agenda Item No. 20.)

CONSENT AGENDA

Council Member James moved to approve Consent Agenda items 5 - 15 excluding 14; 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.

5. Approved a motion approving the following minutes:

   a. Regular Meeting of June 26, 2012

6. Approved a resolution approving the purchase of a Microsoft Enterprise Agreement for three years from Dell Marketing L.P. of Austin, Texas, through State Contract DIR-SDD-890-TX for the Communications and Information Systems Department. (GENERAL SERVICES)

   RESOLUTION NO. 2012 - 212

   RESOLUTION APPROVING THE CITY'S ENROLLMENT IN A THREE-YEAR SOFTWARE PROGRAM WITH DELL MARKETING, L.P., THROUGH THE TEXAS DEPARTMENT OF INFORMATION RESOURCES AT A TOTAL COST OF $395,855.82; AND SAID ENROLMENT WILL ENTITLE THE CITY TO CURRENT MICROSOFT OFFICE SOFTWARE, OPERATING SYSTEM SOFTWARE, EXCHANGE SOFTWARE AND STRUCTURED QUERY LANGUAGE SOFTWARE; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A STATE OF TEXAS COOPERATIVE PROGRAM; AND THE CITY COUNCIL ADOPTS THE RECOMMENDATIONS OF THE CHIEF INFORMATION OFFICER AND THE CITY MANAGER THAT THE CITY ENROLL IN THE SOFTWARE PROGRAM

7. Approved a resolution approving the issuance of a request for proposals for Wrecker and Impound Services for the City of Midland for the Police Department. RFP 5047-12 (GENERAL SERVICES)

   RESOLUTION NO. 2012 - 213

   RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS FOR WRECKER AND IMPOUND SERVICES FOR THE CITY OF MIDLAND POLICE DEPARTMENT

8. Approved a resolution rejecting the single bid received from Onyx Contractors Operations, LP for painting at the Scharbauer Sports Complex for the Community Services Department. RFB 5088-12 (GENERAL SERVICES)

   RESOLUTION NO. 2012 - 214

   RESOLUTION REJECTING THE SINGLE BID RECEIVED FOR BID NUMBER 5088-12 FOR PAINTING AT THE SCHARBAUER SPORTS COMPLEX

9. Approved a resolution appropriating funds to Atmos RRM (Rate Review Mechanism) Project 8923. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2012 - 215

RESOLUTION APPROPRIATING FUNDS FROM THE GENERAL LIABILITY SELF-INSURANCE FUND TO THE ATMOS RATE REVIEW MECHANISM PROJECT (8923) IN THE AMOUNT OF $100,000.00; SAID FUNDS REPRESENT REIMBURSEMENT FROM ATMOS FOR CONSULTING/LEGAL FEES ASSOCIATED WITH THE STEERING COMMITTEE'S ANALYSIS OF THEIR RATE REVIEW MECHANISM COSTS; THERE IS NO IMPACT TO THE GENERAL FUND

10. Approved a resolution accepting reimbursement funds from the Texas Department of State Health Services Amendment No. 001A to assist Health & Senior Services Division with the delivery of services. (COMMUNITY SERVICES)

RESOLUTION NO. 2012 - 216

RESOLUTION AUTHORIZING THE ACCEPTANCE OF ADDITIONAL GRANT FUNDS FROM THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES IN THE AMOUNT OF $13,092.33 TO ASSIST THE HEALTH AND SENIOR SERVICE DIVISION WITH THE DELIVERY OF LOCAL PUBLIC HEALTH SERVICES; AND AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS

11. Approved a resolution establishing Project Number 8998 "I-20 Wildlife Preserve Pavilion and Restrooms" for the future construction of a pavilion and restrooms; and appropriating funds in the amount of $250,000. (COMMUNITY SERVICES)

RESOLUTION NO. 2012 - 217

RESOLUTION ESTABLISHING PROJECT NUMBER 8998 FOR FURTHER CONSTRUCTION OF AN "I-20 WILDLIFE PRESERVE PAVILION AND RESTROOMS," AND APPROPRIATING FUNDS IN THE AMOUNT OF $250,000.00

12. Approved a resolution authorizing staff to advertise for bids for the Water and Wastewater Tap Project. (ENGINEERING SERVICES)

RESOLUTION NO. 2012 - 218

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE WATER AND WASTEWATER TAP PROJECT; SAID PROJECT WILL BE FOR THE INSTALLATION OF WATER AND WASTEWATER TAPS

13. Approved a resolution authorizing staff to execute a change order to the Lamesa Rd. Water Main Replacement project with TEC, Inc. in the amount of $140,000. (ENGINEERING SERVICES)

RESOLUTION NO. 2012 - 219

RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER ONE WITH TEC EXCAVATION, INC. REGARDING THE LAMESA ROAD WATER AND SEWER RECONSTRUCTION PROJECT; SAID CHANGE ORDER TO PROVIDE

FOR THE EXTENSION OF A WATER MAIN FROM THE INTERSECTION OF LAMESA ROAD AND GOLF COURSE ROAD TO AN EXISTING WATER MAIN IN CARVER STREET, NORTH OF SCHARBAUER DRAW; APPROPRIATING FUNDS; AND AUTHORIZING PAYMENT IN THE AMOUNT OF $361,030.00

15. Approved a resolution allowing the Midland Fire Department to apply for re-authorization of a grant through the U.S. Department of Homeland Security. (FIRE)

RESOLUTION NO. 2012 - 221

RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION WITH THE UNITED STATES GOVERNMENT FOR THE RE-AUTHORIZATION OF THE 2008 ASSISTANCE TO FIREFIGHTERS GRANT; SAID FUNDS TO BE USED TO ASSIST IN PURCHASING WILD LAND FIREFIGHTING GEAR; THE CITY OF MIDLAND HAS ALREADY MET THE ORIGINAL FINANCIAL OBLIGATIONS

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

14. Consider a resolution to award the Hicks Ave. & Gist Ave. CDBG Sidewalk Improvements to Onyx Contractors in the amount of $234,756. (ENGINEERING SERVICES)

RESOLUTION NO. 2012 - 220

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH ONYX CONTRACTORS FOR THE HICKS AVENUE AND GIST AVENUE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SIDEWALK IMPROVEMENTS PROJECT AT A COST OF $234,756; AND APPROPRIATING FUNDS

Discussion ensued about potentially putting off this item to see if a lower cost could be obtained. Objections were raised to delaying this project.

Council Member Hailey moved to adopt Resolution No. 2012 - 220; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James. NAY: Sparks. ABSTAIN: None. ABSENT: None.

SECOND READINGS

16. Consider an ordinance on second reading 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

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

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9035 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.

17. Consider an ordinance on second reading 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

City Secretary Turner read the caption of Ordinance No. 9036.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9036 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.

Mayor Perry noted it was not yet time for the first public hearing and moved Agenda Item Number 23 forward on the agenda.

MISCELLANEOUS

23. Consider an ordinance amending Title X, “Traffic Regulations”, Chapter Four, “Traffic Control Devices”, Section 11, “School Zones and Crossings”, of the Midland City Code, so as to designate each school zone and school crossing within the City and regulate the speed and movement of traffic therein; authorizing and directing the Traffic Engineer to install appropriate signs and markings; repealing Ordinance No.8920; 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. 9042

AN ORDINANCE AMENDING TITLE X, "TRAFFIC REGULATIONS", CHAPTER FOUR, "TRAFFIC CONTROL DEVICES", SECTION 11, "SCHOOL ZONES AND CROSSINGS", OF THE MIDLAND CITY CODE, SO AS TO DESIGNATE EACH SCHOOL ZONE AND SCHOOL CROSSING WITHIN THE CITY AND REGULATE THE SPEED AND MOVEMENT OF TRAFFIC THEREIN; AUTHORIZING AND DIRECTING THE TRAFFIC ENGINEER TO INSTALL APPROPRIATE SIGNS AND MARKINGS; REPEALING ORDINANCE NO. 8920; 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 Saunders provided an overview of the school zone study noting that growth has caught up with the City and a new school zone has been added.

Discussion ensued as to why it was necessary to repeal previous Ordinances. City Attorney Stretcher replied that Council wanted all information contained in one Ordinance which is why the previous ordinance is being repealed. The cost of signals was also discussed.

City Secretary Turner read the caption of Ordinance No. 9042.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9042 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

PUBLIC HEARINGS

18. At approximately 10:30 a.m. hold a public hearing and consider a resolution on a request by Rick Shirley to establish a storm water detention basin on a 3.19-acre portion of Beal Park. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 222

RESOLUTION OF THE CITY COUNCIL OF MIDLAND, TEXAS MAKING A FINDING, PURSUANT TO CHAPTER 26 OF THE TEXAS PARKS AND WILDLIFE CODE, THAT THERE IS NO FEASIBLE AND PRUDENT ALTERNATIVE TO THE CHANGE IN USE OF APPROXIMATELY 3.19 ACRES LOCATED IN THE SOUTHWEST CORNER OF BEAL PARK FROM PUBLIC PARK USE TO A DETENTION BASIN FOR STORM WATER IN CONNECTION WITH THE FLOYD ACRES HOUSING DEVELOPMENT; SAID HOUSING DEVELOPMENT IS TO BE LOCATED ON A 12.63-ACRE TRACT OF LAND OUT OF THE NORTHWEST QUARTER OF SECTION 6, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF LOOP 250, APPROXIMATELY 1/4 OF A MILE NORTH OF WALL STREET); AND AUTHORIZING THE NEGOTIATION OF A DEVELOPMENT AGREEMENT REGARDING SAID USE WHICH SHALL BE APPROVED BY THE CITY COUNCIL

Planning Division Manager Walker gave an overview of item noting it was a proposal to use 3.19 acres of land located in Beal Park. The park land is owned by the City and dedicated for park use. He noted there were specific procedural requirements that were required to be met prior to coming before the City Council and that all of those requirements had been met. He reported no letters of objection had been received and that staff had no recommendation.

Mayor Perry opened the public hearing at 10:36 a.m.

Andrew Mellen, 110 West Louisiana, reported he was representing Rick Shirley. He shared information about the development and reported that a detention basin was required to take care of pre-flow versus post-flow. They opted to use Beal Park because of limited space on their property. In exchange, the developer will expand the City's Hike and Bike Trail around Beal Park near their development and out to an adjoining street noting the trail would be concrete. He also explained how they would landscape the surrounding area.

There being no one else wishing to speak, the public hearing was closed at 10:42 a.m.

City Attorney Stretcher clarified that the passing of the Resolution does not authorize the improvement in the drainage basin noting that would be addressed in a Development Agreement that could be considered after a 30-day waiting period.

Council Member James moved to adopt Resolution No. 2012 - 222; 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.

19. At approximately 10:33 a.m. hold a public hearing and consider an ordinance on a request by Babuhai A. Patel for a zone change from LR-2, Local Retail District, to PD, Planned District for a Shopping Center. (Generally located near the southwest corner of the intersection of W. Interstate Hwy 20 and Camp Street. – District 2) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9037

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING THE REMAINDER OF LOT 4, BLOCK 1, AMARON ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED NEAR THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST INTERSTATE HIGHWAY 20 AND CAMP 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 item noting the request was to change the zoning to allow for a 4-story hotel to be developed. He reported no letters of

objection had been received, that the minimum parking requirements had been met, and that Planning & Zoning recommended approval.

Mayor Pro Tem Morales opened the public hearing at 10:46 a.m.

Adam Shin, 1000 West I-20, stated he was the owner of the West Texas Inn & Suites that is located next door to the proposed development. He stated there were three motels in the location and expressed concern that this would hurt their business. He also felt the building would block their location for customers traveling from the west.

There being no one else wishing to speak, the public hearing was closed at 10:48 a.m.

City Secretary Turner read the caption of Ordinance No. 9037.

Discussion ensued about the area and the differences in zoning. Council Member James clarified that per the current zoning a two-story hotel could be built in that location which would still block traffic to the West Texas Inn & Suites.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9037 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.

20. At approximately 10:36 a.m. hold a public hearing and consider an ordinance on a request by Brownstones Midland, L.P. for a zone change from C-3, Commercial District to PD, Planned District for Housing Development. (Generally located between S. Pecos Street and S. Marienfeld Street north of W. Front Street. – District 2) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9038

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 1-5, THE REMAINDER OF LOT 6, AND LOTS 7-12, BLOCK 110, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED C-3, COMMERCIAL DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED BETWEEN SOUTH PECOS STREET AND SOUTH MARIENFELD STREET, NORTH OF WEST FRONT STREET); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Walker gave an overview of the item noting the proposal was to change zoning to allow for a multi-family housing development. He reported no letters of objection had been received and that Planning & Zoning recommended approval.

Mayor Perry opened the public hearing at 10:57 a.m.

Randall Manning, 410 South Pecos, stated he was the founding Pastor of Rock

Fellowship located across the street from the development. He and his wife supported the development and felt it would benefit the area.

Angela Manning, 410 South Pecos, also expressed her support of the development.

C.W. Fields, 5646 Milton Street, Dallas, felt the development would revitalize that portion of the downtown by bringing in affordable housing. He made himself available to answer questions. When asked about parking concerns, he reported the management would monitor parking via video surveillance as well as towing vehicles that parked in fire lanes. He stated he guaranteed they would own the Brownstones for the next 30 years and was willing to put that in a Development Agreement. Mr. Fields explained that materials such as granite countertops and faux hardwood floors would be used and that there would be onsite management and maintenance.

Discussion ensued regarding rental rates that would be based on household income and the number of people in the household. Mr. Fields provided examples of occupations that could qualify for their affordable housing such as police officers, firefighters, and radiology technologists.

There being no one else wishing to speak, the public hearing was closed at 11:15 a.m.

City Secretary Turner read the caption of Ordinance No. 9038.

Council Member James moved approval of the first of two readings of Ordinance No. 9038 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

21. At approximately 10:39 a.m. hold a public hearing and consider an ordinance on a request by Lamar Outdoor Advertising for a Specific Use Permit with Term for an Electronic Billboard/Billboard Sign. (Generally located on the northeast corner of the intersection of N. Big Spring Street and W. Dakota Avenue. - District 2) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9039

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 9, BLOCK 183, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND WEST DAKOTA AVENUE), WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR A BILLBOARD; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Walker provided an overview of the item noting the request was to place an electronic/static billboard from Lamar Advertising in front of Casa Madrid Restaurant. No letters of objection had been received.

Discussion ensued regarding parking at the restaurant and potential illumination issues. Mr. Walker clarified that per Section 11.1.10(j) of the Municipal Code, if there were glare issues, their SUP would be subject to non-renewal.

Mayor Perry opened the public hearing at 11:27 a.m.

Guy V. Speck, 4113 Baybrook, reported there were three existing billboard locations between the I-20 and Florida Street and this would be the fourth location. No other signs could be placed within 1500 feet which means only one sign could be located within each 3000 feet of spacing. He reported that if there were glare issues, he would reverse the sign for the electronic side to face into Casa Madrid parking lot or they would turn the sign off at a certain time. Special warnings and Amber Alerts could be displayed on their signs. When asked if he would be willing to use the electronic sign to announce downtown events if needed, he responded he would continue to work with all of his signs to make announcements based on availability.

There being no one else wishing to speak, the public hearing was closed at 11:35 a.m.

City Secretary Turner read the caption of Ordinance No. 9039.

Discussion ensued regarding advertising on the electronic billboard at this location and whether or not there should be requirements. It was suggested that the City Manager work with the advertiser and come up with language before the second reading of the Ordinance.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9039 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, Sparks. NAY: None. ABSTAIN: James. ABSENT: None.

Mr. Speck stated he would be happy to provide free advertising for various causes and would not want to limit advertising to one sign when potentially free advertising could be made available at four other locations.

22. At approximately 10:42 a.m. hold a public hearing and consider an ordinance on a request by Midland Community Development Corporation for a zone change from O-1, Office District to PD, Planned District for a Housing Development and to TH, Townhouse Dwelling District. (Generally located on both the north and south sides of Elm Avenue between N. Tyler Street and N. Carver Street. – District 2) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9040

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 1-12, BLOCK 8, AND A TO BE VACATED 0.3863-ACRE PORTION OF ELM AVENUE RIGHT-OF-WAY, WHICH IS PRESENTLY ZONED O-1, OFFICE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; BY PERMITTING LOTS 1-13, BLOCK 7, AND A TO BE VACATED 0.1445-ACRE PORTION OF ELM STREET RIGHT-OF-WAY, WHICH IS PRESENTLY ZONED O-1, OFFICE DISTRICT, TO BE USED AS A TH, TOWNHOUSE DWELLING

DISTRICT; SAID PROPERTY BEING ALL OUT OF LYNSIDE ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS; SAID 0.3863-ACRE TRACT AND SAID 0.1445-ACRE TRACT BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS MADE A PART HEREOF; SAID PROPERTY IS GENERALLY LOCATED ON BOTH SIDES OF ELM AVENUE, BETWEEN TYLER STREET AND CARVER 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 provided an overview of the item noting the Planning & Zoning Commission recommended approval and that no letters of objection had been received. He reported MCDC planned to build workforce housing in the area.

Mayor Perry opened the public hearing at 11:50 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. 9040.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9040 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

22 a. Consider an ordinance on a request by Midland Community Development Corporation to vacate a 10-foot wide portion of Elm Avenue right-of-way. (Generally located on both the north and south sides of Elm Avenue between N. Tyler Street and N. Carver Street.)

ORDINANCE NO. 9041

AN ORDINANCE VACATING AND ABANDONING A 0.3863-PORTION OF ELM AVENUE RIGHT-OF-WAY ADJACENT TO LOTS 1-12, BLOCK 8, AND A 0.1445-ACRE PORTION OF ELM AVENUE RIGHT-OF-WAY ADJACENT TO LOTS 11-13, BLOCK 7, ALL OUT OF LYNSIDE NEIGHBORHOOD ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON BOTH THE NORTH AND SOUTH SIDES OF ELM AVENUE BETWEEN NORTH TYLER STREET AND NORTH CARVER STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF $2,312.00; WAIVING THE FEE FOR THE COST OF THE RIGHT-OF-WAY; AND ORDERING RECORDATION BY THE CITY SECRETARY

Planning Division Manager Walker provided an overview of the item noting there were no requirement for compensation for the right-of-way because when MCDC plats the property they would dedicate land back to the City.

Mayor Perry opened the public hearing at 11:55 am. There being no one present wishing to speak, the public hearing was immediately closed.

City Secretary Turner read the caption of Ordinance No. 9041.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9041 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.

MISCELLANOUS (Continued)

25. Consider making appointments to various Boards and Commissions.

No appointments were made.

EXECUTIVE SESSION

26. 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 551.072 Deliberation Regarding Real Property

a.1. 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.

Mayor Perry recessed the meeting to Executive Session 11:58 a.m. The entire Council met in Executive Session until 12:31 p.m.

Mayor Perry reconvened the meeting to Regular Session at 12:31 p.m.

24. Consider a resolution authorizing the City Manager to negotiate and execute a contract to employ appraisers for certain City owned property. (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2012 - 223

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE CONTRACTS WITH QUALIFIED FIRMS FOR APPRAISAL SERVICES REGARDING THE VALUATION OF TWO (2) CITY OF MIDLAND-OWNED PROPERTIES LOCATED EAST OF THE MIDLAND CENTER; AND FURTHER DESCRIBED AS (1) 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; AND (2) 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

Council Member Dufford moved to adopt Resolution No. 2012 – 223; 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.

All of the business at hand having been completed, the meeting adjourned at 12:32 p.m.

PASSED AND APPROVED the 24th day of July, 2012.

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W. Wesley Perry, Mayor

ATTEST:

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Amy M. Turner, City Secretary