

**MIDLAND CITY COUNCIL
MINUTES
August 11, 2015**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at ____ a.m. on August 11, 2015.

Council Members present: Mayor Jerry F. Morales, Mayor Pro Tem Scott Dufford (At-Large), Council Member Spencer Robnett (At-Large), Council Member Jeff Sparks (District 1), Council Member John B. Love, III (District 2), Council Member Sharla Hotchkiss (District 3), and Council Member J.Ross Lacy (District 4).

Council Members absent: None.

Staff members present: City Manager Courtney Sharp, City Attorney John Ohnemiller, Deputy City Manager Tommy Hudson, Assistant City Manager Robert Patrick, Assistant City Manager Frank Salvato, City Secretary Amy Turner, Police Chief Price Robinson, Fire Chief Robert Isbell, Utilities Director Laura Wilson, Administrative Services Director Catherine Clifton, Finance Director Pam Simecka, Development Services Director Charles Harrington, Community Services Director Tina Jauz, Engineering Director Jose Ortiz, Interim Director of Airports Justine Ruff, Planning Division Manager Bob Baronti, Building Official Steve Thorpe, Public Information Officer Sara Bustilloz, and Community Development Manager Sylvester Cantu.

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

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at ____ a.m., August 11, 2015.

Council Members present: Mayor Jerry F. Morales, Mayor Pro Tem Scott Dufford (At-Large), Council Member Spencer Robnett (At-Large), Council Member Jeff Sparks (District 1), Council Member John B. Love, III (District 2), Council Member Sharla Hotchkiss (District 3), and Council Member J.Ross Lacy (District 4).

Staff members present at the annex table: City Manager Courtney Sharp, City Attorney John Ohnemiller, Deputy City Manager Tommy Hudson, Assistant City Manager Robert Patrick, and Assistant City Manager Frank Salvato.

The Agenda Items were heard in the following order:

OPENING ITEMS

cto 10:01

1. Invocation - Pastor Robert Pase, Grace Lutheran Church
2. Pledge of Allegiance

PRESENTATIONS

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

PUBLIC COMMENT

Phyllis Peek, 3122 Tealwood Place, wholehearted in favor of ordinances. Felt texting while driving or drinking while driving is selfish. People don't want to be killed on road or seriously injured. Where will fines go? There is a fund through state and nation called crime victims compensation. Portion of court fees goes into that fund so when person killed or seriously injured family can apply for fund to apply for funeral, counseling etc. She doesn't care if officers takes her phone no problem.

Nelson Spear, 7010 Almey Ct, all in agreement that texting while driving is irresponsible and unsafe. His broader view is current laws are adequate. provided copies of statutes. Reviewed other arguments he previously made at other meetings. Many Midlanders feel his position is correct. Fear is this will not bring immediate and measureable results . regret public discussion is over.

Charless Hodges, 4502 Quail point tx, representing soft DWI inc. laymans voice in community committed to reducing dui and distracted driving and in general a host of additional items such as racing which are also serious problems which they address in their program. They take positive stand in support of ordinance council is about to pass. they have provided education information to public related to hands on exp. can't hold cell phone and drive safely, impossible to do. In spite of what has been said in a negative way about not being able to deter drunk driving or intoxicated driving. They do help. He has nothing at back regarding texting and driving because no law in place with ordinance it will add to his educational program. support ordinance and will continue to do so in an educational way serious consequences of texting and driving or other electronic devices in car.

Hotchkiss asked Rob Stevens forward with good news about ez rider.

Rob Stephens, EZ Rider, July 30th commission adopted several award for public transit programs across state of 7m we awarded 250,000 and half serve city of midland. glad to be partnering with community svcs inc at senior center. will purchase vehicles to get seniors and elder in Midland much needed new services begin oct 1. Anette helped put grant together.

Sara Bustilloz, PIO, had a successful campaign against littering and already starting to talk about doing again. submitted as tml award of excellence did not get award but tml expressed interest in including in town and city campaign in November. Not in my town

campaign to talka bout how able to get citizens to take ownership in community.

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. (Please limit comments to three minutes or less.)

CONSENT AGENDA

Council Member Lacy moved to approve Consent Agenda items 5 - 19 excluding 8, 10, 16, 18; seconded by Council Member Robnett.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

5. Approved a motion approving the following minutes:
 - a. Special City Council meeting of July 20, 2015.
 - b. Special City Council meeting of July 27, 2015.
 - c. Regular City Council meeting of July 28, 2015.
 - d. Special City Council meeting of August 3, 2015.
 - e. Special City Council meeting of August 4, 2015.
6. Approved a resolution approving a contract with Ener-Tel Services, Inc. through Buyboard contract #401-12 for \$133,977.75 for labor, material, equipment and supervision necessary to install, terminate and test fiber optics within the buildings located at the City of Midland Orchard Lane public works complex for the Communication and Information Systems Department. (PURCHASING)

RESOLUTION NO. 2015 - 229

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH ENER-TEL SERVICES, INCORPORATED, FOR INSTALLATION OF A FIBER OPTIC NETWORK THROUGH BUYBOARD, IN THE AMOUNT OF \$133,977.75; THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COOPERATIVE PURCHASING PROGRAM

7. Approved a resolution awarding a contract for the Animal Services Renovations Phase II Project for the Community Services Department. (PURCHASING)

RESOLUTION NO. 2015 - 230

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH BARBED CROSS CONSTRUCTION, LLC, AT A TOTAL COST OF \$420,000.00, FOR THE ANIMAL SERVICES RENOVATION PROJECT PHASE II

9. Approved a resolution approving the purchase of ten (10) X Series ® Manual Monitor/Defibrillators from Zoll Medical Corporation through National Purchasing Partners (NPP) for a total cost of \$330,045.44 for the Fire Department. (PURCHASING)

RESOLUTION NO. 2015 - 232

RESOLUTION APPROVING THE PURCHASE OF TEN (10) X SERIES MANUAL MONITOR/DEFIBRILLATORS FOR THE FIRE DEPARTMENT FROM ZOLL MEDICAL CORPORATION, THROUGH NATIONAL PURCHASING PARTNERS AT A TOTAL COST OF \$330,045.44; THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COOPERATIVE PURCHASING PROGRAM

11. Approved a resolution approving the purchase of one (1) Type 1 Ambulance from Knapp Chevrolet, Inc. through the Houston-Galveston Area Council at a total cost of \$198,865.00 for the Garage Division; and rescinding Resolution 2015-078. (PURCHASING)

RESOLUTION NO. 2015 - 234

RESOLUTION APPROVING THE PURCHASE OF ONE (1) TYPE I AMBULANCE FROM KNAPP CHEVROLET, INCORPORATED, THROUGH THE HOUSTON-GALVESTON AREA COUNCIL AT A TOTAL COST OF \$198,865.00; THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COUNCIL OF GOVERNMENTS; AND RESCINDING RESOLUTION 2015-078

12. Approved a resolution approving plans and specifications and authorizing advertisement for bids for an estimated annual supply of 650,000 pounds and 40 - 150 pound cylinders of chlorine; 2,000 tons of aluminum sulfate; 20,000 gallons of polymer; 200,000 pounds of liquid anhydrous ammonia; 10,000 gallons of liquid copper sulfate pentahydrate 25%; 4,400 gallons of polymer for dewatering; 10,000 pounds of potassium permanganate; 20,000 gallons of liquid ammonium sulfate and 25 tons of powdered activated carbon for the treatment of drinking water for fiscal year 2016 for the Utilities Department. (PURCHASING)

RESOLUTION NO. 2015 - 235

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR AN ANNUAL SUPPLY OF CHEMICALS NEEDED FOR THE TREATMENT OF DRINKING WATER FOR FISCAL YEAR 2016

13. Approved a resolution approving the purchase of six (6) 35-40 cubic yard self-contained compactors, ten (10) 30 cubic yard open top roll-off containers and one thousand (1,000) 3 cubic yard refuse containers with lids for the Solid Waste Department. (PURCHASING)

RESOLUTION NO. 2015 - 236

RESOLUTION APPROVING THE PURCHASE OF SIX (6) THIRTY-FIVE TO FORTY (35-40) CUBIC YARD SELF-CONTAINED COMPACTORS, TEN (10) THIRTY (30) CUBIC YARD OPEN TOP ROLL-OFF CONTAINERS, AND ONE THOUSAND (1,000) THREE (3) CUBIC YARD REFUSE CONTAINERS WITH LIDS FROM ROLL OFFS USA, INCORPORATED, OF DURANT, OKLAHOMA, AT A TOTAL COST OF \$579,650.00

14. Approved a resolution approving the purchase of two thousand four hundred ninety-six (2,496) 95/96 gallon roll out carts for the Solid Waste Department. (PURCHASING)

RESOLUTION NO. 2015 - 237

RESOLUTION APPROVING THE PURCHASE OF TWO THOUSAND FOUR HUNDRED NINETY-SIX (2,496) NINETY-FIVE/NINETY-SIX (95/96) GALLON ROLL OUT CARTS FROM TOTER, LLC, OF STATESVILLE, NORTH CAROLINA, AT A TOTAL COST OF \$121,280.64; TOTER, LLC, WAS THE LOWEST RESPONSIBLE BIDDER MEETING THE SPECIFICATION REQUIREMENTS

15. Approved a resolution authorizing the execution of the 2015 Airsho Agreement between the City of Midland, Texas and the Commemorative Air Force (CAF). (AIRPORTS)

RESOLUTION NO. 2015 - 238

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH THE COMMEMORATIVE AIR FORCE, INCORPORATED, FOR THE STAGING OF AN AIRSHOW AT THE MIDLAND INTERNATIONAL AIR & SPACE PORT; THE AIRSHOW WILL COMMENCE FRIDAY, AUGUST 28, 2015, AND CONCLUDE SUNDAY, AUGUST 30, 2015

17. Approved a motion on request by West Company of Midland Inc. to defer public improvements for C&M Villarreal Addition and to waive the corresponding financial security guarantee valued at \$66,182, an amount equal to the estimated cost of construction. The subject property is located more than one mile into the City of Midland Extra Territorial Jurisdiction, on the southwest side of SH 158 approximately 7,850 feet southeast of Interstate 20 in Midland County, Texas. (City of Midland ETJ, Midland County) (ENGINEERING SERVICES)
19. Approved a resolution authorizing application to the U.S. Department of Homeland Security Transportation Security Administration's 2016 LEO Reimbursement Program for partial reimbursement for costs associated with the deployment of a law enforcement officer at the Airport Passenger Screening Checkpoint. (POLICE)

RESOLUTION NO. 2015 - 241

RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY TRANSPORTATION SECURITY ADMINISTRATION'S 2016 LAW ENFORCEMENT OFFICER REIMBURSEMENT PROGRAM; THIS APPLICATION WILL BE FOR PARTIAL REIMBURSEMENT FOR COSTS ASSOCIATED WITH THE DEPLOYMENT OF A LAW ENFORCEMENT OFFICER AT THE MIDLAND INTERNATIONAL AIR & SPACE PORT PASSENGER SCREENING CHECKPOINT

8. Approved a resolution authorizing a contract for the Cloverdale Pedestrian Access Improvements Project with the sole bidder Barbed Cross Construction, LLC for a total cost of \$112,200.00 for the Engineering Services Department; and appropriating funds therefore. (PURCHASING)

RESOLUTION NO. 2015 - 231

RESOLUTION AWARDDING A CONTRACT FOR THE CLOVERDALE ROAD PEDESTRIAN ACCESS IMPROVEMENTS PROJECT TO THE SOLE BIDDER, BARBED CROSS CONSTRUCTION LLC OF MIDLAND, TEXAS, AT A TOTAL COST OF \$112,200.00; AND AUTHORIZING PAYMENT THEREFOR

Lacy pulled since sole bidder did it blow budget? Matt Carr within budget allocated.

Council Member Lacy moved to adopt Resolution No. 2015 - 231; seconded by Council Member Robnett.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

10. Approved a resolution approving plans and specifications and authorizing advertisement for bids for the new enclosed stairwell for the Police and Communications Building. (PURCHASING)

RESOLUTION NO. 2015 - 233

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE CONSTRUCTION OF A NEW ENCLOSED STAIRWELL AT THE POLICE AND COMMUNICATIONS BUILDING

Love questions when auth given to psc to work on prop. Fred contract for eng and arch under 100,000. Jose part of on call program. Love would have done in house if had manpower but part of outsourcing. Sparks est of budget \$340,000. Love how much to psc Fred \$30,000. Tommy this project been looking at for 2-3 years masonry work but structural damage as well. Love talk about structural damage. Fred at Police station is stairs deteriorating due to elements ssun and rain. some police officers were having issues getting down stairs due to crumbling concrete. treid minor fixes but in poor shape. appears stairs are leaning on building. if look at structure can see cracks on some of teh doorways. Lacy orig stairwwell? yes. Love tearing downa dn replacing it or bldg in new locaiton. fred build and tear in same place. Love al inclusive inb id. yes. Tommy no concreete fooding oon stairwell. Lacy after 35 years used its usefulness. Love external stairwell, fred not enclsloed exposed to element. psc suggest enclose to keep from elements. Sparks completely, fred completely. John only stairway. no. tommy can't see with naked eye outside its enclosed but exposed. on west side of facility along allley.

Council Member Love moved to adopt Resolution No. 2015 - 233; seconded by Council Member Lacy.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

16. Approved a resolution accepting a Water Line Easement by Trace Engines LP on property east of Midkiff Road and north of West IH 20 for the purpose of constructing a water main as part of the Midkiff Road to Horseshoe Arena Waterline Extension Project; authorizing the execution of said Water Line Easement; and ordering recordation by the City Secretary. (ENGINEERING SERVICES)

RESOLUTION NO. 2015 - 239

RESOLUTION AUTHORIZING THE ACCEPTANCE OF A 0.137-ACRE WATER LINE EASEMENT LOCATED IN SECTION 4, BLOCK 39, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS FROM TRACE ENGINES, L.P.; AND ORDERING RECORDATION BY THE CITY SECRETARY

Sparks abstain.

Council Member Love moved to adopt Resolution No. 2015 - 239; seconded by Council Member Lacy.

The motion carried by the following vote: AYE: Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: Sparks. ABSENT: None.

18. Approved a resolution authorizing the City Manager to make additional payment to the Texas Department of Transportation (TxDOT) in accordance with the best value bid for the Fairgrounds Road Widening Project between Pecan Avenue and East Loop 250 North. (ENGINEERING SERVICES)

RESOLUTION NO. 2015 - 240

RESOLUTION ALLOCATING FUNDS AND AUTHORIZING THE CITY TREASURER TO MAKE A PAYMENT OF \$1,400,838.00 TO THE TEXAS DEPARTMENT OF TRANSPORTATION TRUST FUND IN ACCORDANCE WITH THE CITY'S ADVANCE FUNDING AGREEMENT WITH THE STATE OF TEXAS, ACTING BY AND THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION ("TXDOT"), FOR THE WIDENING OF FAIRGROUNDS ROAD FROM EAST LOOP 250 NORTH TO PECAN AVENUE; SAID PAYMENT BEING REQUIRED IN ORDER FOR TXDOT TO AWARD A CONTRACT FOR THE CONSTRUCTION OF SAID PROJECT TO REECE ALBERT, INC.

lacy pulled to gripe about txdot estimation for area out in west tx in island cost 20-30% more to do busiesss and now what happend have to take 1.4m from another project hurts our taxx base vote because need on records txdot needs to get on board cost est more than in metropolitan areas. Love that was bid they received from Reese Albert, TXDOT est cost too low. seeing pattern flood more state funding but cost more to do busienss. hurts city tax payers. lost road project to help fund this one.

Council Member Love moved to adopt Resolution No. 2015 - 240; seconded by Council Member Lacy.

sparks we pay 2/3 txdot pays 1/3. courtney typically they require entity acquire row and moves utilities do hav ecaveat entity pay for any overages of what estimate is. staff has same compliants and irritations. taking money from internal road proejcts to fund this project. Mayor design work completed. jose offer for parcels for acquisition and coord util. Most mooving forward with util reloc and rwo acquisiton. txdot mg project. expand from 2 land to 5 lane. Sparks will this be last cash call. They are inc harge and we pay for majority, still getting bids to move things ill we have to cough up more moeny. jose have additional fudns secured for util loc and row acquisiton. if consistent will be fine. lacy when put hsoven on ground? jose this one anticipate oct maybe. love letter from txdot said check from com needed to be delivered by aug 120 which was yesterday cleared up? Jose sent eemail noting had to get inf ront of council on board. ppending todays decision if approved issue check. Lacy road are only going to cost more.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

SECOND READINGS

20. Consider an ordinance on second reading Amending Title X, "Traffic Regulations", Chapter 9, "Miscellaneous Driving Rules", of the City Code of Midland, Texas, by adding Section 15, "Use of Wireless Communication Devices", so as to prohibit the use of a wireless communication device to view, send, or compose an electronic message or engage other application software while operating a motor vehicle on a public roadway within the territorial limits of the City of Midland; negating and dispensing with the culpable mental state requirement; providing for a maximum penalty or fine of five hundred dollars (\$500.00); containing a cumulative clause; containing a savings and severability clause; ordering publication; and establishing an effective date of October 1, 2015. (CITY ATTORNEY'S OFFICE) (First reading held on July 14, 2015.)

ORDINANCE NO. 9456

AN ORDINANCE AMENDING TITLE X, "TRAFFIC REGULATIONS", CHAPTER 9, "MISCELLANEOUS DRIVING RULES", OF THE CITY CODE OF MIDLAND, TEXAS, BY ADDING SECTION 15, "USE OF WIRELESS COMMUNICATION DEVICES", SO AS TO PROHIBIT THE USE OF A WIRELESS COMMUNICATION DEVICE TO VIEW, SEND, OR COMPOSE AN ELECTRONIC MESSAGE, OR ENGAGE OTHER APPLICATION SOFTWARE WHILE OPERATING A MOTOR VEHICLE ON A PUBLIC ROADWAY WITHIN THE TERRITORIAL LIMITS OF THE CITY OF MIDLAND; NEGATING AND DISPENSING WITH THE CULPABLE MENTAL STATE REQUIREMENT; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; ORDERING PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE OF OCTOBER 1, 2015

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9456.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9456 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy.

Mayor 3 public hearings oon issue and well attended and Council heard from quite a few citizens. As statedf rom day oone ordd if passed needed to be for this community. That discussion needed to be taken plac eint his community. Feel good that this conversation started 4 years ago with previous council members and previous mayor. Most recent 2013 and 2014 when had \$100 barrel oil and increase vehicle in roads and icnrease in school. saw sever problem of road fatalities. Not saying texting was major component but did see a lot of fat - the highest ins tate. a lot of red light runners and traffic accidents. Very scary moment it bothered him to see issues fatalities for youth not have chance to live out adulthood to experience the american dream. Very supportive of when Council Lacy and Dufford wanted to move forward. Thought speaker craddic trying to do on state level but didn't move because govenor veto power frustrating to see that outcome. Did visit with public and asked about fines adn overwhelming citizens very supportive of doing something to protect our roads. full confidence in courts, full confidence in judges know they will be fair along with police dept and councilf will be fair and oopen minded. there will be educational program judge will do judicial outreach. heard from superintendent willing to put new drivers through education process. All council willing to go to school and talk to youth about proram. Supportive nothign to do with trying to get to aanother level or trying to be the 41st city. his community he belives in it want world class city.

Love without doubt seen overwhelming support for this ord by citizens. it should pass because of that. want to cont to enforce concerns aobut enforceability. question if legislature decides to ppass texting and drivinf band will we rescind? John given multitude of ord been passed by cities suspect iff legis would account for that in state statute and spec preempt city ormuni ord or provide some analysis or exp of hwo state statute work in connect with local ord. Love to citizens let yoru voices be heard contact state. Lacy don't think could have put any better. in support happy to join dufford in protecting this community adn commend dufford for his ffight. Great dya for city if pass.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

21. Consider an ordinance on second reading establishing intersection stops at various locations within the City of Midland, Texas; authorizing and directing the Traffic Engineer to install appropriate signs and markings at the designated locations; 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) (First reading held on July 28, 2015.)

ORDINANCE NO. 9462

AN ORDINANCE ESTABLISHING INTERSECTION STOPS AT VARIOUS LOCATIONS WITHIN THE CITY OF MIDLAND, TEXAS; AUTHORIZING AND DIRECTING THE TRAFFIC ENGINEER TO INSTALL APPROPRIATE SIGNS AND MARKINGS AT THE DESIGNATED LOCATIONS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS (\$200.00); AND ORDERING PUBLICATION

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9462.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9462 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

22. Consider an ordinance on second reading establishing yield right-of-way signs at various locations within the City of Midland, Texas; authorizing and directing the Traffic Engineer to install appropriate signs and markings at the designated locations; 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) (First reading held on July 28, 2015.)

ORDINANCE NO. 9463

AN ORDINANCE ESTABLISHING YIELD RIGHT OF WAY SIGNS AT VARIOUS LOCATIONS WITHIN THE CITY OF MIDLAND, TEXAS; REQUIRING AND AUTHORIZING THE POSTING OF APPROPRIATE SIGNS AT SAID 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

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9463.

Council Member Love moved to approve the second and final reading of Ordinance No. 9463 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

PUBLIC HEARINGS

23. Hold a public hearing and consider an ordinance on request by Jason Horowitz for a zone change from 1F-2, One-Family Dwelling District, in part, and LR-3, Local Retail District, in part, to LR-3, Local Retail District, on Lots 1 and 2, Block 2, Primitive Baptist Addition, and Lot 3, Block 193, Southern Addition, City and County of Midland, Texas (Generally located northwest of the intersection of East Dakota Avenue and South Atlanta Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9464

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 1 AND 2, BLOCK 2, PRIMITIVE BAPTIST ADDITION, AND LOT 3, BLOCK 193, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH ARE PRESENTLY ZONED 1F-2, ONE-FAMILY DWELLING DISTRICT, IN PART, AND LR-3, LOCAL RETAIL DISTRICT, IN PART, TO BE USED AS AN LR-3, LOCAL RETAIL DISTRICT (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF EAST DAKOTA AVENUE AND SOUTH ATLANTA STREET); 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 Karla Mata read the caption of Ordinance No. 9464.

Charles speaker dollar gen replatted into one lot make all lr3 to go through process of store. no objections p7z rec approval. Love info purp don't recall seeing a zone change sskip so many classes. Chalres yes sometimes happens, may need ot look at whole area. it is not spot zoniing but odd to have pocket like that. Love welcome almost any dev in district 2.

Mayor Morales opened the public hearing at 10:38 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9464 in accordance with the Charter of the City of Midland; seconded by Council Member Love.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

24. Hold a public hearing and consider an ordinance on request by Midland HI Lodgings, LLC for a zone change from PD, Planned District for a Shopping Center, to LR-2, Local

Retail District, on a 0.768-acre portion of Lot 4, Block 2, Westridge Park Addition, Section 7, City and County of Midland, Texas (Generally located on the west side of North Loop 250 West, approximately 700-feet south of State Highway 191.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9465

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 0.768-ACRE PORTION OF LOT 4, BLOCK 2, WESTRIDGE PARK ADDITION, SECTION 7, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF NORTH LOOP 250 WEST, APPROXIMATELY 700 FEET SOUTH OF STATE HIGHWAY 191); 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 Karla Mata read the caption of Ordinance No. 9465.

Harrington req made in what pdsc going to lr2 which more in line with proposed dev. proposing locaation of stand alone retail space located inf ront of a hotel in same area. want to remove property to better use space on property. sufficient ccontrols for landscape. due to locaiton on loop 250 and sportws complex find req reason. no loj p7z rec approval. Lacy what is applicant putting here would not fall under pdsc. chuck try to get more like it should be. Lacy still haven't seenr evised zoning ord. Lacy see llogistics and traffic nightmare. I know they want sup so assume alco sales. Morales don't understand ingress and trying to get to Sams. Chuck on rest of development engineering is working hard to make those work. Nice thing further away from intersection further south so won't imapct as much. Sparks at first glance not for it because don't have new zoing ord. It was under a pdsc for a reason and don't get to see how this fits with hotel convention center all see is one parcel jsut going to cut out without seeeing plan. Lacy not sure why leave sliver to south. Love pdsc subject to lr2 and trying tochange to lr2 not comfortable with giving up oversight premier sight. would like ot hear wha tapplicant has to say with Council Sparks ododn't see need for it.

Mayor Morale soph 10:43 a.m.

Andrew Jove Maverick Engineeringg 1901 Hobby, Andrews. not stand alone building plan of rest with drive through and another space. about 1600 total for building so about 1000 for rest and 800 for another retail sapce. exact same driveway as there now. now reallighed it. that will be only entrance from that driveway shared with heb or to south when under construction so can get there form shopping center to hilton garden driveway. Love why doing this. andrew 2 years planned district for hotel had from left open for future retail site. what doing right now is lr2 so dont' have to go through and reupdate pd for entire hotel. Wehn talked to staff just do this one square and take it out of PD and make lr2 like what did for HEB. Love doesn't make sense. if Hotel subject to PD if already design why this piece affects the hotel. Andrew beleive because one pd with one site plan were going to have to come back and show amendment to entire site plan. Lacy why is site plan not in draft agenda did submit did not show drive through but continuous sidewalk around entire building. Lacy asked for a site plan. when ish otel

going to get built it will hinder what do in area. Andrew pulled permit for building hotel just got plans finalized and reviewed should start demo of parking lot soon. Lacy was this site plan blank. Charles blank saved for other use. Lacy concerned about parking and traffic congestion. Andrew as far as parking goes there is a parking agreement between all of these lots. Lacy stack up on service road, no taken special care so this will make sure we have 12 stacking spaces inside drive through then stack into HEB so space about 20 cars. Don't believe sup orig app was for both of lots so sup for bar in holiday inn. They assumed were going to have to no alco bev for this location.

General consensus that Council not comfortable with giving up oversight. Mayor ingress and egress of this you are comfortable don't see what you are seeing how keep cars from stacking out into services road or HEB if hot spot rest it can get nasty. Jose Sam's club comfortable one thing believe is added to services road is decel lane and right turn lane so if some reason they would be in right turn lane and not impacting services road. Morales this is a mega HEB. Love forgive me for speculating about Starbucks on Midkiff at HEB that is a huge nightmare. Don't know what new zoning code is going to look like. HEB has another access point to the north. another access point on services road for HEB not dependent solely on this access point. would impact access to Sam's. Lacy rec defer because if deny have a whole year before rec something else. need site plans and don't want to deny and delay for a whole year. Love if deny it it doesn't stop them to. John O it would continue to be the pdsc but amendment that applicant is speaking to would have to be materially different to get back within 6 months. Love if vote to deny have to wait 6 months. Lacy defer to be on the safe side. Sparks would rather see this as amended pdsc. Morales you hear concerns of Council put all together for Client. would like to show it if defer would be able to show. think better to give site plans to give more peace of mind. need site plan for hotel plus what proposing for this location. ok to defer.

Hotchkiss one more question for staff chuck what was rationale for switching this? Chuck as your recall changed HEB and had been looking at all pds and why created so though pattern was to extend Ir2 which is regular underlying zoning.

There being no one else wishing to speak, the public hearing was closed at 10:56 a.m.

Council Member Love moved to defer to indefinite time; seconded by Council Member Lacy.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

25. Hold a public hearing and consider an ordinance on a request by Mac's BBQ and Catering for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on a 10,631-square foot portion of Lots 16 through 18, Block A, Garrett Place Addition, City and County of Midland, Texas (Generally located on the north side of West Indiana Avenue, approximately 160-feet east of Carlton Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9466

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 10,631-SQUARE FOOT PORTION OF LOTS 16-18, BLOCK A, GARRETT PLACE ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS

(GENERALLY LOCATED ON THE NORTH SIDE OF WEST INDIANA AVENUE, APPROXIMATELY 160 FEET EAST OF CARLTON STREET), WHICH IS PRESENTLY ZONED LR-3, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; 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

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9466.

Chuck Harrington this example of business changed business plan in Midland. orig came as ?? to oil companies and found bus slacking off so started selling bbq to public and gone through a lot of process and this is final process. prop slae of aalco bev in this rest. hours are limited 11 am to 9 pm they have site lack of parking but worked out arrangement with adjoining proeptries to operate this bus. no loj and staff and puz rec approval. Lacy request appwanted to have alcohol until 12 a.m. for special occassion and now limited to 9 p.m. Chuck don't recall though worked form what gave them. Love confused it says got parking from various sources and one is a church but theres a special distance have to be from that church how does that work if can offer parking in clsoe prox hwo not violating being clsoe to church. Chuck measured from front door to front door so if secuitous pth . Love is parking close enough to be viable to satisfy. Chuck parking is close enough to be used for the property. Love parking is close enough but front door is far enough.

Mayor Morales opened the public hearing at 11:01 a.m.

Wes WEb 2400 W Indiana, wanted to address what Lacy. orig 11:59 jp.m. never intended to be opent hat late but if open for party or special occassion would like to have oportunity to be open until that time. isntead of asking special permission. no time p7z did it get amended? Lacy would like council to ext to give. wes yes as long as doesn't. Never open on Sunday?

There being no one else wishing to speak, the public hearing was closed at 11:02 a.m.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9466 in accordance with the Charter of the City of Midland with amendment to extend alcohol until 12:00 midnight; seconded by Council Member Love.

Sparks busienss moves does sup stay with owner or on sit.e chuck stays on site. Lacy ord spec mon through sat. two years.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

26. Hold a public hearing and consider a resolution on a request by Juana Mendoza for a Temporary Land Use Permit for a festival on Lots 7 through 9, Block 191, Southern Addition, City and County of Midland, Texas (Generally located northeast of the intersection of South Terrell Street and East Dakota Avenue.) (DEVELOPMENT

SERVICES)

RESOLUTION NO. 2015 - 242

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A FESTIVAL ON LOTS 7-9, BLOCK 191, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF SOUTH TERRELL STREET AND EAST DAKOTA AVENUE); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Chuck harrington req made by Church tlup for festival 907 s terrell operations on fri 6 to 12 and sat 10-1 a.m. will ahve recorded music will reduce volume as required at 10 pm on fri and sat. will ahve public restrooms and five sec gurads ond uty at all time. no loj. Lacy last year 4 restrooms now two. for a lot of people 2 not adequate for large crowd. wondedered aobut aht. Hotchkiss hours same. Sparks 1 am to midnight. We opened this door up alst meeting.

Dufford this is neighborhood and other wasn't. Love the other event was in stadium where encourage events. Chuckk last year this went until midnight.

Mayor Morales opened the public hearing at 11:07 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Love moved to adopt Resolution No. 2015 - 242 with amendment of limiting the hours to midnight and a minimum of four portapotties; seconded by Council Member Hotchkiss.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

MISCELLANEOUS

27. Approved a motion on a proposed preliminary plat of Vista Del Pueblo Addition, being a 58.80-acre tract of land out of Section 29, Block 38, T-1-S, T&P R. R. Company Survey, City and County of Midland, Texas (Generally located on the east side of Todd Drive, approximately 0.75-miles south of East Loop 250 North.) (DEVELOPMENT SERVICES)

Chuck Harrington req seen before about amonth ago it was denied didn't have variances from oil company. They will live with 500 ffoot restriction no variances. Looove they did not get an agreement. Chuck correct they decided to live with 500 foot restriction. Lacy in buildable area dont' know anyone buy a big old lot. would a barn be a structue within 500 feet. O&G have to be occupied just go through building official for that. Love refresh memory who is oil company. Chuck pioneer. love curious did have specific reason not wanting to and have they compromised in other areas. Chuck changed opinion on what should do.

Council Member Love moved to approve a motion on a proposed preliminary plat of Vista Del Pueblo Addition, being a 58.80-acre tract of land out of Section 29, Block 38, T-1-S, T&P R. R. Company Survey, City and County of Midland, Texas (Generally located on the east side of Todd Drive, approximately 0.75-miles south of East Loop 250 North.); seconded by Council Member Sparks.

David Diaz 5101 Sherwood, to answer question thanked Robnett and staff to try to negotiate variance with Pioneer. They just would not budget had done 250 ft setback previously in other depts but legal dept at htis point is not willing to so again ever. Dufford idea behind 500 feet was along feet of new residence and any time developer came in could ask for a variance because someone wants to build and buy closer its on them. Its not prerogative its council prerogative to grant variance. If Council say 200 feet that is what they are going to stick to. Now that itss there dont' want anybody closer./ Dufford think should be fair and consistent. its not safety concern all oil companies stood up and told us not safety concern. Robnett Pioneer did reference safety concern. Dufford they did at time. This specific situation they had problem but other times did not. Love can we grant a variance without Pioneers permission. Council denied that variance. Hotchkiss really proud were able to figure otu a way to get back to us. He went and negotiated and came back because wouldn't grant and council denied it. this is his third trip to Coucnil. Dufford this is out in area where water was a concern. It had noting to do with oil and gas but maybe water situation could reservoir sustain folks that live out there. Lacy done sustainable water study. more straws in cup less water. these little one acre lots not sufficient amount of water. is that enought o runa household. David previously AE district which allows for 2 acres tracts. 50 acres that would equal 59 parcels to be developed into residential lots.; Below that at 28 devleopable lots. Tried to satisfied that issue by cutting back number of houses to be built. That is buyers risk. Robnett question about lot size on west what are size. David 2 and 3 acre lots. buildable area is not 3 acres. David on one diagrams palced 2000 sq foot home all3 2000 sq ft home.. Love only applies to structure can use lest of land for livestock barns, unoccupied ubildings. Lacy each home could ask for variance. John would want to go back and look at specifically what council denied before answered that question. Robnett sert back considerations toe ast. David yes satisfied city req for addition row. Htochkiss sticky road hung in there. appreciate adaptability.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

28. Approved a resolution creating a Neighborhood Empowerment Zone in accordance with Chapter 378 of the Texas Local Government Code within the boundaries of Lot 4, Block 1, Ortloff Addition, Section 5, City and County of Midland, Texas (Generally located at 1601 Westcliff Drive); Providing that the City shall not exercise the powers enumerated in Section 378.004(1) through (4) of the Texas Local Government Code unless expressly authorized by the City Council at a future date; and authorizing the City Manager to sign all documents and certifications pertaining to said Empowerment Zone. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2015 - 243

RESOLUTION CREATING A NEIGHBORHOOD EMPOWERMENT ZONE IN ACCORDANCE WITH CHAPTER 378 OF THE TEXAS LOCAL GOVERNMENT CODE WITHIN THE BOUNDARIES OF LOT 4, BLOCK 1, ORTLOFF ADDITION, SECTION 5, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT 1601 WESTCLIFF DRIVE); PROVIDING THAT THE CITY SHALL NOT EXERCISE THE POWERS ENUMERATED IN SECTION 378.004(1) THROUGH (4) OF THE TEXAS LOCAL GOVERNMENT CODE UNLESS EXPRESSLY AUTHORIZED BY THE CITY COUNCIL AT A FUTURE DATE; AND AUTHORIZING THE CITY MANAGER TO SIGN ALL DOCUMENTS AND CERTIFICATIONS PERTAINING TO SAID NEIGHBORHOOD

EMPOWERMENT ZONE

Development Services Director Chuck Harrington gave a brief overview of the item neighborhood empowerment zone never seen before. It is a tool that allowed for city council to create empowerment zones and can have sev throughout city. W TX Food bank seeking to construct center at this address and aware of funding through usda. seeking support of council to add to their points for grant. Theyu asked for assistance. Tehy prop staff looked at conc about waivers but they have asked for no waivers. Morales furtther down road for future council will come back. John only provide waiver unless requested and paproved by Council. Love wants to know hwo spec helps. CFhuck similar to low income apts that supported and int his part case disc possibility of reso but working with them in proejct person and attorney was not sufficient to meet the threshold they needed so they asked for more. Lacy did with senior housing apts on loop 250 did win. Similar to that type structure. Love understand concern is this was neighborhood empowerment zone without actually giving them any teeth to specific zone. Understand feel a little uneasy about designating a zone. support food bank but don't know how it specifically helps. Chuck enhances app for grants. Not reviewed very carefully and that is what ook as long. this about best they could do. Love their requesting grant and this designation helps them but if iwas person giving grant out what else are you getting form City of Midland. only 4t hings waive bldg fees and permit, refund muni slaes tax wont' sell anythign and 3 property tax abatement and 4 using energy efficient materials. Love support foodbank going to support just want to understand. Chuck never dealt with empowerment zone it was something they brought to us. Love similar to TIRZ. Sparks they can come back in future and request not having to pay building permits. Chuck it would have to be early on and reason for support. Sparks being food bank think only think they might see is building expnsion to not chargee permitting fees.

Council Member Love moved to adopt Resolution No. 2015 - 243; seconded by Council Member Lacy.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

29. Approved a motion directing staff to begin the annexation of a 29.22-acre tract of land out of Section 24, Block 40, T-1-S, T&P RR Company Survey, Midland County, Texas (Generally located on the southwest corner of the intersection of Mockingbird Lane and Holiday Hill Road). (DEVELOPMENT SERVICES)

Development Services Director Chuck Harrington gave a brief overview of the item noting Bynum School is wishiong to relocate asking to be annexed into the City. Would like City services at new location. Asking for motion to direct ot proceed with going through annexation rprocess.

Council Member Dufford moved to approve a motion directing staff to begin the annexation of a 29.22-acre tract of land out of Section 24, Block 40, T-1-S, T&P RR Company Survey, Midland County, Texas (Generally located on the southwest corner of the intersection of Mockingbird Lane and Holiday Hill Road).; seconded by Council Member Love.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales,

Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

30. Approved a motion making appointments to various boards and commissions.

Council Member Lacy moved to appoint Wes Reeves to Midland Airport Board; seconded by Council Member Love.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: None. ABSTAIN: Robnett. ABSENT: None.

Council Member Hotchkissreappoooint Karmen Hendrix Bryant and Ellen Ramsey to Hotel/Motel Tax Advisory Board; seconded by Council Member Love.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

Mayor recognized scout in audience. working on ciitzen richard troop 232 citizen in nation. first baptist church. How many merit, not 100% sure. Started in February.

EXECUTIVE SESSION

recess to executive sessiona t 11:33 a.m.

31. 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.

All of the business at hand having been completed, the meeting adjourned at ____ p.m.

PASSED AND APPROVED the __ day of ____, 2015.

Jerry F. Morales, Mayor

ATTEST:

Amy M. Turner, City Secretary