

**MIDLAND CITY COUNCIL
MINUTES
August 28, 2012**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at ____ a.m. on August 28, 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, Fire Chief Robert Patrick, Utilities Director Stuart Purvis, Administrative Services Director Catherine Clifton, Finance Director Bob McNaughton, Community Services Director Tina Jauz, Acting Engineering Director David Beard, Planning Division Manager Cameron Walker, Building Official Steve Thorpe, GIS Manager Bill Hodge, Public Information Officer Persephone Dakopolos, Multimedia Developer Ryan Stout, 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 28, 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:

OPENING ITEMS

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:
 - a. Presentation of a Proclamation for Permits & Inspections Staff Day.

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.

CONSENT AGENDA

Council Member James moved to approve Consent Agenda items 5 - 27 excluding 15; seconded by Council Member Dufford.

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

5. Approved a motion approving the following minutes:
 - a. Special Meeting of August 7, 2012.
 - b. Regular Meeting of August 14, 2012.
6. Approved a resolution approving a professional services agreement with Parkhill, Smith and Cooper for the design of Fire Station 10. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 256

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH AND COOPER, INC., FOR PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES FOR THE CONSTRUCTION OF FIRE STATION #10, FOR A FEE OF 6.5% OF THE TOTAL COST OF CONSTRUCTION, NOT TO EXCEED \$265,000.00; AND APPROPRIATING FUNDS

7. Approved a resolution approving the Phase 2 purchase of playground equipment for 6 parks, a pavilion for Hogan Park and senior wellness stations for the Community Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 257

RESOLUTION APPROVING THE PURCHASE OF ASSORTED PLAYGROUND EQUIPMENT AT A TOTAL COST OF \$686,317.70; AND AUTHORIZING THE EXECUTION OF A PURCHASE AND INSTALLATION AGREEMENT WITH MIRACLE

RECREATION EQUIPMENT COMPANY, OF NIWOT, COLORADO, FOR THE PLAYGROUND EQUIPMENT PURCHASED HEREIN THAT REQUIRES INSTALLATION; AND REJECTING SOME OF THE BIDS; AND APPROPRIATING FUNDS

8. Approved a resolution approving the purchase of a use of force computer based simulator for the Police Department. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 258

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH TI TRAINING CORPORATION OF GOLDEN, COLORADO, FOR THE SUPPLY AND INSTALLATION OF A USE OF FORCE COMPUTER BASED SIMULATOR FOR THE CITY OF MIDLAND POLICE DEPARTMENT AT A TOTAL COST OF \$58,380.00

9. Approved a resolution approving the issuance of a request for proposals (RFP) for cellular services and equipment for the Communication and Information Systems Department. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 259

RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS FOR CELLULAR SERVICES FOR VOICE, DATA AND MESSAGING SERVICES AND OTHER TRADITIONAL CELLULAR SERVICES AND EQUIPMENT FOR THE CITY OF MIDLAND

10. Approved a resolution approving the issuance of a request for proposals (RFP) for federal reimbursement opportunities and consultant services for the Health Department. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 260

RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS FOR FEDERAL REIMBURSEMENT OPPORTUNITIES AND CONSULTANT SERVICES FOR THE HEALTH DEPARTMENT

11. Approved a resolution approving plans and specifications and authorizing advertisement for bids for seat replacement at the Scharbauer Sports Complex for the Community Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 261

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS TO PROVIDE AND INSTALL NEW SEATING AT THE SCHARBAUER SPORTS COMPLEX

12. Approved a resolution to authorize the City Manager to negotiate and execute a contract for the purchase of property. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 262

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AND FILE ALL DOCUMENTS, AND MAKE ALL PAYMENTS NECESSARY FOR THE PURCHASE OF PROPERTY LOCATED IN THE 4500 BLOCK OF SINCLAIR AVENUE, MIDLAND, TEXAS, FOR A FIRE STATION, AT A COST OF APPROXIMATELY \$151,000.00 PLUS ASSOCIATED CLOSING COSTS; AND APPROPRIATING FUNDS; AND DIRECTING

THAT SAID PROPERTY SHALL BE CLOSED AT LONESTAR ABSTRACT AND TITLE COMPANY, INCORPORATED; AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE THE TERMS AND EXECUTE AND FILE ALL DOCUMENTS NECESSARY FOR THE PURCHASE OF PROPERTY LOCATED IN THE 4500 BLOCK OF THOMASON DRIVE, MIDLAND, TEXAS, FOR A FIRE STATION

13. Approved a resolution authorizing the City Manager to execute a Consent Agreement between Western National Bank and the City of Midland, Texas as required by Article 8(K) of the OGM Aviation, L.L.C.'s Lease Agreement. (AIRPORTS)

RESOLUTION NO. 2012 - 263

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSENT AGREEMENT BETWEEN WESTERN NATIONAL BANK, THE CITY OF MIDLAND, TEXAS AND OGM AVIATION, L.L.C., AS AUTHORIZED BY ARTICLE 8(K) OF OGM AVIATION, L.L.C.'S LEASE AGREEMENT IN ORDER TO ALLOW WESTERN NATIONAL BANK TO ENCUMBER OGM AVIATION, L.L.C.'S LEASEHOLD INTEREST BY PLEDGING SAID LEASE AS COLLATERAL FOR A LOAN TO CONSTRUCT A HANGAR ON THE PREMISES AT THE MIDLAND INTERNATIONAL AIRPORT

14. Approved a resolution authorizing the execution of Amendment #2 to Parkhill, Smith & Cooper's Professional Services Agreement to include the project described as Commercial Space Launch Site Application (9005). (AIRPORTS)

RESOLUTION NO. 2012 - 264

RESOLUTION AUTHORIZING THE EXECUTION OF AMENDMENT NUMBER TWO TO THE PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INCORPORATED, WITH SUCH AMENDMENT AUTHORIZING THE INCLUSION OF THE PROJECT DESCRIBED AS COMMERCIAL SPACE LAUNCH SITE APPLICATION; AND APPROPRIATING NECESSARY FUNDS

16. Approved a resolution authorizing the office of the City Attorney to file all documents, etc. in a lawsuit styled Morales v. Reyes. (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2012 - 266

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 ELIZABETH MORALES V. DENISSE REYES; ALFREDO ALVARADO; CITY OF MIDLAND; UNITED STATES CUSTOMS AND BORDER PATROL; CITY OF EDINBURG, TEXAS; COUNTY COURT AT LAW #7, HIDALGO COUNTY, TEXAS; CAUSE NO. CL-12-2444-G; AND AUTHORIZING THE PAYMENT OF ALL COSTS

17. Approved a resolution canceling the General City Election which was to be held on November 6, 2012 for City Council Members (CITY SECRETARY'S OFFICE)

RESOLUTION NO. 2012 - 267

RESOLUTION CANCELING THE GENERAL CITY ELECTION WHICH WAS TO BE HELD ON NOVEMBER 6, 2012, FOR ELECTION OF TWO COUNCIL MEMBERS AT-LARGE, ONE COUNCIL MEMBER REPRESENTING DISTRICT 1, AND ONE COUNCIL MEMBER REPRESENTING DISTRICT 2, AS THE REQUIREMENTS OF THE TEXAS ELECTION CODE ARE COMPLIED WITH; AUTHORIZING THE CITY

SECRETARY TO POST NOTICE; ACCEPTING AND APPROVING THE CITY SECRETARY'S CERTIFICATION; AND DECLARING THE UNOPPOSED CANDIDATES ELECTED TO OFFICE

18. Approved a resolution authorizing the execution of a professional services agreement with Midland Sports, Incorporated, of Midland, Texas, for professional marketing, promotion, and management services at the Scharbauer Sports Complex at a cost of \$68,000. (COMMUNITY SERVICES)

RESOLUTION NO. 2012 - 268

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS AND MIDLAND SPORTS, INCORPORATED IN THE AMOUNT OF \$68,000.00, FOR PROFESSIONAL MARKETING, PROMOTION, AND MANAGEMENT SERVICES AT THE SCHARBAUER SPORTS COMPLEX

19. Approved a resolution authorizing the execution of a Public Improvement Development Agreement in the amount of \$265,558, with Playa Del Pueblo, Ltd. 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. 2012 - 269

RESOLUTION AUTHORIZING THE EXECUTION OF A PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH PLAYA DEL PUEBLO, LTD. FOR DEVELOPMENT OF PLAYA DEL PUEBLO ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF INTERSTATE 20, APPROXIMATELY 300 FEET EAST OF TERRELL STREET); AUTHORIZING THE EXECUTION OF ALL DOCUMENTS NECESSARY FOR THE CITY OF MIDLAND'S PARTICIPATION IN SAID DEVELOPMENT; AND APPROPRIATING FUNDS IN THE AMOUNT OF \$265,558.00 THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE

20. Approved a motion on a request by Schumann Engineering for Ruedas Estates, to approve items requested for deferral in the amount of \$153,150.00, and to waive the associated public improvement guarantee. (ENGINEERING SERVICES)
21. Approved a motion on a request by Schumann Engineering for Country Sky Addition (Section 15), to approve items requested for deferral in the amount of \$288,674.00, and to waive the associated public improvement guarantee. (ENGINEERING SERVICES)
22. Approved a resolution authorizing staff to execute a change order to the Ward Street Bridge Project with Onyx Contractors, LP in the amount of \$132,632.30. (ENGINEERING SERVICES)

RESOLUTION NO. 2012 - 270

RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER THREE WITH ONYX CONTRACTORS OPERATIONS, LP REGARDING THE WARD STREET BRIDGE REHABILITATION AND GARFIELD STREET BRIDGE RAIL RETROFIT PROJECT; SAID CHANGE ORDER TO PROVIDE FOR THE RECONSTRUCTION OF THE ALLEY ALONG THE NORTH SIDE OF JAL DRAW

BETWEEN WARD STREET AND GARFIELD STREET; AND AUTHORIZING PAYMENT IN THE AMOUNT OF \$145,622.00

23. Approved a resolution to accept and appropriate grant funding awarded by TXDOT to the Midland Police Department to conduct a FY2013 Comprehensive STEP Enforcement Project. (POLICE)

RESOLUTION NO. 2012 - 271

RESOLUTION ACCEPTING A GRANT IN THE AMOUNT OF \$23,876.00 FROM THE TEXAS DEPARTMENT OF TRANSPORTATION IN ORDER TO CONDUCT A FISCAL YEAR 2012-2013 COMPREHENSIVE SPECIAL TRAFFIC ENFORCEMENT PROGRAM FOR INTERSECTION TRAFFIC CONTROL ENFORCEMENT AND DRIVING WHILE INTOXICATED ENFORCEMENT; SAID GRANT AWARD REQUIRES A CITY CASH MATCH IN THE AMOUNT OF \$4,839.00; PROVIDING THAT THE GRANT FUNDS SHALL BE USED TO PAY OVERTIME TO POLICE OFFICERS WORKING ON SAID PROGRAM; AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENT; AND APPROPRIATING GRANT FUNDS

24. Approved a resolution authorizing the second amendment for the Water Supply Contract with the Colorado River Municipal Water District relocating the delivery point. (UTILITIES)

RESOLUTION NO. 2012 - 272

RESOLUTION AUTHORIZING A SECOND AMENDMENT TO THE EXISTING WATER SUPPLY CONTRACT WITH THE COLORADO RIVER MUNICIPAL WATER DISTRICT; THIS AMENDMENT RELOCATED THE WATER DELIVERY POINT UNDER THE CONTRACT

25. Approved a resolution authorizing the execution of a special warranty deed conveying the 15 million gallon raw water reservoir located on the Water Purification Plant site from the Colorado River Municipal Water District to the City of Midland for the sum of \$557,000 and appropriate funds. (UTILITIES)

RESOLUTION NO. 2012 - 273

RESOLUTION AUTHORIZING THE PURCHASE OF THE FIFTEEN MILLION GALLON RAW WATER RESERVOIR, LOCATED ON THE CITY'S WATER PURIFICATION PLANT SITE, FROM THE COLORADO RIVER MUNICIPAL WATER AUTHORITY, FOR \$557,000.00; ALL CLOSING COSTS TO BE BORNE BY THE CITY OF MIDLAND; AND ORDERING RECORDATION BY THE CITY SECRETARY; AND APPROPRIATING FUNDS

26. Approved a resolution authorizing the execution of a bill of sale conveying the appurtenances associated with the 15 million gallon raw water reservoir located on the Water Purification Plant site from the Colorado River Municipal Water District to the City of Midland. (UTILITIES)

RESOLUTION NO. 2012 - 274

RESOLUTION APPROVING A BILL OF SALE CONVEYING TO THE CITY OF MIDLAND ALL APPURTENANCES ASSOCIATED WITH THE PURCHASE OF THE FIFTEEN MILLION GALLON RAW WATER RESERVOIR, LOCATED ON THE CITY'S

WATER PURIFICATION PLANT SITE, FROM THE COLORADO RIVER MUNICIPAL WATER AUTHORITY; AND ORDERING RECORDATION BY THE CITY SECRETARY

27. Approved a resolution authorizing the execution of a memorandum of agreement with the Colorado River Municipal Water District for modifications to the 15 million gallon raw water reservoir located on the Water Purification Plant site necessary for the transfer of ownership. (UTILITIES)

RESOLUTION NO. 2012 - 275

RESOLUTION AUTHORIZING THE EXECUTION OF A MEMORANDUM OF AGREEMENT WITH THE COLORADO RIVER MUNICIPAL WATER DISTRICT ("CRMWD") ASSOCIATED WITH THE WATER SUPPLY CONTRACT EXECUTED WITH CRMWD IN 1966, AS AMENDED

15. Approved a resolution authorizing the Mayor to execute the first amendment to the wholesale water delivery agreement between the City of Midland the Midland County Fresh Water Supply District No. 1 (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2012 - 265

RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE FIRST AMENDMENT TO THE WHOLESALE WATER DELIVERY AGREEMENT BETWEEN THE CITY OF MIDLAND AND THE MIDLAND COUNTY FRESH WATER SUPPLY DISTRICT NO. 1

listen

Stretcher

better for bonds debt svcs first

Council Member Trost moved to adopt Resolution No. 2012 - 265; seconded by Council Member Morales.

Trost not only City Staff but team effort created buzz that one of best projects ever. Thanked all involved.

Strecher no template but everyone has come together to make it work.

tbarwater.com for full story.

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

SECOND READINGS

28. Consider an ordinance on second reading on a request by Andrew Mellen for a zone change from PD, Planned District for a Housing Development to Amended Planned District. (Generally located on the east side of Loop 250, between Graceland and Leisure Drives.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9048

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING

CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1, BLOCK 161, WILSHIRE PARK ADDITION, SECTION 9, 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 EAST SIDE OF LOOP 250, BETWEEN LEISURE DRIVE AND GRACELAND 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 Marisela Garcia read the caption of Ordinance No. 9048.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9048 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.

29. Consider an ordinance on second reading on a request by Barbara Ann Harris for a zone change from 1F-2, One Family Dwelling District to LR-3, Local Retail District. (Generally located on the west side of South Marshall Street, approximately 150 feet south of East Florida Avenue) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9049

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 4, BLOCK 192, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 1F-2, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS AN LR-3, LOCAL RETAIL DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF MARSHALL STREET, APPROXIMATELY 150 FEET SOUTH OF EAST FLORIDA AVENUE); 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 Marisela Garcia read the caption of Ordinance No. 9049.

Council Member Morales moved to approve the second and final reading of Ordinance No. 9049 in accordance with the Charter of the City of Midland; seconded by Council Member James.

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

30. Consider an ordinance on second reading on a request by MARC Inc. and B & R Metal Buildings for a zone change from 2F, Two-Family Dwelling District, to a PDHD, Planned District for a Housing Development. Generally located on the northwest corner of the intersection of Tarleton Street and Shell Avenue. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9050

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 1-3, BLOCK 1, BISHOP ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 2F, TWO-FAMILY DWELLING DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF TARLETON STREET AND 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 Marisela Garcia read the caption of Ordinance No. 9050.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 9050 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey.

Deputy City Secretary Marisela Garcia read the caption of Ordinance No. 9050.

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

31. Consider an ordinance on second reading on request by Jim Roachelle for a zone change from LR-2, Local Retail District to PD, Planned District for a Housing Development. (Generally located at the northwest corner of West Illinois Avenue and Delmar Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9051

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 3A, BLOCK 15A, OXFORD HEIGHTS, SECTION 8, 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 HOUSING DEVELOPMENT (GENERALLY LOCATED AT THE NORTHWEST CORNER OF WEST ILLINOIS AVENUE AND DELMAR 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 Marisela Garcia read the caption of Ordinance No. 9051.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9051 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford.

Deputy City Secretary Marisela Garcia read the caption of Ordinance No. 9051.

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

PUBLIC HEARINGS

32. At approximately 10:33 a.m. hold a public hearing and consider an ordinance on a request by Danny Barker for a zone change from AE, Agriculture Estate District and from two PD, Planned Districts for a Transition District, all to a single C-3, Commercial District. (Generally located on the northwest corner of the intersection of East Business 20 and Lozoya Road.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9054

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 27.00-ACRE TRACT OF LAND OUT OF SECTION 41, BLOCK 38, T-1-S, T&P RR CO. SURVEY, AND LOT 4, BLOCK 1, FREELAND ADDITION, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, IN PART, PD, PLANNED DISTRICT FOR A TRANSITION DISTRICT, IN PART, AND AS A SEPARATE PD, PLANNED DISTRICT FOR A TRANSITION DISTRICT, IN PART, TO BE USED AS A C-3, COMMERCIAL DISTRICT (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF EAST BUSINESS INTERSTATE 20 AND LOZOYA ROAD); 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 no let of objection were received and that staff recommended approval.

Deputy City Secretary Marisela Garcia read the caption of Ordinance No. NUMBER>.

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

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9054 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.

33. At approximately 10:36 a.m. hold a public hearing and consider an ordinance for a zone change from IP-3, Industrial Park District, to a PDOC, Planned District for an Office Center. (Generally located near the southeast corner of the intersection of Sloan Field Boulevard and Windecker Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9055

ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 3A, 4A AND 5A, BLOCK 3, MIDLAND INTERNATIONAL AIRPORT INDUSTRIAL

PARK, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED IP-3, INDUSTRIAL PARK DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR AN OFFICE CENTER (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF SLOAN FIELD BOULEVARD AND WINDECKER 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 land is city owned and city would like to have hotel. Need to change zoning to allow for a hotel. Perry asked why office center and not hotel. Cameron would limit hotel site. whoever builds here may want to build higher than 3 stories so including pd office center

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.

Deputy City Secretary Marisela Garcia read the caption of Ordinance No. NUMBER>.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9055 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.

34. At approximately 10:39 a.m. hold a public hearing and consider an ordinance on a request by Fasken Land and Mineral, Ltd. for a zone change from FD, Future Development District to PD, Planned District for a Housing Development on Tract 1; and to LR-2, Local Retail District on Tract 2. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9056

ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 26.28-ACRE TRACT OF LAND ("TRACT 1") WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; BY PERMITTING A 12.11-ACRE TRACT OF LAND ("TRACT 2") WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT; SAID TRACTS BEING LOCATED IN SECTION 13, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS; SAID TRACTS BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS MADE A PART HEREOF; SAID TRACTS ARE GENERALLY LOCATED ON THE WEST SIDE OF HOLIDAY HILL ROAD AT ITS INTERSECTION WITH SHERWOOD 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

Planning Division Manager Walker gave an overview of the item noting Tract 1 would be

apartment complex and tract 2 retail development. noting that well site would be built around well 8 foot masonry. no letters of objection. noted reps present for Fasken.

Morales looks like in application not to exceed 17 units per acre and applaud that.

Mayor Perry opened the public hearing at 10:59 a.m.

Bill Skeen Fasken Real estate, Mr. Benson joint applicants available to answer questions. last 3 months spent time with city staff and compliment on working way through process. James where is existing well?

Trost Fasken own land and mineral rights and totally different concept then average which is seperate ownerhsip. James also done starts to create a model for how well sites and residential can cohabitate in comfortable but safe way.

Tate Brown 3504 London Place due east across Holiday Hill Rod two block south of Sherwood back up to Holiday Hill. Oppose the retail part of it. Oppose to noise and traffic is already bad. Residential sounds great but putting up walls around pump jacks a sound barrier on their side would be nice.

There being no one else wishing to speak, the public hearing was closed.

Deputy City Secretary Marisela Garcia read the caption of Ordinance No. NUMBER>.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9056 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

Trost in deference to gentleman who just spoke, was his area in notification. The ROW of Holiday Hill is 200 feet. He wouldnot have received a notice. You can the boundary of 200 foot. no letters of objection.

Dufford are signs posted for zoning change. Cameron yes can ensure. normal procedure to place a sign on property.

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

35. At approximately 10:42 a.m. hold a public hearing and consider a resolution on a request by Community and Senior Services for a Temporary Land Use Permit for a Philanthropic Event. Generally located on the north side of Scharbauer Drive, approximately 250 feet west of Lamesa Road. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 276

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A PHILANTHROPIC EVENT ON THE WEST 51.5 FEET OF LOT 5, ALL OF LOTS 6-10, AND THE EAST 22 FEET OF LOT 11, BLOCK 8, LOMA LINDA REPLAT, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF SCHARBAUER DRIVE, APPROXIMATELY 250 FEET WEST OF LAMESA ROAD); MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Planning Division manager Walker tlup for 18th annual texas size garage sale by Midland community services oct 19-21 fridya thru sunday. hours same as prev yrs 10-3 friday 10-3 sat 2-4 sunday. Intend to have pace officers on site during event. no litters of opposition staff rec approval.

Council Member Morales opened the public hearing at 11:08 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Hailey moved to adopt Resolution No. 2012 - 276; seconded by Council Member Trost.

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

DEVELOPMENT SERVICES

36. Approved a resolution to grant a variance to Ordinance 8769 (January 1, 2010 Oil and Gas Well Drilling Ordinance) to allow building permits for single- or multi-family residences or commercial buildings, to be issued in the future, where the proposed building, either in whole or part is no closer than 135 feet of an existing oil and gas well. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 277

RESOLUTION GRANTING A VARIANCE TO FASKEN LAND AND MINERALS, LTD. BY AUTHORIZING ISSUANCE OF BUILDING PERMITS FOR ANY SINGLE- OR MULTI-FAMILY RESIDENTIAL OR COMMERCIAL BUILDINGS WITHIN 135 FEET OF ANY EXISTING OIL AND GAS WELL WITHIN SECTIONS 1, 12 AND 13, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND, TEXAS; AND AUTHORIZING A VARIANCE FOR CONSTRUCTION OF PUBLIC STREETS UP TO 100 FEET FROM EXISTING OIL AND GAS WELLS WITHIN SAID SECTIONS

Building Official Steve Thorpe provided an overview amendment to existing variance. Rep from Fasken present to answer any questions.

Dufford unique development inside City Limit, how iwll ensure sfaety of folks living in and around oil wells. Buck 2nd person safety most important thing but correct type of walls constructed around it. listen vested interest to make it work. Morales proposing on fencing height. Buck 2nd person 8 foot masonry material. The different screen will be based on associated land use weatehr commercial or residential. In some instances in CA open fencing in back yards Charles Hedges with Fasken as part of development process 2 trips to CA Long Beach and Bakersfield. Bakerfsfield newer 8 foot masonry. In Long Beach and Signal Hill dev old nad houses grew in around and saw 3MD home pump jack is closer no fencing. Fencing material was chain link or something to keep kids from wandering into vicinity. Theri concept will be to screen and will look attractive to neighbors.

Morales will homeowners and oil companies share same streets? Fasken yes. 3rd o& G produced water and electrical lines are put in ___ and intertwined through neighborhood and would like to turn into hike nad bike trail. Mayor appreciate efforts to make sucha rproject during O&g ord believed this could happen. How iwll this work

when did you start working about developmen tplan from inerals and incorporate surface. 3rd 3 1/2 years ago. Perry what is timeline as to oild wells drilled and plans for surface deve. 3rd all oil wells have been drilled and hope to break ground on apts in dec or jan and retail will depend on demand. Single family hope to have something on ground by next summer.

James where is tank battery? Fasken

1st outreach to neighborhood and received support letters from green tree south hoa. green tree north reached out to them as well. no negative comments to date from either hoa.

Council Member Morales moved to adopt Resolution No. 2012 - 277; seconded by Council Member James.

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

MISCELLANEOUS

37. Approved a motion to approve the preliminary plat of The Vineyard Addition, Section 2, a 300.36-acre tract out of Section 13, Block 40, T-1-S, T&P RR Company Survey, Midland County, Texas. (Generally located on the west side of Holiday Hill Road, between Mockingbird Lane and Green Tree Boulevard.) (DEVELOPMENT SERVICES)

Walker over 25 acres does not contain school or park site but fasken talking with misd about tpotential school site. other developments anticipate to bring in near future are for additional zonign for residential growth and additional multi fmaily and office uses int he acerage. will zone in next couple months.

Council Member James moved to approve a motion to approve the preliminary plat of The Vineyard Addition, Section 2, a 300.36-acre tract out of Section 13, Block 40, T-1-S, T&P RR Company Survey, Midland County, Texas. (Generally located on the west side of Holiday Hill Road, between Mockingbird Lane and Green Tree Boulevard.); 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.

38. Consider an ordinance on a request by Ciprino & Francisca Garcia for the vacation of a 0.06-acre portion of the east/west 20 foot alley adjacent to the north side of Lot 6, Block 3, Edwards Addition, City and County of Midland, Texas. (Generally located on the east side of Edwards Street, approximately 140 feet south of Cuthbert Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9057

ORDINANCE VACATING AND ABANDONING A 0.06-ACRE PORTION OF THE EAST/WEST 20-FOOT ALLEY ADJACENT TO THE NORTH SIDE OF LOT 6, BLOCK 3, EDWARDS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF EDWARDS STREET, APPROXIMATELY 140 FEET SOUTH OF CUTHBERT STREET); ADOPTING THE APPRAISAL BY THE CITY

MANAGER OF \$522.72; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Marisela Garcia read the caption of Ordinance No. 9057.

Deputy City Secretary Marisela Garcia read the caption of Ordinance No. 9057.

Council Member James moved approval of the first of two readings of Ordinance No. 9057 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.

39. Approved a motion appealing the decision by the City Building Official to deny a proposed sign permit on Lot 1A, Block 29, Homestead Addition, Section 8, City and County of Midland, Texas. (Generally located on the southwest corner of the intersection of West Louisiana Avenue and North Colorado Street.) (DEVELOPMENT SERVICES)

Council Member James moved to approve a motion appealing the decision by the City Building Official to deny a proposed sign permit on Lot 1A, Block 29, Homestead Addition, Section 8, City and County of Midland, Texas. (Generally located on the southwest corner of the intersection of West Louisiana Avenue and North Colorado Street.); seconded by Council Member Trost.

Sparks what is harm of being at 25 feet. Professional because of ... personally doesn't bother. Steve does not hurt visibility. Dufford how tall is sign at Michael's charcoal grill. Steve 20 feet. Morales trying to reach to Big Spring. Steve billboard height is 30 feet. sparks taller would have more trouble with wind. Steve correct but required to be engineered properly for approp height.

James will have these kinds of unique opportunities frequently don't have a problem because making an effort to aid in downtown development. At one point owner considering a roof sign, has that gone away? Steve correct that is his understanding.

Perry worried about precedent do we need to look at sign ord. Courtney comfortable with as stated but for unique situations will come to this body. 15 is appropriate.

James downtown building sare tall so will see this int he downtown.

Discussion ensued bout the location fo the business and signage that was appropraite.

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

40. Approved a motion on a request for the annexation of a 43.00-acre tract of land out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the east side of State Highway 158, approximately 1/2 mile northwest of State Highway 191.) (DEVELOPMENT SERVICES)

Council Member Hailey moved to approve a motion on a request for the annexation of a 43.00-acre tract of land out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the east side of State Highway 158, approximately 1/2 mile northwest of State Highway 191.); seconded by Council Member James.

Cameron Walker gave an overview would like to take both items

Courtney all 4 voluntary annexations.

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

41. Approved a motion on a request for the annexation of a 195-acre tract of land out of Section 12 and 13, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the south side of East Interstate Highway 20, south of South Loop 250 West.) (DEVELOPMENT SERVICES)

Council Member Morales moved to approve a motion on a request for the annexation of a 195-acre tract of land out of Section 12 and 13, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the south side of East Interstate Highway 20, south of South Loop 250 West.); seconded by Council Member Hailey.

CW listen

James in master plan or presentation received recall being a road continuation of Loop 250 on southern portion. How does that tie in. Cameron listen tie in with service station. Mr. Huesman bought 90 of acres and generally in control of whole intersection minus 10 acre piece. Made him aware would be platting ...

Trost infrastructure needs? CW nothing there and Mr. Huesman is aware of need to bring in utilities. He is working with Atmos to extend utilities. Easiest is to annex hardest is platting and determining roads and utility network.

Trost spoke about traffic relief needed in that area because it currently backs up onto the I-20. CW told owners of large tracks of property that are bringing key development will need to be a traffic study.

Morales this is not on TXDot radar and make sure concern is being addressed.

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

42. Consider making appointments to various Boards and Commissions.

no appointments were made.

Courtney thoughts are briefing scheduled first meeting in September to review apps.

Perry announced will finish briefing in basement and then go to executive session. recess at 11:26 a.m.

EXECUTIVE SESSION

43. Pursuant to Texas Government Code §551.101, the Council will hold an Executive Session which is closed to the public to discuss the following matters as permitted under the following Texas Government Code Sections:
- a. Section 551.074 Personnel Matters
 - a.1. Deliberate the employment, evaluation, duties, and salary of the Presiding Municipal Court Judge, the Associate Municipal Court Judge, the City Manager, the City Attorney and the City Secretary.
 - b. Section 551.072 Deliberation Regarding Real Property
 - b.1. Deliberate the purchase, exchange and value of real property described as Lots 1 through 6, Block 38, Original Town Addition, an addition to the City of Midland, Texas.
 - b.2. Deliberate the sale, exchange and value of real property consisting of all of Block 50, Original Town Addition, an addition to the City of Midland, Midland County, Texas.
 - b.3. Deliberate the purchase, exchange and value of real property in Block 39, Lots 7-12, Original Town Addition, an addition to the City of Midland, Midland County, Texas.
 - b.4. Deliberate the purchase, exchange and value of real property being all of Block 60, Original Town Addition, an addition to the City of Midland, Midland County, Texas.
 - b.5. Deliberate the sale, exchange and value of real property described as Lots 1, 2, 3, 4, 5, and 6, Block 41, Original Town Addition, an addition to the City of Midland, Midland County, Texas.

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

PASSED AND APPROVED the ____ day of _____, ____.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary