MIDLAND CITY COUNCIL
MINUTES
October 11, 2011

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 8:30 a.m. on October 11, 2011.

Council Members present:	Mayor W. Wesley Perry, Mayor Pro Tem Michael Trost (District 4), Council Member Scott Dufford (At-Large), Council Member Jerry Morales (At-Large), Council Member Jeff Sparks (District 1), and Council Member John James (District 3).
Council Members absent:	Council Member Vicky Hailey (District 2) (arrived at 8:33 a.m.)
Staff members present:	City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, Assistant City Manager Jim Nichols, City Secretary Amy Turner, Development Services Director Rick Crownover, Police Chief Price Robinson, General Services Director Robert Patrick, Utilities Director Stuart Purvis, Assistant City Attorney Don Fletcher, Planning Division Manager Cameron Walker, Building Official Steve Thorpe, GIS Manager Bill Hodge, City Engineer David Beard, Public Information Officer Tasa Watts, and Community Development Manager Sylvester Cantu.

BRIEFING SESSION

1. Receive an update from Pat Ennis with Priority Power regarding power contract options. (General Services)

   Robert Patrick briefly reviewed electrical rates paid by the City of Midland and compared the rates with those paid by other cities. He noted that Midland has had the lowest kilowatt per hour cost.

   Mr. Pat Ennis of Priority Power reviewed a presentation outlining the City's usage of electricity and explaining the components of pricing electricity. He noted that bids were obtained from several providers and briefly reviewed the results of those bids. He stated the city's current contract expires in December and that the City should have a new agreement in place by Thanksgiving.

   Deputy City Manager Tommy Hudson noted that staff will have an item on the October 25th agenda for Council consideration.

2. Receive a presentation from Building Official Steve Thorpe regarding the new Neighborhood Enhancement Program. Neighborhood Enhancement Program is anticipated to assist citizens that own and occupy a home in eligible areas create and maintain an attractive exterior appearance. (Code Administration)

   City Manager Sharp explained that during the budget process money was set aside to do a neighborhood enhancement project that could capture neighborhoods on the decline and incentivize improvements. He noted that Building Official Steve Thorpe would present a pilot program that staff would pursue.

   Mr. Thorpe introduced and explained the pilot program for neighborhood enhancement noting the area would be the same as the CDBG eligible area and that the goal is to make neighborhoods more appealing and to provide incentives for homeowners to enhance or upgrade the exterior of their home. He explained that there would be $50,000 available with a maximum of $1,000 per home. There would be no income requirements, the home must be owner-occupied, property taxes must be current, and all invoices and/or liens from the City must be paid in full. Acceptable projects would include landscaping with drought tolerant paints, window replacement, exterior door, locks, weather-stripping, storm doors/storm windows, exterior paint, siding and exterior trim, brick/stone veneer, stucco, front elevation changes, garage doors, roofing, and front-yard concrete flatwork. He explained that there would be a press release to kick off the project to the people who live within the district.

Discussion ensued regarding landscaping with drought tolerant plants and getting building suppliers to do a matching program or offering discounts.

3. Receive information and discuss the greenbelt boundary. (Planning)

   Planning Division Manager Cameron Walker reviewed the existing greenbelt noting that a request had been received to rezone two pieces of land on the eastern end of the greenbelt. He noted that in 2005 the City Council adopted the 2025 Master Plan which essentially was a repeat of the 1987 plan.

   Mark Wellen, explained that the east end of the greenbelt has been poorly defined and explained that Mockingbird would not be able to go straight through because it would adversely affect the Polo Club. He explained that his client wished to begin the process of rezoning two tracts of land for a total of 35-acres clarifying that anything along the arterial streets would remain agricultural zoning but wished to increase the density on the interior. He explained their idea is about community and having mixed development of single family homes and perhaps condos. He stated that the Polo Club is supportive of this idea and that his client's intent is to move forward with Planning and Zoning.

   Discussion ensued about what steps need to be taken for future development in the Greenbelt area and alternate options for Mockingbird Lane.

   City Manager Sharp noted that property owners and developers would be invited to discussions regarding how Mockingbird Lane would be connected.

4. Receive information and discuss establishing an Ordinance prohibiting texting while driving. (Dufford)

   Council Member Dufford asked if there was interest in moving forward with an ordinance to prohibit texting while driving. He referred to a study by Texas A&M that texting while driving is more dangerous than previously thought noting that it doubles a driver's reaction time.

   Discussion ensued about Tom Craddick's House Bill, how the city could enforce a ban on texting, and the possibility of an education campaign.

   In response to a need for more data, Police Chief Robinson reported in 2010 there were 2863 accidents with 21 of those accidents having a contributing factor of cell/mobile phone usage. In 2011 there have been 2,200 wrecks with 19 of them showing cell/mobile phone usage as a contributing factor.

   Mayor Perry noted that everyone wants safer roads but does not feel there was a consensus to ban texting while driving. He noted education might be a better direction to take. Council Members James and Trost both felt more data would be useful and expressed interest in seeing an education program.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:52 a.m.

REGULAR SESSION
The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:02 a.m., October 11, 2011.

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

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.

MISCELLANEOUS
1. The invocation was voiced by Reverend Mike Hanks of Midland First Assembly of God Church.

2. The Pledge of Allegiance to the Flag was stated.

3. Presentation of special events, organizations, individuals, or periods of time.

PUBLIC COMMENT

4. Mayor Perry opened the floor for public comments to allow individuals to address the City Council on city-related issues and projects.

   There were no requests by citizens to speak.

CONSENT AGENDA

Council Member Morales moved to approve Consent Agenda items 6-18; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

6. Adopted Resolution No. 2011-231. Caption of said resolution is as follows:

   RESOLUTION NO. 2011-231
   RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH TEC EXCAVATION, INCORPORATED, OF MIDLAND, TEXAS, FOR CONSTRUCTION OF THE LAMESA ROAD WATER IMPROVEMENTS PROJECT AT A COST OF $1,697,400.00; AND APPROPRIATING FUNDS

7. Adopted Resolution No. 2011-232. Caption of said resolution is as follows:

   RESOLUTION NO. 2011-232
   RESOLUTION APPROVING THE PURCHASE OF A FIRE TRUCK THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (HGAC) AT A TOTAL COST OF $540,680.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COUNCIL OF GOVERNMENTS

8. Adopted Resolution No. 2011-233. Caption of said resolution is as follows:

   RESOLUTION NO. 2011-233
   RESOLUTION APPROVING THE PURCHASE OF TWO (2) REFUSE BODIES THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (HGAC) AT A TOTAL COST OF $176,740.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COUNCIL OF GOVERNMENTS

9. Adopted Resolution No. 2011-234. Caption of said resolution is as follows:

   RESOLUTION NO. 2011-234
   RESOLUTION RESCINDING RESOLUTION NO. 2011-169 WHICH AUTHORIZED THE EXECUTION OF A CONTRACT WITH THYSSEN KRUPP ELEVATOR CORPORATION, OF MIDLAND, TEXAS, FOR THE PURCHASE AND INSTALLATION OF WHEELCHAIR LIFTS IN THE DUGOUTS AT CITIBANK BALL PARK AT A COST OF $64,000.00; AUTHORIZING THE EXECUTION OF A NEW CONTRACT WITH THYSSEN KRUPP ELEVATOR CORPORATION; THYSSEN KRUPP ELEVATOR CORPORATION WAS THE ONLY BIDDER

10. Approved a motion on a request by West Company of Midland for Greenwood Industrial Park (Section 2) to approve items requested for deferral, and to waive the associated public improvement guarantee. This subdivision is generally located on the south side of I-20 approximately 950' east of North County Road 1120. (East of Midland in the ETJ.) The total value of the deferrals is $533,779.00. (Engineering)

11. Adopted Resolution No. 2011-235. Caption of said resolution is as follows:

    RESOLUTION NO. 2011-235
    RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE SPARKS PARK TARGET AREA; SAID PROJECT WILL BE FOR THE CONSTRUCTION OF UTILITY IMPROVEMENTS TO SERVE THE SPARKS PARK TARGET AREA; SPARKS PARK IS GENERALLY LOCATED BETWEEN JACKSON STREET AND TILDEN STREET SOUTH OF GOLF COURSE ROAD

12. Adopted Resolution No. 2011-236. Caption of said resolution is as follows:

    RESOLUTION NO. 2011-236

RESOLUTION ACCEPTING A GRANT AWARD FROM THE TEXAS "J" REGIONAL ADVISORY COUNCIL IN THE AMOUNT OF $9,936.00, FOR FUNDS TO BE USED BY THE MIDLAND FIRE DEPARTMENT FOR TRAINING EQUIPMENT AND SUPPLIES

13. Adopted Resolution No. 2011-237. Caption of said resolution is as follows:

RESOLUTION NO. 2011-237

RESOLUTION ACCEPTING THE FISCAL YEAR 2012 VICTIM COORDINATOR AND LIAISON GRANT FROM THE TEXAS ATTORNEY GENERAL; THIS GRANT IS TO BE USED BY THE MIDLAND POLICE DEPARTMENT TO MAINTAIN A VICTIM ASSISTANCE LIAISON POSITION; AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS; AND DEPOSITING THE FUNDS INTO THE GENERAL FUND

14. Adopted Resolution No. 2011-238. Caption of said resolution is as follows:

RESOLUTION NO. 2011-238

RESOLUTION AUTHORIZING THE CITY OF MIDLAND POLICE DEPARTMENT IN CONJUNCTION WITH THE MIDLAND COUNTY SHERIFF'S DEPARTMENT TO ACCEPT THE FISCAL YEAR 2011 JUSTICE ASSISTANCE GRANT FUNDS TOTALING $36,251.00; THE CITY OF MIDLAND WILL RECEIVE $21,751.00 (60%) AND MIDLAND COUNTY WILL RECEIVE $14,500.00 (40%) OF THE GRANT FUNDS; AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS; AND APPROPRIATING FUNDS

15. Adopted Resolution No. 2011-239. Caption of said resolution is as follows:

RESOLUTION NO. 2011-239.

RESOLUTION ACCEPTING A GRANT IN THE AMOUNT OF $26,294.00 FROM THE TEXAS DEPARTMENT OF TRANSPORTATION IN ORDER TO CONDUCT A FISCAL YEAR 2011-2012 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 $5,135.00; 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

16. Adopted Resolution No. 2011-240. Caption of said resolution is as follows:

RESOLUTION NO. 2011-240

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH DEL CARMEN CONSULTING, LLC, TO PROVIDE SERVICES IN CONNECTION WITH THE EVALUATION OF RACIAL PROFILING DATA COLLECTED BY THE MIDLAND POLICE DEPARTMENT

17. Adopted Resolution No. 2011-241. Caption of said resolution is as follows:

RESOLUTION NO. 2011-241

RESOLUTION RESCINDING RESOLUTION NO. 2011-221 WITH KEEP MIDLAND BEAUTIFUL, INCORPORATED DUE TO A BUDGETED INCREASE IN FUNDING FROM $50,000.00 TO $75,000.00 AND APPROVING A NEW RESOLUTION REFLECTING THE NEW AMOUNT OF FUNDING, $75,000.00; AUTHORIZING THE EXECUTION OF A NEW CONTRACT WITH KEEP MIDLAND BEAUTIFUL, INCORPORATED, FOR LITTER REDUCTION, EDUCATION, AND BEAUTIFICATION PROGRAMS

18. Adopted Resolution No. 2011-242. Caption of said resolution is as follows:

RESOLUTION NO. 2011-242

RESOLUTION APPROVING THE AMENDED FISCAL YEAR 2011-2012 BUDGET OF THE MIDLAND DEVELOPMENT CORPORATION, A TYPE A CORPORATION AS AUTHORIZED BY CHAPTER 504 OF THE TEXAS LOCAL GOVERNMENT CODE

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

5. Consider approving the minutes of the regular City Council meeting of September 27, 2011.

Council Member Sparks asked if the word "tall" had been changed to "wide" on item number 26, the second full paragraph of page 5. City Secretary Turner responded that it had been changed.

Council Member Sparks moved to approve the minutes of the regular City Council meeting of September 27, 2011 as amended; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

19. Consider an Economic Development Agreement between the Midland Development Corporation (MDC) and the University of Texas of the Permian Basin (UTPB).

Council Member Dufford asked why the City should help fund what the State does not want to fund.

Robert Rendall, MDC Chairman, stated that from the MDC point of view, they have a strong relationship with UTPB and their goal is to help diversify energy research and development. He noted that the project could have long term economic impact for the area and that it could provide long term jobs.

Dr. David Watts, President UTPB, in response to the question as to why the City should fund the project explained that the project known at the HT3R Project and is currently funded by federal appropriations attained by Senator Hutchinson. The funding has now come to an end and they are trying to determine if they should continue. He reported that they have successes as a result of the program such as the funding of the SEED location and the new Petroleum Engineering Program which began in the fall and is expected to produce graduates in the next three years. The continued work on the HT3R Project to develop a project called Green Freedom.

Council Member Morales noted that the return on investment would be in the form of education and asked if Dr. Watts expected to continue to develop jobs as a result of their work. Dr. Watts explained that by continuing to fund the project it would produce educational results and applied research which should benefit the entire region.

Council Member Dufford asked how close they were to having a demonstration facility.

Mr. Jeff Martin of Los Alamos National Laboratory reported that they have a lot of interest in the concept and that they received a call from the Embassy in Poland who is very interested in turning natural gas into oil to lessen their dependency on Russia. He stated they are about four years from demonstrating it and expects to have a lot of spin-offs emphasizing they are not relying on new technology. Dr. Watts explained that the project can produce gas for $2.25/gallon by relying on carbon dioxide from the atmosphere and natural gas.

Council Member Dufford moved to adopt Resolution No. 2011-243; seconded by Council Member Trost.

Council Member James stated that one of the goals of the Vision 2020 process was to partner with institutions of higher education, especially where energy leadership was critical to the region; he felt this partnership was consistent with that goal.

The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said resolution is as follows:

RESOLUTION NO. 2011-243

RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND THE UNIVERSITY OF TEXAS OF THE PERMIAN BASIN ("UTPB"), AS AUTHORIZED BY CHAPTER 501 OF THE TEXAS LOCAL GOVERNMENT CODE

SECOND READINGS

20. Consider an ordinance on second reading on a request by Mike Black for a Special Exception to the Zoning Code for an 8-foot tall fence in the front yard setback. (Planning) (First reading held September 27, 2011)

City Secretary Turner read the caption of Ordinance No. 8943

Council Member Morales moved to approve the second and final reading of Ordinance No. 8943 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, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

ORDINANCE NO. 8943

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 11, BLOCK 2, SOLOMON ESTATES, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF MOCKINGBIRD LANE AND “A” STREET), BY PERMITTING AN ENCROACHMENT INTO THE REQUIRED FRONT YARD SETBACK FOR CONSTRUCTION OF A FENCE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS ($2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

21. Consider an ordinance on second reading on a request by Midland Wings for an Amended Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption in a nightclub. (Planning) (First reading held September 27, 2011)

City Secretary Turner read the caption of Ordinance No. 8944.

Council Member Trost moved to approve the second and final reading of Ordinance No. 8944 in accordance with the Charter of the City of Midland; seconded by Council Member James.

Misty Meeker, Lubbock, TX, stated she was an assistant of the owner, questioned the need to have security on Sundays outside of football season and asked Council to only require Sunday security coverage September through December.

Planning Division Manager Walker noted that the recommendation of hours was due to feedback received from the Police Department. Officer Zarate stated that he sees both points of view but his personal recommendation is to have coverage year round on Sundays.

Discussion ensued about who can provide the security coverage noting that it must be provided by a certified police officer.

Discussion ensued about continuity and that every bar throughout the City has a different clientele and therefore a different need for security.

Ms. Meeker stated she had pulled police reports and gave statistics of calls to police on varying nights of the week. Officer Zarate replied that those numbers may not be accurate because security that is on sight takes care of incidents that prevent the call-out of on-duty officers.

The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

ORDINANCE NO. 8944

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 13A, BLOCK 28, WYDEWOOD ESTATES, SECTION 27, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WADLEY AVENUE, EAST OF SUNBURST DRIVE), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A NIGHTCLUB 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

22. Consider an ordinance on second reading on a request by Animal Clips and Doggie Gym for a Specific Use Permit without Term for a Kennel. (Planning) (First reading held September 27, 2011.)

City Secretary Turner read the caption of Ordinance No. 8945.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8945 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, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

ORDINANCE NO. 8945

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF 3,300 SQUARE FEET OUT OF TRACT 4, WILSHIRE SHOPPING CENTER, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 1,000 FEET NORTH OF WEST ILLINOIS AVENUE), WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR A KENNEL; 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

Mayor Perry noted that the Public Hearings would be held next.

PUBLIC HEARINGS

25. Consider a request by Insignia Hospitality Group, Inc. for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District. (Planning)

Planning Division Manager Walker gave an overview of the item noting that the Planning & Zoning Commission unanimously recommended approval of the request and that the building materials would consist of stucco, natural or manmade stone, and prefabricated metal finishes.

Mayor Perry opened the public hearing at 10:46 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. 8948.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 8948 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, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

ORDINANCE NO. 8948

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 8 AND 9, BLOCK 3, WESTRIDGE PARK ADDITION, SECTION 16, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED NEAR THE NORTHEAST CORNER OF CATALINA DRIVE AND DEAUVILLE BOULEVARD); 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

26. Consider a request by Casa Del Sol for a Temporary Land Use Permit for an Outdoor Amusement Function. (Planning)

Planning Division Manager Walker gave an overview of the item noting that this one-time event would be held on Saturday, October 22, from 8 p.m. to midnight. He clarified that the event would be held in the parking lot with live music, temporary fencing and a bar. He noted that no letters of opposition or complaints had been received.

Mayor Perry opened the public hearing at 10:48 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Hailey moved approval of Resolution No. 2011-244 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, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

RESOLUTION NO. 2011-244

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR AN OUTDOOR CONCERT ON THE EAST 90 FEET OF LOTS 5 AND 6, BLOCK 20, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF EAST ILLINOIS AVENUE AND NORTH TERRELL STREET); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

DEVELOPMENT SERVICES

27. Consider an ordinance providing the maximum time limit for parking upon a portion of "N" Street of two hours and repealing Ordinance No. 6757.

Transportation Manager Gary Saunders gave an overview of the item noting it was a request by property owners.

City Secretary Turner read the caption of Ordinance No. 8949.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 8949 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, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

ORDINANCE NO. 8949

AN ORDINANCE PROVIDING THE MAXIMUM TIME LIMIT FOR PARKING ON A PORTION OF “N” STREET FROM THE SOUTH CURB LINE OF TENNESSEE AVENUE, SOUTH TO THE EAST/WEST ALLEY BETWEEN OHIO AVENUE AND ILLINOIS AVENUE TO TWO HOURS; AUTHORIZING AND DIRECTING THE TRAFFIC ENGINEER TO ERECT APPROPRIATE SIGNS; DECLARING ANY VEHICLE IN VIOLATION OF THE PROVISIONS OF THIS ORDINANCE A NUISANCE AND PROVIDING FOR THE REMOVAL OF SAME; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS ($200.00); AND ORDERING PUBLICATION

28. Consider an ordinance prohibiting parking at anytime on a portion of the west side of Northrup Drive north of Sinclair Avenue except to residents who have obtained a valid parking permit. (Transportation).

Transportation Manager Saunders gave an overview of the item noting this item was due to the request of residents in the area.

Council Member James spoke of an accident that happened to the south of the school on Sinclair Avenue and suggested that those residences be included in this Ordinance.

City Secretary Turner read the caption of Ordinance No. 8950.

Council Member James moved approval of the first of two readings of Ordinance No. 8950 in accordance with the Charter of the City of Midland with the amendment to include the residences on the South side of Sinclair between Northrup and Hughes; seconded by Council Member Sparks.

Discussion ensued regarding charging residents an administrative fee. City Attorney Stretcher noted that this is the same wording used in every ordinance to prohibit parking in residential areas. City Attorney Sharp noted that the current fee is only $5 per year.

The motion carried by the following vote: AYE: Morales, Hailey, Perry, Dufford, James, and Sparks. NAY: Trost. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

ORDINANCE NO. 8950

AN ORDINANCE PROHIBITING PARKING ON THE WEST SIDE OF NORTHRUP DRIVE FROM A POINT 242 FEET SOUTH OF THE CENTERLINE OF GULF AVENUE,

INCLUDING 1907 NORTHRUP DRIVE, CONTINUING NORTH TO THE SOUTH CURB LINE OF NEELY AVENUE AND ON THE SOUTH SIDE OF SINCLAIR AVENUE BETWEEN NORTHRUP DRIVE AND HUGHES STREET EXCEPT TO RESIDENTS WHOSE PROPERTY ABUTS SUCH STREET AND HAVE OBTAINED A VALID PARKING PERMIT; AUTHORIZING AND DIRECTING THE TRAFFIC ENGINEER TO ERECT APPROPRIATE SIGNS; DECLARING ANY VEHICLE IN VIOLATION OF THE PROVISIONS OF THIS ORDINANCE A NUISANCE AND PROVIDING FOR THE REMOVAL OF SAME; CONTAINING A CUMULATIVE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS ($200.00); AND ORDERING PUBLICATION

SECOND READINGS CONTINUED

23. Consider an ordinance on second reading on a request by Geo Mitchell for a zone change. (Planning) (First reading held September 27, 2011.)

City Secretary Turner read the caption of Ordinance No. 8946.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 8946 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, Perry, Dufford, James, and Sparks. NAY: Hailey. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

ORDINANCE NO. 8946

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1, BLOCK 2, REPLAT OF BLOCKS 1 AND 2, HOLLANDALE HEIGHTS, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED O-1, OFFICE DISTRICT, TO BE USED AS AN LR-1, LOCAL RETAIL DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF NORTH LAMESA ROAD AND WEST SIDE OF PARKWAY DRIVE, APPROXIMATELY 530 FEET SOUTH OF EAST WADLEY 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

24. Consider an ordinance on second reading regarding nuisance water. (Code Administration) (First reading held September 27, 2011.)

City Secretary Turner read the caption of Ordinance No. 8947.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 8947 in accordance with the Charter of the City of Midland with the following amendment:

Under Section C add the following two items:

5. The device that emitted water directly onto any public street or emitted water so as to allow water to run onto any public street is fixed or repaired within five days, excluding weekends and holidays, from the date of the issuance of the citation under this Ordinance and evidence detailing the repairs is presented to the Court; or
6. The device is damaged or destroyed without the knowledge of the person, corporation, partnership or association that received the citation and the damage or destruction that caused the device to emit water directly onto any public street or emit water so as to allow water to run onto any public street is repaired. The damage or destruction must be repaired within five days, excluding weekends and holidays, from the date of the issuance of the citation under this Ordinance and evidence detailing the repairs is presented to the Court.

The motion was seconded by Council Member Trost.

Following brief discussion, the motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

ORDINANCE NO. 8947

AN ORDINANCE AMENDING TITLE VI, "POLICE REGULATIONS", CHAPTER 1, "GENERAL OFFENSES", SECTION 19, "NUISANCE WATER", OF THE CITY CODE

OF MIDLAND, TEXAS, SO AS TO PROHIBIT NUISANCE WATER IN THE PUBLIC STREETS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS ($500.00); AND NEGATING A MENTAL STATE; AND ORDERING PUBLICATION

MISCELLANEOUS

29. Consideration of appointments to various Boards and Commissions.

    No appointments were made.

RECESS/EXECUTIVE SESSION

30. Mayor Perry announced that the meeting would be recessed to the conference room for lunch.

31. Mayor Perry announced that pursuant to Texas Government Code Section 551.101, the Council would now hold an Executive Session, closed to the public, to discuss the following matters as permitted under the following Texas Government Code Sections:

    There were no executive session items to discuss.

All of the business at hand having been completed, the meeting adjourned at 11:11 a.m.

PASSED AND APPROVED the 25th day of October, 2011.

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W. Wesley Perry, Mayor

ATTEST:

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Amy M. Turner, City Secretary