MIDLAND CITY COUNCIL
MINUTES
November 08, 2011

BRIEFING SESSION

REGULAR SESSION

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.

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas at 10:14 a.m., November 08, 2011.

OPENING ITEMS

1. Invocation - Reverend Blake Collins, Midland First Assembly Of God-Youth Minister

2. Pledge of Allegiance

PRESENTATIONS

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

   a. Presentation of Commendation to Irece Jordan.

   Mayor Perry noted that Irece Jordan would not be present to receive her commendation as her husband had passed away this morning. A moment of silence was observed.

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.

   Paul Lewis, 3501 Gulf, requested the City Council place an item on a future agenda to consider and discuss a proposal halting the issuance of new water meters at new locations in the City of Midland until such time as the drought or rationing ceases. He distributed a graph showing the correlation between rainfall and water available in CRMWD reservoirs noting that last year sufficient rainfall was received but reservoir levels have continued to diminish.

   Lisa Grissom, 112 S. Loraine, Suite 440, representing Tall City Blues Fest, asked that her request to have fees waived (Agenda Item No. 42) not be considered. She stated that after much consideration she felt that the request did not align with the organization's beliefs. She also asked that the City Council review their policy as to the amount of deposit charged for the Midland Center and Centennial Plaza. She distributed a document outlining plans for the 2012 event.

   Kaethe Selkirk, 5555 N. Lamar Boulevard, Austin, noted she was from the Texas State Independent Living Council. She indicated they were working on a TXDOT grant for the disabled and requested the City Council offer their support. Mayor Perry noted that the City Council could not take action on this item and suggested she provide a sample resolution for their consideration at their next meeting.

CONSENT AGENDA

Council Member Trost made a motion to approve Consent Agenda Items 5-26 with the exception of Agenda Item numbers 21, 24, and 26; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None ABSTAIN: None ABSENT: None

5. Approved a motion approving the following minutes:

   a. Regular City Council Meeting of October 25, 2011.

6. Approved a resolution to proceed with Fiscal Year 2012 General Purpose Certificates of Obligation Issue. (Finance)

   RESOLUTION NO. 2011 - 261

   RESOLUTION APPROVING AND AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE SERIES 2012 CERTIFICATED OF OBLIGATION IN AN AMOUNT NOT TO EXCEED THIRTY-ONE MILLION ONE HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS ($31,150,000.00); AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO CAUSE NOTICES TO BE PUBLISHED AND POSTED

7. Approved a resolution approving the City of Midland's Fiscal Year 2012 Investment Policy. (Finance)

   RESOLUTION NO. 2011 - 262

   RESOLUTION APPROVING THE CITY OF MIDLAND'S FISCAL YEAR 2012 INVESTMENT POLICY

8. Received information regarding the fourth quarter Fiscal Year 2011 Investment Report. (Finance)

9. Approved a resolution approving Fiscal Year 2011 Miscellaneous write-offs. (Finance)

   RESOLUTION NO. 2011 - 263

   RESOLUTION AUTHORIZING THE CITY TREASURER TO WRITE OFF AS UNCOLLECTIBLE CERTAIN DELINQUENT ACCOUNTS FOR MISCELLANEOUS ACCOUNTS RECEIVABLE AND INSUFFICIENT FUNDS CHECKS

10. Approved a resolution approving Fiscal Year 2011 Water, Sewer and Sanitation write-offs. (Finance)

    RESOLUTION NO. 2011 - 264

    RESOLUTION AUTHORIZING THE CITY TREASURER TO WRITE OFF AS UNCOLLECTIBLE CERTAIN DELINQUENT ACCOUNTS FOR WATER, SEWER, AND GARBAGE COLLECTION SERVICES

11. Approved a resolution approving Fiscal Year 2011 EMS write-offs. (Finance)

    RESOLUTION NO. 2011 - 265

    RESOLUTION AUTHORIZING THE CITY TREASURER TO WRITE OFF AS UNCOLLECTIBLE CERTAIN DELINQUENT ACCOUNTS FOR EMERGENCY MEDICAL SERVICES RECEIVABLES

12. Approved a resolution casting the City of Midland ballots for the Midland Central Appraisal District Board of Directors. (Finance)

    RESOLUTION NO. 2011 - 266

    RESOLUTION CASTING THE CITY OF MIDLAND'S VOTES FOR DIRECTORS OF THE MIDLAND CENTRAL APPRAISAL DISTRICT AND DIRECTING THE CITY MANAGER TO FILE THE APPROPRIATE DOCUMENTS.

13. Approved a resolution allocating funds to the CGI System Upgrade Project (8817). (Finance)

    RESOLUTION NO. 2011 - 267

    RESOLUTION ALLOCATING $216,220.00 TO THE CGI SYSTEMS UPGRADE PROJECT (8817)

14. Approved a resolution approving the sole source purchase of 1250 MXUs for the Automated Meter Reader System for the Customer Service Division. (General Services)

    RESOLUTION NO. 2011 - 268

    RESOLUTION APPROVING THE PURCHASE OF ONE THOUSAND TWO HUNDRED

FIFTY (1,250) TRANSMITTERS FOR USE WITH THE CITY'S AUTOMATED WATER METER READER SYSTEM FROM WESTERN INDUSTRIAL SUPPLY, L.L.C., OF ODESSA, TEXAS, FOR $150,000.00; AND ACCEPTING THE CITY MANAGER'S RECOMMENDATION THAT
SAID TRANSMITTERS ARE PROPRIETARY IN NATURE AND AVAILABLE ONLY FROM A SOLE SOURCE

15. Approved a resolution approving the purchase of an ambulance manufactured by Frazer, Ltd. through HGAC from Sterling McCall Ford, their licensed dealers, for the Garage Division. (General Services)

RESOLUTION NO. 2011 - 269

RESOLUTION APPROVING THE PURCHASE OF AN AMBULANCE THROUGH THE HOUSTON GALVESTON AREA COUNCIL OF GOVERNMENTS (HGAC) AT A TOTAL COST OF $166,900.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COUNCIL OF GOVERNMENTS

16. Approved a resolution approving plans and specifications and authorizing advertisement for request for proposals for a storage area network. (CISD)

RESOLUTION NO. 2011 - 270

RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS FOR THE CONSTRUCTION OF A STORAGE AREA NETWORK AT 601 NORTH LORAINE, MIDLAND, TEXAS, FOR THE COMMUNICATIONS AND INFORMATION SERVICES DEPARTMENT

17. Approved a resolution approving plans and specifications and authorizing advertisement for request for proposals for an Internet Service Provider. (CISD)

RESOLUTION NO. 2011 - 271

RESOLUTION AUTHORIZING ISSUANCE OF A REQUEST FOR PROPOSALS FOR AN INTERNET SERVICE PROVIDER FOR THE COMMUNICATIONS AND INFORMATION SERVICES DEPARTMENT

18. Approved a resolution authorizing the acceptance of $150,358.00 in reimbursement funds from the Texas Department of State Health Services to reimburse the Health and Senior Services Division for the delivery of Immunization Services; and authorizing the execution of acceptance documents. (Community Services)

RESOLUTION NO. 2011 - 272

RESOLUTION AUTHORIZING THE ACCEPTANCE OF FUNDS FROM THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES TO REIMBURSE THE CITY OF MIDLAND HEALTH AND SENIOR SERVICE DIVISION FOR THE DELIVERY OF IMMUNIZATION SERVICES; AND AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS

19. Approved a resolution authorizing the acceptance of $101,889.00 in reimbursement funds from the Texas Department of State Health Services to assist the Health and Senior Services Division with the delivery of Bioterrorism Preparedness Program Services; and authorizing the execution of acceptance documents. (Community Services)

RESOLUTION NO. 2011 - 273

RESOLUTION AUTHORIZING THE ACCEPTANCE OF $101,889.00 IN REIMBURSEMENT FUNDS FROM THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES TO ASSIST THE HEALTH AND SENIOR SERVICE DIVISION WITH THE DELIVERY OF PUBLIC HEALTH EMERGENCY PREPAREDNESS SERVICES; AND AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS

20. Approved a resolution authorizing the acceptance of $55,814.00 in reimbursement funds from the Texas Department of State Health Services to assist the Health and Senior Services Division with the delivery of Local Public Health Services; and authorizing the execution of acceptance documents. (Community Services)

RESOLUTION NO. 2011 - 274

RESOLUTION AUTHORIZING THE ACCEPTANCE OF REIMBURSEMENT FUNDS FROM THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES IN THE AMOUNT OF $55,814.00 TO ASSIST THE HEALTH AND SENIOR SERVICE DIVISION WITH THE DELIVERY OF LOCAL PUBLIC HEALTH SERVICES; AND AUTHORIZING THE

EXECUTION OF ACCEPTANCE DOCUMENTS

22. Approved a resolution authorizing the City Manager to advertise a Request for Qualification (RFQ) for firms to provide professional services (engineering and surveying) for the paving and drainage improvements along Briarwood Avenue from Holiday Hill Road to Heidelberg Lane (approximately 2 miles) (Engineering)

RESOLUTION NO. 2011 - 275

RESOLUTION AUTHORIZING THE CITY MANAGER TO ADVERTISE A REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL SERVICES FOR PAVING AND DRAINAGE IMPROVEMENTS ALONG BRIARWOOD AVENUE FROM HOLIDAY HILL ROAD TO HEIDELBERG LANE; AUTHORIZING THE CITY MANAGER TO NEGOTIATE A PROFESSIONAL SERVICES AGREEMENT FOR SAID SERVICES; AND PROVIDING THAT SAID AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL

23. Approved a resolution authorizing the City Manager to advertise a Request for Qualification (RFQ) for firms to provide professional services (engineering and surveying) for the paving and drainage improvements along Mockingbird Lane from Holiday Hill Road to Midland Drive (approximately one mile). (Engineering)

RESOLUTION NO. 2011 - 276

RESOLUTION AUTHORIZING THE CITY MANAGER TO ADVERTISE A REQUEST FOR QUALIFICATIONS FOR PROFESSIONAL SERVICES FOR PAVING AND DRAINAGE IMPROVEMENTS ALONG MOCKINGBIRD LANE FROM HOLIDAY HILL ROAD TO MIDLAND DRIVE; AUTHORIZING THE CITY MANAGER TO NEGOTIATE A PROFESSIONAL SERVICES AGREEMENT FOR SAID SERVICES; AND PROVIDING THAT SAID AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL

The following items were pulled from Consent Calendar and considered individually.

25. Consider a resolution approving award of the Water System Improvements: Rehabilitation & Lead Abatement of Airport and Shell Elevated Storage Tanks Project to A & M Construction and Utilities, Inc. and appropriate funds. (Utilities)

RESOLUTION NO. 2011 - 278

RESOLUTION AWARDING THE WATER SYSTEM IMPROVEMENTS: REHABILITATION AND LEAD ABATEMENT OF AIRPORT AND SHELL ELEVATED STORAGE TANKS PROJECT TO A & M CONSTRUCTION AND UTILITIES, INCORPORATED, AT A TOTAL COST OF $1,432,500.00; AND APPROPRIATING FUNDS

Council Member Trost made a motion to adopt Resolution No. 2011-278; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None ABSTAIN: None ABSENT: None.

24. Consider a resolution approving an amendment to the existing professional services agreement with Parkhill, Smith & Cooper and appropriating funds project for landfill support services. (Solid Waste)

RESOLUTION NO. 2011 - 277

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT TASK ORDER WITH PARKHILL, SMITH & COOPER, INCORPORATED, OF MIDLAND, TEXAS, FOR PROFESSIONAL LANDFILL SUPPORT SERVICES , AT AN ESTIMATED TOTAL COST OF $152,390.00; AND APPROPRIATING FUNDS

Discussion ensued regarding the services that would be provided by Parkhill, Smith, and Cooper.

Council Member Trost made a motion to adopt Resolution No. 2011-277; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None ABSTAIN: None ABSENT: None.

26. Consider a resolution establishing the dates of regular City Council Meetings to be held in calendar year 2012. (City Manager)

RESOLUTION NO. 2011 - 279

RESOLUTION ESTABLISHING THE DATES OF THE REGULAR CITY COUNCIL

MEETINGS TO BE HELD DURING THE CALENDAR YEAR 2012

Following brief discussion, Council Member Sparks made a motion to adopt Resolution No. 2011-279 with the addition of June 26, 2012, and November 27, 2012; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None ABSTAIN: None ABSENT: None

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

21. Consider a motion on a request by West Company of Midland for Bizzell-Kiser Addition (Section 9), to approve items requested for deferral, and to waive the associated public improvement guarantee. This subdivision is generally located on the south side of Wolcott Avenue between Fort Worth Street and Terrell Street. The total value of the deferrals is $91,399.12. (Engineering)

Discussion ensued about the types of improvements being made to the site and about requirement for moving mobile homes.

Council Member Hailey made a motion to approve a request by West Company of Midland for Bizzel-Kiser Addition (Section 9), to approve items requested for deferral, and to waive the associated public improvement guarantee; seconded by Council Member Trost.

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

PUBLIC HEARINGS

29. At approximately 10:36 A.M. hold a public hearing and consider an ordinance on a request by Bourbon St. D.C. for a Specific use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a lounge, on Lot 24, Block 53, Original Town, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of N. Main Street and E. Texas Avenue.)

ORDINANCE NO. 8953

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 24, BLOCK 53, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH MAIN STREET AND EAST TEXAS AVENUE), WHICH IS PRESENTLY ZONED C-1,CENTRAL AREA DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE 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

Planning Division Manager Walker gave an overview of the item noting that no letters of objection had been received.

Mayor Perry opened the public hearing at 10:39. There being no one present wishing to speak, the public hearing was immediately closed.

City Secretary Turner read the caption of Ordinance No. 8953.

Council Member Trost made a motion to approve the first of two readings of Ordinance No. 8953 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

City Attorney Stretcher suggested that Section One of the Ordinance be amended to read "with term".

Council Member Sparks moved to amend Section One to read "with term"; seconded by Council Member Trost. The motion to amend carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

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

30. At approximately 10:39 A.M. hold a public hearing and consider an ordinance on a request by Alan Hale for a zone change from PD, Planned District for a Housing Development to an Amended Planned District on a 2.52-acre portion of Lot 3A, Block 1, Trinity Towers Manor, Sections 3, City and County of Midland, Texas. (Generally located near the northeast corner of the intersection of N. Loop 250 West and Sinclair Avenue on Manor Village Circle.)

ORDINANCE NO. 8954

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 3A, BLOCK 1, TRINITY TOWERS MANOR, SECTION 3, 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 NEAR THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH LOOP 250 WEST AND SINCLAIR AVENUE ON MANOR VILLAGE CIRCLE); 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 that no letters of objection had been received.

Mayor Perry opened the public hearing at 10:44 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. 8954.

Council Member Sparks made a motion to approve the first of two readings of Ordinance No. 8954 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, Sparks, Dufford, James, Perry. NAY: None ABSTAIN: None ABSENT: None.

31. At approximately 10:45 A.M. hold a public hearing and consider a resolution on a request by Joe Smith / Oregon Trail Trees for a Temporary Land Use Permit for Outdoor Christmas Tree Sales on the remainder of Lot 1, Block 1, Scotsdale Addition, Section Two, City and County of Midland, Texas. (Generally located on the west side of N. Midland Drive, approximately 160 feet south of W. Dengar Avenue.)

RESOLUTION NO. 2011 - 280

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR OUTDOOR CHRISTMAS TREE SALES ON LOT 1, BLOCK 1, SCOTSDALE ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 160 FEET SOUTH OF WEST DENGAR AVENUE); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Planning Division Manager gave an overview of the item noting that staff recommended approval.

Mayor Perry opened the public hearing at 10:47. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Morales made a motion to adopt Resolution No. 2011-280; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

SECOND READINGS

27. Consider an ordinance on second reading on a request by SBC, LP. for a zone change from FD, Future Development District to PD, Planned District for a Housing Development on a 16.63-acre tract of land out of Section 25, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the northwest corner of the intersection of Crowley Boulevard and Rio Grande Avenue.) (Planning)

ORDINANCE NO. 8951

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 16.63-ACRE TRACT OF LAND (BEING 19.04 ACRES INCLUSIVE OF DEDICATED RIGHTS-OF-WAY) OUT OF SECTION 25, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE NORTHWEST CORNER OF CROWLEY BOULEVARD AND RIO GRANDE 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

City Secretary Turner read the caption of Ordinance No. 8951.

Council Member Trost made a motion to approve the second and final reading of Ordinance No. 8951 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, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

28. Consider an ordinance on second reading on a request by City of Midland for zone change from 1F-2, One-Family Dwelling District to 1F-3, One Family Dwelling District on Lots 9 through 14, Block 1; Lots 1 through 8, Block 2; Lots 3 through 8, Block 3; Lots 1 through 8 Block 4, Glenn Frances Addition; of Lots 3 through 10, Block 4 and Lots 1 thorough 9, Block 5, Glenmore Heights; and of the N/E 5 acres of Block 79, East Midland, city and County of Midland, Texas (Generally located near the southwest corner of the intersection of E. Golf Course Road and Tilden Street.) (Planning)

ORDINANCE NO. 8952

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 9-14, BLOCK 1, LOTS 1-8, BLOCK 2, LOTS 3-8, BLOCK 3, LOTS 1-8, BLOCK 4, GLENN FRANCES ADDITION; LOTS 3-10, BLOCK 4, LOTS 1-9, BLOCK 5, GLENMORE HEIGHTS; AND THE NORTHEAST 5 ACRES OF BLOCK 79, EAST MIDLAND, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 1F-2, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A 1F-3, ONE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF EAST GOLF COURSE ROAD AND TILDEN 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

City Secretary Turner read the caption of Ordinance No. 8952.

Council Member Hailey made a motion to approve the second and final reading of Ordinance No. 8952 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, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

DEVELOPMENT SERVICES

32. Consider an ordinance establishing intersection stops at various locations within the City of Midland, Texas; requiring and authorizing the posting of appropriate signs at intersections; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two hundred dollars ($200.00); and ordering publication. (Transportation)

ORDINANCE NO. 8955

AN ORDINANCE ESTABLISHING INTERSECTION STOPS AT VARIOUS LOCATIONS WITHIN THE CITY OF MIDLAND, TEXAS; REQUIRING AND AUTHORIZING THE POSTING OF APPROPRIATE SIGNS AT INTERSECTIONS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS ($200.00); AND ORDERING PUBLICATION

Transportation Manager Gary Saunders gave an overview of the item.

City Secretary Turner read the caption of Ordinance No. 8955.

Council Member Morales made a motion to approve the first of two reading of Ordinance No. 8955 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, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

Brief discussion ensued regarding LED lights and how they are replaced.

33. Consider an ordinance removing yield signs at various locations within the City of Midland, Texas; requiring and authorizing the posting of appropriate signs at intersections; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two hundred dollars ($200.00); and ordering publication. (Transportation)

ORDINANCE NO. 8956

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

Transportation Manager Saunders gave an overview of the item.

City Secretary Turner read the caption of Ordinance No. 8956.

Council Member Sparks made a motion to approve the first of two readings of Ordinance No. 8956 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

Brief discussion ensued about what qualifies an intersection for a 4-way stop.

MISCELLANOUS

34. Consider a request from Bluestem Energy for a Permit to Drill an Oil and Gas Well within the City Limits located 1021' FNL and 2310' FWL, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the east side of the N. Midland Drive, approximately 3/4 mile north of Mockingbird Lane.) (Planning)

RESOLUTION NO. 2011 - 281

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO BLUESTEM ENERGY HOLDINGS, LLC (“OPERATOR”) TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 1021 FEET FROM THE NORTH LINE AND 2310 FEET FROM THE WEST LINE, SECTION 8, BLOCK “X”, T-1-S, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 3/4 OF A MILE NORTH OF MOCKINGBIRD LANE)

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting that this was one of five wells that had been brought before the City Council and public hearings were held on September 27, 2011. He noted that they were asking for a variance on landscaping and that no letters of objection had been received. He explained that the following four items on the agenda were all related to the same area but for five different wells.

Council Member Trost made a motion to adopt Resolution No. 2011-281; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

35. Consider a request from Bluestem Energy for a Permit to Drill an Oil and Gas Well within the City Limits located 1021' FNL and 1041' FWL, Section 8, Block "X", H.P> Hilliard Survey, Midland County, Texas. (Generally located on the west side of the N. Midkiff Road, approximately 3/34 mile north of Mockingbird Lane.) (Planning)

RESOLUTION NO. 2011 - 282

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO BLUESTEM ENERGY HOLDINGS, LLC (“OPERATOR”) TO DRILL AN OIL AND GAS WELL WITHIN THE CITY

LIMITS LOCATED 1021 FEET FROM THE NORTH LINE AND 1041 FEET FROM THE WEST LINE, SECTION 8, BLOCK “X”, T-1-S, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 3/4 OF A MILE NORTH OF MOCKINGBIRD LANE)

Mr. Jenkins noted that this was the second of five wells with the same information as previously noted.

Council Member Morales made a motion to adopt Resolution No. 2011-282; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

36. Consider a request from Bluestem Energy for a Permit to Drill an Oil and Gas Well within the City Limits located 1650' FNL and 2310' FEL, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the N. Midkiff Road, approximately 3/4 mile north of Mockingbird Lane.) (Planning)

RESOLUTION NO. 2011 - 283

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO BLUESTEM ENERGY HOLDINGS, LLC (“OPERATOR”) TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 1650 FEET FROM THE NORTH LINE AND 2310 FEET FROM THE EAST LINE, SECTION 8, BLOCK “X”, T-1-S, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDKIFF ROAD, APPROXIMATELY 3/4 OF A MILE NORTH OF MOCKINGBIRD LANE)

Mr. Jenkins noted that this was the third of five wells with the same information as previously noted.

Council Member Trost made a motion to adopt Resolution No. 2011-283; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Sparks, Perry, James, Hailey. NAY: None. ABSTAIN: None. ABSENT: Dufford.

37. Consider a request from Bluestem Energy for a Permit to Drill an Oil and Gas Well within the City Limits located 1650' FNL and 990' FEL, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the N. Midkiff Road, approximately 3/4 mile north of Mockingbird Lane.) (Planning)

RESOLUTION NO. 2011 - 284

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO BLUESTEM ENERGY HOLDINGS, LLC (“OPERATOR”) TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 1650 FEET FROM THE NORTH LINE AND 990 FEET FROM THE EAST LINE, SECTION 8, BLOCK “X”, T-1-S, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDKIFF ROAD, APPROXIMATELY 3/4 OF A MILE NORTH OF MOCKINGBIRD LANE)

Mr. Jenkins noted that this was the fourth of five wells with the same information as previously noted.

Council Member Sparks made a motion to adopt Resolution No. 2011-284; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

38. Consider a request from Bluestem Energy for a Permit to Drill an Oil and Gas Well within the City Limits located 2310' FSL and 990' FEL, Section 8, Block "X", H.P. Hilliard Survey, Midland County, Texas. (Generally located on the west side of the N. Midkiff Road, approximately 1/2 mile north of Mockingbird Lane.) (Planning)

RESOLUTION NO. 2011 - 285

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO BLUESTEM ENERGY HOLDINGS, LLC (“OPERATOR”) TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 2310 FEET FROM THE SOUTH LINE AND 990 FEET FROM THE EAST LINE, SECTION 8, BLOCK “X”, T-1-S, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDKIFF ROAD, APPROXIMATELY ½ MILE NORTH OF MOCKINGBIRD LANE)

Mr. Jenkins noted that this was the fifth of five wells with the same information as previously noted.

Council Member Hailey made a motion to adopt Resolution No. 2011-285; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

39. Consider a resolution authorizing the execution of a road repair agreement with Bluestem Energy Holdings, LLC. (Planning)

RESOLUTION NO. 2011 - 286

RESOLUTION AUTHORIZING THE EXECUTION OF A ROAD REPAIR AGREEMENT WITH BLUESTEM ENERGY HOLDINGS, LLC REGARDING ITS APPLICATIONS TO DRILL OIL AND GAS WELLS WITHIN THE CITY LIMITS IN SECTION 8, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS

Mr. Jenkins gave an overview of the item noting that this item related to the previous five items and was for a road repair agreement.

Council Member Dufford made a motion to adopt Resolution No. 2011-286; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

40. Consider a resolution authorizing the City Manager to enter into a Professional Services Agreement with Freese and Nichols, Inc. to evaluate and recommend potential water use reduction programs and appropriate funds. (Utilities)

RESOLUTION NO. 2011 - 287

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH FREESE & NICHOLS, INCORPORATED, FOR THE EVALUATION AND RECOMMENDATION OF POTENTIAL WATER USE REDUCTION PROGRAMS, AT A TOTAL COST OF $170,880.00 ; AND APPROPRIATING FUNDS

Utilities Director Stuart Purvis gave an overview of the item noting that previously the City Council approved going out for RFQs for water reduction strategies to improve and encourage less water consumption. Staff vetted several firms that submitted proposals and chose an organization from New Mexico whose climate is most similar to Midland's.

Council Member Hailey made a motion to adopt Resolution No. 2011-287; seconded by Council Member Dufford.

Discussion ensued regarding the appropriate length of the contract. City Attorney Stretcher noted that the contract could be amended to be six months rather than one year.

Midge Erskin, 3306 W. Golf Course suggested that information be printed for plants and trees informing consumers how many inches of water is needed.

Following discussion, Council Member Sparks moved to amend the main motion to have a first proposal no later than April 10, 2012 and for the contract to terminate on June 30, 2012; seconded by Council Member Trost. The motion to amend carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

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

41. Consider a motion authorizing the City Manager and City Attorney to develop an ordinance prohibiting texting while driving.

Council Member Dufford made a motion to authorize the City Manager and City Attorney to develop an ordinance prohibiting texting while driving; seconded by Council Member Trost.

Discussion ensued regarding how a ban on texting could be enforced. Police Chief Price Robinson reported he spoke with the court in Galveston, that their Ordinance is about two years old and they have written about 20 citations. They reported that most of those citations were written by motorcycle officers who could get within close proximity of the vehicles. He also reported that their prosecutors require phone tolls which can take some time to obtain.

Some Council Members felt more information was needed. Discussion revealed that more information would be gathered and a draft Ordinance would be brought before the City Council for their consideration.

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

42. Consider a motion regarding a request from Tall City Blues Fest to increase the 2011-12 Hotel/Motel Occupancy Tax allocation in the amount of $9,608.97 to the Midland Center to cover expenses incurred by the Tall City Blues Fest. (City Manager)

Council Member Sparks moved to honor Ms. Grissom request and not consider the item. Due to a lack of a second, the motion died.

Members of the Council commended Ms. Grissom for her earlier comments and thanked her for her efforts.

Council Member James made a motion to defer indefinitely the request from Tall City Blues Fest to increase the 2011-12 Hotel/Motel Occupancy Tax allocation in the amount of $9.608.97; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: Morales.

Mayor Perry noted that the Council would next recess to executive session in the basement conference room and then would publicly hear the remainder of the agenda items. He announced anyone wishing to stay for the meeting could wait in the basement break room.

EXECUTIVE SESSION

48. 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 551.071, Consultation with the City Attorney:

1. Discuss with the City Attorney and Attorney(s) with the law firm of Cotton, Bledsoe, Tighe & Dawson, P.C., contemplated litigation involving a 45.99 Acre Tract of Land located in Section 15, Block 39, T-1-S T&P RR Co. Survey, Midland County, Texas and more specifically described in Volume 2311, Page 306 of the Deed Records of Midland County, Texas.

2. Discuss with the City Attorney contemplated litigation with the U.S. Fish and Wildlife Service regarding the Dunes Sagebrush Lizard.

3. Discuss with the City Attorney and Attorneys with the law firm of Cotton, Bledsoe, Tighe, and Dawson, litigation styled in Re: Heritage Consolidated, LLC, Case No. 10-36484-hdh, Chapter 11, Jointly Administered in the United States Bankruptcy Court, Northern District of Texas, Dallas Division.

b. Section 551.072, Deliberation Regarding Real Property

4. The Midland City Council shall conduct a closed meeting to deliberate the purchase and value of real property described as all of Block 7, Original Town Addition, City and County of Midland, Texas.

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

Mayor Perry recessed the meeting to Executive Session at 11:41 a.m. The entire Council met in Executive Session until 12:59 p.m.

Mayor Perry reconvened the regular session at 1:02 p.m.

MISCELLANOUS (Continued)

43. Consider a resolution retaining the law firm of Cotton, Bledsoe, Tighe and Dawson, P.C. regarding Heritage Consolidated, LLC, (City Attorney)

RESOLUTION NO. 2011 - 288

RESOLUTION AUTHORIZING THE CITY ATTORNEY AND ATTORNEY(S) WITH THE LAW FIRM OF COTTON, BLEDSOE, TIGHE, AND DAWSON, P.C., TO HANDLE ALL LEGAL MATTERS RELATED TO A 45.99 ACRE TRACT OF LAND LOCATED IN SECTION 15, BLOCK 39, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS DESCRIBED IN VOLUME 2311, PAGE 306 OF THE DEED RECORDS OF MIDLAND COUNTY, TEXAS (WHICH INCLUDES BUT IS NOT LIMITED TO THE REMAINDER OF LOT 1A, BLOCK 1, MIDLAND AIRPARK, SECTION 2, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS; AND LOT 2, BLOCK 1, MIDLAND AIRPARK SECTION 2, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS; AND LOT 4, BLOCK 1, MIDLAND AIRPARK, SECTION 3, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS); THE CITY ATTORNEY AND THE LAW FIRM ARE AUTHORIZED TO FILE LITIGATION, EMPLOY ALL NECESSARY EXPERTS, RESPOND TO SETTLEMENT OFFERS, AND TO EXECUTE ALL MOTIONS AND DISCOVERY DOCUMENTS AND TO MAKE ALL COURT APPEARANCES ON BEHALF OF THE CITY OF MIDLAND

Council Member Dufford made a motion to adopt Resolution No. 2011-288; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None, ABSTAIN: None, ABSENT: None,

44. Consider a resolution regarding Mountain States Legal Foundation. (City Attorney)

RESOLUTION NO. 2011 - 289

RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO EXECUTE ALL DOCUMENTS NECESSARY TO REQUEST ASSISTANCE FROM THE MOUNTAIN STATES LEGAL FOUNDATION, LOCATED AT 2596 SOUTH LEWIS WAY, LAKEWOOD, COLORADO 80227, REGARDING THE DUNES SAGEBRUSH LIZARD AND THE U.S. FISH AND WILDLIFE SERVICE; AND THIS RESOLUTION SPECIFICALLY AUTHORIZES THE DISCLOSURE TO THE MOUNTAIN STATES LEGAL FOUNDATION'S BOARD OF LITIGATION AND BOARD OF DIRECTORS THAT THE CITY OF MIDLAND HAS REQUESTED THE MOUNTAIN STATES LEGAL FOUNDATION'S LEGAL ASSISTANCE AND THE FACTS AND LEGAL ISSUES INVOLVED IN THE CITY OF MIDLAND'S REQUEST REGARDING THE DUNES SAGEBRUSH LIZARD AND THE U.S. FISH AND WILDLIFE SERVICE

Council Member Dufford made a motion as amended to adopt Resolution No. 2011-289 and to seek out other partners; seconded by Council Member Sparks.

Council Member James moved to amend the motion to have the City Attorney and City Manager seek out other potential partners prior to seeking legal counsel; seconded by Council Member Morales.

Discussion ensued regarding whether both items could be handled simultaneously noting that if they did not seek legal counsel they could miss the deadline for a lawsuit.

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

Council Member James moved to amend the main motion by simultaneously moving forward with the resolution and having the City Attorney and City Manager seek other partners. In the event no other partners could be found, the contract would not be signed; seconded by Council Member Dufford. Following brief discussion, the motion to amend was approved by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, and James. NAY: Sparks. ABSTAIN: None. ABSENT: None.

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

45. Consider a resolution authorizing an Economic Development Agreement between the City of Midland and the Midland Development Corporation (MDC) for improvements to State Highway 349. (Legal)

RESOLUTION NO. 2011 - 290

RESOLUTION AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MIDLAND AND THE MIDLAND DEVELOPMENT CORPORATION FOR IMPROVEMENTS TO STATE HIGHWAY 349, AS AUTHORIZED BY CHAPTER 501 OF THE TEXAS LOCAL GOVERNMENT CODE

Council Member Dufford made a motion to adopt Resolution No. 2011-290; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

46. Consider a resolution authorizing an Advance Funding Agreement between the City of Midland and the Texas Dept. of Transportation (TxDOT) for improvements to State Highway 349. (Legal)

RESOLUTION NO. 2011 - 291

RESOLUTION AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE AN ADVANCE FUNDING AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR IMPROVEMENTS TO STATE HIGHWAY 349; AND AUTHORIZING THE MAYOR TO EXECUTE ANY RELATED DOCUMENTS NECESSARY FOR SAID IMPROVEMENTS

Council Member Dufford made a motion to adopt Resolution No. 2011-291; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Sparks, Dufford, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

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

No appointments were made.

After reviewing their calendars, a special meeting was set for Monday, November 21, 2011, at 8:00 a.m. to consider board and commission appointments.

All of the business at hand having been completed, the meeting was adjourned at 1:23 p.m.

PASSED AND APPROVED the 13th day of December, 2011.

_____
W. Wesley Perry, Mayor

ATTEST:

_____
Amy M. Turner, City Secretary