

**MIDLAND CITY COUNCIL
MINUTES
November 12, 2013**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at ____ a.m. on November 12, 2013.

Council Members present: Mayor W. Wesley Perry, Council Member Jerry Morales (At-Large), Council Member Scott Dufford (At-Large), Mayor Pro Tem Jeff Sparks (District 1), Council Member John Love (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 Sara Higgins, 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., November 12, 2013.

Council Members present: Mayor W. Wesley Perry, Council Member Jerry Morales (At-Large), Council Member Scott Dufford (At-Large), Mayor Pro Tem Jeff Sparks (District 1), Council Member John Love (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

cto 10:04

1. Invocation - Reverend Pat Bryant - Travis Baptist 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 the 2nd Securest Small City Award from Farmers Insurance.
 - b. Presentation of retirement commendation to Flora Ann Long and Ronnie R. Wilson.

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 Dufford moved to approve Consent Agenda items 5 - 34 excluding 15, 16, 17, 25, 30; seconded by Council Member Morales.

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

5. Approved a motion approving the following minutes:
 - a. Regular Meeting of October 22, 2013.
6. Approved a motion to receive for Information and possibly discuss third and fourth quarter Fiscal Year 2013 investment reports. (FINANCE)
7. Approved a resolution approving the City of Midland's Fiscal Year 2014 Investment Policy. (FINANCE)

RESOLUTION NO. 2013 - 390
RESOLUTION APPROVING THE CITY OF MIDLAND'S FISCAL YEAR 2014
INVESTMENT POLICY

8. Approved a 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. (FINANCE)

RESOLUTION NO. 2013 - 391

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

9. Approved a resolution authorizing the City Treasurer to write off as uncollectible certain delinquent accounts for water, sewer and garbage collection services. (FINANCE)

RESOLUTION NO. 2013 - 392

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

10. Approved a resolution authorizing the City Treasurer to write off as uncollectible certain delinquent accounts for miscellaneous accounts receivable and insufficient funds checks (FINANCE)

RESOLUTION NO. 2013 - 393

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

11. Approved a resolution authorizing the City Treasurer to write off as uncollectible certain delinquent accounts for emergency medical services receivable. (FINANCE)

RESOLUTION NO. 2013 - 394

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

12. Approved a resolution approving a contract for the renovation of the Animal Services building for the Community Services Department. (PURCHASING)

RESOLUTION NO. 2013 - 395

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE RENOVATION OF THE ANIMAL SERVICES BUILDING WITH CAMPBELL CONSTRUCTION COMPANY, OF MIDLAND, TEXAS, AT A TOTAL COST OF \$318,977.00; AND APPROPRIATING FUNDS

13. Approved a resolution approving the purchase of 431,500 rounds of ammunition for the Police Department. (PURCHASING)

RESOLUTION NO. 2013 - 396

RESOLUTION AUTHORIZING THE PURCHASE OF AMMUNITION OF ASSORTED TYPES AND IN ASSORTED QUANTITIES FOR THE MIDLAND POLICE DEPARTMENT FROM THE RESPECTIVE LOW BIDDERS, PRECISION DELTA CORPORATION, BAILEY'S HOUSE OF GUNS, GT DISTRIBUTORS, INCORPORATED, DEFENDER SUPPLY, L.L.C., AND SIMMONS GUN SPECIALTIES, AT AN ESTIMATED TOTAL COST OF \$127,942.99

14. Approved a resolution approving annual master agreements for 100 – 5/8" water meters with encoder registers, 500 - 1" water meters with encoder registers, 50 – 1 ½" water meters with encoder registers and 50 – 2" water meters with encoder registers for the Municipal Warehouse. (PURCHASING)

RESOLUTION NO. 2013 - 397

RESOLUTION APPROVING THE PURCHASE OF SEVEN HUNDRED (700) WATER METERS WITH ENCODER REGISTERS, IN VARIOUS SIZES, AT A TOTAL COST OF \$111,961.50; AND SIX HUNDRED (600) OF THE WATER METERS ARE PURCHASED FROM THE BIDDERS PROVIDING SAID WATER METERS AT THE BEST VALUE TO THE CITY OF MIDLAND INSTEAD OF THE LOW BIDDERS, PURSUANT TO TEXAS LOCAL GOVERNMENT CODE SECTION 252.043; AND THE CITY COUNCIL ACCEPTS THE CITY MANAGER'S RECOMMENDATION NOT TO AWARD THE BID TO THE LOW BIDDER

18. Approved a resolution approving an Interlocal Agreement with Midland County. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2013 - 401

RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS, AND MIDLAND COUNTY, TEXAS, REGARDING VARIOUS SHARED SERVICES SUCH AS AMBULANCE, FIRE, JAIL, EMERGENCY DISPATCH, MUNICIPAL COURT, HEALTH DEPARTMENT, CITY ELECTIONS, MAINTENANCE OF CITY STREETS, MUNICIPAL LANDFILL, LIBRARY AND OTHER SERVICES, AS AUTHORIZED BY CHAPTER 791 OF THE TEXAS LOCAL GOVERNMENT CODE

19. Approved a resolution approving a Letter of Understanding between Abilene, San Angelo and Midland for the purpose of defining water initiatives. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2013 - 402

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE A LETTER OF INTENT AMONG THE CITIES OF ABILENE, MIDLAND, AND SAN ANGELO, TEXAS FOR WATER SUPPLY DEVELOPMENT AND DELIVERY

20. Consider a Resolution to suspend the effective date of an Atmos West Texas proposed rate increase. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2013 - 403

RESOLUTION OF THE CITY OF MIDLAND, TEXAS, SUSPENDING THE NOVEMBER 22, 2013, EFFECTIVE DATE OF ATMOS ENERGY CORP., WEST TEXAS DIVISION ("ATMOS WEST TEXAS") REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ATMOS WEST TEXAS ("CITIES") TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; REQUIRING REIMBURSEMENT OF CITIES' RATE CASE EXPENSES; FINDING THAT THE MEETING AT WHICH THIS

RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW;
REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND CITIES'
LEGAL COUNSEL

21. Approved a resolution authorizing the execution of an Independent Professional Consultant Contract with Frances Stapp to provide Curator Management and other services to the Heritage District. (COMMUNITY SERVICES)

RESOLUTION NO. 2013 - 404

RESOLUTION AUTHORIZING THE EXECUTION OF AN INDEPENDENT
PROFESSIONAL CONSULTANT CONTRACT WITH FRANCES STAPP TO PROVIDE
CURATOR MANAGEMENT AND OTHER SERVICES TO THE HERITAGE DISTRICT

22. Approved a resolution authorizing the appropriation of \$19,789.00 in reimbursement funds from the Texas Department of State Health to project 7124 Refugee Immunization Grant Project. (COMMUNITY SERVICES)

RESOLUTION NO. 2013 - 405

RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS IN THE AMOUNT
OF \$19,789.00 IN REIMBURSEMENT FUNDS FROM THE TEXAS DEPARTMENT OF
STATE HEALTH TO THE REFUGEE IMMUNIZATION GRANT PROJECT NUMBER
7124

23. Approved a resolution authorizing the Texas Housing Foundation to exercise its powers within the territorial boundaries of the City of Midland, Texas; and authorizing a cooperation agreement between the City of Midland and the Texas Housing Foundation. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 406

RESOLUTION AUTHORIZING THE TEXAS HOUSING FOUNDATION TO EXERCISE
ITS POWERS WITHIN THE TERRITORIAL BOUNDARIES OF THE CITY OF
MIDLAND, TEXAS; AND AUTHORIZING A COOPERATION AGREEMENT

24. Approved a resolution to grant a variance to Ordinance 8769 (January 1, 2010 Oil and Gas Well Drilling Ordinance) to allow building permits for residences, to be issued in the future, where the proposed residence, either in whole or part is no closer than 135.1 feet of an existing oil and gas well. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 407

RESOLUTION GRANTING A VARIANCE FOR LOTS 12A-21A AND 22, BLOCK 3,
LOTS 1A-25A AND 26, BLOCK 6, LOTS 1-9 AND 17, BLOCK 13, AND LOTS 11-20,
BLOCK 14, ADOBE MEADOWS ADDITION, SECTION 6, CITY AND COUNTY OF
MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF STATE
HIGHWAY 349, NORTH OF THE EAST EXTENSION OF MOCKINGBIRD LANE), BY
PERMITTING CONSTRUCTION OF RESIDENCES WHERE NO PORTION OF ANY
STRUCTURE IS CLOSER THAN 135.1 FEET OF AN OIL AND GAS WELL; AND
AUTHORIZING ISSUANCE OF BUILDING PERMITS

26. Approved a resolution authorizing advertisement seeking proposals for the development of two City-owned downtown properties being the Midland Executive Center, 301 North

Colorado Street, 0.451 acres, Blk: 027, Lots: 07A, Original Town Addition, Sec 3 and Mid America Building, 310 West Illinois Avenue, 0.448 Acres, Blk; 027, Lots: 13A, Original Town Addition, Sec 3. (DOWNTOWN DEVELOPMENT)

RESOLUTION NO. 2013 - 409

RESOLUTION AUTHORIZING THE CITY MANAGER TO ADVERTISE A REQUEST FOR PROPOSALS FOR DEVELOPMENT OF THE PROPERTY DESCRIBED AS LOTS 7A AND 13A, BLOCK 27, ORIGINAL TOWN ADDITION, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (COMMONLY KNOW AS 301 NORTH COLORADO STREET AND 310 WEST ILLINOIS AVENUE); AUTHORIZING THE CITY MANAGER TO NEGOTIATE AN AGREEMENT FOR SUCH DEVELOPMENT; AND PROVIDING THAT SAID AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL

27. Approved a resolution authorizing a Right-of-Way Agreement with Occidental Petroleum Corporation for installation and maintenance of one (1) water pipeline, not to exceed 4 inches in diameter, located within the City Limits along Greentree Boulevard in Block X, H P Hilliard, Section 8, Midland County TX. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 410

RESOLUTION AUTHORIZING A THE CITY MANAGER TO NEGOTIATE AND EXECUTE A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND OCCIDENTAL PERMIAN MANAGER, THE GENERAL PARTNER OF OCCIDENTAL PERMIAN, LTD.; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, INSTALLING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING A FRESH WATER SURFACE LINE AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTION 8, BLOCK "X", H.P. HILLIARD SURVEY, MIDLAND COUNTY, TEXAS

28. Approved a resolution Authorizing a Right-of-Way Agreement and a Surface Damage Agreement with Vitol Midstream Pipeline LLC for the installation and maintenance of two (2) pipelines, one not to exceed twelve (12) inches in diameter, the second not to exceed twenty (20) inches in diameter, for petroleum and petroleum by-products, located in Block 38, Section 10, T2S, T&P Survey Co, Midland, TX. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 411

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND VITOL MIDSTREAM PIPELINE LLC; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, INSTALLING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING TWO (2) PIPELINES, FOR THE TRANSPORTATION OF OIL AND GAS MATERIALS AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTION 10, BLOCK 38, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR TWENTY (20) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL TWENTY (20) YEAR TERM UPON 90 DAYS WRITTEN

REQUEST PRIOR TO EXPIRATION

29. Approved a resolution authorizing staff to accept a water and sewer line easement across property owned by ONCOR Electric Delivery Company LLC. The purpose of the easement is to allow the construction of necessary utilities to serve a development east of Fairgrounds Road north of Loop 250. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 412

RESOLUTION AUTHORIZING THE ACCEPTANCE OF A 20-FOOT WATER AND SEWER LINE EASEMENT LOCATED IN SECTION 19, BLOCK 38, T-1-S, T&P RR CO. SURVEY, MIDLAND, MIDLAND COUNTY, TEXAS; AND ORDERING RECORDATION BY THE CITY SECRETARY

31. Consider a Resolution Authorizing a Right-of-Way Agreement and a Surface Damage Agreement with Sunvit Pipeline, LLC for the installation and maintenance of one (1) pipeline, not to exceed twenty (20) inches in diameter, for petroleum and petroleum by-products, located in Block 38, Section 10, T2S, T&P Survey Co, Midland, TX. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 413

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND SUNVIT PIPELINE LLC; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, INSTALLING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING ONE (1) PIPELINE, FOR THE TRANSPORTATION OF OIL AND GAS MATERIALS AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTION 10, BLOCK 38, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR TWENTY (20) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL TWENTY (20) YEAR TERM UPON 90 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

32. Approved a resolution to approve and appoint volunteer candidates from the Citizens Police Academy Alumni as Volunteers Enforcing Parking Restrictions. (POLICE)

RESOLUTION NO. 2013 - 414

RESOLUTION APPOINTING INDIVIDUALS TO SERVE AS VOLUNTEERS TO ENFORCE AUTOMOBILE PARKING RESTRICTIONS AS AUTHORIZED BY CHAPTER 681 OF THE TEXAS TRANSPORTATION CODE

33. Approved a resolution approving Change Order No. 3 for the Midland Airport and Paul Davis Well Site Improvements Construction Project with Red River Construction Co., Inc and appropriate funds. (UTILITIES)

RESOLUTION NO. 2013 - 415

RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER THREE WITH RED RIVER CONSTRUCTION COMPANY, INCORPORATED, ADDING \$36,704.52 FOR ADDITIONAL WORK TO THE EXISTING CONTRACT FOR THE

AIRPORT AND PAUL DAVIS WELL SITES IMPROVEMENTS PROJECT; AND APPROPRIATING \$36,705.00; THE ORIGINAL CONTRACT WAS FOR \$3,877,740.00; THIS CHANGE ORDER BRINGS THE TOTAL CONTRACT PRICE TO \$4,787,458.73

34. Consider a Resolution approving Change Order No. 2 for the Midland Raw Water Project with Archer Western Construction in the amount of \$102,768.64 and appropriating funds. (UTILITIES)

RESOLUTION NO. 2013 - 416

RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER TWO WITH ARCHER WESTERN CONTRACTORS, L.L.C., ADDING \$102,768.64 FOR ADDITIONAL WORK TO THE EXISTING CONTRACT FOR THE RAW WATER PROJECT; AND APPROPRIATING \$102,769.00; THE ORIGINAL CONTRACT WAS FOR \$7,058,965.00; THIS CHANGE ORDER BRINGS THE TOTAL CONTRACT PRICE TO \$7,428,711.80

15. Approved a resolution authorizing the City Manager to negotiate and execute an assignment of the Commercial Land/Use Agreement between Deer Horn, LTD Co. and The City of Midland, Texas to Ross Aviation, Denver, Colorado. (AIRPORTS)

RESOLUTION NO. 2013 - 398

RESOLUTION AUTHORIZING THE EXECUTION OF AN AIRPORT FUELING AGREEMENT WITH DEER HORN AVIATION LTD. CO. IN ORDER TO STORE AND DISPENSE ALL FORMS OF AVIATION PROPELLANTS AND FUELS FROM FIXED DISPENSERS ONLY TO DEER HORN AVIATION LTD. CO. AIRCRAFT AT THE MIDLAND INTERNATIONAL AIRPORT, MIDLAND, MIDLAND COUNTY, TEXAS

Council Member Dufford moved to adopt Resolution No. 2013 - 398 amendment to dispense all forms of aviation propellants and fuels from fixed and mobile dispensers; seconded by Council Member Trost.

marv as ut together memo typical fuel agreement for hangar owner would be fixed only. Fueling charter aircraft on ramps they need ability to fuel wiht dispensing fuels through mobile unit. agreement states can utilize ufeling agreement nad. Stretcher Deer Horn and Ross been in negotiations for some time. Trying tomove project and so many drafts going back and forth but as Mr. Esterly said most or faxed but Deer Horn was fixed and mobile. Want to cooperate with thjem after years of working with them. Mayor doesn't affect others? marv no.

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

16. Approved a resolution authorizing the execution of a fueling agreement between Deer Horn LTD. Co. and the City of Midland. (AIRPORTS)

RESOLUTION NO. 2013 - 399

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A FIRST AMENDMENT TO AIRPORT FUELING AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS AND ROSS MIDLAND LLC, A DELAWARE LIMITED LIABILITY COMPANY; A CONSENT TO ASSIGNMENT IN WHICH THE CITY OF MIDLAND,

TEXAS CONSENTS TO THE ASSIGNMENT FROM DEER HORN AVIATION LTD., CO., A NEW MEXICO LIMITED LIABILITY COMPANY, TO ROSS MIDLAND LLC, A DELAWARE LIMITED LIABILITY COMPANY; A CONSENT AND ESTOPPEL CERTIFICATE IN FAVOR OF THE LENDER PROVIDING A LOAN TO ROSS MIDLAND LLC, A DELAWARE LIMITED LIABILITY COMPANY; A MEMORANDUM OF LEASE FOR THE COMMERCIAL HANGAR LEASE BETWEEN THE CITY OF MIDLAND, TEXAS AND ROSS MIDLAND LLC, A DELAWARE LIMITED LIABILITY COMPANY; A MEMORANDUM OF LEASE FOR THE COMMERCIAL LAND AND FIXED BASE OPERATOR LEASE AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS AND ROSS MIDLAND LLC, A DELAWARE LIMITED LIABILITY COMPANY; AN ASSIGNMENT AND ASSUMPTION OF LEASE AGREEMENT, AND AN OFFICE AND HANGAR SUBLEASE AND FUELING AGREEMENT BETWEEN DEER HORN AVIATION LTD., CO., A NEW MEXICO LIMITED LIABILITY COMPANY, AND ROSS MIDLAND LLC, A DELAWARE LIMITED LIABILITY COMPANY, WHILE ON FILE IN THE CITY SECRETARY'S OFFICE, ARE INCLUDED FOR INFORMATIONAL AND FILING PURPOSES ONLY AND WILL NOT BE EXECUTED BY THE CITY MANAGER ON BEHALF OF THE CITY OF MIDLAND

Council Member Sparks moved to adopt Resolution No. 2013 - 399 with amendment to allow Courtney to sign once insurance is ready; seconded by Council Member Dufford.

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

17. Approved a resolution approving the 2014 City Council Meeting Dates (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2013 - 400

RESOLUTION ESTABLISHING THE DATES OF THE REGULAR CITY COUNCIL MEETINGS TO BE HELD DURING THE CALENDAR YEAR 2014

Council Member Sparks moved to adopt Resolution No. 2013 - 400; seconded by Council Member James.

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

25. Resolution to grant a variance to Ordinance 8769 (January 1, 2010 Oil and Gas Well Drilling Ordinance) to allow building permits for residences, to be issued in the future, where the proposed residence, either in whole or part is no closer than 195 feet of an existing oil and gas well. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 408

RESOLUTION GRANTING A VARIANCE FOR LOTS 1-6, BLOCK 10, LOTS 1-3, BLOCK 11, AND LOTS 23-25, 45-50 AND 52-72, BLOCK 15, ADOBE MEADOWS ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 349, NORTH OF THE EAST EXTENSION OF MOCKINGBIRD LANE), BY PERMITTING CONSTRUCTION OF RESIDENCES WHERE NO PORTION OF ANY STRUCTURE IS CLOSER THAN 195 FEET OF AN OIL AND GAS WELL; AND AUTHORIZING ISSUANCE OF BUILDING PERMITS

Council Member Sparks moved to adopt Resolution No. 2013 - 408; seconded by Council Member James.

sparks have 4 wells not permitted listed 10:34 approve varaine but encourae continue to work together. This is not intended for them to go hustle build house and try to keep mineral owner from drilling his wells. thatis intention in drill. Appreciate have been in discussions want to contijue to promote.

Perry if houses get built first. Steve applications have been made so they take standing. Mr. Wallace is here to address discussions.

Mike Wallace 200 Blackberry circle president of of intention to drill all 4 wqells back to back. Been working with daybreak guys under DR Horton surface. Had to drill 10:37 had to deal with applications are made and waiting through process. sparks Council appreciate putting wells together and going to expense fo doing directional drilling in order to preserve surface for development. Mayor that is what is making this work works for mineral o wner and surface owner. Mike Wallace another itme with daybreak where they are being accomodating to them as well. these 4 are directional.

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

30. Approved a motion on a request by West Company of Midland, for the Lost Mountain Addition – Section 4 to approve items requested for deferral and to waive the associated public improvement guarantee. The subject property is located adjacent to the future Green Tree Boulevard alignment approximately 1300' west of the future Garfield Street alignment. (ENGINEERING SERVICES)

Council Member Sparks moved to continue the item to ; seconded by Council Member James.

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

SECOND READINGS

35. Consider an ordinance on second reading on a request by G. Granger Macdonald for a zone change from PD, Planned District for a Housing Development to an Amended Planned District on Lot 2A, Block 165, Wilshire Park Addition, Section 19, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of Leisure Drive and Beal Parkway.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9197

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 2A, BLOCK 165, WILSHIRE PARK ADDITION, SECTION 19, 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 SOUTHEAST CORNER OF LEISURE DRIVE AND BEAL PARKWAY); 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 Reyes read the caption of Ordinance No.

Council Member Morales moved to approve the second and final reading of Ordinance No. 9197 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford.

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

36. Consider an ordinance on second reading on a request by Midland County for the vacation of a 0.78-acre portion of the drainage and utility easements located within Lot 1, Block 1, Horseshoe Addition, City and County of Midland, Texas. (Generally location on the north side of W. Interstate Hwy 20, approximately 1,100 feet west of Cotton Flat Road.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9199

AN ORDINANCE VACATING AND ABANDONING A 0.78-ACRE PORTION OF DRAINAGE AND UTILITY EASEMENTS LOCATED WITHIN LOT 1, BLOCK 1, HORSESHOE ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST INTERSTATE HIGHWAY 20, APPROXIMATELY 1,100 FEET WEST OF COTTON FLAT ROAD); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$9,286.97; WAIVING THE FEE FOR THE COST OF THE EASEMENTS; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Reyes read the caption of Ordinance No.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9199 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

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

37. Consider an ordinance on second reading on a request by SBC Corporation for the vacation of a 0.64-acre portion of a dedicated 80-foot public rights-of-way location within Section 35, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located northeast of W. State Hwy 158 near the west extension of Homestead Boulevard.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9200

AN ORDINANCE VACATING AND ABANDONING A 0.64-ACRE PORTION OF A DEDICATED 80-FOOT PUBLIC RIGHT-OF-WAY LOCATED WITHIN SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF GRASSLAND ESTATES, SECTION 7); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF

\$226.00; WAIVING THE FEE FOR THE COST OF THE RIGHT-OF-WAY; RETAINING A PUBLIC UTILITY EASEMENT; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Reyes read the caption of Ordinance No.

Council Member James moved to approve the second and final reading of Ordinance No. 9200 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks.

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

38. Consider an ordinance on second reading designating and approving parking spaces on the west side of a portion of Idlewilde Drive north of Princeton Avenue as reserved for the parking of motor vehicles operated by law enforcement officers. (ENGINEERING SERVICES)

ORDINANCE NO. 9201

AN ORDINANCE DESIGNATING AND APPROVING PARKING SPACES ON A PORTION OF THE WEST SIDE OF IDLEWILDE DRIVE FROM A POINT 265 FEET NORTH OF THE NORTH CURB LINE OF PRINCETON AVENUE AND CONTINUING NORTH A DISTANCE OF 140 FEET AS RESERVED FOR THE PARKING OF MOTOR VEHICLES OPERATED BY LAW ENFORCEMENT OFFICERS; 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

Deputy City Secretary Reyes read the caption of Ordinance No.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9201 in accordance with the Charter of the City of Midland; seconded by Council Member Trost.

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

PUBLIC HEARINGS

39. At approximately 10:30 A.M. hold a public hearing and consider an ordinance on a request by CFC Properties, LLC for a zone change from PD, Planned District for an Industrial District to an Amended Planned District on a 4.57-acre tract of land out of Lots 1 through 3 and the vacated rights-of-way of Arapahoe Road and State Highway 349, Block 17; and from LR-2, Local Retail District to PD, Planned District for an Industrial District on Lots 1 and 2, Block 18, all out of 349 Ranch Estates, Section 3, City and County of Midland, Texas. (Generally located on the east side of Highway 349 on both sides of Arapahoe Road.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9202

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 4.57-ACRE TRACT OF LAND OUT OF LOTS 1-3, AND THE VACATED RIGHTS-OF-WAY OF ARAPAHOE ROAD AND STATE HIGHWAY 349, BLOCK 17, AND LOTS 1 AND 2, BLOCK 18, ALL OUT OF 349 RANCH ESTATES, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR AN INDUSTRIAL DISTRICT, IN PART, AND LR-2, LOCAL RETAIL DISTRICT, IN PART, TO BE USED AS AN AMENDED PLANNED DISTRICT FOR AN INDUSTRIAL DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF HIGHWAY 349 ON BOTH SIDES OF ARAPAHOE ROAD); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

1045

#39 Senior Planner Jim Compton gave a brief overview of the item noting 10:45 a.m. Dufford similar to Storage Units approved in past on loop. Jim those had brick veneer these more industrial type look. Mr. Chalmers another dev on west side of big spring these architecturally identical to those. P&Z rec approval on Nov 4 staff concurring with rec one letter of opposition. Love what are difference between warehouse and storage. Jim self storage service one large building where one co may have all items stored. Utility storage units. Dufford when approved across street? Jim 2007. Morales metal fencing all around. Jim wrought iron on big spring chain link rest. James any concern by nearby residents? Jim one letter of opposition. Sparks no change to Arapahoe? Jim none. Dufford any concern for building materials in light of things changed since 2007 as far as development along Big Spring. Jim that is judgement from Council. When approved in 2007 things were drastically different. Want to be consistent but where sits would like to have something more similar to what is on loop. Mayor Perry opened the public hearing at 10:52 a.m. Cliff Chalmers, 5100 Ashdown Place, access on 10:53. If any familiar with property on hwy 349 across street have set a standard. Made excellent statement of City of Midland. Very proud of what done natural stone columns across front square to fencing 2 40 foot flagpoles new signage it is a very attractive facility. Intend to provide self storage center under same construction methods and same look. Everything has been a great addition. Avail to ans questions. Love property to east is that phase II? Chalmers there is a pump jack there. Had a problem with Arapahoe and determined best interest to sell 60 feet and get pump jack out of right of way. Jillian Ereira 6400 ???, his existing would like to know who is going to maintain could get a lot more traffic listen 10:57 a.m. There being no one else present wishing to speak, the public hearing closed at 10:57 a.m.

Deputy City Secretary Reyes read the caption of Ordinance No.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9202 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks.

Morales question for chalmers, so on existing road Arapahoe do you maintain it? Cliff that is a public City it is in terrible shape and needs help. Morales requested to get any potholes. Lady come by every few months with shovel. Cliff with her concern about traffic heavy trucks this is not intent it does not happen in self storage this is typically used by homeowners small items. do have 14X50. Very little traffic and almost no heavy traffic to speak of.

sparks would entertain idea of continuing wrought iron fence along Arapahoe side? cliff would like to do a study. It's quite a distance he will consider it and look into it. Dufford not opposed to zone change as is to building materials. This is 2013 and things have changed and concern about building materials. Problem with it today. cliff would like to answer by saying property on west side of property is fabulous addition to city has great curb appeal and set benchmark for others out there. Won't find more appealing property past loop 250. a storage center is by nature has to have overhead doors for access, limestone facade and columns on front.

Dufford storage facilities out there and look much different than ones approved in 2007 building material wise. How would it look from hwy (cliff) if going north will see 2X2 stone columns 8 foot high. square panels every 25 feet. see fenced in secure storage center well lighted at night.

Love what were building material used in 2007 - Dufford exactly what see now. Storage facilities approving recently are more stone more brick and an upgrade. Chalmers more located in higher residential area and their location is commercial on highway.

Morales in flower boxes? Cliff really nice job of landscaping west side of property planted trees. It will be landscaped.

James this is less about particular project and more about philosophy of entryways. had discussion when talking about gateway plaza. challenge is recognizing how fast growing and need to have some consideration for entryways into community and what we want them to look like.

Trost suggestion in view of change taking place on Council encourage and let them to determine what they want new council to look like. sparks when look it is certainly an upgrade of what is there and expect what is there with cinderblock fences and all of sudden going to do with red brick and gold roofs. When built in 07 it was an upgrade to ask for a whole lot more other than wrought iron around arapahoe to make look nicer other than that building materials. Morales has followed rule since future and make a note to address at looking at gateways. Trost have question on Arapahoe, that is city street is it do you have schedule for street maintenance since considerably near edge of City. courtney Arapahoe is on schedule like any other street on town if potholes or other maintenance issues City will address. Gary it will be addressed since know about it will schedule repair of maintenance. dufford do inventory and continuous check of city streets for maintenance schedule.

Love have request for street repairs and will follow procedures.

Dufford one more question anything do to make feel better? Cliff understand what saying and suddenly wish that I had in pocket a thumb drive with photographs of property directly across street. Think it's not that bad. Know that where this sits have opportunity to improve area even more so than what improved since 2007. Chalmers in disagreement improvements are over top of way property was in 2006.

cliff if only objection to deal is adding wrought iron along Arapahoe as proposing to do no Big Spring.

Do as a statement and change at second reading making sure see next time. Jim will get new site plan. James prefer record reflect for posterity. cliff put language in that include same fencing along arapahoe as along

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9202 in accordance with the Charter of the City of Midland; seconded by Council Member Trost.

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

dufford need to discuss gateways.

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

40. At approximately 10:33 A.M. hold a public hearing and consider an ordinance on a request by David Martin for a zone change from AE, Agriculture Estate District to PD, Planned District for a Housing Development on 54.487-acre tract of land out of Section 12, Block "X", H. P. Hilliard Survey, City and County of Midland Texas. (Generally located on the east side of Hwy 349, approximately 1,200 feet north of Mockingbird Lane. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9203

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 54.487-ACRE TRACT OF LAND OUT OF SECTION 12, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 349, APPROXIMATELY 1,200 FEET NORTH OF MOCKINGBIRD LANE); 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

#40 Jim Compton gave brief overview. Proposal for housing development on 54 acre tract of land. Received approval of prel palt from P&Z to rezone property. Lots proposed size of 1F3 district but plat designed so residential lots back up to 349 ranch estates that is prohibited needs to include common area where fence can be built that is attractive, permanent only way to ensure is through adoption of planned district. Type a and type b fence. Cmu block fence texture color mixed through material 6 feet in height. With screening elements will comply with code. P&Z approved on Oct 14. And staff concurs with recommendation. Duifford houses to south will have rear entry garages. Not a fan of not hving rear entry garages and alleys. Mayor Perry opened the public hearing at 11:23 a.m. There being no one else wishing to speak, the public hearing was closed.

Deputy City Secretary Reyes read the caption of Ordinance No.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9203 in accordance with the Charter of the City of Midland; seconded by Council Member Love.

Dufford issue of no alleys. Know want to build affordable housing and alleys help keep up over year. Philosophy tired of seeing housing without alleys. Would like to hear from ehad of santitation tosee his opinion on lack of alleys. nearest dev without alleys is on other side of town. Morris williams just south of fire station and they don't have alleys we're making transition. Lvoe don't see problems, added expense? Morris will hve added expense as far as getting different trucks. Sparks assume getting new trucks as maintain fleet. development community wants no alleys cna get more houses in. should ask them to participate in purchaisng trash trucks. Great need for affordable housing and these developments are offereing that. cna anyone address alley vs no alley upkeep? Perry creating a bigger tax base. Jim Compton whole list of pros and cons in terms of having alleys it has opportunity to have rear entry garages gets cars off street, place to put utiltiies put solid waste ecollection without trash cans. if don't have alleys keep more land on tax base put more if lack of alley is used ot inrease overall density with slightly larger minimim llot size should be considered. Helps developer able to pas son product tha costs less to enter affordable housing picture. this part of country do continue to use alleys other parts are doing away from them outside texas being done away with as well.

sparks development is out there already don't have alleys as far as neighborhood just to south. so it would for solid waste it would require a seperate kind of truck going out in same neighborhood. James the solid brick fencing is the 349? Jim correct.

Morales 349 6 foot is that standard? Is 8 foot out of line? Jim taller the more ivisual impact that driving down tunnel.

dufford any landscaping in front of fence? Jim not as much as his subdivision but some reuquirement to have tree every 30 feet.

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

41. At approximately 10:36 A.M. hold a public hearing and consider an ordinance on a request by Chris Stokes for a Specific Use Permit with Term for an Electronic Billboard/ Billboard Sign, on a 0.553-acre portion of Tract 1, Town & Country Annex, City and County of Midland, Texas. (Generally located on the south side of Andrews Highway, approximately 730 feet northeast of West Cuthbert Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9204

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS 0.553-ACRE PORTION OF TRACT 1, TOWN & COUNTRY ANNEX, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF ANDREWS HIGHWAY, APPROXIMATELY 730 FEET NORTHEAST OF WEST CUTHBERT AVENUE), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR AN OFFICE CENTER, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR A BILLBOARD; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE;

CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

#41 Jim Compton gave a brief overview of the item noting billboard along ss of andeews hwy ne cuthbirth. Certain district billboards allowed by right this not one of them but must be approved by sup. Max height 30 feet. 5 feet east of property line 47 back from row. Lamar his billboard located further up Big Spring that will need to be removed. This location meets policy approved oct 14 no opposition. Need to make one correction to ord says pd for office center and its an lr2. Public notices staff reports were corret but his ord says ask council to amend ord to change language. Have letters of support from hopsitcla nad Ms. Casey Christmas store. Mayor Perry opened the public hearing at 11:37 a.m. There being no one else wishing to speak, the public hearing was closed.

Deputy City Secretary Reyes read the caption of Ordinance No.

Council Member Love moved approval of the first of two readings of Ordinance No. 9204 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

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

42. At approximately 10:39 A.M. hold a public hearing and consider an ordinance on a request by David Heiser Family Trust for a Specific Use Perm without Term for a RV Park on a 15.00-acre tract of land out of Section 1, Block 39, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the north side of East Interstate Highway 20, approximately 1,300 feet west of South Fairgrounds Road.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9205

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF A 15.00-ACRE TRACT OF LAND OUT OF SECTION 1, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF EAST INTERSTATE HIGHWAY 20, APPROXIMATELY 1,300 FEET WEST OF SOUTH FAIRGROUNDS ROAD), WHICH IS PRESENTLY ZONED BP, I-20 BUSINESS PARK DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR A RECREATIONAL VEHICLE (RV) PARK; 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

#42 Jim Compton 131 rv lots allowed to have max of 15 acre tracts 12/units acre could have 180 units. Partially paved partially graveled 2 for men 2 for women. All set backs are 50 feet. Memets requirements of zoning and business code. It is along i20 corridor p7z rec approval nad staff concurs subject to conditions contained in attached ordinance. Mayor any fencing? Jim not seeing any. Dufford is there time limit on how long rv can sit on one spot? Jim no. Jim have seen city codes that have 2 week city limit and would probly interfere with applicant sproposal suspect will be long term tenants .

this is without term so no two year renewal. Love can require fencing. Love would like to see back fenced along Taylor avenue. James concerned about front. Morale son mobile homes year have to have newer version of mobile homes. Doesn't apply here. Steve RV considered motor vehicles to be on property need to have current registration and inspection stickers. Otherwise in operatble. Mayor Perry opened the public hearing at 11:46 a.m. There being no one else wishing to speak, the public hearing was closed.

Deputy City Secretary Reyes read the caption of Ordinance No.

Dufford any other plac eto put outside city limits? Jim compton do have some outside of city. His first request for RV park don't have background but a lot of experience. Located along int 20 easy on easy off for those using. Morales okay as long as upgrade. Trost this is precednet setting. Needs to be temporary needs to be limited time.

James if don't want rv park here then regardless why invest if only for 2 years. Trost this investment when go to Scotts KOA campground travelers not investment for one time event you want permanent housing. if want people to come stop say visit all sites then ened to have turnover.

Invited public to comment.

John Elfick ____, associated with landowner on deal. been in process with city for almost 1 year on this project with expectation doing everything the City would approve. Staff recommended. Developer is an RV owner himself building so nice place to go to with fire/pllice protection. Cna go in country and dot aht. This is for guys coming in down on busienss week 5 days 2-3 weeks. no one coming to liv ein rv on side. Don't know if can modify. don't know if preclude din RV park to have that kind of facility. going to drive in quarter million dllars vheicle landscpaing putting in extra facilities that don't find in rv park. in industrial area circulation righ toff of fairgrounds road itneresection. not intended for workforce housing. Morales what about fencing? Elfick Tylor ris caliche street but county owns land along there never going to get paved. truck yards backing up to it all industrial. ?This is upgrade form what is there and would likely go there. Morales sounds like visual aids might make decision. Elfick been in hurry for 10months. Expecting to start construction rather see deferred than voted no. give him a chance to show up and make his pitch. James have developer come in this is important right now.

James other consideration is across itnerstate is big tract of land of hotel restaraunt thats what want to do that is part of this consideration.

Council Member James moved to defer the item to next meeting ; seconded by Council Member Morales.

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

43. At approximately 10:42 A.M. hold a public hearing and consider an ordinance on a request by Mockingbird Oaks Development, LLC for a zone change from TH, Townhouse Dwelling District on a 3.98-acre tract of land all out of Section 25, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the west side of Holiday Hill Road, approximately 470 feet south of Briarwood Avenue.)

(DEVELOPMENT SERVICES)

ORDINANCE NO. 9206

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 3.98-ACRE TRACT OF LAND AND A 36.81-ACRE TRACT OF LAND, ALL OUT OF SECTION 25, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED TH, TOWNHOUSE DWELLING DISTRICT, IN PART, AND 1F-3, ONE-FAMILY DWELLING DISTRICT, IN PART, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE WEST SIDE OF HOLIDAY HILL ROAD, APPROXIMATELY 470 FEET SOUTH OF BRIARWOOD 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

#43 Jim Compton gave a brief overview of the item noting wihs to rezone tract prupose of reducing front yard setback from 20 feet to 15 feet. Many homes in area enjoy same setpack in los patios. P&z supported item and staff support rec. no opposition. Mayor Pro Tem Sparks opened the public hearing at 12:02 p.m. John newton 4908 n midkiff available to answer questions. There being no one else present wishing to speak, the public hearing was closed at 12:03 p.m.

Deputy City Secretary Reyes read the caption of Ordinance No.

Council Member James moved approval of the first of two readings of Ordinance No. 9206 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

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

44. At approximately 10:45 A.M. hold a public hearing and consider an ordinance on a request by Midland Pediatric Associates, PLLC for a zone change from PD, Planned District for a Shopping Center to an Amended Planned District on Lots 4 and 5, Block 10, Northwood Addition, Section 7, City and County of Midland, Texas. (Generally located on the north side of Mamie Circle, approximately 290 feet north of West Wadley Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9207

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 4 AND 5, BLOCK 10, NORTHWOOD ADDITION, SECTION 7, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF MAMIES CIRCLE, APPROXIMATELY 290 FEET NORTH OF WEST WADLEY 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

#44 Jim Compton gave a brief overview of the item noting ne of wadley midland zoning pdsc subjection to lr and site plan approval medical facility to satisfy requirement for site plan. 7 foot tall screening fencing provided more parking than needed 109 psaces as opposed to 44. P7z support nov 4 staff concurs. Mayor Perry opened the public hearing at 12:06 p.m. 12:06 p.m. There being no one else wishing to speak, the public hearing was closed.

Deputy City Secretary Reyes read the caption of Ordinance No.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9207 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks.

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

45. At approximately 10:48 a.m. hold a public hearing regarding a proposed oil and gas permit to Endeavor Energy Resources, L.P. (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Chaps A #6) located 655 feet from north line and 467 feet from east line, Section 9, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. Generally located on the north side of the Passage Way, approximately 467 feet west of the extension of North Garfield Street.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

#45 Ron Jenkins app b4 o&g rec correct by endeavor. Committee noted located toward end of passage way. Rec one letter of objection. 12:08 p.m. listen Mayor Perry opened the public hearing at 12:08 p.m. 12:08 p.m. Janet Walton 2700 N Garfield, interested in is trying to get com of enforce settlement agreemenet Dec 2007. In agreement any future application on this lease all requirements asked of them were included in their permit and four apps granted are given in agreement are supposed to live up to certain conditions in settlement agreement. Ar ein process of drill well which is in villation of settlement agreement. Asked city to read agreemenet because Endeavor voluntarily agreed to those conditions. They city is enforcing only current regulations in present drilling ordinance and not looked at what was required under the settlement agreement. Duford, who is settlement agreement with? Stretcher between City of Midland nad Endeavor. Stretcher asked exactly what Endevaor is not reuquiremeing with. Janet distance to ROW and distance to existing water wells. Stretcher those issues are being litigated right now. Janet if not going to abide by settlement agreement then need to bring that up changed mind and rewriting. Stretcher same argument comes up every time. If you wouldn't mind please provide specifics that Endeavor is not complying with. Comment slike heard of they are not complying doesn't mean anything specific. Can present any specifics to endeavor. Mayor put in writing to City Attorney. There being no one else present wishing to speak, the public hearing was closed at 12:13 p.m. no further action public hearing only.

46. At approximately 10:51 a.m. hold a public hearing regarding a proposed oil and gas permit to High Sky Partners, LLC (Operator), for a Permit to Drill an Oil & Gas Well

within the City Limits, (Mask No 1001) located 773 feet from south line and 825 feet from west line, Section 10, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the north side of the extension of Mockingbird Lane, approximately 825 feet west of the extension of North Garfield Street.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

#46 Ron Jenkins ap through o7g adv no rec as far as corrections. Asking waiver for rr agmt no city streets used. Asking for var of landscape and irrig. O&G rec 2 year and then come back to O&G. no letters of objection. Mayor Perry opened the public hearing at 12:15 p.m.

Mark Payne own property north and east of location. Owner quarter of mineral of acres claiming to rep. visiting and hoping to work out lease. One concern is wave road use agreement and that well is in middle of subdivison. Waving that rod use agreement doesn't impact him as developer. As said this have no problems with locations technology changed in last 5 years. Started looking at and encourage council to encourage mineral developers to do same. No personal objection. This is part of acerage own. One well is going to be par tof minerals own.

Mike Wallace 200 blackberry circle, worked hard with neighbors to north and oxy will access property off of 349 onto oxy and drop down north to south on very west side fo property. No roads now. I fevery subdivision around there have bond in place an don't mind being subject to road use agreement. In annual audits/permits and renewal that is where can add on.

Morale son usage of raod compared to 3-4 years ago. Do see lack of trucks once get passed 30 days truck traffic elssens? Mike majority of traffic is post production and has to do with crude and water hauling. Always looking for way to pipeline water to disposal facility. Crude oil that is function of how much you produce if only have 100-200 barrels a day not interested in getting on ipeline. Diminishes over time.

Henry Nelson 812 Cananero Midland P only thing would like to see is some plan of development. They are hp hlliard have barns haddocks track other aility in area. Pro o&g dev in this area would like to know if would see some plan of development from operators. Would like to have some say in process.

There being no one else present wishing to speak, the public hearing was closed at 12:22 p.m. no further action public hearing only.

47. At approximately 10:54 a.m. hold a public hearing regarding a proposed oil and gas permit to High Sky Partners, LLC (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Mask No 1002D) located 1176 feet from south line and 825 feet from west line, Section 10, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the north side of the extension of Mockingbird Lane, approximately 825 feet west of the extension of North Garfield Street.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

#47 Ron Jenkins same xact sit at prev well approved by O&G with same rec conc

landscape 2 years and waiver of rr agmt nad no letter sof objectin.Mayor Perry opened the public hearing at 12:22 p.m. There being no one present wishing to speak, the public hearing was immediately closed. . no further action public hearing only.

48. At approximately 10:57 a.m. hold a public hearing regarding a proposed oil and gas permit to High Sky Partners, LLC (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Mask No 1003) located 513 feet from south line and 1773 feet from west line, Section 10, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the north side of the extension of Mockingbird Lane, approximately 1773 feet west of the extension of North Garfield Street.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

#48 Ron Jenkins exact same sit of prev 2 wells no surface agmt in place on well. Operator tried to make contact and nothing. Who is surface owner marissa Burns. They sent letters of contact and agent to door. Mayor Perry opened the public hearing at 12:24 p.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action public hearing only.

49. At approximately 11:00 A.M. hold a public hearing and consider an ordinance on a request by Marshall Gage, LLC / Scott Caruthers for a zone change from PD, Planned District for a Shopping Center to LR-2, Local Retail District on Lot 3, Block 2; Westridge Park Addition, Section 3, City and County of Midland, Texas. (Generally located on the southwest corner of the intersection of Andrews Highway and North Loop 250 West.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9208

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 3, BLOCK 2, WESTRIDGE PARK ADDITION, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF ANDREWS HIGHWAY AND NORTH LOOP 250 WEST); 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

#49 Jim Compton current zoning pdsc estab 1986 when Deauville mall. Dev is wishing to raze bldg and erect grocery store, self serv gas and car wash. All uses allowed. P7z rec approval no letter sof opposition.Mayor Perry opened the public hearing at 12:25 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Reyes read the caption of Ordinance No.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9208 in accordance with the Charter of the City of Midland; seconded by Council Member Love.

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

50. At approximately 11:03 A.M. hold a public hearing and consider a resolution on a request by Joe L. Smith/ Oregon Trail Trees for a Temporary Land Use Permit for Outdoor Christmas Tree Sales. (Generally located on the west side of North Midland Drive, approximately 160 feet south of West Dengar Avenue.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 417

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

#50 jim Compton been selling 20 years or more chistmas trees outside of case verde nursery. Hours nov 29 through dec 22 10 a.m. 10 p.m. staf rec approval no oposotion. Mayor Perry opened the public hearing at 12:27 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Love moved to adopt Resolution No. 2013 - 417; seconded by Council Member Sparks.

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

MISCELLANEOUS

51. Consider an ordinance on third reading granting to Oncor Electric Delivery Company LLC, its successors and assigns, an electric power franchise to use the present and future streets, alleys, highways, public utility easements, public ways and public property of the City of Midland, Texas, providing for compensation therefor, providing for an effective date and a term of said franchise, providing for written acceptance of this franchise, providing for the repeal of all existing franchise ordinances to Oncor Electric Delivery Company LLC, its predecessors and assigns, and finding that the meeting at which this ordinance is passed is open to the public. (PURCHASING) (First reading held October 8, 2013.)

RESOLUTION NO. 9196

AN ORDINANCE GRANTING TO ONCOR ELECTRIC DELIVERY COMPANY LLC, ITS SUCCESSORS AND ASSIGNS, AN ELECTRIC POWER FRANCHISE TO USE THE PRESENT AND FUTURE STREETS, ALLEYS, HIGHWAYS, PUBLIC UTILITY EASEMENTS, PUBLIC WAYS AND PUBLIC PROPERTY OF THE CITY OF MIDLAND, TEXAS, PROVIDING FOR COMPENSATION THEREFOR, PROVIDING FOR AN EFFECTIVE DATE AND A TERM OF SAID FRANCHISE, PROVIDING FOR WRITTEN ACCEPTANCE OF THIS FRANCHISE, PROVIDING FOR THE REPEAL OF ALL EXISTING FRANCHISE ORDINANCES TO ONCOR

ELECTRIC DELIVERY COMPANY LLC, ITS PREDECESSORS AND ASSIGNS, AND FINDING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC.

Deputy City Secretary Reyes read the caption of Ordinance No.

Council Member Love moved to approve the third and final reading of Ordinance No. 9196 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

Love things have second and this is third reading as well. why this go 3? Stretcher charter.

Trost ord #

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

52. Discuss and consider a motion on a request by Spivey & Grigg, LLP for a Right of Way Use Permit for the purpose of closing (1) the intersection of Garfield Street and the Union Pacific Railroad Crossing and (2) the adjacent east and west bound lanes of the traffic on Front Street and Industrial Avenue on November 14, 2013 from 2:00 p.m. until 5:00 p.m. with City of Midland Police Department assistance. (CITY ATTORNEY)

Rick Leeper Austin Texas available to answer questions

Council Member James moved to approve a motion on a request by Spivey & Grigg, LLP for a Right of Way Use Permit for the purpose of closing (1) the intersection of Garfield Street and the Union Pacific Railroad Crossing and (2) the adjacent east and west bound lanes of the traffic on Front Street and Industrial Avenue on November 14, 2013 from 2:00 p.m. until 5:00 p.m. with City of Midland Police Department assistance. ; seconded by Council Member Trost.

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

53. Approved a resolution appealing the Building Official's denial of a building permit for the installation of a manufactured home on Block 10, Lot 12, East Midland Addition, commonly known as 1311 Walnut Lane. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 275

RESOLUTION AUTHORIZING THE ISSUANCE OF A BUILDING PERMIT FOR THE INSTALLATION OF A MANUFACTURED HOME ON LOT 12, BLOCK 10, EAST MIDLAND ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (COMMONLY KNOWN AS 1311 WALNUT LANE); AND PROVIDING THAT THE ISSUANCE OF SAID PERMIT DOES NOT UNDERTAKE TO ADJUDICATE PROPERTY RIGHTS; SAID PERMIT WAS DENIED BY THE BUILDING OFFICIAL AND THIS RESOLUTION IS AN APPEAL TO THE MIDLAND CITY COUNCIL

#53 englestad apply for piece of property according to appraisal district does not appear

to be same. Ord states must be same ownership of home and property.

Max Wright 508 W Wall, on behalf of Mr. Englestadt. Here before several had questions about what is Carl Englestadt doing how does it work how do we know he going to do what he said going to do. How do we know will pay liens? How do we know taxes will be paid? Do we set precedent by allowing him to do what he is doing by claims of adverse possession and color of title. Position is Mr. Englestadt is doing lawfully to establish claims to unclaimed unmaintained properties. All properties none had taxes paid within last 5 years. When goes to deed records and tax records to establish abandoned. Looked only for unpaid taxes for 5 years or more. Its pretty unlikely going to pay for next 5 year and strong indicator of abandoned property. Brought a folder for each member that contain evidence of permits previously issues, taxes paid and liens paid or are in process of being paid. 17 properties for which permits issued all taxes paid on 3 properties liens paid at 100% on remaining properties. Before put mobile home required to put in curb gutter sewer. Properties in much better shape before Mr. Englestadt took possession and took color of title under adverse possession. All lots zoned specifically of mobile homes. Mr. Englestadt assumes all of risk of putting in infrastructure. If record owner claim possession Mr. Englestadt can recoup anything but taxes. He waiting for appropriate time to run so can go to court and get title adjudicated which is a 3 year statute is appropriate. Has established color of title has established lawful possession. He takes risks. No one will complain that property has been improved. Feel appropriate for permits to be approved and asked Council to overrule decision of city official.

Love has he been in contact with property owners? Max made attempts to make contact but property abandoned and impossible to contact mail returned. He sends letters and they have not responded. He has contacted them but they have not responded. Love do they know about this? Max quite probably they do not. Perry are we setting something he is doing this is many areas but doing more than once and always fall under color of title needs building permit and pays back taxes and liens owned. Max all properties in mobile home zone, taxes haven't paid 5 years. Has gotten permits in past.

Steve Thorpe 17 permits provided one is Mr. Englestadt's name others are in name of homeowner of property. Sandra Maldonado there was a point in time when Mr. Englestadt has appraisal district because of filing with deed at courthouse the appraisal district changed ownership to Mr. Englestadt's name and brought in contract of deed selling properties to other areas it all appeared something to be correct based on how check records. Of permits one in Mr. Englestadt's name.

Max what have filed on 17 permits issued is people possessing mobile home have contract to acquire title to property in legal possession to property pending running of adverse possession until can get adjudicated title. They are a successor of interest in Mr. Englestadt color of title.

Mayor do we change building permits for people who don't have record title.

Morales who owns property? Mayor will take court case. In 3 years going through legal process will have a deed. Morales our ordinance requires we give it to the person who owns property. Max real property can be abandoned just like personal property can be abandoned. Love what is legal definition of abandonment? Stretcher as he understands real property in Texas is when have sheriff sale and sell for taxes then its abandoned but not before them. Love if this were to record who would record issue tax statement to?

Mr. Englestadt or homeowner. Stretcher if this goes through they would issue to Mr. Englestadt because he filed some evidence of ownership. Once does that they are responsible for taxes on property. He can't have cake and eat it to. Stretcher once he files showing ownership interest his client is responsible for taxes. When look at resolution section 3 tried to be as clear as can that this isn't adjudicating any property rights not auth trespass no immunizing him in any way. If he goes forward he is on his own. Trying to quote cases here that say you have all risk you go forward if you want to. Perry okay I'm going to go get a building permit on your property and if building official says can't do that so feel like I've got to have something that says can build on land paid taxes paid liens that says you know what I've got the right to do this. If walking in with paid tax statements and paid liens. Max getting cart before horse. Mayor this guy coming in with building permit was Perry opened that property how let building official. Max starting to get confused between abandonment and adverse possession. If you go on my land open notoriously hostile and adverse. If you dot aht and there for a period of time then go to court and claim title and get adjudicated title to property. In meantime have color of title. When building officials want to look solely to MCAD when can bring in documentation of lawful possession and color of title.

Sparks are we talking about mobile homes or permanent structures. Max on mobile home permits. Love if did revert back to owner. He could take mobile home and leave but infrastructure stays there. You want us to make determination prior to Court. Max court can't make decision until we take possession of property. Clock starts to run when color of title is created in deed records.

Dufford does he need to have adverse possession and building permit issued to start clock. Max no. Dufford how long take? Max litigation has been on residential properties foreclosed on and sitting vacant and people try to move in and claim adverse possession. Looking solely at unimproved lots. Trost part of argument in simple. Do we go by codes and ordinances or not.

Steve in residential code which deals with installation of mfg homes under section 105.1 any owner or authorized agent who intends to change occupancy of bldg or structure....replace shall make application to building permit it says owner or authorized agent. Do we go out and do title search and do on every property but this what we do. If you don't show up at owner have to have letter from owner. Tr

Mayor if approve will overturn building officials permit

Trost what is time for foreclosing liens. Stretcher Council does not foreclose on liens. City effectively saying go ahead abandon your property. James at some point becomes sheriff's sale.

Dufford do we as a body want to change policy based on color of title and contract for deed.

Sparks is there a piece of paper that says there is color of title but not complete. Max yes have contract for deed that shows person occupying mobile home has .

Council Member Sparks moved to adopt Resolution No. 2013 - 275; seconded by Council Member Trost.

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

54. Approved a resolution on a request by David Martin, on appeal, for approval of a preliminary plat of Daybreak Estates, being a 159.373-acre tract in Section 12, Block "X", H. P. Hilliard Company Survey, Midland County, Texas (Generally located on the east side of SH 349, approximately 1,200 feet north of Mockingbird Lane) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 418

RESOLUTION APPROVING A PRELIMINARY PLAT OF DAYBREAK ESTATES, BEING A PLAT OF A 159.373-ACRE TRACT OF LAND OUT OF SECTION 12, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF HIGHWAY 349, APPROXIMATELY 1,200 FEET NORTH OF MOCKINGBIRD LANE); SAID PRELIMINARY PLAT WAS DENIED BY THE CITY OF MIDLAND PLANNING AND ZONING COMMISSION AND IS ON AN APPEAL TO THE CITY COUNCIL

#54 Compton submitted prel plat for approval to O&Z voted 3-3 motion failed. On appeal. The subdivision code says need to have alleys commission couldn't justify issue. There was a prel plat approved for Drhorton for 104 acres this is not setting precedent. In order to approval a subidion has to be approved. No particular surrounding shape unique to property that permits compliance. Did not make recommendation but asked Council to make determination.

Trost any discussion of developer partipating in purchase of carts etc. Jim not to his knowledge.

Mayor invited developer forward

David Martin 13020 hwy 191. Tought best to have hba association and few realtors come to what type of product we were able to bring to City of Midland and most beneficial. Entry elvel affordable housing. Had a few people including mineral owner they can few things and answer questions. Approving this plat so need to undertand why should approve. David wanted to bring affordable housing to community \$180 - \$250,000 rpdout. Some of the homes that bringing into City of Midland. Basically the elephant out of bag comes down to money to make affordable in that price point have to make aplat this way with no alleys front entry parking and affordable beautiful homes in community. In talking with City the caliche alleys are high maintenance constantly fixing things it would seemt hey shying away from caliche alley and have paved alley or no alley would be future of midland. Dufford does it make any difference to you if approve or not. If had to come back and say we want something that looks more like Los Patios. David it does matter we are right next to rear entry alley loaded and definitely is its more beautiful for having garage on back. Live next door to community with front entry can't afford 3-500,000. Would love to develop it what hear is bring affordable housing and that is what trying to do. Larger home building bring attorneys and find ways to get things through. Working with mr. Wallace in lets get going. Zoned s a planned district.

Love this is to make affordable housing. Technically not affordly defined as less than \$160,000 and you are above that. How much would homes be priced at with alleys. David Martin affordable has changed. With alleys changes prices \$10-\$15,000 a lot and with D.R. Horton put local guys out of competition. Love howmuch land saving without alleys. 100 homes are being saved by not putting in alleys. Love where is the hardship. David hardhisp is in price point trying to build homes at.

Trost this addresses need of entry level professional housing so supports item.

James platting appears only one entrance off 349. David two entrances off 349. James second question in mtg with home builder pricing at \$165 a square foot. Where is all of this, they building \$105-\$110 sq/ft. Ammenities include 3 parks in total maintained by hoa fence beautiful entires landscaped and maintained by hoa.

Mayor lets look to subdivison code precedent has been sent. Jim P&Z put together committee to lok at alleys and expand to look at alleys. James legitimate concern in real word time Robert Patrick specific park facilities larger lot size etc. Duford to continue is huge mistake for Midland.

Robert Patrick intordued Kevin Crowley new P7Z from CA graduate degree and undergraduate from T A&M

Council Member Morales moved to adopt Resolution No. 2013 - 418; seconded by Council Member Trost.

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

55. 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. (ENGINEERING SERVICES)

ORDINANCE NO. 9209

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

#55 Gary Saunders sign of growth in Midland with extention of streets and new

subdivisions. This largest amounts 30 intersections. Get them on Ordinance put in an dmove forward.

Deputy City Secretary Reyes read the caption of Ordinance No.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9209 in accordance with the Charter of the City of Midland; seconded by Council Member Love.

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

56. Approved a motion making appointments to various Boards and Commissions.

EXECUTIVE SESSION

57. 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:

Excutive Session #57 Mayor recessed to Executive Session and will come back no earlier than 2:30 p.m. recess to Executive at 1:37 p.m.

adjourn at 2:38 p.m.

- a. Section 551.071 Consultation with the City Attorney.
 - a.1. Discuss with the City Attorney and attorney(s) with the law firm of Cotton, Bledsoe, Tighe and Dawson contemplated litigation and City legal issues involved in litigation styled Catherine Stouffer, et al. v. Union Pacific Railroad, Inc. and Smith Industries, Inc., in the 116th Judicial District Court in Dallas County, Texas; Cause No. 12-15024.
 - a.2. Discuss a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code.
- b. Section 551.087 Deliberate Economic Development Negotiations.
 - b.1. Discuss business prospects that the City seeks to have, locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.

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

PASSED AND APPROVED the ____ day of _____, ____.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary