

**MIDLAND CITY COUNCIL
MINUTES
November 13, 2012**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:01 a.m. on November 13, 2012.

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

Council Members absent: Council Member John James (District 3) (James arrived at 9:10 a.m.).

Staff members present: City Manager Courtney Sharp, First Assistant City Attorney John Ohnemiller, Deputy City Manager Tommy Hudson, Assistant City Manager Jim Nichols, City Secretary Amy Turner, Utilities Director Stuart Purvis, Airport Director Marv Esterly, Downtown Development Director Genora Young, Acting Engineering Director David Beard, Planning Division Manager Cameron Walker, Building Official Steve Thorpe, Assistant Code Administration Manager Ron Jenkins, Assistant Utilities Director Holly McGrath, Assistant Airport Director Justine Ruff, Transportation Manager Gary Saunders, Senior Planner Ken VanDyne, Customer Service Division Manager Tony Goyang, and Multimedia Developer Ryan Stout.

1. Receive a presentation from Airport on proposed development and the space port program.

Airport Director Marv Esterly briefly reviewed development around the airport over the past few years and reviewed compatible land uses. Their intent is to protect for noise to surrounding areas. He explained the obligations when Federal dollars are accepted and emphasized the need to protect the airport for future extension of runways. He explained the space port application process and task list noting the need to develop a flight corridor that meets FAA standards to ensure that XCOR can make the move to Midland.

City Manager Courtney Sharp noted that the MDC invested in XCOR and emphasized the need to protect their investment but also balance that with landowners' interest as well. Discussion ensued about ongoing communication with developers in that area to ensure they understand the direction the City is taking.

2. Presentation of Water Conservation Program.

Utilities Director Stuart Purvis reported that Freese & Nichols had finished their report and it was now available to the Council.

Assistant Utility Director Holly McGrath presented a Powerpoint presentation explaining the City's approach to water conservation that includes three parts: 1) education/outreach 2) regulations/practice 3) incentives. She reviewed each of the three areas. Their plan is to ask for an initial funding of \$100,000 for the incentive and education materials needed. They will meet with various stakeholder groups and develop a water conservation volunteer patrol group. Their ultimate goal is to develop sponsorships to make this a self-sustaining program.

Utilities Director Purvis concluded and asked if this was the direction Council felt they should move explaining they will be hiring a part-time person to implement some of the programs. Council consensus was received to move forward.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:55 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:01 a.m., November 13, 2012.

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

Staff members present at the annex table: City Manager Courtney Sharp, First Assistant City Attorney John Ohnemiller, Deputy City Manager Tommy Hudson, and Assistant City Manager Jim Nichols.

The Agenda Items were heard in the following order: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 11, 29, 30, 31, 32, 33, 34, 35, 36, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46.

OPENING ITEMS

1. Invocation - Pastor Will Basom, Midland Community College
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Council Member Trost presented a Proclamation for Texas Recycles Day to Keep Midland Beautiful.

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.

Dr. Steven Rea, 4214 Coyote Trail, distributed information to the City Council regarding the RSP proposal. (Agenda Items 30 through 36).

Robert Simpson, 4206 Coyote Trail, distributed information to the City Council regarding the RSP wells. (Agenda Items 30 through 36).

CONSENT AGENDA

Council Member Hailey moved to approve Consent Agenda items 5 - 29 excluding 11 and 29; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

5. Approved a motion approving the following minutes:
 - a. Regular Meeting of October 23, 2012.
6. Approved a resolution approving a Professional Services Agreement with Vandergriff Group Architects, PC for architectural engineering services to determine the current and future needs of the City Hall facility. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 364

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH VANDERGRIFF GROUP ARCHITECTS, P.C., OF MIDLAND, TEXAS, FOR PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES TO DETERMINE THE CURRENT AND FUTURE NEEDS OF THE CITY HALL FACILITY; AND APPROPRIATING \$80,000.00

7. Approved a resolution to renew the Marketing Agreement with Utility Service Partners Private Label, Inc. dba Service Line Warranties of America. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 365

RESOLUTION AUTHORIZING THE RENEWAL OF A MARKETING AGREEMENT WITH UTILITY SERVICE PARTNERS PRIVATE LABEL, INCORPORATED, DBA SERVICE LINE WARRANTIES OF AMERICA, ALLOWING THE OFFER OF UTILITY SERVICE LINE WARRANTIES TO MIDLAND RESIDENTS

8. Approved a resolution approving a contract for Sparks Park Target Area Development – Paving Improvements for the Engineering Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 366

RESOLUTION AWARDING THE SPARKS PARK TARGET AREA DEVELOPMENT PAVING IMPROVEMENTS PROJECT TO REECE ALBERT, INCORPORATED, OF MIDLAND, TEXAS, AT A TOTAL COST OF \$402,482.25; AND APPROPRIATING

FUNDS

9. Approved a resolution approving the purchase of a fire truck pumper through HGAC from Siddons-Martin Emergency Group for the Garage Division. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 367

RESOLUTION APPROVING THE PURCHASE OF A FIRE TRUCK PUMPER THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (HGAC) AT A TOTAL COST OF \$574,988.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COUNCIL OF GOVERNMENTS

10. Approved a resolution approving the purchase of a compactor through Buyboard from Warren Power & Machinery, Inc. of Midland, Texas for the Garage Division. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 368

RESOLUTION APPROVING THE PURCHASE OF AN 836H LANDFILL COMPACTOR DCA1 THROUGH THE BUYBOARD AT A TOTAL COST OF \$899,802.83; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COUNCIL OF GOVERNMENTS

12. Approved a resolution approving plans and specifications and authorizing advertisement for bids for a maintenance building addition, new storage building and new indoor batting cage facility for the Scharbauer Sports Complex. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 370

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR COMPETITIVE BIDS FOR EXPANSION OF THE MAINTENANCE BUILDING, CONSTRUCTION OF AN INDOOR BATTING CAGE, AND CONSTRUCTION OF A STORAGE AREA AT THE SCHARBAUER SPORTS COMPLEX

13. Approved a resolution authorizing the execution of Airport Fuel Service Agreement between W-T Hangar, LLC and the City of Midland, Texas in Lot 4B, Block 11, (Lease Tract 3) Midland International Airport, Industrial Park Addition, Section 6, Midland County, Texas. (AIRPORTS)

RESOLUTION NO. 2012 - 371

RESOLUTION AUTHORIZING THE EXECUTION OF AN AIRPORT FUELING AGREEMENT WITH W-T HANGAR LLC IN ORDER TO STORE AND DISPENSE ALL FORMS OF AVIATION PROPELLANTS AND FUELS FROM FIXED DISPENSERS ONLY TO W-T HANGAR LLC'S AIRCRAFT AT THE MIDLAND INTERNATIONAL AIRPORT, MIDLAND COUNTY, TEXAS; AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE INSURANCE TERMS AS THEY RELATE TO SAID AGREEMENT AND TO MODIFY THE AGREEMENT ACCORDINGLY PRIOR TO EXECUTION OF THE AGREEMENT

14. Approved a resolution authorizing the execution of an Amendment to Land Lease Agreement for Airport Hangar Facility between W-T Hangar, LLC and the City of Midland, Texas in Lot 4B, Block 11, (Lease Tract 3) Midland International Airport, Industrial Park Addition, Section 6, Midland County, Texas. (AIRPORTS)

RESOLUTION NO. 2012 - 372

RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE LAND LEASE AGREEMENT WITH W-T HANGAR, LLC FOR HANGAR DEVELOPMENT LOCATED ON A 0.48 ACRE TRACT OF LAND LOCATED IN LOT 4B, BLOCK 11, MIDLAND INTERNATIONAL AIRPORT INDUSTRIAL PARK ADDITION, SECTION 6, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS; SAID AMENDMENT TO INCLUDE LEASING AN ADDITIONAL .34 ACRE APRON TRACT IN THE NEW HANGER DEVELOPMENT AREA FOR THE PURPOSE OF INSTALLING A FUELING FACILITY

15. Approved a resolution authorizing the execution of Amendment #3 to Parkhill, Smith & Cooper's Professional Services Agreement and appropriate necessary funds. (AIRPORTS)

RESOLUTION NO. 2012 - 373

RESOLUTION AUTHORIZING THE EXECUTION OF AMENDMENT NUMBER THREE TO THE PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INCORPORATED, FOR IMPROVEMENTS CONTAINED IN THE AIRPORT CAPITAL IMPROVEMENT PROGRAM; SAID AMENDMENT TO INCLUDE THE FOLLOWING PROJECTS: TERMINAL VEHICLE PARKING EXPANSION, TAXIWAY P AIRCRAFT RUN-UP, AND WILDLIFE HAZARD MANAGEMENT PLAN; AND APPROPRIATING \$180,552.00

16. Approved a resolution authorizing the execution of a one-year renewal agreement with Frances Stapp, for curator services for the Heritage District, including the Scarborough-Linebery Home located at 802 South Main Street. (COMMUNITY SERVICES)

RESOLUTION NO. 2012 - 374

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

17. Approved a resolution authorizing Friends of Midland Soccer to raise funds on behalf of the City of Midland for development of additional soccer fields, lights, concessions, playgrounds, and parking at Beal Park; upon completion of the soccer complex the City of Midland would be responsible for the operation and maintenance. (COMMUNITY SERVICES)

RESOLUTION NO. 2012 - 375

RESOLUTION AUTHORIZING THE FRIENDS OF MIDLAND SOCCER TO RAISE FUNDS ON BEHALF OF THE CITY OF MIDLAND FOR THE DEVELOPMENT OF ADDITIONAL SOCCER FIELDS, LIGHTS, CONCESSIONS, PLAYGROUNDS, AND PARKING AT BEAL PARK; UPON COMPLETION OF THE SOCCER COMPLEX THE CITY OF MIDLAND WOULD BE RESPONSIBLE FOR THE OPERATION AND MAINTENANCE

18. Approved a resolution to grant a variance to Ordinance 8769 (January 1, 2010 Oil and Gas Well Drilling Ordinance) to allow building permits for commercial buildings, to be issued in the future, where the proposed building, either in whole or part is no closer than 196 feet of an existing oil and gas well. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 376

RESOLUTION GRANTING A VARIANCE FOR LOT 6B, BLOCK 2, GATEWAY PLAZA, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS (COMMONLY KNOWN AS 5511 STARBOARD DRIVE), BY PERMITTING CONSTRUCTION OF COMMERCIAL BUILDINGS WHERE NO PORTION OF ANY BUILDING IS CLOSER THAN ONE HUNDRED NINETY-SIX (196) FEET OF AN OIL AND GAS WELL; AND AUTHORIZING ISSUANCE OF BUILDING PERMITS

19. Approved a resolution authorizing an amendment to Resolution 2011-072 authorizing the appropriation of funds for the HOME Investment Partnerships Program Reservation System Participant program. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 377

RESOLUTION AUTHORIZING AN AMENDMENT TO RESOLUTION 2011-072 WHICH AUTHORIZED THE APPROPRIATION OF FUNDS FOR THE HOME INVESTMENT PARTNERSHIP PROGRAM RESERVATION SYSTEM PARTICIPANT PROGRAM FOR RECONSTRUCTION PROJECTS

20. Approved a resolution authorizing the execution of a Public Improvement Development Agreement in the amount of \$371,586 with Derick Osborne for the sidewalk and pavement improvements to serve the Floyd Acres Addition. The site is generally along Beal Parkway south of Anetta Drive west of Beal Park. Said agreement being authorized by Section 395.081 of the Texas Local Government Code. (ENGINEERING SERVICES)

RESOLUTION NO. 2012 - 378

RESOLUTION AUTHORIZING THE EXECUTION OF A PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH MIDLAND RENTALS, LLC FOR DEVELOPMENT OF FLOYD ACRES ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ALONG BEAL PARKWAY, SOUTH OF ANETTA DRIVE AND WEST OF BEAL PARK); AND APPROPRIATING FUNDS IN THE AMOUNT OF \$324,116.00 THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE

21. Approved a motion on a request by West Company of Midland, Inc. for Mesquite Terrace Apartments, to approve items requested for deferral in the amount of \$28,750.00, and to waive the associated public improvement guarantee. (ENGINEERING SERVICES)
22. Approved a resolution to authorize the acceptance of \$44,607 in reimbursement funds from the Union Pacific Railroad Company (UPRR) for construction of an 8 inch water main under Industrial Avenue, approximately 600 feet west of Westar Road, to authorize the City Manager to sign. (ENGINEERING SERVICES)

RESOLUTION NO. 2012 - 379

RESOLUTION AUTHORIZING THE EXECUTION OF A REIMBURSEMENT AGREEMENT WITH UNION PACIFIC RAILROAD COMPANY ("UNION PACIFIC") FOR THE RELOCATION OF CERTAIN CITY OF MIDLAND FACILITIES UNDER INDUSTRIAL AVENUE; AND AUTHORIZING PAYMENT TO JOHN PLOTT COMPANY, INCORPORATED AS THE CONTRACTOR WHO HAS PERFORMED THE WORK

23. Approved a motion on a request by Landgraf, Crutcher & Associates, Inc. (LCA) for David Heiser Addition, to approve items requested for deferral in the amount of \$65,650, and to waive the associated public improvement guarantee. (District #2 - Hailey) (ENGINEERING SERVICES)
24. Approved a resolution to authorize a project fund for the Outdoor Notification System. (FIRE)

RESOLUTION NO. 2012 - 380

RESOLUTION APPROPRIATING \$124,750.00 FROM THE GENERAL FUND FOR THE OUTDOOR WEATHER SERVICE NOTIFICATION SYSTEM; THIS OUTDOOR NOTIFICATION SYSTEM PROJECT WAS INITIATED IN LAST YEAR'S FISCAL BUDGET AND THOSE FUNDS WERE DEPOSITED IN THE GENERAL FUND AT THE CLOSE OF BUDGET

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

RESOLUTION NO. 2012 - 381

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

26. Approved a resolution to accept and appropriate extra funds for the 2011 Enforcing Underage Drinking Laws Grant. (POLICE)

RESOLUTION NO. 2012 - 382

RESOLUTION ACCEPTING A GRANT AWARD IN THE AMOUNT OF \$1,780.00 FROM THE TEXAS ALCOHOLIC BEVERAGE COMMISSION TO BE USED BY THE MIDLAND POLICE DEPARTMENT TO ENFORCE UNDERAGE DRINKING LAWS; AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS; AND ALLOCATING GRANT FUNDS; NO CASH MATCH IS REQUIRED

27. Approved a resolution authorizing the implementation of flow based sewer rates, based on December 2012, January 2013, and February 2013 water usage and becoming effective October 1, 2013. (UTILITIES)

RESOLUTION NO. 2012 - 383

RESOLUTION AUTHORIZING THE IMPLEMENTATION OF FLOW-BASED SEWER RATES, BASED ON DECEMBER 2012, JANUARY 2013, AND FEBRUARY 2013 WATER USAGE; AND BECOMING EFFECTIVE OCTOBER 1, 2013; AND AUTHORIZING THE CITY MANAGER TO CONDUCT THE APPROPRIATE STUDIES AND SUBMIT TO THE CITY COUNCIL THE NECESSARY ORDINANCES THEREFORE

28. Approved a resolution approving additional funding of the Interlocal Agreement between the City of Midland, the City of San Angelo and the City of Abilene as approved on April 8, 2011 and appropriate funds. (UTILITIES)

RESOLUTION NO. 2012 - 384

RESOLUTION APPROVING ADDITIONAL FUNDING FOR THE INTERLOCAL

AGREEMENT BETWEEN THE CITY OF MIDLAND, THE CITY OF SAN ANGELO AND THE CITY OF ABILENE AS APPROVED ON APRIL 8, 2011 REGARDING LONG-TERM WATER SUPPLIES; AND APPROPRIATING \$500,000.00

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

11. Consider a resolution approving an agreement with the sole proposer Justice Benefits, Inc. of Dallas, Texas to provide Federal Reimbursement Opportunities and Consultant Services for the Health and Senior Services Division of the Community Services Department. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 369

RESOLUTION APPROVING AN AGREEMENT WITH JUSTICE BENEFITS, INCORPORATED, OF DALLAS, TEXAS, TO PROVIDE FEDERAL REIMBURSEMENT OPPORTUNITIES AND CONSULTANT SERVICES FOR THE HEALTH AND SENIOR SERVICES DIVISION OF THE COMMUNITY SERVICES DEPARTMENT; SAID FIRM TO RECEIVE EIGHTEEN PERCENT OF FUNDS RECOVERED

Health and Senior Services Administrator Sal Garcia reported that Midland will now be paid for something that they were already doing.

Council Member Morales moved to adopt Resolution No. 2012 - 369; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

29. Consider a resolution authorizing the Department of Utilities to cause to be published, in the Midland Reporter Telegram, all notices required pursuant to Chapter 26 of the Texas Parks and Wildlife Code of a public hearing regarding the City's intent to execute a Temporary Right-of-Way License with Oncor Electric Delivery Company, L.L.C., across a portion of Windlands Park. (UTILITIES)

RESOLUTION NO. 2012 - 385

RESOLUTION AUTHORIZING THE DEPARTMENT OF UTILITIES TO CAUSE TO BE PUBLISHED, IN THE MIDLAND REPORTER TELEGRAM, ALL NOTICES REQUIRED PURSUANT TO CHAPTER 26 OF THE TEXAS PARKS AND WILDLIFE CODE OF A PUBLIC HEARING REGARDING THE CITY'S INTENT TO EXECUTE A TEMPORARY RIGHT-OF-WAY LICENSE WITH ONCOR ELECTRIC DELIVERY COMPANY, L.L.C., ACROSS A PORTION OF WINDLANDS PARK; AND DIRECTING THE UTILITIES DIRECTOR TO COMPLY WITH ALL REQUIREMENTS OF CHAPTER 26 OF THE TEXAS PARKS AND WILDLIFE CODE

Director of Utilities Stuart Purvis reported that they are still working out some issues and asked that this item be deferred to a future meeting.

Council Member Morales moved to continue the item to a future City Council Meeting date; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

MISCELLANEOUS

30. Consider a resolution approving the issuance of a permit to RSP Permian, LLC. (Bus Barn 2603D) for a Permit to Drill an Oil & Gas Well within the City Limits, located 690 feet from the north line and 1080 feet from the east line located in Section 26, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the south of the Briarwood Avenue, approximately 600 feet west of Roadrunner Trail.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 386

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 690 FEET FROM THE NORTH LINE AND 1,080 FEET FROM THE EAST LINE, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 600 FEET WEST OF ROADRUNNER TRAIL)

Oil & Gas Compliance Officer Ron Jenkins reported that 21 notices were sent to property owners within the 860 foot notification area and 12 letters of objection were returned. An additional 34 letters of objection and 15 letters of support were received from property owners outside of the 860 foot notification area. This item was reviewed by the Oil & Gas Advisory Committee, the applicant met all of the recommendations, and there were no variances being requested.

Council Member Sparks moved to adopt Resolution No. 2012 - 386; seconded by Council Member Hailey.

Council Member Sparks asked everyone to recognize this was an emotionally charged issue. The Council voted on the Oil & Gas Ordinance which established guidelines on how far a structure should be without the need for a variance. Safety of the neighborhood was taken into consideration when the Ordinance was adopted. The Council needs to abide by the Ordinance as it was adopted.

Council Member Trost raised some objections raised by his constituents naming the 18 points that should be considered by the Council when voting on an Oil & Gas well permit. He noted that the character and value of improvements that were already erected in the vicinity would be affected by the addition of five wells in the area.

Council Member Trost suggested that arguments for this well should be noted on all five of the wells for this area. He suggested that the wells be drilled from the County. Council Member Sparks clarified that they do not have the rights to drill on another location and that other wells and flow lines have been moved to keep them out of the neighborhood.

Council Member James clarified that the Council is looking at each well as an individual permit and the Council could approve five or two. He asked about the Road Repair Agreement noting that it had all five items consolidated and asked if only one well was approved would it need to be amended. First Assistant City Attorney John Ohnemiller clarified that since all the wells were referenced in the agreement, the agreement would need to be amended to reflect the correct wells.

Council Member Morales noted that this well was out of alignment from the other wells.

Council Member Sparks moved to amend the motion by moving the well site 40 feet to the east to be in line with the other wells; seconded by Council Member Dufford.

When asked if moving the well site to the east would cause any problems, Steve Gray, 4516 Bent Tree, responded it would not cause any problems. He further clarified that this was the original application that was denied and that was the reason it sits out of line with the other wells. He noted the difference was 40 feet clarifying the well would be moved 40 feet to the east.

Council Member James asked about the property RSP acquired to the east. Mr. Gray responded that they had acquired five lots and one home to the east of the well site.

When asked what RSP would do if only three of the five wells were approved and if they would instead look to get permits on other wells they have staked in the area, Mr. Gray responded that the other locations were more problematic than this location. He clarified that if three were approved now, RSP would reapply for the remaining two at the same location. He also noted that delaying the well would extend the pain for the neighborhood. He said it would also create operational problems because you could not drill within 50 feet of an operational pump. When asked why the other staked wells were problematic, Mr. Gray responded because they would require a variance and the other permits have either been rescinded or expired.

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

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

31. Consider a resolution approving the issuance of a permit to RSP Permian, LLC. (Bus Barn 2611D) for a permit to drill an oil & gas well within the City Limits, located 590 feet from the north line and 1040 feet from the east line located in Section 26, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the south of the Briarwood Avenue, approximately 560 feet west of Roadrunner Trail.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 387

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 590 FEET FROM THE NORTH LINE AND 1,040 FEET FROM THE EAST LINE, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 560 FEET WEST OF ROADRUNNER TRAIL)

Oil & Gas Compliance Officer Ron Jenkins reported that a total 20 notices were sent to property owners within the 860 foot notification area and 10 letters of objection were returned. An addition 34 letters of objection and 15 letters of support were received from property owners outside of the 860 foot notification area. This well has all of the same discussion points. The Oil & Gas Advisory Committee determined that recommendations had been met.

Council Member Sparks moved to adopt Resolution No. 2012 - 387; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Perry, Dufford, Sparks. NAY: Trost, Hailey, James. ABSTAIN: None. ABSENT: None.

32. Consider a resolution approving the issuance of a permit to RSP Permian, LLC. (Bus Barn 2612D) for a permit to drill an oil & gas well within the City Limits, located 640 feet from the north line and 1040 feet from the east line located in Section 26, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the south of the Briarwood Avenue, approximately 560 feet west of Roadrunner Trail.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 388

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 640 FEET FROM THE NORTH LINE AND 1,040 FEET FROM THE EAST LINE, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 560 FEET WEST OF ROADRUNNER TRAIL)

Oil & Gas Compliance Officer Ron Jenkins reported that a total 19 notices were sent to property owners within the 860 foot notification area and 10 letters of objection were returned. An additional 34 letters of objection and 15 letters of support were received from property owners outside of the 860 foot notification area. This well has all of the same discussion points as the previous wells.

Council Member Dufford moved to adopt Resolution No. 2012 - 388; seconded by Council Member Sparks. The motion failed by the following vote: AYE: Perry, Dufford, Sparks. NAY: Morales, Trost, Hailey, James. ABSTAIN: None. ABSENT: None.

33. Consider a resolution approving the issuance of a permit to RSP Permian, LLC. (Bus Barn 2613D) for a permit to drill an oil & gas well within the City Limits, located 740 feet from the north line and 1040 feet from the east line located in Section 26, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the south of the Briarwood Avenue, approximately 560 feet west of Roadrunner Trail.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 389

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 740 FEET FROM THE NORTH LINE AND 1,040 FEET FROM THE EAST LINE, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 560 FEET WEST OF ROADRUNNER TRAIL)

Oil & Gas Compliance Officer Ron Jenkins reported that a total 20 notices were sent to property owners within the 860 foot notification area and 11 letters of objection were returned. An additional 33 letters of objection and 15 letters of support were received from property owners outside of the 860 foot notification area.

Council Member Dufford moved to adopt Resolution No. 2012 - 389; seconded by Council Member Sparks. The motion failed by the following vote: AYE: Perry, Dufford, Sparks. NAY: Morales, Trost, Hailey, James. ABSTAIN: None. ABSENT: None.

34. Consider a resolution approving the issuance of a permit to RSP Permian, LLC. (Bus Barn 2614D) for a permit to drill an oil & gas Well within the City Limits, located 790 feet from the north line and 1040 feet from the east line located in Section 26, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the south of the Briarwood Avenue, approximately 560 feet west of Roadrunner Trail.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 390

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 790 FEET FROM THE NORTH LINE AND 1,040 FEET FROM THE EAST LINE, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 560 FEET WEST OF ROADRUNNER TRAIL)

Oil & Gas Compliance Officer Ron Jenkins reported that a total 20 notices were sent to property owners within the 860 foot notification area and 13 letters of objection were returned. An additional 32 letters of objection and 15 letters of support were received from property owners outside of the 860 foot notification area.

Council Member Sparks moved to adopt Resolution No. 2012 - 390; seconded by Council Member Dufford. The motion failed by the following vote: AYE: Perry, Dufford, Sparks. NAY: Morales, Trost, Hailey, James. ABSTAIN: None. ABSENT: None.

35. Consider a resolution authorizing the execution of a Road Repair Agreement with RSP Permian, LLC. regarding its applications to drill oil and gas wells (Bus Barn #2603D, Bus Barn #2611D, Bus Barn #2612D, Bus Barn #2613D, Bus Barn #2614D) within the City Limits, in Section 26, Block 40, T-1-S, T&P Survey, Midland County, Texas. The Road Repair Agreement will cover Briarwood Avenue and be in the amount of \$75,000.00. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 391

RESOLUTION AUTHORIZING THE EXECUTION OF A ROAD REPAIR AGREEMENT WITH RSP PERMIAN, L.L.C. REGARDING ITS APPLICATIONS TO DRILL OIL AND GAS WELLS (#2603D, #2611D, #2612D, #2613D AND #2614D) WITHIN THE CITY LIMITS IN SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS

Council Member James moved to adopt Resolution No. 2012 - 391 removing wells #2612D, #2613D, and #2614D; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Perry, Dufford, James, Sparks. NAY: Trost, Hailey. ABSTAIN: None. ABSENT: None.

36. Consider a resolution authorizing the execution of a Right-of-Way License Agreement between the City of Midland and RSP Permian, LLC, for the purpose of placement, operation and maintenance of a four (4) inch poly pipeline and two (2) four (4) inch

polyflow pipelines contained within a thirteen and three/eighths (13 3/8) inch steel casing pipe, in a portion of Briarwood Avenue right-of-way, Section 26, Block 40, T-1-S, T&P Survey, Midland County, Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2012 - 392

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND RSP PERMIAN, L.L.C.; SAID RIGHT-OF-WAY LICENSE IS FOR THE PURPOSE OF ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACEMENT, OPERATION AND MAINTENANCE OF A FOUR (4) INCH POLY PIPELINE AND TWO (2) FOUR (4) INCH POLYFLOW PIPELINES CONTAINED WITHIN A THIRTEEN AND THREE/EIGHTS (13 3/8) INCH STEEL CASING PIPE, IN A PORTION OF BRIARWOOD AVENUE; THE PIPELINE IS LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTION 26, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR TWENTY-FIVE (25) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL TWENTY-FIVE (25) YEAR TERM UPON 90 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

Transportation Manager Gary Saunders reported this item was for a stretch of pipeline that would be in the right-of-way on the south side of Briarwood.

Council Member Dufford moved to adopt Resolution No. 2012 - 392; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Perry, Dufford, James, Sparks. NAY: Trost, Hailey. ABSTAIN: None. ABSENT: None.

(Agenda Items 47 through 66 were heard before Agenda Items 37 through 46.)

Following Executive Session, Mayor Perry reconvened the meeting at 1:30 p.m. with all Council Members present.

37. Consider an ordinance amending Title III. "Departments", Chapter 1, "Water Department", Section 2, "Rates", Subsection (A), "Customers Inside of City Limits", of the City Code of Midland, Texas, so as to change the rates charged for water and sewer services; containing a cumulative clause; containing a savings and severability clause; and ordering publication; and the City Manager shall notify all customers outside the City Limits as required by state law. (UTILITIES)

ORDINANCE NO. 9076

AN ORDINANCE AMENDING TITLE III, "DEPARTMENTS", CHAPTER 1, "WATER DEPARTMENT", SECTION 2, "RATES," SUBSECTION (A), "CUSTOMERS INSIDE OF CITY LIMITS," SUB-SUBSECTION 1., "WATER RATES," OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO DECREASE THE RATES CHARGED TO CUSTOMERS INSIDE THE CITY LIMITS FOR WATER; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION; AND THE CITY MANAGER SHALL NOTIFY ALL CUSTOMERS OUTSIDE THE CITY LIMITS AS REQUIRED BY STATE LAW

Utility Director Stuart Purvis gave an overview of the item noting this was the first reading of an Ordinance taking the multiplier off the bottom multiplied tier in anticipation

of CRMWD removing all restrictions. It would not go into effect until after CRMWD reduces restrictions.

Deputy City Secretary Garcia read the caption of Ordinance No. 9076.

Following discussion, Council Member Hailey moved approval of the first of two readings of Ordinance No. 9076 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Hailey, Perry, Dufford, Sparks. NAY: Trost, James. ABSTAIN: None. ABSENT: None.

38. Consider an ordinance for the annexation of a 283.36-acre tract of land (Tract 1) out of Sections 11 and 12, Block 40, T-2-S, T&P RR Co., Survey, Midland County, Texas. (Generally located on the northeast corner of the intersection of West Interstate Highway 20 and South County Road 1250) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9077

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 283.36-ACRE TRACT OF LAND OUT OF SECTIONS 11 AND 12, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF WEST INTERSTATE 20 AND SOUTH COUNTY ROAD 1250); AND APPROVING A PUBLIC SERVICE PLAN

Planning Division Manager Cameron Walker gave an overview of the item noting this was for annexation of property. The required public hearings have already been held and the proposal was to bring land into the City limits.

Deputy City Secretary Garcia read the caption of Ordinance No. 9077.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9077 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

39. Consider an ordinance for the annexation of a 75.90-acre tract of land (Tract 2) out of Sections 37 and 38, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the southwest corner of the intersection of Tradewinds Boulevard and Deauville Boulevard) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9078

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 75.90-ACRE TRACT OF LAND OUT OF SECTIONS 37 AND 38, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF TRADEWINDS BOULEVARD AND DEAUVILLE BOULEVARD);

AND APPROVING A PUBLIC SERVICE PLAN

Planning Division Manager Cameron Walker provided an overview noting the required public hearings had already been heard and this was a proposal on first reading to annex land into the City.

Deputy City Secretary Garcia read the caption of Ordinance No. 9078.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9078 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, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

40. Consider an ordinance for the annexation of a 30.98-acre tract of land (Tract 3) out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the east side of State Highway 158, approximately ½ mile northwest of State Highway 191.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9079

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 30.98-ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 158, APPROXIMATELY ½ MILE NORTHWEST OF STATE HIGHWAY 191); AND APPROVING A PUBLIC SERVICE PLAN

Planning Division Manager Cameron Walker gave an overview of the item noting this tract was for the first reading of the ordinance for a voluntary annexation.

Deputy City Secretary Garcia read the caption of Ordinance No. 9079.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9079 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

41. Consider an ordinance for the annexation of a 193.29-acre tract of land (Tract 4) out of Sections 11 and 12, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the south side of West Interstate 20, south of South Loop 250 West.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9080

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 193.29-ACRE TRACT OF LAND OUT OF SECTIONS 11 AND 12, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE SOUTH SIDE OF INTERSTATE 20, SOUTH OF SOUTH LOOP 250 WEST); AND APPROVING A PUBLIC SERVICE PLAN

Planning Division Manager Cameron Walker gave an overview of the item noting this was a 194-acre piece located where South Loop 250 runs into the I-20 noting it was another voluntary annexation.

Deputy City Secretary Garcia read the caption of Ordinance No. 9080.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9080 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

42. Consider a resolution approving the issuance of a permit to Rust Oil Corp. (Operator), for a permit to drill an oil & gas well within the City Limits, (Smith-Hughes "9" No. 1) located 2,173 feet from the south line and 1,651 feet from the east line located in Section 9, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the west side of the extension of North Garfield Street, Approximately ½ mile north of Mockingbird Lane.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 393

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RUST OIL CORPORATION ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 2,173 FEET FROM THE SOUTH LINE AND 1,651 FEET FROM THE EAST LINE, SECTION 9, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF THE EXTENSION OF NORTH GARFIELD STREET, APPROXIMATELY ½ MILE NORTH OF MOCKINGBIRD LANE)

Mayor Perry recused himself from Agenda Items 42 and 43 and left dais.

Oil and Gas Compliance Officer Ron Jenkins gave an overview of the item noting that no letters of objection had been received. The Oil & Gas Advisory Committee reviewed the well site and had recommendations. Rust Oil updated their application and addressed the conditions. The Committee requested that landscaping be installed within two years. The insurance requirements for this well have been met.

Council Member Sparks moved to adopt Resolution No. 2012 - 393; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Perry.

43. Consider a resolution authorizing the execution of a road repair agreement with Rust Oil Corporation regarding its application to drill an oil and gas well within the City Limits, in Section 9, Block "X", H.P. Hilliard Survey, Midland County, Texas. The Road Repair Agreement will cover North Midkiff Road, Mockingbird Lane and Whitman Drive and be in the amount of \$25,000.00. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 394

RESOLUTION AUTHORIZING THE EXECUTION OF A ROAD REPAIR AGREEMENT WITH RUST OIL CORPORATION REGARDING ITS APPLICATION TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 2,173 FEET FROM THE

SOUTH LINE AND 1,651 FEET FROM THE EAST LINE, SECTION 9, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS

Oil & Gas Compliance Officer Ron Jenkins reported this was the Road Repair Agreement for the well.

Council Member Sparks moved to adopt Resolution No. 2012 - 394; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Perry.

44. Consider a resolution approving the issuance of a permit to Bluestem Energy Holdings, LLC (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Evans F 1) located 2,314 feet from the north line and 2,340 feet from the west line located in Section 8, Block "X", H. P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the east side of the North Midland Drive, approximately ½ mile north of Mockingbird Lane.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 395

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 2,314 FEET FROM THE NORTH LINE AND 2,340 FEET FROM THE WEST LINE, SECTION 8, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY ½ MILE NORTH OF MOCKINGBIRD LANE); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT

Oil & Gas Compliance Officer Ron Jenkins gave an overview reporting that no letters of objection had been received for this application. The Oil & Gas Advisory Committee reviewed the application and recommended that the landscaping variance be granted for no more than two years.

Council Member Sparks moved to adopt Resolution No. 2012 - 395; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

45. Consider a resolution approving a settlement regarding 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. (CITY ATTORNEY'S)

RESOLUTION NO. 2012 - 396

RESOLUTION AUTHORIZING ACCEPTANCE OF A MINERAL DEED FROM THE ESTATE OF ROBERT B. HOLT; AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS NECESSARY TO SETTLE ALL CLAIMS OF THE CITY OF MIDLAND 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

Council Member James moved to adopt Resolution No. 2012 - 396; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

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

Council Member Hailey requested to continue her service on the CDBG Committee after she left office in January 2013.

Following discussion, a motion was made by Council Member Trost to keep Vicky Hailey on the CDBG Committee after she leaves office; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

SECOND READINGS

47. Consider an ordinance on second reading on a request by Sagestar Development and Construction, LLC for a zone change from PD, Planned District for a Shopping Center to an Amended Planned District on Lot 4A, Block 3, Westridge Park Addition, Section 15, City and County of Midland, Texas. (Generally located on the west side of Tradewinds Boulevard, approximately 630 feet south of Andrews Highway.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9074

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 4A, BLOCK 3, WESTRIDGE PARK ADDITION, SECTION 15, 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 WEST SIDE OF TRADEWINDS BOULEVARD, APPROXIMATELY 630 FEET SOUTH OF ANDREWS HIGHWAY); 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 Garcia read the caption of Ordinance No. 9074.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9074 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, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Perry.

48. Consider an ordinance on second reading for the vacation of a 1,400 square foot portion of the right-of-way of West Ohio Street adjacent to Lot 12, Block 26, Original Town, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of West Ohio Street and North Colorado Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9075

AN ORDINANCE VACATING AND ABANDONING A 0.032-ACRE PORTION OF WEST OHIO STREET RIGHT-OF-WAY ADJACENT TO LOT 12, BLOCK 26, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF WEST OHIO STREET AND NORTH COLORADO STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$2,100.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Garcia read the caption of Ordinance No. 9075.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9075 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, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: Perry.

PUBLIC HEARINGS

49. At approximately 10:29 a.m. hold a public hearing and consider a resolution of the City Council of the City of Midland, Texas, providing for the annexation of certain sparsely populated property; the owner has requested that the property be annexed; said property is adjacent to and contiguous to the present boundary limits of the City of Midland; said property being a 30.98-acre tract of land out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, Midland County Texas; the Midland City Council hereby grants the petition for annexation as authorized by Section 43.028 of the Texas Local Government Code; and authorizing and directing the City Secretary to file a certified copy of this resolution and all exhibits in the Midland County Deed Records maintained by the Midland County Clerk. (Generally located on the east side of State Highway 158, approximately 1/2 mile northwest of State Highway 191) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 397

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS, PROVIDING FOR THE ANNEXATION OF CERTAIN SPARSELY POPULATED PROPERTY; THE OWNER HAS REQUESTED THAT THE PROPERTY BE ANNEXED; SAID PROPERTY IS ADJACENT TO AND CONTIGUOUS TO THE PRESENT BOUNDARY LIMITS OF THE CITY OF MIDLAND; SAID PROPERTY BEING A 30.98-ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY TEXAS; THE MIDLAND CITY COUNCIL HEREBY GRANTS THE PETITION FOR ANNEXATION AS AUTHORIZED BY SECTION 43.028 OF THE TEXAS LOCAL GOVERNMENT CODE; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO FILE A CERTIFIED COPY OF THIS RESOLUTION AND ALL EXHIBITS IN THE MIDLAND COUNTY DEED RECORDS MAINTAINED BY THE MIDLAND COUNTY CLERK

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

Council Member Hailey moved to adopt Resolution No. 2012 - 397; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

50. At approximately 10:30 a.m. hold a public hearing and consider an ordinance on a request by Davidheiser Family Trust for a zone change from MH, Mobile Home Dwelling District and LR-2, Local Retail District to MF-1, Multiple Family Dwelling District on a 22.46-acre tract of land out of Section 1, Block 39, T-2-S, T&P RR Co. Survey, Midland County, Texas. (Generally located at the east side of South Lamesa Road, approximately 1,100 feet north of East Interstate 20.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9081

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 22.46-ACRE TRACT OF LAND OUT OF SECTION 1, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED MH, MANUFACTURED HOME DISTRICT, IN PART, AND LR-2, LOCAL RETAIL DISTRICT, IN PART, TO BE USED AS AN MF-1, MULTIPLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF LAMESA ROAD, APPROXIMATELY 1,100 FEET NORTH OF INTERSTATE 20); 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 Cameron Walker gave an overview of the item noting the land was just over 22 acres and this was a request to consider a zone change. He explained there was not currently a site plan but one would come back and have another round of public hearings. He noted no letters of objection had been received and that the Planning & Zoning Commission recommended in favor of the item.

Mayor Perry opened the public hearing at 10:51 a.m.

John Love, 1613 East Oak, noted his support of the item.

There being no one else wishing to speak, the public hearing was closed at 10:51 a.m.

Deputy City Secretary Garcia read the caption of Ordinance No. 9081.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9081 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

51. At approximately 10:33 a.m. hold a public hearing and consider an ordinance on a request by Javi's Restaurant for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on Lot 7, less the west 5 feet and on Lots 8 through 10, Block 20, Belmont Addition, City and County of Midland, Texas. (Generally located on the northeast corner of the intersection of Rankin Highway and West Francis Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9082

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 7, LESS THE WEST 5 FEET, AND LOTS 8, 9 AND 10, BLOCK 20, BELMONT ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS

(GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF RANKIN HIGHWAY AND WEST FRANCIS AVENUE), WHICH IS PRESENTLY ZONED LR-3, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Cameron Walker gave an overview of the item noting it was for the sale of alcoholic beverages from 11 a.m. to midnight. The applicant's intention was to have the main dining area available for alcoholic beverages only through 2 p.m. and then the banquet area would serve snacks and alcoholic beverages from 2 p.m. to midnight. No letters of opposition were received.

Mayor Perry opened the public hearing at 10:53 a.m.

John Love, 1613 East Oak, noted his support of the item.

There being no one else wishing to speak, the public hearing was closed at 10:54 a.m.

Deputy City Secretary Garcia read the caption of Ordinance No. 9082.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9082 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

52. At approximately 10:36 a.m. hold a public hearing and consider an ordinance on a request by Jeff Benson for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a Theater/Amusement Center, on Lot 1A, Block 2, Gateway Plaza, City and County of Midland, Texas. (Generally located on the northeast corner of the intersection of West Business 20 and Liberty Drive.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9083

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 1A, BLOCK 2, GATEWAY PLAZA, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF WEST BUSINESS 20 AND LIBERTY DRIVE), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A THEATER / AMUSEMENT CENTER 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 Cameron Walker provided an overview of the item noting it was for the sale of alcoholic beverages at the new movie theater that was under construction. They would operate between 12 noon and 2 a.m. seven days a week. He noted the theatre's alcoholic beverage sale was typically less than 5 percent of their overall food and beverage sales. No letters of opposition had been received and the item had been approved by the Planning & Zoning Commission.

Mayor Perry opened the public hearing at 10:57 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9083.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9083 in accordance with the Charter of the City of Midland; seconded by Council Member James.

When asked the length of the term, Mr. Walker reported the sale of alcoholic beverage permit was for a two-year renewable permit and if there were any problems, the City would have the ability to revoke the permit.

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

53. At approximately 10:39 a.m. hold a public hearing and consider an ordinance on a city-initiated proposal for a zone change from C-1, Central Area District to PD, Planned District for a Housing Development on Lots 1 through 8; the north 8 feet of the west 75 feet of Lot 9, the east 65 feet of Lots 9 through 12; and Lots 13 through 23, Block 53; Original Town, City and County of Midland, Texas. (Generally located on the east side of North Main Street bounded by East Texas Avenue and Wall Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9084

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 1-8, THE NORTH 8 FEET OF THE WEST 75 FEET OF LOT 9, THE EAST 65 FEET OF LOTS 9-12, AND LOTS 13-23, BLOCK 53, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED C-1, CENTRAL AREA DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED NORTH OF WALL STREET, SOUTH OF TEXAS AVENUE, EAST OF MAIN STREET, AND WEST OF BAIRD STREET); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Cameron Walker gave an overview of the item noting this was a City initiated proposal to build multi-family condos/apartments with a multi-level parking garage. It will be up to an eight story building with a maximum of 150 dwelling units with 1.4 parking spaces per dwelling unit. Approval of this item will allow for up to

a five foot overhang onto the public right of way for balconies. No letters of objections had been received and Planning & Zoning recommended in favor of the item.

When asked why it was necessary to change the zoning, Mr. Walker responded that the new zoning allowed for less than 2 parking spaces per unit and allowed for greater density than 16 units per acre.

Mayor Perry opened the public hearing at 11:02 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9084.

Council Member James moved approval of the first of two readings of Ordinance No. 9084 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, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: Hailey. ABSENT: None.

54. At approximately 10:42 a.m. hold a public hearing and consider an ordinance on a request by Tim Ernst for a zone change from 1F-2, One-Family Dwelling District to PD, Planned District for an Office Center on Lot 1A, Block 5, S. W. Estes Addition, Section 2, City and County of Midland, Texas. (Generally located near the southwest corner of the intersection of West Cuthbert and Whitaker Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9085

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1A, BLOCK 5, S.W. ESTES ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 1F-2, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR AN OFFICE CENTER (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF WEST CUTHBERT AVENUE AND WHITAKER STREET); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Cameron Walker gave an overview of the item noting that previously the applicant was directed to redesign the building to have more of a residential type character. The applicant submitted their redesigned drawings and staff recommended in favor of the item.

Mayor Perry opened the public hearing at 11:09 a.m.

Robert Rendall, 550 W. Texas Ave, stated he was present on behalf of the owners. He felt the building better meshed with the neighborhood and would free up some storage space that could be used for offices.

There being no one else wishing to speak, the public hearing was closed at 11:10 a.m.

Deputy City Secretary Garcia read the caption of Ordinance No. 9085.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9085 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, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

55. At approximately 10:45 a.m. hold a public hearing and consider a resolution on a request by 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 North Midland Drive, approximately 160 feet south of West Dengar Avenue.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 398

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 Cameron Walker gave an overview of the item noting this was third request for a temporary land use permit at this location by Joe Smith for the sale of Christmas trees between November 23 and December 24 with operating hours of 10 a.m. to 10 p.m. This item was consistent with what the Council had approved in the past. Mr. Smith agreed to observe a 20 foot setback along Midland Drive side for driver visibility. Previously there were no issues and staff recommended approval.

Mayor Perry opened the public hearing at 11:12 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Trost moved to adopt Resolution No. 2012 - 398; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

56. At approximately 10:48 a.m. hold a public hearing regarding a proposed oil and gas permit to Linn Operating, Inc. (Operator), for a permit to drill an oil & gas well within the City Limits, (Robbie 24D) located 262 feet from the north line and 467 feet from the west line located in Section 24, Block 40, T-1-S, T&P RR Co., Survey, City and County of Midland, Texas. (Generally located on the east side of Avalon Drive, approximately 250 feet south of the extension of Mockingbird Lane.) (DEVELOPMENT SERVICES)

Oil and Gas Compliance Officer Ron Jenkins reported that no letters of objection had been received and that the Oil & Gas Advisory Committee reviewed the application and recommended approval with the clarification of the surface map and acceptance of a 490 foot variance from an occupied commercial structure. Linn Operating addressed the issues and requested a variance to have an office in corporate City limits. They were requesting a variance of 495 feet from an occupied commercial structure. In response to the question if this would affect the extension of Mockingbird, Mr. Jenkins reported this item was reviewed by Transportation and Engineering and no one saw any impediments.

Mayor Perry opened the public hearing at 11:15 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

57. At approximately 10:51 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 No. 2) located 2,167 feet from the north line and 600 feet from the west line, southeast quarter of the northwest quarter of Section 9, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the south side of the Passage Way, approximately 600 feet east of North Midkiff Road.) (DEVELOPMENT SERVICES)

Mayor Perry recused himself from Agenda Items 57 and 58 and left the dais.

Oil & Gas Compliance Officer Jenkins reported that three letters of objection had been received, that the Oil & Gas Advisory Committee reviewed the well site and recommended approval with the following recommendations: identify the Atoka Formation, certify the well was inside the City limits, provide certificate of liability insurance sudden and accidental coverage to cover a longer time period of 30 days to discover an incident and 9 days to report, instead of 10 days and 30 days respectively, or provide control of well coverage that included those time periods, and the emergency response map needs to identify the well location. The surface and mineral owners were working on a surface agreement and were expected to present their status. Endeavor Energy addressed the Committee recommendations except for the request for certificate of liability insurance.

Mr. Jenkins clarified that Endeavor Energy has submitted sudden accidental coverage of 10 days to discover and 30 days to report but the Committee requested longer time periods of 30 days to discover and 9 days to report. He confirmed that every other operator that has drilled inside the City limits has complied with the request by adding control of well coverage.

Mayor Pro Tem Morales opened the public hearing at 11:18 a.m.

Janet Walton, 2700 North Garfield, questioned the legitimacy of the public hearing because of the notice requirements. She reported she received the notice with two different postmark dates, November 6 and November 7. She also reported a problem with the legal description on the back of the notice. The description under number 57 states the southeast quarter of the northwest quarter when it should be the southwest quarter of the northwest quarter. She stated that Chaps #3, or any other wells on that lease, were subject to certain restrictions of the settlement agreement between the City of Midland and Endeavor Energy. She noted her opposition to the well because they have a lot of money invested in the property and the well was placed in the center of a 40 acre tract. She reported her and Endeavor's attorney had been working towards a settlement agreement, but it was not yet finished.

Discussion ensued about the legitimacy of the public hearing because of the postmark issues. First Assistant City Attorney John Ohnemiller reported that according to Planning Division Manager Walker the notices were placed in the mail on November 2. He further clarified that Ms. Walton was present at the meeting and did not miss the

meeting because she did not receive the notice. Mr. Walker reported that another person received his notice and it was postmarked November 2. Ms. Walton reported that she received a second notice that was also postmarked November 2.

Kelly Kuykendall, 409 ECR 137, noted she was speaking on behalf of TLK Construction. She reported they purchased three lots on Fairfield Lane: 3224, 3220 and 3216 and they currently have a house under construction for sale at 3216 Fairfield Lane. She was told that Chaps #2 would be located approximately 600 feet from back of the property under construction. Midland has a need for housing and they are trying to help with that need, but a property with a drilling rig in the back yard could be detrimental and make it difficult to sell. She reported she was also speaking on behalf of Thomas Veatch of Veatch Construction who was also building on Fairfield Lane. They both objected to the well.

Matt Garner, Austin, speaking on behalf of Endeavor Energy, noted he was available to answer any questions about their application. When asked why they would not provide control of well insurance Mr. Garner responded that they had not requested any variances from the Ordinance and submitted to the advisory committee exactly what was required by the Ordinance. He stated well control coverage was not required by the Ordinance and Endeavor's position is they have submitted what was required by the Ordinance. When asked if he was willing to fight over the insurance requested, Mr. Garner replied they were willing to provide what was required by the Ordinance and were not willing to obtain Control of Well Coverage.

Council Member Trost noted that the Ordinance requires full disclosure and asked that Endeavor provide any documentation of any wells drilled in the State of Texas relating to Section I #13 of the Oil & Gas Ordinance. Discussion ensued about whether that section pertained only to Midland. Members of the council felt the intent was for the section pertained to the entire State of Texas.

In response to a question about the settlement agreement, Mr. Garner reported he had been working extensively with Mr. Cunningham on a surface agreement with the Walton's and expected to have a document that both parties would be willing to sign by the end of the day. A provision of the surface agreement stated that any provision in the settlement agreement reached between Endeavor Energy and the City of Midland with regard to litigation on the Chaps #1 well, the terms of that agreement would be incorporated within the surface use agreement.

Mike Cunningham, 1209 West Illinois, reported he represents the Walton's and that he has been working with Mr. Garner and they have made a great deal of headway but they do not have an agreement. He emphasized that neither he nor Ms. Walton have not yet seen a final draft and want to review that before making a commitment to sign anything. They will need a reasonable amount of time to finish their negotiations.

In response to a question about how the settlement agreement affects the City of Midland, City Attorney Keith Stretcher responded that the settlement agreement settled the well on the Walton's property. The City is in full compliance and has no knowledge of anyone not being in compliance. In reference to Chaps #1 Endeavor Energy obtained their permit as required and City Council approved it.

Mike Cunningham did not believe that Endeavor was in compliance with the settlement

agreement. He wasn't sure which ordinance would apply to future wells noting he felt it was ambiguous.

City Attorney Stretcher replied it was very clear; the agreement talks about compliance with the ordinance and procedural requirements of the old ordinance and new requirements of the new ordinance. All oil and gas wells drilled after the new ordinance date must comply with the new ordinance. In respect to the insurance, the new ordinance gives the Council the authority on insurance. The Council can extend the discovery period or require other insurance. If Endeavor doesn't want to comply, they don't have to accept the permit.

Gilbert Saenz, 5800 Dunbar Oaks, his company owns four lots on Fairfield Lane, 3200 Fairfield is a sold home under construction and he now has to disclose this to the customer. He noted his opposition to the well because it would affect the value of the homes he is building.

There being no one else wishing to speak, the public hearing was closed at 11:48 a.m. No further action was taken on this item.

58. At approximately 10:54 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 No. 3) located 2,167 feet from the north line and 1950 feet from the west line, southwest quarter of the northwest quarter of Section 9, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the south side of the Passage Way, approximately 1,950 feet east of North Midkiff Road.) (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins reported the well has received two letters of objection and has been reviewed by the Oil & Gas Advisory Committee. The well site was recommended for approval with the following recommendations: identify the Atoka Formation, certify the well is inside the City limits, certificate of liability insurance sudden accidental to cover a longer time period of 30 days to discover and 9 days to report instead of 10 and 30 days respectively or add control of well that includes those time periods. Both parties are working on a surface agreement and are expected to be completed soon. Endeavor Energy has addressed the Committee recommendations and updated the application except for the insurance which is the same as the previous well.

Mayor Pro Tem Morales opened the public hearing at 11:49 a.m.

Matt Garner, Austin, provided an update on the status of the surface use agreement with the owner where Chaps #3 will be located. They have reached an agreement, in principal, with the surface owner pending a survey of the acreage where the actual well site will be located.

Council Member Trost suggested that all discussion from Agenda Item 57 be also carried over to Agenda Item 58 especially Council concern about the control of well insurance coverage.

There being no one else wishing to speak, the public hearing was closed at 11:51 a.m. No further action was taken on this item.

59. At approximately 10:57 a.m. hold a public hearing and consider an ordinance establishing the initial zoning of annexed land to: BP, I-20 Business Park District, on a 283.36-acre tract of land (Tract 1) out of Sections 11 and 12, Block 40, T-2-S T&P RR Co. Survey, Midland County, Texas. (Generally located northeast corner of the intersection of West I-20 and South County Road 1250.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9086

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 283.36-ACRE TRACT OF LAND OUT OF SECTIONS 11 AND 12, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS A BP, I-20 BUSINESS PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF WEST INTERSTATE 20 AND SOUTH COUNTY ROAD 1250; 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 Cameron Walker gave an overview of the item noting this was part of a proposed annexation. No letters of objection were received.

Mayor Perry opened the public hearing at 11:53 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9086.

Council Member Trost moved approval of the first of two readings of Ordinance No. 9086 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, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

60. At approximately 11:00 a.m. hold a public hearing and consider an ordinance establishing the initial zoning of annexed land to PD, Planned District for an Office Center, on a 29.82-acre tract of land (Tract 2A) out of Sections 37 and 38, Block 40, T-1-S, T & P RR Co. Survey; to PD, Planned District for an Office Center on a 21.87-acre tract of land (Tract 2B); to PD, Planned District for a Housing Development on a 16.13-acre tract of land (Tract 2C); to LR-2, Local Retail District on a 11.71-acre tract of land (Tract 2D); and to LR-2, Local Retail District on a 2.29-acre tract of land (Tract 2E), all out of Section 37, Block 40, T-1-S, T & P RR Co. Survey, Midland County, Texas. (Generally located on the southwest corner of the intersection of Tradewinds Boulevard and Deauville Boulevard.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9087

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 29.82-ACRE TRACT OF LAND OUT OF SECTIONS 37 AND 38, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS ("TRACT 2A"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS A PD, PLANNED DISTRICT FOR AN OFFICE CENTER; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 21.87-ACRE TRACT OF LAND ("TRACT 2B"), AND BEING MORE

SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION TWO HEREOF, AS A PD, PLANNED DISTRICT FOR AN OFFICE CENTER; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 16.13-ACRE TRACT OF LAND ("TRACT 2C"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION THREE HEREOF, AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 11.71-ACRE TRACT OF LAND ("TRACT 2D"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION FOUR HEREOF, AS AN LR-2, LOCAL RETAIL DISTRICT; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 2.29-ACRE TRACT OF LAND ("TRACT 2E"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION FIVE HEREOF, AS AN LR-2, LOCAL RETAIL DISTRICT; TRACTS 2B-2E ARE ALL OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; SAID TRACTS ARE GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF TRADEWINDS BOULEVARD AND DEAUVILLE BOULEVARD; 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 Cameron Walker gave an overview of the item noting this item was also for initial zoning of land being annexed into city. One letter of objection had been received.

Mayor Perry opened the public hearing at 12:00 noon.

Eric West, 1700 West Wall, reported they were attempting to keep Tracts 2A and 2B identical in terms of restrictions and allowances and asked that the building height of 67 feet be changed to 68 feet on those two tracts.

There being no one else wishing to speak, the public hearing was closed at 12:02 p.m.

Deputy City Secretary Garcia read the caption of Ordinance No. 9087.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9087 in accordance with the Charter of the City of Midland with amendment to change the height restriction from 67 feet to 68 feet on tracts 2A and 2B; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

61. At approximately 11:03 a.m. hold a public hearing and consider an ordinance establishing the initial zoning of annexed land to PD, Planned District for a Housing Development on a 3.623-acre tract of land (Tract 3A) and a 1F-1, One-Family Dwelling District, on a 27.347-acre tract of land (Tract 3B) all out of Section 35, Block 40, T-1-S T&P RR Co. Survey, Midland County, Texas. (Generally located on the east side of State Highway 158, approximately ½ mile northwest of State Highway 191.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9088
AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA

INDICATED AS BEING A 3.623-ACRE TRACT OF LAND ("TRACT 3A"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 27.347-ACRE TRACT OF LAND ("TRACT 3B"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION TWO HEREOF, AS A 1F-1, ONE-FAMILY DWELLING DISTRICT; SAID TRACTS ARE ALL OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; SAID TRACTS ARE GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 158, APPROXIMATELY ½ MILE NORTHWEST OF STATE HIGHWAY 191; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Cameron Walker gave an overview of the item noting that this item was also for the initial zoning of property being annexed. No letters of objection had been received and staff recommended approval.

Mayor Perry opened the public hearing at 12:07 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9088.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9088 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, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

62. At approximately 11:06 a.m. hold a public hearing and consider an ordinance establishing the initial zoning of annexed land to: FD, Future Development District, on a 193.29-acre tract of land (Tract 4) out of Sections 11 and 12, Block 40, T-2-S, T&P RR co. Survey, Midland County, Texas. (Generally located south side of Interstate Highway 20 south of South Loop 250 West.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9089

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 193.29-ACRE TRACT OF LAND OUT OF SECTIONS 11 AND 12, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN FD, FUTURE DEVELOPMENT DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE SOUTH SIDE OF INTERSTATE 20, SOUTH OF SOUTH 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

Planning Division Manager Cameron Walker reported this land was also scheduled to be annexed into the City and the applicant would return in the future for zone changes when development uses have been determined.

Mayor Perry opened the public hearing at 12:09 a.m. There being no one present

wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9089.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9089 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, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

63. At approximately 11:09 a.m. hold a public hearing and consider an ordinance on a request by James Grose for a zone change from PD, Planned District for a Housing Development to Amended Planned District on Lot 1A, Block 4, Gateway Plaza, Section 4, City and County of Midland, Texas. (Generally located on the west side of Tradewinds Boulevard, approximately 800 feet north of West Business I-20) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9090

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1A, BLOCK 4, GATEWAY PLAZA, SECTION 4, 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 WEST SIDE OF TRADEWINDS BOULEVARD, APPROXIMATELY 800 FEET NORTH OF WEST BUSINESS INTERSTATE 20); 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 Cameron Walker gave an overview of the item noting the plan was to build 214 units in nine building. No letters of objection were received.

Mayor Perry opened the public hearing at 12:13 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9090.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9090 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

64. At approximately 11:12 a.m. hold a public hearing and consider an ordinance on a request by SBC Corporation/Grassland Estates West for a zone change from FD, Future Development District to 1F-1, One-Family Dwelling District on a 10.215-acre tract of land and to PD, Planned District for a Housing Development on a 1.695-acre tract of land all out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the northeast side of State Highway 158 at the west extension of Homestead Boulevard.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9091

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 10.215-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A 1F-1, ONE-FAMILY DWELLING DISTRICT; BY PERMITTING A 1.695-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; SAID TRACTS BEING LOCATED IN SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS; SAID TRACTS BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS MADE A PART HEREOF; SAID TRACTS ARE GENERALLY LOCATED ON THE NORTHEAST SIDE OF STATE HIGHWAY 158 AT THE WEST EXTENSION OF HOMESTEAD BOULEVARD; PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Cameron Walker provided an overview noting no letters of objection had been received.

Mayor Perry opened the public hearing at 12:15 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary Garcia read the caption of Ordinance No. 9091.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 9091 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

65. At approximately 11:15 a.m. hold a public hearing and consider a resolution approving a Temporary Land Use Permit for an Outdoor Amusement Function on the west 90 feet of Lots 10 thru 12, Block 61 and on Lot 1, the north 30 feet of Lot 2, Block 60 1/2, and a 10 foot by 80 foot vacated portion of Carrizo Street, all out of Original Town, City and County of Midland, Texas. (Generally located on the south side of West Wall Street, on both sides of Carrizo Street.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2012 - 399

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR AN OUTDOOR AMUSEMENT FUNCTION ON THE WEST 90 FEET OF LOTS 10-12, BLOCK 61, AND ON LOT 1 AND THE NORTH 30 FEET OF LOT 2, BLOCK 60 1/2, AND A 10 FOOT BY 80 FOOT VACATED PORTION OF CARRIZO STREET, ALL OUT OF ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST WALL STREET, ON BOTH SIDES OF CARRIZO STREET); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Planning Division Manager Cameron Walker provided an overview of the item noting

this was for a temporary land use permit for this weekend November 17 from 11 a.m. until 2 a.m. the following morning for the sale of alcoholic beverages and live music for a fundraising event. No letters of objection had been received.

Mayor Perry opened the public hearing at 12:18 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member James moved to adopt Resolution No. 2012 - 399; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

EXECUTIVE SESSION

66. Mayor Perry announced that 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

a.1. Discuss with the City Attorney and attorney(s) with the Cotton, Bledsoe, Tighe and Dawson law firm 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.

Mayor Perry announced that the Agenda Items 37 through 46 would be heard after Executive Session and expected to reconvene around 1:30 p.m. He recessed the meeting at 12:21 p.m.

All of the business at hand having been completed, the meeting adjourned at 2:00 p.m.

PASSED AND APPROVED the 27th day of November, 2012.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary