

**MIDLAND CITY COUNCIL
MINUTES
November 17, 2015**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at ____ a.m. on November 17, 2015.

Council Members present: Mayor Jerry F. Morales, Mayor Pro Tem Scott Dufford (At-Large), Council Member Spencer Robnett (At-Large), Council Member Jeff Sparks (District 1), Council Member John B. Love, III (District 2), Council Member Sharla Hotchkiss (District 3), and Council Member J.Ross Lacy (District 4).

Council Members absent: None.

Staff members present: City Manager Courtney Sharp, City Attorney John Ohnemiller, Deputy City Manager Tommy Hudson, Assistant City Manager Robert Patrick, Assistant City Manager Frank Salvato, City Secretary Amy Turner, Police Chief Price Robinson, Fire Chief Robert Isbell, Utilities Director Laura Wilson, Administrative Services Director Catherine Clifton, Finance Director Pam Simecka, Development Services Director Charles Harrington, Community Services Director Tina Jauz, Engineering Director Jose Ortiz, Interim Director of Airports Justine Ruff, Planning Division Manager Bob Baronti, Building Official Steve Thorpe, Public Information Officer Sara Bustilloz, 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 17, 2015.

Council Members present: Mayor Jerry F. Morales, Mayor Pro Tem Scott Dufford (At-Large), Council Member Spencer Robnett (At-Large), Council Member Jeff Sparks (District 1), Council Member John B. Love, III (District 2), Council Member Sharla Hotchkiss (District 3), and Council Member J.Ross Lacy (District 4).

Staff members present at the annex table: City Manager Courtney Sharp, City Attorney John Ohnemiller, Deputy City Manager Tommy Hudson, Assistant City Manager Robert Patrick, and Assistant City Manager Frank Salvato.

The Agenda Items were heard in the following order:

OPENING ITEMS

1. Invocation - Reverend Pat Bryant, Travis Baptist Church
2. Pledge of Allegiance

PRESENTATIONS

moment of silence for friends

Doug Tull IT mgr Grubury

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Presentation of Texas Association of Governmental Information Technology Managers (TAGITM) 2015 President's Award to Chief Information Officer Sharlett Chowning.
 - b. Receive holiday cheer from the North Pole.

PUBLIC COMMENT

None

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. (Please limit comments to three minutes or less.)

CONSENT AGENDA

Council Member Lacy moved to approve Consent Agenda items 5 - 16 excluding 6, 13, 14, 15; seconded by Council Member Robnett.

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Love.

5. Approved a motion approving the following minutes:
 - a. Regular meeting of November 3, 2015.
7. Approved a resolution authorizing and directing the City Manager to negotiate and execute a contract with Lee Lewis Construction, Inc. as the Construction Manager at Risk for the new Midland Center building. (PURCHASING)

RESOLUTION NO. 2015 - 366

RESOLUTION SELECTING LEE LEWIS CONSTRUCTION, INC. OF LUBBOCK, TEXAS AS THE CONSTRUCTION MANAGER AT RISK FOR CONSTRUCTION OF

THE NEW MIDLAND CENTER BUILDING; AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH LEE LEWIS CONSTRUCTION, INC. FOR PRECONSTRUCTION SERVICES FOR SAID PROJECT IN AN AMOUNT NOT TO EXCEED \$10,000; AUTHORIZING THE CITY MANAGER TO NEGOTIATE AN AGREEMENT WITH LEE LEWIS CONSTRUCTION, INC. TO PROVIDE CONSTRUCTION MANAGER AT RISK SERVICES FOR SAID PROJECT; AND PROVIDING THAT SAID AGREEMENT FOR CONSTRUCTION AT MANAGER AT RISK SERVICES SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE MIDLAND CITY COUNCIL

8. Approved a resolution approving a proposed new air service incentive program to assist in local marketing for new air service at Midland International Air & Space Port, and appropriate necessary funds. (AIRPORTS)

RESOLUTION NO. 2015 - 367

RESOLUTION APPROVING A NEW AIR SERVICE INCENTIVE PROGRAM TO ASSIST IN LOCAL MARKETING FOR NEW AIR SERVICE AT THE MIDLAND INTERNATIONAL AIR & SPACE PORT; AND APPROPRIATING FUNDS THEREFOR

9. Approved a motion dissolving the Managed Competition Committee. (CITY SECRETARY'S OFFICE)
10. Approved a resolution authorizing and executing a Right-of-Way License between City of Midland and CrownQuest Operating, LLC, said Right-Of-Way License is for entering the City of Midland's property for the purpose of placing, installing, constructing, operating, repairing, maintaining, replacing and removing multiple oil and gas pipelines, and to have the right to ingress and egress at convenient points for such purpose; all facilities are located within the City of Midland property, Section 30, Block 36, T-3-S, T&P RR. Co. Survey, Midland County, Texas. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2015 - 368

RESOLUTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND CROWNQUEST OPERATING, LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 30, BLOCK 36, TOWNSHIP 3 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS

11. Approved a motion on a request by Schumann Engineering Co. Inc. to defer public improvements for South Midkiff Addition, Section 2, and to waive the corresponding financial security guarantee valued at \$161,000.00, an amount equal to the estimated cost of construction. The subject property is generally located on the east side of South County Road 1210, approximately 950 feet south of the intersection with East County Road 130, outside the City of Midland corporate limits in the ETJ, Midland County, Texas. (ENGINEERING SERVICES)
12. Approved a motion on request by Newton Engineering PC to defer public improvements for Lindsay Acres Addition, Section 6, and to waive the corresponding financial security guarantee valued at \$62,059.00, an amount equal to the estimated cost of construction. The subject property is generally located on the northwest corner of the intersection with Rankin Highway and Stokes Avenue in the City and County of Midland, Texas. (ENGINEERING SERVICES)

16. Approved a resolution accepting funds from the 2015 Texas "J" Regional Advisory Council Grant. (FIRE)

RESOLUTION NO. 2015 - 372

RESOLUTION ACCEPTING A GRANT AWARD FROM THE TEXAS "J" REGIONAL ADVISORY COUNCIL IN THE AMOUNT OF \$9,846.00; SAID FUNDS TO BE USED BY THE MIDLAND FIRE DEPARTMENT FOR TRAINING EQUIPMENT AND SUPPLIES

6. Approved a resolution awarding a contract for the construction of Fire Station 6 and appropriating funds therefore for the General Services Department. (PURCHASING)

RESOLUTION NO. 2015 - 365

RESOLUTION AWARDING A CONTRACT FOR THE CONSTRUCTION OF FIRE STATION #6 TO MID-TEX OF MIDLAND, INC., OF MIDLAND, TEXAS; AND APPROPRIATING FUNDS IN THE AMOUNT \$4,799,750.00

Council Member Lacy moved to adopt Resolution No. 2015 - 365; seconded by Council Member Robnett.

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Love.

13. Approved a resolution authorizing and executing a Right-of-Way License between City of Midland and Plains Pipeline, L.P., said Right-of-Way License is for entering the City of Midland's property for the purpose of placing, installing, constructing, operating, repairing, maintaining and removing an oil transportation pipeline, not to exceed twelve (12) inches in diameter, and to have the right to ingress and egress at convenient points for such purpose; the pipeline is located within City of Midland property, Section 08, Block 38, T-1-S, Midland County, Texas and Sections 05 and 08, Block 38, T-1-S, and Section 34, Block 38, T-1-N, Martin County, Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2015 - 369

RESOLUTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND PLAINS PIPELINE, L.P., REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 8, BLOCK 38, TOWNSHIP 1 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND SECTIONS 5 AND 8, BLOCK 38, TOWNSHIP 1 SOUTH, AND SECTION 34, BLOCK 38, TOWNSHIP 1 NORTH T&P RR CO. SURVEY, MARTIN COUNTY, TEXAS

Robnett bst in

Council Member Hotchkiss moved to adopt Resolution No. 2015 - 369; seconded by Council Member Sparks.

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Lacy. NAY: None. ABSTAIN: Robnett. ABSENT: Love.

14. Approved a resolution to execute a new Professional Services Agreement with Dunaway and Associates in an amount not to exceed \$162,212.00, for redesign, construction plan revision based on value engineering, and construction administration assistance services required for the widening of Fairgrounds Road from East Pecan

Avenue to Loop 250. (ENGINEERING SERVICES)

RESOLUTION NO. 2015 - 370

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH DUNAWAY ASSOCIATES, L.P. FOR VALUE ENGINEERING SERVICES FOR THE WIDENING OF FAIRGROUNDS ROAD FROM EAST PECAN AVENUE TO STATE HIGHWAY LOOP 250; AND AUTHORIZING PAYMENT FOR SAID PROFESSIONAL SERVICES IN AN AMOUNT NOT TO EXCEED \$162,212.00

Council Member Lacy moved to adopt Resolution No. 2015 - 370; seconded by Council Member Dufford.

Sparks pulled tell about value engineering is and why they designed it to have to come back to decrease the cost where decreasing. Jose in asphalt being used. couple items can use different items suitable for roadway. YOU don't know until rproject is bid. Went back to Reese Albertson to find another suitable solution. Sparks primarily changing type of asphalt. Jose one item yes also different material for multi use travel on west side that will reduce cost and different traffic control during construciton. this way can reduce to one way because not alot of residential area. looked at after bids came out. Sparks trying to fiure out where 162,000 for change primarily saving money on changing the asphalt that doesn't seem like takes a lot of engineering to change asphalt but a lot is going to be in one way traffic. Jose yes and need to provide new plans. Had meandering path and additional drainage and earthwork. hike and bike onw est side of roadway. modify path and material used.

Lacy every time have road comes in much higher than anticipate need ot update our payment schedule to we are not always under projecting costs. Sparks isn't it the consulting firms that give estimates? Jose couldn't have anticiapted higher bids. Tring to find a way to save money. Potentially save 535,000.

Lacy when anticipate starting. Jose

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Love.

15. Approved a resolution to ratify two amendments to the City of Midland's Professional Service Agreement with Dunaway and Associates, L.P. for design surveying, construction plan preparation, and construction administration services required by TxDOT for the widening of Fairgrounds Rd. from East Pecan Ave. to State Loop 250 frontage road; authorizing payment therefor in an amount not to exceed \$658,998.00, inclusive of payments for all work performed under said agreement prior to the adoption of this resolution. (ENGINEERING SERVICES)

RESOLUTION NO. 2015 - 371

RESOLUTION RATIFYING TWO AMENDMENTS TO THE CITY OF MIDLAND'S PROFESSIONAL SERVICES AGREEMENT WITH DUNAWAY ASSOCIATES, L.P. FOR DESIGN SURVEYING, CONSTRUCTION PLAN P R E P A R A T I O N , A N D CON S T R U C T I O N ADMINISTRATION SERVICES REQUIRED BY THE TEXAS DEPARTMENT OF TRANSPORTATION FOR THE WIDENING OF FAIRGROUNDS ROAD FROM EAST PECAN AVENUE TO STATE HIGHWAY LOOP 250 FRONTAGE ROAD; AUTHORIZING THE EXECUTION OF A THIRD AMENDMENT TO SAID

AGREEMENT; AND AUTHORIZING PAYMENT THEREFOR IN AN AMOUNT NOT TO EXCEED \$658,998.00, INCLUSIVE OF PAYMENTS FOR ALL WORK PERFORMED UNDER SAID AGREEMENT PRIOR TO THE ADOPTION OF THIS RESOLUTION

Council Member Dufford moved to adopt Resolution No. 2015 - 371; seconded by Council Member Sparks.

Sparks what are 3 change orders ratifying 2 of them which have been done. Matt part of property as move along anticipating getting row on east side. found out park property went to center of fairgrounds road anything did would be affecting park. stopped process and came for public hearing and public meeting which added that in. Second was for drainage. started out east and west drainage to golf course and don't have any other street like that. changed design and put curb and gutter on both sides and that brought up additional cost was redesign of that for drainage. Sparks amendment #3 Jose towards end of project to get project out to let it was fast and furious. During first process introduced meandering bike trail to this project. Sparks why? You asked them to design hike and bike trail and meandered and then value engineered it because somebody doesn't like way meandered because cost too much. Have these changes been done. If I vote against \$97,000? Jose they did run at risk they were basically putting work together and sent invoice afterwards. At beginning were looking at sidewalks both sides. during process realized no need to have sidewalks on both sides. eliminate one east side sidewalks. Since park on west side made sense to look at path more aesthetically pleasing. nobody anticipated drainage cost that high. Sparks why not done before original plan? Jose can't design plan until know you have alignment. Sparks \$28,000 lump sum. Jose requesting close to \$56,000 some of the processes that state is going through also some thing submitting were per TxDOT criteria and they kept reviewing and sending back. Efficiency wasn't as clean as hoped. Lacy what is difference between COM and TxDOT plans and why not prepared for their plans. Matt main difference is following environmental process. everytime made change to alignment had to address in schematic and environmental doc which added more time. Also switched from local group to Ft. Worth which had TxDOT experience. It took a lot longer and a lot of red. Main diff is environmental process. Sparks when go out shouldn't they know what is going to be in front of them. Jose there was a \$56,000 price tag and split that cost with the consultant. Other items are things that came up through review process. Lacy if going to advertise RFP need to make sure can handle 100% so as not to add expense to taxpayer. What requires another 15 hours of meetings Lacy? Matt meeting swere with consultant and subs everytime had meeting additional charge. Morales on having to move to Ft. Worth Dunaway office, did Dunaway not address that immediately. Jose yes. Morales hike and bike Tina and Laurie included. Jose yes brought them and got their input.

Sparks this wasn't apart of original scope it should have waited for hike and bike path. Jose since able to eliminate need for sidewalks it would substitute requirement. Sparks these change have been one. What happens if council votes against doing these changes do we have that option. Jose changes been done. Sparks don't agree with changes but don't want to vote into lawsuit. Hotchkiss want to talk about hike and bike had people here doing research. Number one thing that keeps coming to surface is need to hike and bike trail and this was response that was received from community. This was a nice first response by not having two straight sidewalks. Jose overall costs were cheaper one meandering vs one straight sidewalk on both sides. Hotchkiss didn't pick thing out of sky it was through research. Sparks no problem with hike and

bike and meandering but with didn't come up sooner. Lacy what design % Matt 10-12%^

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Love.

SECOND READINGS

17. Consider an ordinance on second reading on a request by Hilton Garden Inn for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a bar, on Lot 8, Block 2, Westridge Park Addition, Section 20, City and County of Midland, Texas (Generally located northwest of the intersection of Deauville Boulevard and North Loop 250 West.) (DEVELOPMENT SERVICES) (First reading held November 03, 2015.)

ORDINANCE NO. 9505

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 8, BLOCK 2, WESTRIDGE PARK ADDITION, SECTION 20, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF DEAUVILLE BOULEVARD AND NORTH LOOP 250 WEST), 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 BAR 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

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9505.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9505 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks.

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Love.

18. Consider an ordinance on second reading on a request for a Special Exception to the Zoning Code concerning the front yard setback and construction standards for accessory structures on Lot 2, Block 1, Quail Ridge Addition, Section 2, City and County of Midland, Texas (Generally located on the west side of Chukar Lane, approximately 400-feet north of East Business Interstate Highway 20.) (DEVELOPMENT SERVICES) (First reading held November 03, 2015.)

ORDINANCE NO. 9506

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 2, BLOCK 1, QUAIL RIDGE ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF CHUKAR LANE, APPROXIMATELY 400 FEET NORTH OF EAST BUSINESS INTERSTATE HIGHWAY 20), BY PERMITTING AN ENCROACHMENT INTO THE REQUIRED FRONT YARD

SETBACK FOR AN ACCESSORY STRUCTURE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No.

Council Member Robnett moved to approve the second and final reading of Ordinance No. 9506 in accordance with the Charter of the City of Midland with amendment that in addition to the special exception to the setback requirement, a special exception shall be granted to allow a metal skin exterior on a detached accessory structure that exceeds 400 square feet in area subject to the condition that the area of the detached accessory structure shall not exceed the area shown on Exhibit C; seconded by Council Member Lacy.

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Love.

19. Consider an ordinance on second reading on a request by Haskell Restaurant Group, LLC for a Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on a 2,316-square foot portion of Lot 15F, Block 40, Fairmont Park, Section 40, City and County of Midland, Texas (Generally located on the north side of West Wadley Avenue, approximately 250-feet west of Sagemont Drive.) (DEVELOPMENT SERVICES) (First reading held November 03, 2015.)

ORDINANCE NO. 9507

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 2,316-SQUARE FOOT PORTION OF LOT 15F, BLOCK 40, FAIRMONT PARK, SECTION 40, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST WADLEY AVENUE, APPROXIMATELY 250 FEET WEST OF SAGEMONT DRIVE), WHICH IS PRESENTLY ZONED LR-2, 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

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9507.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9507 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks.

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Love.

20. Consider an ordinance on second reading on a request by RJ Daum, RPLS for a

Specific Use Permit without Term for a utility storage facility on a 5.01 acre portion of Lot 1, Block 14, Oxford Heights, Section 4, City and County of Midland, Texas (Generally located approximately 570-feet east of Midland Drive, approximately 460-feet north of Illinois Avenue.) (DEVELOPMENT SERVICES) (First reading held November 03, 2015.)

ORDINANCE NO. 9508

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 5.01-ACRE TRACT OF LAND OUT OF LOT 1, BLOCK 14, OXFORD HEIGHTS, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED APPROXIMATELY 570 FEET EAST OF NORTH MIDLAND DRIVE AND APPROXIMATELY 460 FEET NORTH OF WEST ILLINOIS AVENUE), WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR UTILITY STORAGE; 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

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9508.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9508 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss.

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Love.

21. Consider an ordinance on second reading amending Title V, "Business Regulations", of the City Code of Midland, Texas, by establishing Chapter 12, "Transportation Network Companies", so as to establish a program to register and regulate transportation network companies within the City of Midland; negating and dispensing with the culpable mental state requirement; providing for a maximum penalty or fine of five hundred dollars (\$500.00); containing a cumulative clause; containing a savings and severability clause; ordering publication; and establishing an effective date of January 1, 2016. (CITY ATTORNEY'S OFFICE) (First reading held November 03, 2015.)

ORDINANCE NO. 9509

AN ORDINANCE AMENDING TITLE V, "BUSINESS REGULATIONS", OF THE CITY CODE OF MIDLAND, TEXAS, BY ESTABLISHING CHAPTER 12, "TRANSPORTATION NETWORK COMPANIES", SO AS TO ESTABLISH A PROGRAM TO REGISTER AND REGULATE TRANSPORTATION NETWORK COMPANIES WITHIN THE CITY OF MIDLAND; NEGATING AND DISPENSING WITH THE CULPABLE MENTAL STATE REQUIREMENT; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; ORDERING PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE OF JANUARY 1, 2016

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9509.

Council Member Lacy moved to defer to December 15; seconded by Council Member Robnett.

Lacy updated information.

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Love.

PUBLIC HEARINGS

22. Hold a public hearing and consider an ordinance on a request by Robert Anderson for a Special Exception from the Zoning Code concerning the maximum size of an accessory structure on Tract 19, Block 19, Hillcrest Acres, City and County of Midland, Texas (Generally located on the south side of Princeton Avenue, approximately 330-feet west of North Midland Drive.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9510

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR TRACT 19, BLOCK 19, HILLCREST ACRES, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF PRINCETON AVENUE, APPROXIMATELY 330 FEET WEST OF NORTH MIDLAND DRIVE), BY PERMITTING A DETACHED ACCESSORY STRUCTURE OF A SIZE THAT EXCEEDS THE TOTAL FINISHED AREA OF THE PRINCIPAL STRUCTURE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9510.

Development Services Director Chuck Harrington gave a brief overview of the item noting introduced Isaac Garnett, applying seeking new accessory structure on property two buildings will be removed and replaced with new structure. primary structure 3800 sq ft can't build structure larger than zoning. Rep significant deviation from code but Council can consider. building metal roof stucco sides only exception is size. Lacy just granted a variance that doesn't fit into my model reason lots are there have not received one phone call of opposition in area. Disagrees with staff but supports this variance. Chuck no direct opposition had phone calls asking information but no one opposed. Hotchkiss he knows he is in area where not allowed.

Mayor Morales opened the public hearing at 10:46 a.m.

Robert Anderson, 10716 Highway 191 Anderson Construction been in business several years. Trying to take down a couple of old shops there. This used to be AE area and changed to 1F1. We value City code image and going to stucco the shop and make it look nice. Approx shop size is 4000 foot with overhang only a couple of hundred feet. the line of sight 140 foot set back won't see from street covered on both sides nicer than another other property is. Lacy did property owner talk with neighbors. Anderson yes.

Jim Pritchard 4407 Princeton. he has two structures repaled old corrugated tin. removing eye sore and repalcing with nice building. primarily ot house antique cars it will never be a business.

Hotchkiss did you ever consider when close in compliance to knock off osme of squire footage. With number of cars wouldn't work 57 ford ranch wagon. fords answer to chevrolet nomade. number of mustangs and a edsel. Lacy no neighbors concerned? No concerns talk to several and he said had hhis shop built before ordinance came in and had norpboelms. Vast impvovement over whats there now. Sparks had soem neighbors that are upsetwhen don't build building.

There being no one else wishing to speak, the public hearing was closed at 10:52 a.m.

Council Member Robnett moved approval of the first of two readings of Ordinance No. 9510 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy.

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Love.

23. Hold a public hearing and consider an ordinance on a request by Larry Miller for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District on Lot 4B, Block 2, Westridge Park Addition, Section 34, City and County of Midland, Texas (Generally located on the west side of North Loop 250 West, approximately 800-feet north Deauville Boulevard.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9511

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 4B, BLOCK 2, WESTRIDGE PARK ADDITION, SECTION 34, 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 NORTH LOOP 250 WEST, APPROXIMATELY 800 FEET NORTH OF 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

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9511.

Development Services Director Chuck Harrington gave a brief overview of the item noting just south of new heb proposing to put orig pd in 1986 amended with current site plan for a drive thorough service restaurant service they have proposed to get amended site plan. This particular portion has been amended, changed circulaiton aptteern to alleviate any problems to keep on ssite. Adequate parking on site forretail plus hotel. access parking across whole block which bring in complianc.e materials meets materials used for hotel. staff rec approval of request. one condition that conditions listed in ORd 9264 needs to conform. Hotchkiss show how traffic come in and stack up. Chuck def to rep. Lacy entrance is to north and drive thorough to south of facility now ay will overflow .

Mayor MOrales opened the public hearing at 10:56 a.m.

Andrew Mellen, Maverick Engineering concern about backing up so put entrance to drivethrough as far away as possible stacking zone larger than any other starbucks. Sparks see entrance if coming in where actually come in and exist. Lacy how many redesigns. Andrew about 15 different design. HEB did cause some ehartache but very happy they are coming in.

There being no one else wishing to speak, the public hearing was closed at 10:58 a.m.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9511 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss.

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Love.

24. Hold a public hearing and consider an ordinance on a request by Fortune Partners Properties, LLC for a zone change from PD, Planned District for a Shopping Center, to LR-2, Local Retail District, on a 2.30-acre portion of Lot 1, Block 3, Lindsay Acres, Section 2, City and County of Midland, Texas (Generally located northwest of the intersection of West Stokes Avenue and Rankin Highway. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9512

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 2.30-ACRE TRACT OF LAND OUT OF LOT 1, BLOCK 3, LINDSAY ACRES, SECTION 2, 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 NORTHWEST OF THE INTERSECTION OF WEST STOKES AVENUE AND RANKIN HIGHWAY); 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 SueAnn Lopez read the caption of Ordinance No. 9512.

Development Services Director Chuck Harrington gave a brief overview of the item noting request to rezone property located at nw of int of rankin hwy and ?? proposing locate caar wash zoning is lr2 or pd with lr2 underlying zoning request is within reason. Orign distrcet est 2013 for used car sales. teh aplicant subsequently decided no longer wants to developer. Proposed use consistence and consistence with growth of lr2 in area. s taff rec approval. Lacy keep wastewater on proeprty. chuck yes.

Mayor Morales opened the public hearing at 11:01 a.m.

Robert Rendall, 6 Destra Drive, sutie 1000, correctly laid out hsitory and uses. currently tied to site plan and this takes out of site plan.

There being no one else wishing to speak, the public hearing was closed at 11:01 .am

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9512 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks.

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Love.

25. Hold a public hearing and consider an ordinance on a City-initiated request to amend Chapter 12 "Stormwater Management Code" of Title XI "Planning and Development" of the Midland City Code. (ENGINEERING SERVICES)

ORDINANCE NO. 9513

AN ORDINANCE AMENDING TITLE XI, "PLANNING AND DEVELOPMENT", OF THE CITY CODE OF MIDLAND, TEXAS, BY ESTABLISHING CHAPTER 12, "STORMWATER MANAGEMENT CODE", SO AS TO ESTABLISH METHODS FOR CONTROLLING THE INTRODUCTION OF POLLUTANTS INTO THE CITY'S MUNICIPAL SEWER SYSTEM; SETTING FORTH THE MINIMUM REQUIREMENTS FOR STORMWATER MANAGEMENT; REGULATING NON-STORMWATER DISCHARGES TO THE MUNICIPAL STORMWATER DRAINAGE SYSTEM; PROVIDING FOR CIVIL ENFORCEMENT AND REMEDIES; PROVIDING FOR CRIMINAL ENFORCEMENT AND A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); SETTING FORTH AN APPEAL PROCEDURE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9513.

Assistant City Engineer JEFF Cohen gave a brief overview of the item noting saw briefing and avail to answer any questions.

Mayor MORales opened the public hearing at 11:03 a.m.

Scott Payne 5801 Oak creek thanked for rep rep \perm basin builders hope to cont. understand council needs to move forward in implement to meet state mandates but would like to request be part of any changes as stakeholders. As builders know how it affects costs. Sparks have you not been a part of it. Scott not have been a part of it. Had some rd line changes to it from staff and that why thanking. Lacy another month so if see any areas that need to tweak let Council know.

Walter Pate, 4500 W Illinois Pate and assoc architects. here in support of ordinance worked. Had suggested revisions which were incorporated. Appreciate it. Couple of comments, devil in details. Concern isn't so much ord itself. as arch deal with 99% commercial projects. there are always consequences dealing with implementation. Dealing with additional time when have to dedicate drainage access easement. Concern is long time to get building permits now. If add additional time to get a dedicated easement can add up to 60 days in process which may be difficult for some people. Want to implement procedures and policies so will not extend amount of time. Secondly further concerned about drainage access easements in sense not defined whether separate easements or in conjunction with utility easements. Potential there less land area that can be developed. Hope will be policies and procedures to

determine whether easements and if they can be overlapping that they would be so property owner doesn't have to buy additional property to get easement.

Sparks is there something that has to be separate. Pate doesn't see anything that keeps it from being overlap easement. Lacy this is not a TCEQ requirement. Frank no problem that on existing easement. Pate very clear why needs to come about not objecting to ordinance.

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

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9513 in accordance with the Charter of the City of Midland with amendment to Page 9, item B allowable storm water discharge continue to allow homeowners to wash vehicles on residence property and extend same right to commercial mobile vehicle car washing; seconded by Council Member Lacy.

Lacy not on a public road it must be on private property.

Jeff to clarify idea is to allow private residential car washing by mobile car washing vehicles. correct. If in private property and water ways on private property.

change to page 9 2E

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Love.

MISCELLANEOUS

26. Consider an ordinance on a request by George V. Anderson Jr., Diann H. Anderson, and Rangeland RIO Pipelines for the vacation of an 11.6 acre portion of a City Drainage Easement, generally located one half-mile south of Business 20 and one half-mile west of County Road 1150; Block 38, T-1-S, Section 44. (ENGINEERING SERVICES)

ORDINANCE NO. 9514

AN ORDINANCE VACATING AND ABANDONING AN 11.6-ACRE PORTION OF A DRAINAGE EASEMENT LOCATED IN SECTION 44, BLOCK 38, T-1-S, T&P RR CO. SURVEY, COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED APPROXIMATELY ONE HALF MILE SOUTH OF BUSINESS INTERSTATE 20 AND APPROXIMATELY ONE HALF MILE WEST OF COUNTY ROAD 1150); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$11,600.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9514.

Ryan Farmer, recently City approached by Anderson requesting vacation of 11.06 acre of city drainage easement. The site does not impact flood way and minor encroachments on 500 year flood plain.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9514 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks.

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Love, Dufford.

27. Approved a motion on request by Schumann Engineering Co. Inc. to defer public improvements for El Montecito Estates, and to waive the corresponding financial security guarantee valued at \$5.86M, an amount equal to the estimated cost of construction. The subject property is generally located on the west side of North County Road 1150, approximately 660 feet north of the intersection with East Loop 250 North outside the City of Midland corporate limits in the ETJ, Midland County, Texas. (ENGINEERING SERVICES)

Jeff Cohen? this is a large residential CE styled development ne of town and requesting to defer water and sewer and city standard paving as opposed to County style paving. Sparks pulled up on GIS map you are probably just a 1/4 mile out of City limits and not far from Loop and City will probably be in City limits reasonable early compared to other parts of town. Not sure. The area with water has some concern on sewer but think ought to be looking at City standards. If annex it it will be up to rest of taxpayers to get that street to our standards. That is a big development. Not asking a little more and pay. This is true development just off loop. Think to be lenient. Lacy have to agree know city is going to expand. Not willing to put burden on taxpayers. Jeff from City limits it is very close. When take a look at where actual city standards streets constructed it is over 2 miles. Sparks understand is developments that were well outside City limits at time they were built. Sparks whole purpose of being able to regulate ETJ is to try and have standards in area where going to develop in reasonable short period of time.

Lacy why is there not a map? Jeff apologize.

Felix Quiroz, 5610 E CR60 Midland TX???? trying to 37 homes have 7 lots there every house been sold for over 750,000. Now everybody in last 3 years asked to build smaller homes for working people, and need Council's help. Average lot size is one acre or more. 2200 square foot will be minimal. Lacy see it being part of City? Hasn't so far. Mayor closer to town it needs to be attractive development but want to see that visual affects and sidewalks. Sparks can agree with deferring sidewalks, water and wastewater but close enough that not be doing duty if defer the road.

Ben Sanchez 408 N. Pecos, schuman engineer, roads are going to be constructed. If follow county standards roads will be constructed without curb and gutter. Lacy how many lots? Ben 67. Lacy added cost of 40,000 per lot. Sparks will have added cost of county road so not bearing. Lacy cost difference.

Ben there will be asphalt roads and county standard. There is in the code is 26 foot wide. In code already a local standard and going wider than that. Jose Ortiz there are bare minimum with parking on both sides is 36 feet. There are provisions but people park on roads so rec 36 feet of hot mix because of maintenance. Sparks have allowed for flat curb. Felix curb protects edge of pavement from breaking out. Lacy asked Ben Sanchez to reach out to Council. Mayor if defer do you have time. Robnet this is issue that council member love would like to weigh in on.

Jeff location of subdivision is in Midland County utility district so City would not serve

water.

Lacy if annexed stay under that utility district but infrastructure is on. Courtney has ability to annex into that district and acquire portion of infrastructure which has been developed.

Ben roads are not too wide. Lacy it would be easy to quantify if had numbers. Morales in new time moving forward want city to be attractive.

Ben county style road will not be as attractive as city. Sparks have city standard for a reason if not going to abide then why bring it here.

Lacy his recommendation to defer to December.

Council Member Sparks moved to defer to December meeting; seconded by Council Member Lacy.

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Love.

Ben okay with defer

28. Approved a motion to approve a proposed preliminary plat of El Montecito Estates, being a 133.68-acre tract of land out of Section 20, Block 38, T-1-S, T & P R.R. Co. Survey, Midland County, Texas (Generally located on the west side of North County Road 1150, approximately 600 feet north of East Loop 250 North.) (DEVELOPMENT SERVICES)

Development Services Director Chuck Harrington gave a brief overview of the item noting this is a preliminary plat of the previous item there are a number of items that still need to be addressed including public improvements. Most of technical issues are fairly easily resolved. Working on now with Plains. staff rec approval of pre plan because independent of deferrals.

Council Member Lacy moved to approve a motion to approve a proposed preliminary plat of El Montecito Estates, being a 133.68-acre tract of land out of Section 20, Block 38, T-1-S, T & P R.R. Co. Survey, Midland County, Texas (Generally located on the west side of North County Road 1150, approximately 600 feet north of East Loop 250 North.); seconded by Council Member Sparks.

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Love.

29. Approved a resolution authorizing the execution of all documents necessary to settle the litigation styled Lockridge Outdoor Advertising, LLC v. City of Midland (142nd Judicial District Court, Midland County, Texas; Cause Number CV-50,846). (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2015 - 373

RESOLUTION AUTHORIZING THE EXECUTION OF ALL DOCUMENTS NECESSARY TO SETTLE LITIGATION STYLED LOCKRIDGE OUTDOOR ADVERTISING, LLC V.

CITY OF MIDLAND (142ND JUDICIAL DISTRICT COURT, MIDLAND COUNTY, TEXAS; CAUSE NUMBER CV-50,846)

Council Member Sparks moved to defer until after executive session; seconded by Council Member Lacy.

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Love.

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

EXECUTIVE SESSION

Mayor recessed meeting to Executive Session at 11:45 a.m. noting will not return any sooner than 12:45 p.m.

31. 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 Attorney

- a.1. Discuss litigation styled Lockridge Outdoor Advertising, LLC v. City of Midland (142nd Judicial District Court, Midland County, Texas, Cause No. CV-50,846), litigation styled WHF Electrical Contractors, Inc. v. Cajun Constructors, Inc. and Liberty Mutual Insurance Co. v. City of Midland, Texas and CDM Smith, Inc. (142nd Judicial District Court, Midland County, Texas, Cause No. CV-48,216), and other pending litigation involving the City of Midland.
- 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 551.072, Deliberation Regarding Real Property

- b.1. Discuss the sale, exchange, lease, or value of real property described as Lots 7A and 13A, Block 27, Original Town, Section 3, City and County of Midland, Texas.

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

PASSED AND APPROVED the __ day of ____, 2015.

Jerry F. Morales, Mayor

ATTEST:

Amy M. Turner, City Secretary