

**MIDLAND CITY COUNCIL
MINUTES
November 26, 2013**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at ____ a.m. on November 26, 2013.

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

Council Members absent: None.

Staff members present: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, Assistant City Manager Jim Nichols, City Secretary Amy Turner, Police Chief Price Robinson, General Services Director Robert Patrick, Fire Chief Robert Patrick, Utilities Director Stuart Purvis, Administrative Services Director Catherine Clifton, Finance Director Bob McNaughton, Community Services Director Tina Jauz, Acting Engineering Director David Beard, Planning Division Manager Cameron Walker, Building Official Steve Thorpe, GIS Manager Bill Hodge, Public Information Officer Sara Higgins, Multimedia Developer Ryan Stout, and Community Development Manager Sylvester Cantu.

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

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at ____ a.m., November 26, 2013.

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

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

The Agenda Items were heard in the following order:

OPENING ITEMS

cto 10:04 a.m.

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

PRESENTATIONS

Laurie Williams mgr parks and rec invited to parade on December 7th. Mr. and Mrs. Santa clause was present Dec 7 6:30

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Presentation from the Parks & Recreation Division regarding the 2013 Lighted Christmas Parade.

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.

CONSENT AGENDA

Council Member Morales moved to approve Consent Agenda items 5 - 16 excluding 7, 8; seconded by Council Member James.

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

5. Approved a motion approving the following minutes:
 - a. Regular meeting of November 12, 2013.
 - b. Special meeting of November 14, 2013.
6. Approved a resolution approving and authorizing publication of Notice of Intention to issue series 2014 Certificates of Obligation in an amount not to exceed twenty-nine million and no/100 dollars (\$29,000,000.00). (FINANCE)

RESOLUTION NO. 2013 - 421

RESOLUTION APPROVING AND AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE SERIES 2014 CERTIFICATES OF OBLIGATION IN AN AMOUNT NOT TO EXCEED TWENTY-NINE MILLION AND NO/100 DOLLARS (\$29,000,000.00)

9. Approved a resolution approving the purchase of a Caterpillar D8TXL Waste Dozer through Buyboard contract 424-13 from Warren Power & Machinery, Inc. for the Garage Division. (PURCHASING)

RESOLUTION NO. 2013 - 424

RESOLUTION APPROVING THE PURCHASE OF A CATERPILLAR D8TXL WASTE DOZER THROUGH THE BUYBOARD AT A TOTAL COST OF \$765,300.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COUNCIL OF GOVERNMENTS

10. Approved a resolution finding that Diamondback E&P LLC submitted the most advantageous proposal with reference to RFP #07-13 Request for Oil and Gas Lease Proposal; and authorize the City Manager to execute all documents concerning the lease of minerals within portions of Sections 4 and 9, Block 40, T2S, T&P Ry. Co. Survey. (AIRPORTS)

RESOLUTION NO. 2013 - 425

RESOLUTION AUTHORIZING AN OIL AND GAS LEASE AGREEMENT WITH DIAMONDBACK E&P, LLC, TO LEASE LAND AT THE MIDLAND INTERNATIONAL AIRPORT, WITHIN PORTIONS OF SECTIONS 4 AND 9, BLOCK 40, T-2-S, T&P RY. CO. SURVEY, MIDLAND COUNTY, TEXAS, FOR THE PURPOSES AND WITH THE EXCLUSIVE RIGHT OF EXPLORING, DRILLING, AND OPERATING FOR, AND PRODUCING OIL AND GAS; THE COUNCIL PREVIOUSLY AUTHORIZED ADVERTISEMENT FOR PROPOSALS TO LEASE LAND AT THE MIDLAND INTERNATIONAL AIRPORT FOR THE PURPOSES AND WITH THE EXCLUSIVE RIGHT OF EXPLORING, DRILLING, AND OPERATING FOR, AND PRODUCING OIL AND GAS; THE LEASED PREMISES CONSISTS OF APPROXIMATELY 304 ACRES

11. Approved a resolution approving the MOUTD Management Services Agreement with McDonald Transit Associates, Inc.
(Notes: Check for amount on Fiscal Impact before approval.) (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2013 - 426

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT BETWEEN THE MIDLAND-ODESSA URBAN TRANSIT DISTRICT AND MCDONALD TRANSIT ASSOCIATES, INCORPORATED; THIS CONTRACT IS A MANAGEMENT CONTRACT FOR THE MOTORBUS TRANSPORTATION SYSTEM LOCATED IN MIDLAND COUNTY AND ECTOR COUNTY, TEXAS

12. Approved a resolution authorizing the acceptance of grant funds from Midland County Hospital District/ Midland Memorial Hospital in the amount of \$66,000.00 to assist the Health and Senior Services Division with the delivery of diabetes screening services and appropriate said funds to a project. (COMMUNITY SERVICES)

RESOLUTION NO. 2013 - 427

RESOLUTION AUTHORIZING THE CITY OF MIDLAND TO ACCEPT GRANT FUNDS FROM THE MIDLAND COUNTY HOSPITAL DISTRICT DBA MIDLAND MEMORIAL HOSPITAL, A POLITICAL SUBDIVISION OF THE STATE OF TEXAS IN THE AMOUNT OF \$66,000.00; SAID GRANT FUNDS ARE TO ASSIST THE HEALTH AND SENIOR SERVICES DIVISION WITH THE DELIVERY OF DIABETES SCREENING SERVICES; AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS;

AND APPROPRIATING FUNDS

13. Approved a resolution authorizing the execution of a Public Improvement Development Agreement with Real Property Resources, Inc., (Betenbough Homes) for the water extension (oversized participation) along Avalon Drive. Said agreement being authorized by Section 395.081 of the Texas Local Government Code. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 428

RESOLUTION AUTHORIZING THE EXECUTION OF A PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH REAL PROPERTY RESOURCES, INC. FOR DEVELOPMENT OF LEGENDS PARK ADDITION, SECTION 8, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ALONG AVALON DRIVE, APPROXIMATELY 2,400 FEET SOUTH OF DEAUVILLE BOULEVARD); AND APPROPRIATING FUNDS IN THE AMOUNT OF \$124,784.00 THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE

14. Approved a resolution authorizing a Right-of-Way Agreement and a Surface Damage Agreement with Saltwater Partners SWD, LLC for the installation and maintenance of one (1) pipeline not to exceed six (6) inches in diameter, for the transportation of produced water, located in Block 38, Section 9, T2S, T&P Survey Co, Midland, TX. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 429

RESOLUTION AUTHORIZING A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND SALTWATER PARTNERS SWD, LLC; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING THE CITY OF MIDLAND'S RIGHT-OF-WAY FOR THE PURPOSE OF PLACING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING A PIPELINE NOT TO EXCEED SIX (6) INCHES IN DIAMETER FOR THE TRANSPORTATION OF PRODUCED WATER AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINES ARE LOCATED WITHIN THE CITY OF MIDLAND RIGHT-OF-WAY, SECTION 9, BLOCK 38, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR FIVE (5) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL FIVE (5) YEAR TERM UPON 120 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

15. Approved a resolution accepting a Temporary Drainage Easement by Cumberland & Western Resources LLC on property adjacent to Avalon Drive near Legends Park Addition Section 8. (ENGINEERING SERVICES)

RESOLUTION NO. 2013 - 430

RESOLUTION AUTHORIZING THE ACCEPTANCE OF A 1.186-ACRE TEMPORARY DRAINAGE EASEMENT LOCATED IN SECTION 47, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND, MIDLAND COUNTY, TEXAS; AND ORDERING RECORDATION BY THE CITY SECRETARY

16. Approved a resolution accepting engineering plans and specifications for elevated

storage tank rehabilitation and authorization for advertisement for bid. (UTILITIES)

RESOLUTION NO. 2013 - 431

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR COMPETITIVE BIDS FOR THE "WATER SYSTEM IMPROVEMENTS; REHABILITATION & LEAD ABATEMENT OF THE EDGEWOOD ELEVATED WATER STORAGE TANK AND THE WADLEY ELEVATED STORAGE TANK PROJECT"; AND THE PLANS AND SPECIFICATIONS WERE PREPARED BY PARKHILL, SMITH AND COOPER

7. Approved a resolution declaring expectation to reimburse expenditures with proceeds of future debt; and the City of Midland reasonably expects to reimburse capital expenditures with proceeds of debt hereafter to be incurred by the City; and appropriating \$9,971,080.00 to the Radio System Upgrade Project (9018). (FINANCE)

RESOLUTION NO. 2013 - 422

RESOLUTION DECLARING EXPECTATION TO REIMBURSE EXPENDITURES WITH PROCEEDS OF FUTURE DEBT; AND THE CITY OF MIDLAND REASONABLY EXPECTS TO REIMBURSE CAPITAL EXPENDITURES WITH PROCEEDS OF DEBT HEREAFTER TO BE INCURRED BY THE CITY; AND APPROPRIATING \$9,971,080.00 TO THE RADIO SYSTEM UPGRADE PROJECT (9018)

Jeff wanted to ensure clear this is radios need to be paid for doing CO and pay out of GF and then reimburse out of jCO for portion of 9.9M. this radio system is inspired about new radios are supposed to be federal mandates that require upgrade. Now would be appropriate now good time. Essentially what doing is complying with new federal mandates and getting new radios new frequency sharlett will comply

Council Member Trost moved to adopt Resolution No. 2013 - 422; seconded by Council Member Sparks.

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

8. Approved a resolution approving an agreement with Halff Associates, Inc. for architectural and engineering services for the Hike and Bike Trail Plan and Phase 1 Development project and appropriating funds for the Community Services Department. (PURCHASING)

RESOLUTION NO. 2013 - 423

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH HALFF ASSOCIATES, INCORPORATED, OF AUSTIN, TEXAS, FOR PROFESSIONAL ARCHITECTURAL AND ENGINEERING SERVICES FOR THE HIKE AND BIKE TRAIL PLAN AND PHASE I DEVELOPMENT PROJECT AT A COST OF \$400,000.00; AND APPROPRIATING AND ALLOCATING FUNDS

Council Member James moved to adopt Resolution No. 2013 - 423; seconded by Council Member Love.

Sparks problem with looking at \$400,000 to design hike and bike trail. Laurei Williams

first phase 317,000 and remainign master plan for all of Midland comprehensive. Laurie 6 mile hike and bike quite a bit of expect it to be \$3M project and 10 % allocated to design. Sparks why picking place with alot of hard terrain to do hike nad bike trail. probably got people in Midland that wouldn't charge 317,000. seems high. Courtney Sharp City did survey probably 2-3 years number one need hike and bike trail. P&R took info and rna with that to develop some hike and bike systems throughout City. Part of board went and looked at possibiliyt of making long trail along airpark. acuires som eROW around airpark. Committee issued RFP for design of trail. 6 firms submitted maybe 13 reviewed with rec. It is project over \$3m not out of line to design projects required ADA compliance, bridges associated, staff does not have expertise. If want to move forward several bridges associated with hike and bike trail. Trost does \$3+M include construction materials labor? Courtney projected cost for everything County offfered waiver for some but won't waive for bridges and drainage improvements. Will take 6-9 months to design. Trost has FAA cleared?

Trost has FAA cleared? Marv Esterly no some proposed areas of fence reloacted at airpark once we have those exact locations FAA would give permission. Love City has not yet determined long term what going to do with airpark so how will 3m projet be affected if future Council decides to persue vacating airport. Esterly that is best question heard all year. He has same question and doesn't know. If vacated and gets developed does it have to be ripped up? Morales the committee on RFQ there is possiblity can look at. Keep hearing form parks committee understand issue about time frame and \$ amount. if want to look at other groups will have to start again. laurie comittee tha selcted msot qualified firm. Regional price was \$418 neg to 317. Sparks sounds like part of price is going around airpark. why not puthike and bike trail. Morales the parks comittee has put a lot of time and atention identifying trails and landowners. college students, transporations, area utilized by all citizens. it wasn't just thorwn out as trail. sparks concerned 317,000 into design that doesn't get built. Behind on roads and should be able to build through roads. Dufford has there been citizen contributions. Laurie in Master Plan was to have off system hike and bike trail and not safest route. Off system area to do hike and bike trial. most of locaiton is city property don't have to purchase additional property doesn't put kids out in street. Dufford financial contributions. Laurie offers if moves forward. Perry currently 300,000 if moves forward and others are waiting. laurie if at any time we can't move forard not bound to \$317,000. but need professional services to provide answers to us. James at click of button spent \$30 M and now arguing about 400,000. this is about what do we want this community to be. Been talking about this for years. Wes in event that property is sold or vacated make sure option that this won't be negatively affected putting some things under A street. Love ha staff developed contingency plan if this is vacated. Laurie think that there can be ROW set aside that covers trail so if City decides to sell then withhold ROW that trail lcoate don so cna be lef tin place. Sparks odn't htink nitpicky think as far as briefed on site before. Trost 6-9 months nebulous. Laure told 6 months but 3 months is to cover in case of issue. Morales make sure he is included as may of discussions as he ha svision. Lauris would like to add anything. Laurcy Sams Midland Texas. question trail concerning about airpark and. Laurcy arrived because continuous trails without having to cross road. It's ar eadl sollution. In masterplan connected draw this trail will connect nodes to draw syste sot hat is main reason. Trost already aproved master plan updated approved this year. Laurcy this trail will follow roadways midland college, loop 250, garfield, if airpark sold can remian in place. Concern about design and build due to fact have to go through design process and cannot be avoided. Concern is 6 to 9 months. county agreed to committ materials, personal and equipment

and is in their budget and hate to lose those moneies. Citizen contributions 201,000 committed and promises from others to get involved and raise money. Morales participation improves one have plan. Laurcy very good asset and desperately needed. trost thanked for service on aprks board.excellent example of what parks board doing.

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

SECOND READINGS

17. Consider an ordinance on second reading on a request by CFC Properties, LLC for a zone change from PD, Planned District for an Industrial District to an Amended Planned District on a 4.57-acre tract of land out of Lots 1 through 3 and the vacated rights-of-way of Arapahoe Road and State Highway 349, Block 17; and from LR-2, Local Retail District to PD, Planned District for an Industrial District on Lots 1 and 2, Block 18, all out of 349 Ranch Estates, Section 3, City and County of Midland, Texas. (Generally located on the east side of Highway 349 on both sides of Arapahoe Road.) (DEVELOPMENT SERVICES) (First reading held on November 12, 2013.)

ORDINANCE NO. 9202

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

Council Member Love moved to approve the second and final reading of Ordinance No. 9202 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

Deputy City Secretary Adriana Moreno read the caption of Ordinance No. 9202.

Jim listen change to 10:33 a.m.

Council Member James moved to approve the second and final reading of Ordinance No. 9202 in accordance with the Charter of the City of Midland; seconded by Council Member Love.

Is it all along Arapahoe. Jim Clompton from 2 weeks ago there was plicat agreed to change chain link to wrought iron and have condition that includes that amendment. Ha wrought iron along arapahoe. are all pilasters this material or just arapahoe.

cliff chalmers, agreed to construct a fence similar to west side of hwy 349 wrought iron fence panels with limestone material for columns. have neighbor who didn't want chain link. they discussed and signed letter support to build columns out of cinderblock letter of agreement allow to use split face block decorative cinderblock or man made stone or stucco finish. didn't want to have to import stone to construct these for the compromise. sparks is that what entire fence from west and south side. chalmers yes along 349 and arapaho. James not smooth face? Chalmers this give latitude to do stucco product or manmade stone. if use smooth fence will finish with stucco.

Sparks wanting it to be decorative and not just block. yes.

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

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

18. Consider an ordinance on second reading on a request by David Martin for a zone change from AE, Agriculture Estate District to PD, Planned District for a Housing Development on 54.487-acre tract of land out of Section 12, Block "X", H. P. Hilliard Survey, City and County of Midland Texas. (Generally located on the east side of Hwy 349, approximately 1,200 feet north of Mockingbird Lane. (DEVELOPMENT SERVICES) (First reading held on November 12, 2013.)

ORDINANCE NO. 9203

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 54.487-ACRE TRACT OF LAND OUT OF SECTION 12, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE EAST SIDE OF STATE HIGHWAY 349, APPROXIMATELY 1,200 FEET NORTH OF MOCKINGBIRD LANE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Moreno read the caption of Ordinance No. 9203.

Council Member Love moved to approve the second and final reading of Ordinance No. 9203 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

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

19. Consider an ordinance on second reading on a request by Chris Stokes for a Specific Use Permit with Term for an Electronic Billboard/ Billboard Sign, on a 0.553-acre portion of Tract 1, Town & Country Annex, City and County of Midland, Texas. (Generally located on the south side of Andrews Highway, approximately 730 feet northeast of West Cuthbert Avenue.) (DEVELOPMENT SERVICES) (First reading held on

November 12, 2013.)

ORDINANCE NO. 9204

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS 0.553-ACRE PORTION OF TRACT 1, TOWN & COUNTRY ANNEX, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF ANDREWS HIGHWAY, APPROXIMATELY 730 FEET NORTHEAST OF WEST CUTHBERT AVENUE), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR AN OFFICE CENTER, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR A BILLBOARD; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Council Member James moved to approve the second and final reading of Ordinance No. 9204 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford.

am read the caption of Ordinance No.

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

20. Consider an ordinance on second reading on a request by Mockingbird Oaks Development, LLC for a zone change from TH, Townhouse Dwelling District on a 3.98-acre tract of land all out of Section 25, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the west side of Holiday Hill Road, approximately 470 feet south of Briarwood Avenue.) (DEVELOPMENT SERVICES) (First reading held on November 12, 2013.)

ORDINANCE NO. 9206

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 3.98-ACRE TRACT OF LAND AND A 36.81-ACRE TRACT OF LAND, ALL OUT OF SECTION 25, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED TH, TOWNHOUSE DWELLING DISTRICT, IN PART, AND 1F-3, ONE-FAMILY DWELLING DISTRICT, IN PART, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE WEST SIDE OF HOLIDAY HILL ROAD, APPROXIMATELY 470 FEET SOUTH OF BRIARWOOD AVENUE); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Adriana Moreno read the caption of Ordinance No. 9204.

Council Member James moved to approve the second and final reading of Ordinance

No. 9206 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

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

21. Consider an ordinance on second reading on a request by Midland Pediatric Associates, PLLC for a zone change from PD, Planned District for a Shopping Center to an Amended Planned District on Lots 4 and 5, Block 10, Northwood Addition, Section 7, City and County of Midland, Texas. (Generally located on the north side of Mamie Circle, approximately 290 feet north of West Wadley Avenue.) (DEVELOPMENT SERVICES) (First reading held on November 12, 2013.)

ORDINANCE NO. 9207

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 4 AND 5, BLOCK 10, NORTHWOOD ADDITION, SECTION 7, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF MAMIES CIRCLE, APPROXIMATELY 290 FEET NORTH OF WEST WADLEY AVENUE); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Council Member Morales moved to approve the second and final reading of Ordinance No. 9207 in accordance with the Charter of the City of Midland; seconded by Council Member James.

am read the caption of Ordinance No.

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

22. Consider an ordinance on second reading on a request by Marshall Gage, LLC / Scott Caruthers for a zone change from PD, Planned District for a Shopping Center to LR-2, Local Retail District on Lot 3, Block 2; Westridge Park Addition, Section 3, City and County of Midland, Texas. (Generally located on the southwest corner of the intersection of Andrews Highway and North Loop 250 West.) (DEVELOPMENT SERVICES) (First reading held on November 12, 2013.)

ORDINANCE NO. 9208

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

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

Deputy City Secretary Adriana Moreno read the caption of Ordinance No. 9206.

Council Member Love moved to approve the second and final reading of Ordinance No. 9208 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford.

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

23. Consider an ordinance on second reading establishing intersection stops at various locations within the City of Midland, Texas; requiring and authorizing the posting of appropriate signs at intersections; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two hundred dollars (\$200.00); and ordering publication. (ENGINEERING SERVICES) (First reading held on November 12, 2013.)

ORDINANCE NO. 9209

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

Deputy City Secretary Moreno read the caption of Ordinance No. 9209.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9209 in accordance with the Charter of the City of Midland; seconded by Council Member Love.

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

PUBLIC HEARINGS

24. At approximately 10:30 A.M. hold a public hearing and consider an ordinance on a request by Real Property Resources for a zone change from FD, Future Development District to PD, Planned District for a Housing Development on a 40.498-acre tract of land (Tract 1) out of Sections 37, 38 and 48; from PD, Planned District for a Housing Development to an Amended Planned District on a 5.954-acre tract of land (Tract 2) and from PD, Planned District for a Housing Development to an Amended Planned District for a Housing Development on a 0.270-acre tract of land (Tract 3) all out of Section 37, both out of Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located at the south extension of Avalon Drive, approximately 700 feet south of Hall of Fame Boulevard.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9210

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 40.498-ACRE TRACT OF LAND OUT OF SECTIONS 37, 38 AND 48, BLOCK 40, T-1-S, T&P RR CO. SURVEY, A 5.954-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. SURVEY, AND A 0.270-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, IN PART, AND PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, IN PART, TO BE USED AS AN AMENDED PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE EAST SIDE OF THE SOUTH EXTENSION OF AVALON DRIVE, APPROXIMATELY 700 FEET SOUTH OF HALL OF FAME 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 Jim Compton gave a brief overview of the item noting zc assoc with next phase of leends park betenbough homes will make 178 residential lots. all meet min lot requirements. plat has provision lots are baking toward Avalon drive. that permission is prohibitive unless decotive fence. 6 foot tall wood fence constructed in common area and will bescreened from view. P&Z rec approval no looppositon.

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

am read the caption of Ordinance No.

Council Member James moved approval of the first of two readings of Ordinance No. 9210 in accordance with the Charter of the City of Midland; seconded by Council Member Trost.

sparks theres been some said more 1f2 and 1f1 this is 1f3; why? how many vacant lots are available to be built on? Jim don't know answer. sparks seem like passed quite a few and a lot of lots haven't been built on that are available. These will have alleys but no pavement? compton paving requirement but caliche base as opposed to asphalt because no rear entry garage. sparks now doing zoning and trying to start putting when zoning why don't zone for 1f2 and 1f1 in addition to 1f3. Compton did receive letter form Betenbough have supply of 100 lots and why started developing up on n big apring. this subdivison is continuation of another project this underway for quite some time. They had product. Any direction for larger size lots came after pprogram began. dufford what getting at is no problem with development because continuation of already seen and approved but getting at is from ehr eon in want to see more palnned communitiies with some 1f3 maybe townhome 1f2 and 1f1 because doing workforce housing but nothing affordable maybe townhomes mixed in with developments might get us to affordable. plenty of 1f3 that started way back when but now looking at doing mroe planned communitiies with amix. sparks why not start now. James probably at elast a million dollars put into that by the developer. need to be cautious about artificually dabling with marketplace. If will of Council then convey message to development community going

forward. there are projects with \$ invested on way to us. If that is messag eto Council going forward then meet with development community but a year from anybody submtiting anythign tha tmeet guideliens that suggestions. Items are already in progress. Morales P&Z doesn't have same message and if approving then. Dufford agree with James its too late by P&Z but talking about in the future. Morales need to be included in vision. How do we look at pjrototypes to get visual fo future. Patrick got message and need to look at alrge lot saize and discussing with developers prel plat before coming in is time to catch them. Have joint worksho pscheduled for Dec 17 between P&Z and Council. Not sure developers are listening when coming from staff. Sent letter to developer and receive drebuttal of welcomed before what has changed. mayor if doing something with Betenbough need to meet with them. Shapr staff will communicate that message. Important going to have joint meeting with P&Z and Council on 17th to talk about zoning ordinance. will be appropriate time and plae to give direction looking at. Perry maybe make specific invites to those who are doing development so they cna be present.

Trost point is what do we mean by affordable housing have we defined affordabel, workforce, entry level where do we draw line? Wehn thinking of affordable housing people who are still working for lower rages. what is price. Patrick staff working on issue and hope to have rec on 17th to give. it is a veyr complex issues. in low to mod issues new brick homes to quality of life. 51% low to mod income or greater and provide incentives for husing not yet. Betenbough calls value and not necessary affordable. Have to get together and deide as city.

Sparks question for Steve. did we get alley problem solves. thorpe not completely. Morales what tlaking about. Sparks construction material buried in alleys that is in violation of code. Steve in Legend subdivison discovered that when utility companies doing potholing to make customer connections there was buried construcion materials. sparks not right coliche based buried construcion material sin alleys. Want to flal on sword for somebody who may not have been doing everything properly. Jose Ortiz met with Betenbough and expressed concern alleys and road not accepted. working with them they will remedy in January or February beasue solid wast eno longer providing services in alleys at that time. no reason to fix caliche alleys until soldi wast evehicles are out. once improvements made. Sparks not voting for until have some agreement. rec deferring. Mayor second reading will be in December and maybe have better handle on situation.

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

25. At approximately 10:33 A.M. hold a public hearing and consider an ordinance on a request by Vision Health Specialties for a zone change from PD, Planned District for a Shopping Center to O-1, Office District on a 0.287-acre tract of land out of Section 18, Block 39, T-1-S, T&P RR Co. Survey and on Lot 2A, Block 45, Fairmont Park Addition, Section 23, City and County of Midland, Texas. (Generally located on the west side of N. Midland Drive, approximately 780 feet south of W. Loop 250 North.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9211

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY

PERMITTING A 0.287-ACRE TRACT OF LAND OUT OF SECTION 18, BLOCK 39, T-1-S, T&P RR CO. SURVEY, AND LOT 2A, BLOCK 45, FAIRMONT PARK ADDITION, SECTION 23, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN O-1, OFFICE DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 780 FEET SOUTH OF WEST LOOP 250 NORTH; 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 Jim Compton gave a brief overview of the item noting wanting to expand lot. Rather than revised site plan filed from zone change to o-1 office district still be under staff oversight. p7z rec approval. and no opposition received.

Mayor Perry opened the public hearing at 11:09 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

am read the caption of Ordinance No. 9211.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9211 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

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

26. At approximately 10:39 A.M. hold a public hearing and consider an ordinance on a request by Nemecio Torres for an Amended Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on a 6,369 square foot portion of the west 24.25 feet of Lot 9 and all of Lots 10 through 12, Block 65, Original Town, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of W. Wall Street and S. Colorado Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9212

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 6,369 SQUARE FOOT PORTION OF THE WEST 24.25 FEET OF LOT 9 AND ALL OF LOTS 10-12, BLOCK 65, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF WEST WALL STREET AND SOUTH COLORADO STREET), WHICH IS PRESENTLY ZONED C-1, CENTRAL AREA DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A 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

Perry announced would be abstaining and left dais.

Planning Division Manager Jim Compton gave a brief overview of the item noting restaurant located se corner wall/colorado. received sup in 2007 for alco bev. gad to see growing request exp from. all cond of existing remian same. James expanding the rest or sq footage that cna serve alco. Jim expanindg sq foot where cna serve alcohol. sparks when origianl got sup they were smaller. Does this govern all area can hire rest to sell alco in tha tblock just for existing restaurant. think through process determined they had done expansion.

sparks opened the public hearing at __ a.m. 11:13 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

am read the caption of Ordinance No. 9212.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9212 in accordance with the Charter of the City of Midland; seconded by Council Member Love.

James question was don't now how TABC license work but if did want to host event in lobby of buildin would they be able to have cash bar in lobby of building. Morales they need catering permit that works annual and record that mvoing in lobby and able to do whatever. James does this SUP limit ability to do that. no.

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

27. At approximately 10:42 A.M. hold a public hearing and consider a resolution on a request by William Barrick for a variance to the Subdivision Code concerning the required paving of an alley for rear entry access on the east 79.14 feet of Lot 17 and the west 15.7 feet of Lot 18, Block 2, West Way, City and County of Midland, Texas. (Generally located on the north side of Humble Avenue, approximately 400 feet west of Lanham Street.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 432

RESOLUTION GRANTING A VARIANCE FOR THE EAST 79.14 FEET OF LOT 17 AND THE WEST 15.7 FEET OF LOT 18, BLOCK 2, WEST WAY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF HUMBLE AVENUE, APPROXIMATELY 400 FEET WEST OF LANHAM STREET), BY PERMITTING ACCESS TO SAID PROPERTY FROM AN UNPAVED ALLEY THAT DOES NOT CONFORM TO CITY OF MIDLAND STANDARD SPECIFICATIONS

Planning Division Manager Jim Compton gave a brief overview of the item noting request from someone not wanting to pave alley to get access to rear entry garage. Other houses on block that include rear entry garages without paved alley. Subidivison code reuires paved unless have variance. staff rec not approved but p&z approved request. bringing to council as judgement. sparks other houses with rear entry garages. When check arial photograph 5-7. P&Z put together to discuss. Discussed if built put in palce subidivison predates that. Love last time talked about staff coming up with staff coming up with policy to share expneses. Lack of developer agreement as mroe people want access to alley like do for water server and sidewalk they pay their portion so will ge tpaid instead of getting exceptions. compton can expand study to include.

Mayor Perry opened the public hearing at 11:21 a.m.

William Barret 2508 Humble his house provided map and went 200 feet each direction drove up and down each alley and 104 structures within square that have rear alley access without paving. All blue dots repstructures found. One circles is his. did take pictures. Perry with bad weatehr has it been an issue. Barrett there is one hole if it rains alot get water but for most part pretty good.

There being no one else wishing to speak, the public hearing was closed at 11:23 a.m.

Council Member Dufford moved to adopt Resolution No. 2013 - 432; seconded by Council Member James.

James, site plan shows storage unit being built with access to alley. Hearty plan fiber board. Not building a kitchen and restroom. Electric in it and that's it. Love opposed concern increased cost to city as see mroe and mroe makes cos tfo rrepairing alleys go up. Should hav emechanism that would allow to offset epenses with dev agmt of some kind.

James consider road repair if built put up \$1000. Love suggesting look at doing something.

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

DEVELOPMENT SERVICES

28. Approved a resolution approving the 2012 International Building Code, with amendments; the 2012 International Mechanical Code, with amendments; the 2012 International Plumbing Code, with amendments; the 2012 International Fuel Gas Code, with amendments; and the 2012 International Residential Code, with amendments as public records; and providing that all codes shall be put on file in the office of the City Secretary for a minimum of thirty (30) days before any action is taken by the City Council. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 433

RESOLUTION APPROVING THE 2012 INTERNATIONAL BUILDING CODE, WITH AMENDMENTS; THE 2012 INTERNATIONAL MECHANICAL CODE, WITH AMENDMENTS; THE 2012 INTERNATIONAL PLUMBING CODE, WITH AMENDMENTS; THE 2012 INTERNATIONAL FUEL GAS CODE, WITH AMENDMENTS; THE 2012 INTERNATIONAL RESIDENTIAL CODE, WITH AMENDMENTS; AND PROVIDING THAT ALL CODES SHALL BE PUT ON FILE IN THE OFFICE OF THE CITY SECRETARY FOR A MINIMUM OF THIRTY (30) DAYS BEFORE ANY ACTION IS TAKEN BY THE CITY COUNCIL

Building Official Steve Thorpe gave a brief overview of the item noting code change committee received list of significant changes proposing to adopt. There was no negative feedback from sit comm rec go forward with adoption process. This is first step in adoption where put codes with prop amendmnet on rev with city sec for at least 30 days, gather comments and bring forward actual adoption of code. only significant

amendment was out of chapter 11 of intl res code chosen to strike the energy efficiency chapter until state acts on 2012 intl energy code. if adopt all five codes energy code stand in 2009 version untils tate figure out what want to do.

Council Member Dufford moved to adopt Resolution No. 2013 - 433 with amendment as directed by the City Attorney; seconded by Council Member Sparks.

stretcher case make affirmative statement that wil not fiel crim charges against individual to collect fees listen 1:43 city committee sahl in jan or jun in Council in past used word may hate to slip by and Council to be in violation of ordinance. change shall to may. change language with Keither.

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

29. Approved a resolution for an appeal of the Building Official's denial of a temporary sign permit. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2013 - 434

RESOLUTION AUTHORIZING THE ISSUANCE OF A TEMPORARY SIGN PERMIT TO FOTOVYBES INC. ("APPLICANT") FOR THE PLACEMENT OF A TEMPORARY SIGN ON PROPERTY WITHIN THE CITY OF MIDLAND; SAID PERMIT WAS DENIED BY THE BUILDING OFFICIAL AND THIS RESOLUTION IS AN APPEAL TO THE MIDLAND CITY COUNCIL

Love abstain from #29 and #31 left dais.

Building Official Steve Thorpe gave a brief overview of the item noting denied because does not meet requirements for temp sign. 91 sq ft electronic. temp signs are 35 sq feet and cannot be electronic. This also a sign in speaking with applicant that would be advertising multiple locations. Here on appeal. sparks ord that saying it doesn't allow this size of electronic size how old is ordinance? thorpe it is amended sign ordinance in late 2000's. sparks would still ahve to have approval from land owner to put sign up. Is there distance from roadway have to be. thorpe on proeprty owners property not in ROW and can't afect sight triangle. sparks how many signs? Steve one. thope 15 day 30 day or 60 day ssign with max of any property no more than 60 day sin claendar year. Sparks if approve the max sign time period can be use is 60 days or moved and used over and over. thorpe if adhere to temp sign ord then this sign could be relocated someplace else if use temp sign ord but not proposed in reso. Stretcher can stay on prem for max of 4 days then mvoed. Sparks if approve on trial basis cna have time limit so approve 6 months and see how received if problems we haven't seen anything like it. Stretcher par 9 of temp sign City council reserves right to cancel for no or any reason 30 days. par 10 permit itself lasts for 6 mots. Sparks 6 month permit to see and staff could evaluate if additional traffic problems ro complaints. MOrales kind of like new business. Curious but nervous about hype. they have to adhere to row. Thorpe understanding permit is a blanket permit and don't know specific locations and permit is up to owner of sign to adhere to rules of permit. jTraditonal tep sign we know issued on nov 15 for 15 days comes down on Nov 30. In this situation based on conditions in resolution.

Perry really not permit for location. The sign is permitted without location. It is up to

owners to apply. Wes on 6 lighted with white lights only but exhibit shows colored lights. thorpe if light temp sign can only be white lights. this is a video reader board and full spectrum on tv. The way word is only white light. James struggle because of desire to stay consistent. Spent a lot of time about cutbirth sign didn't want there and now talking about taking smaller sign but not so much smaller and allowing it to go all over community anywhere any time. Fear is next Jan Lamar is going to come in and say idint' have to go through all that business I can put one anywhere and they have wherewithal to buy 200 and put anywhere. Don't think can do for 6 months with one party and Lamar comes in and says you did it for them they may want same privilege. Like idea think cool not sure ready for electronic reader boards in everybodys parking lot. Morales during temp trial basis Lamar could come in. sparks if like can have certain # allow in town. Steve another section of road that allows for mobile signs where an set up a mobile sign co for where going to be base don trailer mount changeable letter sign and one most fam with is at Fit Family Fitness Permit Steve received was for one location. this one has own specific agreement written outside.

Jose Bo Zertuche, 1309 N. Big Spring, been employed at specific events water for midland tbar blues festival mex tex its made the rounds is take advantage of that in strategic locations. here from deviating its digital tech rapidly catching up with us. Something need to have conversation about. second display area and total are of structure. Structure doesn't take up any more room that pallet truck. the other reason deviating form off premis advertising. Have question as to why off premis sin't allowed. God knows were struggling with overregualtion. What doing on location level to ensure not doing same. Think this is just as much about regulatory powers just as much with permit. what should we regulate. Now talking about regulating content of sign. Off premis advertising would mitigate. One would do job of 10 or 20 if allowed to carry more than one message. Tech comes with price have money invested in it but before go to time and expense would like to establish with Councils help what works and what doesn't. Already regualtions in ord for safety. Morales on trailer picture the generator hwo loud. Bo for emergency purposes would use something form light towere rentals have conervation and sound proof. How does it juice up a 25 kw and have to provide power.

Dufford reason amended sign ord 6-8 years ago had to do with black signs and floresent lettering because not aesthetically pleasing deided eliminated use of those signs. this if do on temp basis to see if any different. Couldbe alot like florescent balck signs this could be same sign. If temp lets see how works if doesn't work will limit use or not have at all. Sparks didn't realize power by generator and not on site power. Know generator sdo produce noise even though their quiet. If receive opposition bet wil be noise standpoint. Morales as far as aesthetically how could handle. Zertuche ord prohibits drawing more than 10 feet of cable to source. the ord itself precludes it. they are state of art concert pproduction generators. As far as aesthetics concern to regualte aesthetics. Can skirt struture so can only see display. the display will not expand 35 sq feet. The sign itself is 96 square feet the display area is 35 square feet. Asking on trial basis to limit to 35 square foot.

Trost what are permit fees \$50 for 6 months. Stretcher can only be at location for max of 96 hours and then must be moved and when moved does not set up another permit fee. Whose idea to move for 4 days. Bo receptive to letting staff know location and don't have to limit to 4 days. Morales want to ensure not in any residential areas and want to stay in commercial properties. Makes a good point. Perry ever anywhere else. Bo

seen in Austin off roadway but never stopped to ask. Perry should we think about bigger picture. Steve thorpe item 28 talk about adoption of new building code that comes out every 3years. from perosnal experience better to make sure current for hat is going on in community as well as boards/commsions. Perry need to look at one on one. sparks probably do need to look at Ordinance on more permanent basis. This might be a start to say we don't want this at this point. Hard to know what want. If don't allow something to go out and say do a citizen survey. Morales #9 if don't like we're out. James have a lot of digital signout out there. One thing consistent couldn't advertise for anybody else unless lamar or clear channel. The one at Cuthbert can they do off premis advertising. If folks hwo own shopping center come back and say let off premis advertising would this body allow that? Zertuche photovybes is a media company. e put messages inf ront of public. cuthbert were nto allowed to put media about somethign that was about their parking lot. If oging to put in restaraunt will you only advertise restaruant A. All for on premissis.

Council Member Morales moved to adopt Resolution No. 2013 - 434; seconded by Council Member Trost.

sparks afraid issues that may want to amend in this permit. 1 is allowing sign to say for a week instead of moving every 4 days think more appropriate and advertise only for business in front. james this conervation is not about media ro content but about medium and there are rules about how to dsitrubte content. If talking aout lets do with full knowledge of door opening. Morales may rush in at a big expense this ais a trial don't know hwere going. this group can dvertise anything they want. Spark can change it and say advertise only for that premise. Aertuche even situation that sparks brought up thsoe believe that supreme court has determined where in city and not preclude business. Willing to enter into a dialogue and determine where compatible. Perry suggest doing deferral and come up with guidelines. Dufford even if voted against today can come back and apply next wee. Stretcher could but practiclaly this year not going to make this year. Stretcher we looked at closely and kicked around a lot. Are all permanent signs going to rush in and say going to go of fpremise. If willing to say to give location up for 30 days notice and Council can reject it then let them take risk if willing to say max of 6 months and then Council say no can't renew. As long as stay awya from content and stay with condition. Let's just take first baptist would come in with million dallar sign and say advertise off site and if don't like ti permanent would be gone. Tried to tie in i have to move within 4 days permanent won't mvoe within 4 days. Tried to make permit content neutral. Thought this permit could withstand a challenge from group that wnatd to say want off premise and iwlling to agree to same conditions. perry thinking about companies tha town portable signs tha tmove around thinking why don't these guys use that kind of think 15/30/60 day permit.

James currently company on Midkiff that has fixed led sign but advertise all customers not people in center they rotate their gerardos bistro or whatnot. At some point the slope becomes much mroe slipperty so I can charge for it and sign companies are likely to go down this road I can start doing some of this. Just want to know full well what we may be getting into. Can see having conversation saying 1 million location but only shopping centers nto car dealers etc. Morales from business owner perspective and see fi willing to advertise do allow outside advertisers. Dufford maybe allow for 90 days while work through issues and determine if want or nto.

James preference is getting specific locations and bring back. Dufford if do for 90 days

and start hearing and started getting feed back at elas tin 90 days armed with mroe info to say yes or no. Zertuche should have a bunch of info to provide.

Council Member Sparks moved to amend the motion by changing term of permit to 90 days; seconded by .; seconded by Council Member Morales.

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

James delte sentence that automaticlaly renews for 8 months. will change motion to include delte last sentence that automaticlaly renews.

sign area should not exceed 100 feet. Is it 100 feet or 35 feet.

Receptive to vary size to 35 feet.

Council Member James moved to amend the motion by changing display area to not exceed 35 square feet ; seconded by .; seconded by Council Member Dufford.

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

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

MISCELLANEOUS

30. Continue consideration of an ordinance on a request by David Heiser Family Trust for a Specific Use Perm without Term for a RV Park on a 15.00-acre tract of land out of Section 1, Block 39, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the north side of East Interstate Highway 20, approximately 1,300 feet west of South Fairgrounds Road.) (DEVELOPMENT SERVICES) (Deferred from November 12, 2013.)

ORDINANCE NO. 9205

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF A 15.00-ACRE TRACT OF LAND OUT OF SECTION 1, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF EAST INTERSTATE HIGHWAY 20, APPROXIMATELY 1,300 FEET WEST OF SOUTH FAIRGROUNDS ROAD), WHICH IS PRESENTLY ZONED BP, I-20 BUSINESS PARK DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR A RECREATIONAL VEHICLE (RV) PARK; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Jim Compton gave a brief overview of the item noting item considered last meeting for RV park 131 lots and provide additional information. Just before meeting asked to be deferred to date undetermined.

Council Member Love moved to defer to a date uncertain; seconded by Council Member Trost.

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

31. Consider an ordinance on a request for the vacation of a 0.05-acre portion of the rights-of-way of S. Calhoun Street and E. Washington Avenue adjacent to Lot 12, Block 22, Greenwood Addition, Third, Fourth and Fifth, Sections, City and County of Midland, Texas. (Generally located on the southeast corner of the intersection of S. Calhoun Street and E. Washington Avenue.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9213

AN ORDINANCE VACATING AND ABANDONING A 0.05-ACRE PORTION OF SOUTH CALHOUN STREET AND EAST WASHINGTON AVENUE RIGHTS-OF-WAY ADJACENT TO LOT 12, BLOCK 22, GREENWOOD ADDITION, THIRD, FOURTH AND FIFTH SECTIONS, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF SOUTH CALHOUN STREET AND EAST WASHINGTON AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$3,962.50; WAIVING THE FEE FOR THE COST OF THE RIGHT-OF-WAY; AND ORDERING RECORDATION BY THE CITY SECRETARY

Planning Division Manager Jim Compton gave a brief overview of the item noting proposed second floor to existing building designed to extend beyond existing footpring and need to vacate RPow rec approval.

am read the caption of Ordinance No. 9213.

Council Member Morales moved approval of the first of two readings of Ordinance No. 9213 in accordance with the Charter of the City of Midland; seconded by Council Member James.

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

32. Approved a motion on a request for the annexation of Lot 3, Block 5, Pecan Acres Addition, Section 5, and of Lots 4A and 4B Block 5, Pecan Acres Addition, Section 7, Midland County, Texas. (Generally located on the north side of Trenton Drive, approximately 550 feet east of Trobaugh Boulevard.) (DEVELOPMENT SERVICES)

Planning Division Manager Jim Compton gave a brief overview of the item noting requested annexation to get access to City Water and asking fo rpermission to move forward and combine with antoher and come back early next year.

Council Member Dufford moved to approve a motion on a request for the annexation of Lot 3, Block 5, Pecan Acres Addition, Section 5, and of Lots 4A and 4B Block 5, Pecan Acres Addition, Section 7, Midland County, Texas. (Generally located on the north side of Trenton Drive, approximately 550 feet east of Trobaugh Boulevard.); seconded by Council Member James.

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

33. Approved a resolution approving a contract with Dailey and Wells Communications, Inc. for a P25 800 MHz Simulcast Trunked Land Mobile Radio System for the Communication and Information Systems Department. (PURCHASING)

RESOLUTION NO. 2013 - 435

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE IMPLEMENTATION OF A P25 800 MHZ SIMULCAST TRUNKED LAND MOBILE RADIO SYSTEM WITH DAILEY & WELLS COMMUNICATIONS, INCORPORATED, OF SAN ANTONIO, TEXAS, AT A TOTAL COST OF \$9,149,719.00; AND THE CONTRACT IS FOR A CITY-WIDE PUBLIC SAFETY AND PUBLIC WORKS RADIO SYSTEM AND RELATED SYSTEMS

Chief INformation Officer Sharlett Chwoning gave a brief overview of the item noting radio system is 23 years old and overage issue sin NE NW and SW and need to take care of coverage issues and interoperability.

Courtney passed reso auth to make purchase reimbursement for CO that is part of this agenda item also.

Council Member Sparks moved to adopt Resolution No. 2013 - 435 with amendment page 906, item 6 E strike from contract; page 909 under indemnification item B do not give up indemnification; page 911 under governing law dispute resolution compliance strike item B; seconded by Council Member James.

906 bleeds over to 907.

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

schedule to be finished by Deember of next year. all new handheld radios that piece by end of this year. sharlett just awarded 1.5M that will also work on our ysstem. Courtney different vendors but all interoperable.

sharlett thanked committe for looking at demos and reviewing info.

34. Approved a resolution approving an agreement with RCC Consultants, Incorporated, to provide consulting services to conduct Phase 3 of the Radio Replacement Project at a cost of \$248,905.50 for the Communication and Information Systems Department. (PURCHASING)

RESOLUTION NO. 2013 - 436

RESOLUTION APPROVING AN AGREEMENT WITH RCC CONSULTANTS, INCORPORATED, TO PROVIDE CONSULTING SERVICES TO CONDUCT PHASE 3 OF THE RADIO REPLACEMENT PROJECT AT A COST OF \$248,905.50; AND THE CONSULTANTS WILL IMPLEMENT, AND TEST A NEW P25 800 MHZ SIMULCAST TRUNKED LAND MOBILE RADIO SYSTEM

Council Member Morales moved to adopt Resolution No. 2013 - 436; seconded by Council Member Dufford.

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

35. Consider an ordinance amending water and sewer rates and ordering publication. (UTILITIES)

ORDINANCE NO. 9214

AN ORDINANCE AMENDING TITLE III, "DEPARTMENTS", CHAPTER 1, "WATER DEPARTMENT", SECTION 2, "RATES," 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

Jim Nichols gave a brief overview of the item noting f/u to briefing regarding adjusting water/ wasterwaer rtaes to recover revenues needed to ensure sustainable moving forward.

am read the caption of Ordinance No.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9214 in accordance with the Charter of the City of Midland; seconded by Council Member Love.

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

36. Approved a motion making appointments to various boards and commissions.

Mayor perry recessed meeting to lucnh will reconvene after lunch to hear remainder of items 12:30 p.m.

reconvene 1:36 p.m.

as read Love/Morales 6-0

EXECUTIVE SESSION

no items for executive adjourn at 1:59 p.m.

37. 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:

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

PASSED AND APPROVED the __ day of _____, ____.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary