

**MIDLAND CITY COUNCIL
MINUTES
November 27, 2012**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at ____ a.m. on November 27, 2012.

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

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 Persephone Dakopolos, 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 27, 2012.

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

Staff members present at the annex table: City Manager Courtney Sharp, 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 10:08 a.m. In light of recent tragedy opened in memory of those suffered in the train tragedy.

1. Invocation - Monsignor Larry Droll, St. Ann's Catholic Church
2. Pledge of Allegiance

PRESENTATIONS

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

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 Hailey moved to approve Consent Agenda items 5 - 21 excluding 13, 21, 11, 20; seconded by Council Member Morales.

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

5. Approved a motion approving the following minutes:

Council Member Hailey moved to approve Consent Agenda items 5 - 21 excluding 11, 13, 20, 21; seconded by Council Member Morales.

a. Regular Meeting of November 13, 2012.

6. Receive information and possibly discuss Fourth Quarter Fiscal Year 2012 Investment Report. (FINANCE)
7. Consider a Resolution Approving Fiscal Year 2013 Investment Policy. (FINANCE)

RESOLUTION NO. 2012 - 400
RESOLUTION APPROVING THE CITY OF MIDLAND'S FISCAL YEAR 2013
INVESTMENT POLICY

8. Consider a Resolution approving Fiscal Year 2012 Water, Sewer and Sanitation write-offs. (FINANCE)

RESOLUTION NO. 2012 - 401
RESOLUTION AUTHORIZING THE CITY TREASURER TO WRITE OFF AS

UNCOLLECTIBLE CERTAIN DELINQUENT ACCOUNTS FOR WATER, SEWER, AND
GARBAGE COLLECTION SERVICES

9. Consider a Resolution approving Fiscal Year 2012 Miscellaneous write-offs. (FINANCE)

RESOLUTION NO. 2012 - 402

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

10. Consider a Resolution approving Fiscal Year 2012 EMS write-offs. (FINANCE)

RESOLUTION NO. 2012 - 403

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

12. Approved a resolution approving the purchase of ammunition for the Police Department.
(GENERAL SERVICES)

RESOLUTION NO. 2012 - 405

RESOLUTION AUTHORIZING THE PURCHASE OF AMMUNITION OF ASSORTED
TYPES AND IN ASSORTED QUANTITIES FOR THE MIDLAND POLICE
DEPARTMENT FROM THE RESPECTIVE LOW BIDDERS, GT DISTRIBUTORS,
INCORPORATED, AND BLACK HILLS AMMUNITION, INCORPORATED, AT AN
ESTIMATED TOTAL COST OF \$84,551.20; AND REJECTING SOME OF THE BIDS.

14. Approved a resolution authorizing the execution of an amendment to the lease with The
Hispanic Cultural Center of Midland (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2012 - 407

RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE
LEASE AGREEMENT WITH THE HISPANIC CULTURAL CENTER OF MIDLAND
REGARDING A CITY OWNED BUILDING LOCATED IN HOGAN PARK

15. Approved a resolution authorizing the City of Midland to apply for grant funds from the
Texas Department of Transportation for the purpose of constructing a Hike Bike Trail,
said grant funds require an 80/20 match. (COMMUNITY SERVICES)

RESOLUTION NO. 2012 - 408

RESOLUTION AUTHORIZING THE CITY OF MIDLAND COMMUNITY SERVICES
DEPARTMENT TO APPLY FOR A GRANT FROM THE TEXAS DEPARTMENT OF
TRANSPORTATION IN ORDER TO CONSTRUCT A HIKE AND BIKE TRAILS
SYSTEM; SAID GRANT IS A MATCHING FUNDS GRANT IN WHICH THE TEXAS
DEPARTMENT OF TRANSPORTATION ENHANCEMENT GRANT PROGRAM
WOULD FUND 80% (\$1,769,519.00) OF THE TOTAL AMOUNT AND THE CITY OF
MIDLAND WOULD FUND 20% (\$442,380.00) OF THE TOTAL AMOUNT IN ADDITION
TO DESIGN FEES IN THE AMOUNT OF \$153,875.00, THE CITY'S TOTAL FISCAL
IMPACT WOULD BE \$596,255.00

16. Approved a resolution to accept Midland Development Corporation Funds in the amount of \$250,000 and allocate funds in order for the City of Midland to conduct drainage studies of both Midland Draw and Jal Draw and appropriate funds. (ENGINEERING SERVICES)

RESOLUTION NO. 2012 - 409

RESOLUTION ACCEPTING MIDLAND DEVELOPMENT CORPORATION FUNDS IN AN AMOUNT NOT TO EXCEED \$250,000 IN ORDER FOR THE CITY OF MIDLAND TO CONDUCT DRAINAGE STUDIES OF BOTH MIDLAND DRAW AND JAL DRAW; APPROPRIATING SAID FUNDS; AND PROVIDING THAT SAID EXPENDITURE IS AN ADMINISTRATIVE EXPENSE AS AUTHORIZED BY CHAPTER 501 OF THE TEXAS LOCAL GOVERNMENT CODE.

17. Approved a motion on a request by West Company of Midland, Inc. for Timber Wolf Estates, to approve items requested for deferral, and to waive the Associated Public Improvement Guarantee. There are no costs associated with this item. (ENGINEERING SERVICES)
18. Approved a resolution for plans and specifications and authorizing advertisements for bids for the Municipal Solid Waste Landfill Cell 7 Excavation and Liner Construction Project. (SOLID WASTE)

RESOLUTION NO. 2012 - 410

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE MUNICIPAL SOLID WASTE LANDFILL CELL 7 EXCAVATION AND LINER CONSTRUCTION PROJECT.

19. Approved a resolution authorizing a Request for Qualifications for a Professional Consultant to perform a Solid Waste Operational Review for the Solid Waste Department. (SOLID WASTE)

RESOLUTION NO. 2012 - 411

RESOLUTION AUTHORIZING THE CITY MANAGER TO ADVERTISE A REQUEST FOR QUALIFICATIONS FROM FIRMS TO CONDUCT PROFESSIONAL INDEPTH OPERATIONAL REVIEW SERVICES FOR THE CITY OF MIDLAND SOLID WASTE DEPARTMENT; AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AN AGREEMENT FOR SAID PROFESSIONAL SERVICES WITH THE MOST QUALIFIED PROVIDER; AND PROVIDING THAT NO SUCH AGREEMENT SHALL BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL

11. Approved a resolution approving a Professional Services Agreement with RCC Consultants, Inc. for consulting services to conduct Phase 2 of the Radio Replacement Project. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 404

RESOLUTION APPROVING AN AGREEMENT WITH RCC CONSULTANTS, INCORPORATED, TO PROVIDE CONSULTING SERVICES TO CONDUCT PHASE 2 OF THE RADIO REPLACEMENT PROJECT AT A COST OF \$85,262.25; AND APPROPRIATING FUNDS.

Trost clarification consultant for \$85,000 . Patrick did ask to evaluate radio and

proposals for \$8 million radio upgrade evaluate and select proposal. Sharlette first phase set out coverage and ensure new radio system covered whole city. they produced document can use in rfp. The second phase is for RFP is in there were two bidders and a lot to go through including a lot of technical issues. RCC is the company that does evaluation of every muni in state. They will help evaluate help team and help negotiate and not get just fluff. the process will start tomorrow and will have demos will take until february. Will take 9-10 months to set up and should last about 10 years. don't want to make mistake and want to ensure we get what is best for City. Tommy talked at retreat have to be compliant with 2014 to be upgraded. It is a big project that working with. Will be compatible with County? Sharlett yes. These radios are also P-25 compliant.

Council Member Morales moved to adopt Resolution No. 2012 - 404; seconded by Council Member Hailey.

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

13. Approved a resolution approving a contract for labor, material, equipment and supervision necessary to clean and paint the steel structures at the Scharbauer Sports Complex. (GENERAL SERVICES)

RESOLUTION NO. 2012 - 406

RESOLUTION AWARDED A CONTRACT FOR THE CLEANING AND PAINTING OF ALL STEEL STRUCTURES AT THE SCHARBAUER SPORTS COMPLEX TO OPT CO, INCORPORATED, AT A TOTAL COST OF \$532,653.00; AND APPROPRIATING FUNDS

Dufford maintenance or capital exp? tina additional capital.

this illustrates point of why need to continue with 4b for large exp for life of complex that will have to be paid for with sales tax revenue or property tax. Would rather see broad based funds for taxpayers paying for. Trost concur except 2016 is possibility it is actually 2023 when actual tax goes away. James appreciate this discussion at retreat.

Council Member Trost moved to adopt Resolution No. 2012 - 406; seconded by Council Member Dufford.

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

20. Approved a resolution approving Change Order Number 2 for the Headworks Improvements - Replacement of Influent Screens Project with Red River Construction Company and Appropriate Funds. (UTILITIES)

RESOLUTION NO. 2012 - 412

RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER TWO WITH RED RIVER CONSTRUCTION COMPANY, INCORPORATED, ADDING \$325,553.00 FOR ADDITIONAL WORK TO THE EXISTING CONTRACT FOR THE HEADWORKS IMPROVEMENTS - REPLACEMENT OF INFLUENT SCREENS PROJECT; AND APPROPRIATING \$325,553.00; THE ORIGINAL CONTRACT WAS

FOR \$5,357,080.00; THIS CHANGE ORDER BRINGS THE TOTAL CONTRACT PRICE TO \$6,185,735.00.

Trost asked that this is work asking to do in addition to what already doing? Stuart, yes. Trost so a new job? Stuart covers 9 different items. Most not that expensive there were things found during course of construction and have to be replaced. Catwalks significant portion found way to high and couldn't reach to maintain.

Council Member Trost moved to adopt Resolution No. 2012 - 412; seconded by Council Member James.

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

21. Consider a Resolution Authorizing the Mayor to Negotiate and Execute a Contract with the Midland County Fresh Water Supply District Number 1 to Investigate Additional Water Supplies in Winkler County. (UTILITIES)

RESOLUTION NO. 2012 - 413

RESOLUTION AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE AN INTERLOCAL AGREEMENT WITH THE MIDLAND COUNTY FRESH WATER SUPPLY DISTRICT #1 FOR THE DRILLING OF A WELL INTO THE CAPITAN REEF COMPLEX AQUIFER TO PROMOTE THE CITY'S FUTURE WATER SUPPLY; AND APPROPRIATING FUNDS

Sparks would recommend defer until next meeting. Want to find out some things having to do with ideas of how Wells should get drilled. In addition what are our expectations for the water? Are we designing wells to meet those expectations for possible pie in the sky expectations. think it's a larger conversation. Recommend deferral to next meeting.

Trost a lot of discussion that needs to be had so everyone can hear.

Council Member Hailey moved to continue the item to the next available meeting.; seconded by Council Member James.

what is long term ramifications, what is coming down pike, can we get those answered? Why can't do it today. Is there a problem with a delay? Can there be independent meetings set up? Mayor what will do with information can't decide until have information.

Sparks once his questions answered Mr. Edwards prepare exec summary that could be passed out to all Council members. Trost talking about taxpayers money and in process of being open need to have a public discussion. Jay Edwards not been any capitan reef wells in area and expect to be brackish would require some type of treatment. Impossible to know until can see what constituents the water has. The nice thing about T-bar not only have 550,000 feet of water but also capital reef water that is much deeper. From long term standpoint always thought would have capitan reef water available but may be more cost effective if try to blend water instead of depleting one and then going to the other. Before can go any further have to know what kind of water.

Edward reported had conversation with Mr. Sparks and want to continue those

discussions to obtain his expertise. One question is drilling only test well or drill it big enough to also be a producing well? Not only whether but how. James thinks most constituents would appreciate and open discussion. At end of day one question that really matters and that is relationship of this issue and its deferral to us getting water in May or June 2013. Jay T-Bar project on schedule will have everything in place for May 31 deadline. This is a longer term strategy. There is a mid term and long term strategy. Deferring will not affect it.

Trost has T-Bar and this one has to look hard at a direction. Do we want to sell water to anyone else or insure that Midland is supplied with 150 years of water? Tri-cities looks promising but this is something that eventually could be an extremely expensive proposition. If can't blend it then have to do something else. Morales defer and come back and have a public discussion. Mayor has to have all of the above and have to vet each idea and it takes some money to vet it if you want to have water for 150 years. Have to go in with careful economic consideration but have to get data to determine if it is cost effective.

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

SECOND READINGS

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

ORDINANCE NO. 9076

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

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

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9076 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey.

Trost wants to make comment may be easing water restrictions when get water more water on board. All good sounds great but general public want to know where stand. Really think this is step backwards in wrong direction. Wondering to what benefit this is is it 100% for rate payer or feel good? Courtney back in April when facing drought, the year before we tried to do voluntary restrictions and code enforcement and it didn't

work. Went to twice a week restrictions. Eventually went to self imposed with five times multiplier. Recommending taking off five time multiplier on 10,000 to 25,000 multiplier. Will come back and look at restrictions due to rain and telling us next April will open up and sell all water can use. We are saying do not want to get in that situation so we want to see what is going to happen in April and set our restrictions based on April 2013 allocations. Recommend going to twice a week watering even/odd addresses and keep five time multiplier on 25,000 and above so people will still try to conserve water. Staff perspective in good shape and should get us to deadline for T-Bar water. Trost when take away multiplier encouraging more use. Dufford concern not enough revenue to meet needs of water fields because so used to conserving.

James concern is about how change and what changes employ. Do rate change and probably not going to see rates change again prior to June of 2013? Courtney correct. James but will see is a schedule change and that will be getting closer to May or June time frame. Now rate change but June schedule change. Courtney going into winter months where people don't water generally. Want to hit late Jan early Feb hit public with strategies. Hope that recent drought has gotten message out that water is valuable. five time multiplier on otp tier if some feels they need houston landscape they will pay for it in water rates but not penalize other homeowners. James rate change now for middle tier. next change will be frequency or two times a week in Jan or Feb along with education program.

Stuart rates were based on selling 25% less water than prior to the drought since that is what other cities have experienced. Trost staff has auth to do restrictive part and Council does rates.

Council Member Morales moved to approve the second and final reading of Ordinance No. 9076 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey.

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

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

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

ORDINANCE NO. 9077

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

AND APPROVING A PUBLIC SERVICE PLAN

Mayor abstain and left dais.

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

Courtney there was an amendment. James question for Mr. Rendall.

Robert Rendall 550 W Texas Suite 800, sorry to have raised at last moment just brought to his clients attention. Able to firm up yesterday that a piece of property included. This area is where eSchulmberger and MDC develop water line. Those three parties have asked for area to be annexed to allow water to go out. When legal description prepared by LCA there was a tract of land of 3 acres that was included within that restriction and the owner is not ready for it to be annexed so would ask to amend annexation ordinance to delete that section because the owner did not request the annexation. James this is a totally different owner? Robert correct that owner is not affiliated with any of the other parties and mistakenly included that land.

Trost if take section out what does it do to annexation. Cameron reduces to _____. Keith what got here is a set of field notes and another set of field notes 3.080 acres. Looks like have to leave original 283.36 acres and except 3.080 acre and make it an exhibit. Or another option is that metes and bounds have to close if don't close it is not valid. Are you comfortable that the metes and bounds close or would you be more comfortable to resurvey the entire tract minus the 3.080 acres. Have time.

Morales can go with option one because it is not developable surface. Keith right about 3.080 tract, would it affect procedural the validity of the 280 acre tract. Don't think there's a problem. If comfortable save and except closes bounds then can move forward.

Council Member Sparks moved to amend the motion by saving and excepting a 3.80 acre tract of land and making LCA survey Exhibit C ; seconded by .; seconded by Council Member Dufford.

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

D/S as amended 60-0 Perry abstain

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

ORDINANCE NO. 9078

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 75.90-ACRE TRACT OF LAND OUT OF SECTIONS 37 AND 38, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE

HEREOF (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF TRADEWINDS BOULEVARD AND DEAUVILLE BOULEVARD); AND APPROVING A PUBLIC SERVICE PLAN

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

Council Member Dufford moved to approve the second and final reading of Ordinance No. 9078 in accordance with the Charter of the City of Midland; seconded by Council Member James.

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

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

ORDINANCE NO. 9079

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

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

reconvened meeting at 12:59 p.m.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9079 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

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

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

ORDINANCE NO. 9080

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

SOUTH OF SOUTH LOOP 250 WEST); AND APPROVING A PUBLIC SERVICE PLAN

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

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9080 in accordance with the Charter of the City of Midland; seconded by Council Member Trost.

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

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

ORDINANCE NO. 9081

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 22.46-ACRE TRACT OF LAND OUT OF SECTION 1, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED MH, MANUFACTURED HOME DISTRICT, IN PART, AND LR-2, LOCAL RETAIL DISTRICT, IN PART, TO BE USED AS AN MF-1, MULTIPLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF LAMESA ROAD, APPROXIMATELY 1,100 FEET NORTH OF INTERSTATE 20); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

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

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9081 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

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

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

ORDINANCE NO. 9082

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE

PROPERTY DESCRIBED AS LOT 7, LESS THE WEST 5 FEET, AND LOTS 8, 9 AND 10, BLOCK 20, BELMONT ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF RANKIN HIGHWAY AND WEST FRANCIS AVENUE), WHICH IS PRESENTLY ZONED LR-3, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

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

Council Member Dufford moved to approve the second and final reading of Ordinance No. 9082 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey.

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

29. Consider an ordinance on second reading on a request by Jeff Benson for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a Theater/Amusement Center, on Lot 1A, Block 2, Gateway Plaza, City and County of Midland, Texas. (Generally located on the northeast corner of the intersection of West Business 20 and Liberty Drive.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9083

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 1A, BLOCK 2, GATEWAY PLAZA, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF WEST BUSINESS 20 AND LIBERTY DRIVE), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A THEATER / AMUSEMENT CENTER FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

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

Council Member Trost moved to approve the second and final reading of Ordinance No. 9083 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford,

James, Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

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

ORDINANCE NO. 9084

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

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

Council Member Morales moved to approve the second and final reading of Ordinance No. 9084 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford.

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

31. Consider an ordinance on second reading on a request by Tim Ernst for a zone change from 1F-2, One-Family Dwelling District to PD, Planned District for an Office Center on Lot 1A, Block 5, S. W. Estes Addition, Section 2, City and County of Midland, Texas. (Generally located near the southwest corner of the intersection of West Cuthbert and Whitaker Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9085

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

PUBLICATION

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

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9085 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks.

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

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

ORDINANCE NO. 9086

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 283.36-ACRE TRACT OF LAND OUT OF SECTIONS 11 AND 12, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS A BP, I-20 BUSINESS PARK DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF WEST INTERSTATE 20 AND SOUTH COUNTY ROAD 1250; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Mayor Perry left dais.

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

Council Member James moved to approve the second and final reading of Ordinance No. 9086 in accordance with the Charter of the City of Midland with amendment to save and except 3.80 acres tract of land and make LCA survey Exhibit B; seconded by Council Member Sparks.

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

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

SERVICES)

ORDINANCE NO. 9087

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 29.82-ACRE TRACT OF LAND OUT OF SECTIONS 37 AND 38, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS ("TRACT 2A"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS A PD, PLANNED DISTRICT FOR AN OFFICE CENTER; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 21.87-ACRE TRACT OF LAND ("TRACT 2B"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION TWO HEREOF, AS A PD, PLANNED DISTRICT FOR AN OFFICE CENTER; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 16.13-ACRE TRACT OF LAND ("TRACT 2C"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION THREE HEREOF, AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 11.71-ACRE TRACT OF LAND ("TRACT 2D"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION FOUR HEREOF, AS AN LR-2, LOCAL RETAIL DISTRICT; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 2.29-ACRE TRACT OF LAND ("TRACT 2E"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION FIVE HEREOF, AS AN LR-2, LOCAL RETAIL DISTRICT; TRACTS 2B-2E ARE ALL OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; SAID TRACTS ARE GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF TRADEWINDS BOULEVARD AND DEAUVILLE BOULEVARD; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

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

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9087 in accordance with the Charter of the City of Midland; seconded by Council Member James.

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

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

ORDINANCE NO. 9088

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 3.623-ACRE TRACT OF LAND ("TRACT 3A"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT;

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

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

Council Member Trost moved to approve the second and final reading of Ordinance No. 9088 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey.

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

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

ORDINANCE NO. 9089

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 193.29-ACRE TRACT OF LAND OUT OF SECTIONS 11 AND 12, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS AN FD, FUTURE DEVELOPMENT DISTRICT; SAID TRACT IS GENERALLY LOCATED ON THE SOUTH SIDE OF INTERSTATE 20, SOUTH OF SOUTH LOOP 250 WEST; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

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

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9089 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

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

36. Consider an ordinance on second reading on a request by James Grose for a zone change from PD, Planned District for a Housing Development to Amended Planned District on Lot 1A, Block 4, Gateway Plaza, Section 4, City and County of Midland, Texas. (Generally located on the west side of Tradewinds Boulevard, approximately

800 feet north of West Business I-20) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9090

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1A, BLOCK 4, GATEWAY PLAZA, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF TRADEWINDS BOULEVARD, APPROXIMATELY 800 FEET NORTH OF WEST BUSINESS INTERSTATE 20); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

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

Council Member Hailey moved to approve the second and final reading of Ordinance No. 9090 in accordance with the Charter of the City of Midland; seconded by Council Member Morales.

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

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

ORDINANCE NO. 9091

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

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

Council Member Trost moved to approve the second and final reading of Ordinance No. 9091 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey.

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

PUBLIC HEARINGS

38. At approximately 10:30 a.m. hold a public hearing regarding a proposed oil and gas permit to Bluestem Energy Holdings, LLC (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Evans E 1) located 2,073 feet from the north line and 1,009 feet from the west line located in Section 8, Block X, H. P. Hilliard Survey, City and County of Midland, Texas. Generally located on the east side of the North Midland Drive, approximately 3/4 mile north of Mockingbird Lane. (DEVELOPMENT SERVICES)

O&G Compliance Officer Ron Jenkins provided an overview received one letter of objection, O&G adv comm hs rev and rec application with two minor corrections on typo ?? O&G rec no two year variance due to prox of well to neighborhood. There is a second letter from Mr. Evans surface owner requesting they do hav evariance.

Dufford have Mr. Evans want to include variance O&G Committee say requirue landscaping. Jenkins on past gave variance with no time limit previous four two year time limit. James is sdistance between well site and home is less than 500 feet. Jenkins the inner circle hits the platting of homes but no homes and o occupied residentnce. 860 uis where start including homes. West line is 467 feet1009 from west line the map needs to be corrected. Morales are they adding sound barrier. Ron no. James on survey it looks like homes but other document shows no homes. Ron there are no homes in 500.

Mayor Perry opened the public hearing at 11:28 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

39. At approximately 10:33 a.m. hold a public hearing regarding a proposed oil and gas permit to Callon Petroleum Operating Company (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Pecan Acres 23 #11) located 947 feet from the west line and 660 feet from the south line located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. Generally located on the north side of Briarwood Avenue, approximately one half mile west of Golden Gate Drive. (DEVELOPMENT SERVICES)

Ron Jenkins no letters of obj O&G reviewed and variance. operating req variance of landscape. OG rec no variance. correction made listen. In past two year variances have been given to put landscaping in. James why recommended that on this one? Ron in proximity to ?? dufford they are accept well control insurance control fo well ron yes both Bluestem and Callon. Trost do we need to amend? Keith no it is just public hearing.

Mayor Perry opened the public hearing at 11:31 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

40. At approximately 10:36 a.m. hold a public hearing and consider an ordinance vacating a 45 foot by 215 foot portion of the right-of-way of North State Highway 349 adjacent to Lots 1 & 2, Block 18, 349 Ranch Estates, Section 3, City and County of Midland, Texas. (Generally located on the southeast corner of North State Highway 349 and Arapahoe Road.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9092

AN ORDINANCE VACATING AND ABANDONING A 45-FOOT BY 215-FOOT PORTION OF RIGHT-OF-WAY LOCATED ADJACENT TO LOTS 1 AND 2, BLOCK 18, 349 RANCH ESTATES ADDITION, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF STATE HIGHWAY 349 AND ARAPAHOE ROAD); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$9,675.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Planning Division Manager Walker provided an overview of the item noting request from adjacent property owner to buy a portion of property that was a part of the greater right of way association with highway 349. Received confirmation that is not been in their hand for some time. Notifications were sent out notifications to party owners within 1000 feet. Received one notice back hand delivered about an hour ago. Appraisal number came from district.

James may be question about appraisal from who. Cameron from Mr. Chalmers the 9675 he may wish to discuss with you. James did hear there is property he has purchased from City in same area? Cameron yes in 2007 or 2008. Did the same process take place in 2008 of getting appraisal for appraisal district? Cameron not sure don't recall. James are there any more recent appraisals to confirm number? Are there comps? Cameron no other sold property was 10 cents a foot. The land has a piece of asphalt on it that was at one time part of the service road.

Mayor Perry opened the public hearing at 11:40 a.m.

Sherry frank 4505 Meadowlark, has a drawn picture to show how it works. Brought property with row 25 years ago but row of was there. Closing ROW will make it so can only enter one way and if people on other side will have to access at all to storage units. closing ROW limits storage access and objects. you can see how there is a ditch and then paved road and applicants wants to close road to north. People access road both north and south to access business and people walk area.

Cliff Chalmers 5100 Ashdown Place, appreciate opportunity to speak, storage property is accessible from Tejas and coming up 349 so doesn't see how it would have a negative impact. With regard to future individuals requesting vacating that piece you couldn't do that because it wouldn't allow access to business. However, vacating lots 1 and 2 does not adversely affect any other property in area. It does have traffic, hasn't been resurfaced in some time and does not have a lot of value to the City. Plans are to develop the property which will increase tax revenue of the COM. No sewer available to property which has negative impact. Would like to talka bout price. Two lot spurchased 4 months ago for 9500 or about 11 cents a square foot. Incurred expense and hav eto

move 4600 cubic yards of dirt from east portion to build up out of flood plain so will lose 100 by 215 foot piece of land. If public agreed can vacate that land then can move earth to west and incorporate 45 foot piece to west makes land more viable for building project. With knowledge that paid 11 cents for lots 1 and 2. And other ROW purchased for 10 cents a foot in 2007, if double the price it would be at 20 cents a foot. 9675 represents about a dollar a foot and feels that is high.

Perry. Where is access to lot 2? Chalmers replat 1 and 2 and will ask for access to Arapahoe. James any prospect of a drive so that more open after turn off 349 that could others access to most southern lots. Chalmers no.

Dufford are we setting a precedent by allowing to purchase ROW lots 2 and 3 say we would like to purchase our row as well. James related what is standard for alleys. Recollection is everyone who closes alley who abuts has to agree. Cameron it is a long established strip of excess payment formerly owned by TXDOT. The only question is owner s of 12 and 3 came and said we would like 45 as well but recognizing it would landlock. When neighborhood platted the alleys were not improved just a symptom that have remained in that condition for a number of decades. James policy for alley in general if want to close alley in general what is policy everybody else has to sign off. If take that same standard then everybody has to sign off on. This is not a street but a public right of way and more similar to an alley than a street. Cameron if closing an alley and affected by closure of alley because I can't access the alley you have potential of taking something. However should be involved in greater closure. In this situation there isn't a loss from either an alley or a strip on the front. James when did construction on Lamesa Rd heard from a business that would affect business, related to that if look at industrial road and railroad said going to give that up who would say I want that portion of industrial road and preventing access to industrial. Hard pressed to say going to adversely going to affect a storage business.

There being no one else wishing to speak, the public hearing was closed at 12:03 p.m.

Deputy City Secretary Reyes read the caption of Ordinance No. 9092.

James trying to make point that see this a potentially inhibiting the storage business because know every business wants every point of access to encourage people to enjoy their business. Questions of Mr. Chalmers does 45 feet adversely affect potential development.

Mr. Chalmers lots 1 and 2 because of flood plain we will lose 105 feet by 215 feet on the east side of two blocks by alleyway. Consequently when saw 45 foot piece saw no value to City it makes the deal more viable to have 45 feet to work with given that losing back 105 feet. Will it kill a deal? don't know but it will have a negative impact. Would be open to find another solution. On flooding when it does rain does all property flood? Cameron when makes improvements to flood plain does it affect. Dufford if you knew there was no way you could be landlocked would you feel better? Ms. Davis it was a big concern, but if you use a road for so long doesn't it always have to stay a road. Mayor can close it. Dufford do you take comfort in the fact knowing you will never be landlocked? Davis do object because 45 feet will not make or break anybody. Mr. Chalmers as far as accessibility you could access a new entrance off of 349 it is overkill but it could be done.

Morales question about drainage. Andrew Mellon drainage will improve his lot it will not improve anybody to the south of him just his lot.

motion with drwan H/j

Council Member Trost moved to continue the item to December 18; seconded by Council Member Morales.

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

MISCELLANEOUS

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

adj at 1:13 p.m.

no appointments made

EXECUTIVE SESSION

Mayor Perry noted the remaining items would be heard at 1 p.m.

recess to go to executive session at 12:22 p.m.

42. Pursuant to Texas Government Code §551.101, the Council will hold an Executive Session which is closed to the public to discuss the following matters as permitted under the following Texas Government Code Sections:

- a. Section 551.071, Consultation with the City Attorney

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