

**MIDLAND CITY COUNCIL
MINUTES
February 9, 2021**



The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., February 09, 2021.

Council Members present: Patrick Payton, Spencer Robnett, Michael Trost, Scott Dufford, John Norman, Jack Ladd, Lori Blong

Council Members absent: None

Staff members present: City Attorney John Ohnemiller, Interim City Manager Robert Patrick, Assistant City Manager Morris Williams

The meeting was called to order at 10:01 a.m.

OPENING ITEMS

1. Invocation
2. Pledge of Allegiance

CONSENT AGENDA

Spencer Robnett moved to approve the Consent Agenda items 3-11, excluding item(s) 6; seconded by Lori Blong.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Blong

NAY: None

ABSTAIN: None

ABSENT: Ladd

3. MOTION APPROVING THE FOLLOWING MINUTES:
 - a. REGULAR CITY COUNCIL MEETING OF JANUARY 26, 2021
4. 2021-019 – RESOLUTION AUTHORIZING THE EXECUTION OF A SOLE-SOURCE CONTRACT WITH CORE & MAIN, LP, FOR THE PURCHASE AND INSTALLATION OF CERTAIN NEPTUNE GATEWAY DATA COLLECTORS AND ASSOCIATED PARTS FOR THE CUSTOMER SERVICE DIVISION AT A TOTAL COST OF \$593,777.80 (GENERAL

SERVICES)

5. 009-2021 – MOTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE DIRECT CASE RATE PRACTITIONER AGREEMENTS WITH ANESTHESIA MEDICAL GROUP OF PERMIAN BASIN, MIDLAND EMERGENCY MANAGEMENT, PLLC, AND PERMIAN BASIN ANESTHESIA, PLLC, AND A DIRECT CASE RATE FACILITY AGREEMENT WITH MIDLAND MEMORIAL HOSPITAL, AND TO EXECUTE ANY OTHER DOCUMENTS AND TO TAKE ANY OTHER ACTIONS NECESSARY TO GIVE EFFECT TO SAID AGREEMENTS (ADMINISTRATIVE SERVICES)
7. 011-2021 – MOTION APPROVING A PROPOSED PRELIMINARY PLAT OF WEST 191 INDUSTRIAL PARK, SECTION 6, BEING A PLAT OF A 33.95-ACRE TRACT OF LAND LOCATED IN SECTION 31, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, APPROXIMATELY 171-FEET EAST OF NORTH FARM-TO-MARKET ROAD 1788, EXTRATERRITORIAL JURISDICTION) (DEVELOPMENT SERVICES)
8. 012-2021 – MOTION AUTHORIZING THE INTENT OF THE COMMUNITY DEVELOPMENT DEPARTMENT TO ESTABLISH THE SCHEDULE FOR 2021 CDBG GRANT APPLICATION CYCLE (DEVELOPMENT SERVICES)
9. 2021-020 – RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO PURCHASE AN APPROXIMATE 0.076-ACRE TRACT OF LAND OUT OF LOT 1, BLOCK 104A, WILSHIRE PARK ADDITION, SECTION 9, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF BEAL PARKWAY AND THOMASON DRIVE); AUTHORIZING THE INTERIM CITY MANAGER TO OBTAIN AN APPRAISAL, NEGOTIATE, EXECUTE AND FILE ALL DOCUMENTS NECESSARY TO PURCHASE SAID REAL PROPERTY, PURCHASE A TITLE INSURANCE POLICY AND HOLD A CLOSING; AUTHORIZING THE EMPLOYMENT OF LEGAL COUNSEL; AND ORDERING THE CITY SECRETARY TO RECORD, OR ENSURE THAT THE TITLE COMPANY RECORDS, THE INSTRUMENT OF CONVEYANCE (ENGINEERING SERVICES)
10. 013-2021 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND PINNACLE MIDSTREAM II LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 20, BLOCK 37, TOWNSHIP 3 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (UTILITIES)
11. 2021-021 – RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE A CONTRACT WITH CHAMBERS TRACTOR SERVICE OF MIDLAND, TEXAS, FOR THE DEMOLITION OF A STRUCTURE LOCATED ON LOT 3, BLOCK 2, SOLOMON ESTATES ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS; AND AUTHORIZING PAYMENT (GENERAL SERVICES)

The following items were pulled from consent agenda and considered individually.

6. 010-2021 – MOTION AUTHORIZING THE EXECUTION OF A LAND LEASE

AGREEMENT FOR AIRPORT HANGAR FACILITY WITH OGM, LLC, REGARDING CERTAIN CITY-OWNED REAL PROPERTY DESCRIBED AS A 0.322-ACRE TRACT LOCATED IN LOT 4B, BLOCK 11, MIDLAND INTERNATIONAL AIRPORT INDUSTRIAL PARK ADDITION, SECTION 6, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS (AIRPORTS)

Council Member Robnett asked if this had been bid. Airports Director Justine Ruff confirmed that it had been bid with the other one, but this one had no interest. She confirmed that this is the final space left.

Lori Blong moved to approve Motion No. 010-2021; seconded by Spencer Robnett.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Blong

NAY: None

ABSTAIN: None

ABSENT: Ladd

SECOND READINGS

12. 10145 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR LOT 2, BLOCK 11, CORRECTION PLAT OF WESTRIDGE PARK ADDITION, SECTION 27, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF TRADEWINDS BOULEVARD AND WINDHAVEN DRIVE), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A BAR FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION 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 (DEVELOPMENT SERVICES) (FIRST READING HELD JANUARY 26, 2021)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10145.

Michael Trost moved to approve the second and final reading of Ordinance No. 10145; seconded by Lori Blong.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Blong

NAY: None

ABSTAIN: None

ABSENT: Ladd

13. 10146 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 1B, BLOCK 56A, BELMONT ADDITION, SECTION 9, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER TO AN AMENDED PD, PLANNED

DEVELOPMENT DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST LONGVIEW AVENUE, APPROXIMATELY 360 FEET EAST OF RANKIN HIGHWAY); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES) (FIRST READING HELD JANUARY 26, 2021)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10146.

Spencer Robnett moved to approve the second and final reading of Ordinance No. 10146; seconded by Michael Trost.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Blong

NAY: None

ABSTAIN: None

ABSENT: Ladd

14. 10147 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 316-SQUARE FOOT PORTION OF LOT 2E, BLOCK 4, CORPORATE PLAZA, SECTION 26, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED APPROXIMATELY 366 FEET EAST OF NORTH BIG SPRING STREET AND APPROXIMATELY 876 FEET NORTH OF CORPORATE DRIVE), WHICH IS PRESENTLY ZONED O-2, OFFICE DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF BEER AND WINE IN CONNECTION WITH A FOOD AND BEVERAGE SALES STORE FOR OFF-PREMISES CONSUMPTION; MAKING SAID DESIGNATION 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 (DEVELOPMENT SERVICES) (FIRST READING HELD JANUARY 26, 2021)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10147.

Spencer Robnett moved to approve the second and final reading of Ordinance No. 10147; seconded by John Norman.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Blong

NAY: None

ABSTAIN: None

ABSENT: Ladd

15. 10148 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 0.08-ACRE TRACT OF LAND OUT OF TRACT 3, MIDKIFF HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-16, MULTIPLE-FAMILY DWELLING DISTRICT, IN PART, AND RR, REGIONAL RETAIL DISTRICT, IN PART, TO RR, REGIONAL RETAIL DISTRICT (GENERALLY LOCATED

APPROXIMATELY 160 FEET WEST OF NORTH MIDKIFF ROAD AND APPROXIMATELY 250 FEET SOUTH OF ANDREWS HIGHWAY); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION (DEVELOPMENT SERVICES) (FIRST READING HELD JANUARY 26, 2021)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10148.

Spencer Robnett moved to approve the second and final reading of Ordinance No. 10148; seconded by Michael Trost.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Blong

NAY: None

ABSTAIN: None

ABSENT: Ladd

16. 10149 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 1.58-ACRE TRACT OF LAND LOCATED IN SECTION 31, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT TO LR, LOCAL RETAIL DISTRICT (GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF NORTH FAIRGROUNDS ROAD AND MAPLE AVENUE); 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 (DEVELOPMENT SERVICES) (FIRST READING HELD JANUARY 26, 2021)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10149.

Lori Blong moved to approve the second and final reading of Ordinance No. 10149; seconded by Spencer Robnett.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Blong

NAY: None

ABSTAIN: None

ABSENT: Ladd

PUBLIC HEARINGS

The City Council will hold public hearings on the following items:

17. 014-2021 – THE PROPOSED GRANTING OF OIL AND GAS WELL PERMITS TO DIAMONDBACK E&P LLC FOR THE DRILLING OF THE FOLLOWING OIL AND GAS WELLS: BILLINGS UNIT 807WB AND MISSOULA UNIT 806WA; SAID WELLS BEING GENERALLY LOCATED BETWEEN 409 FEET AND 410 FEET NORTH OF GREEN TREE BOULEVARD EXTENSION AND BETWEEN 2,022 FEET AND 2,042 FEET WEST OF NORTH MIDKIFF ROAD EXTENSION (DEVELOPMENT SERVICES)

Mayor Payton opened the public hearing at 10:09 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

18. 10150 – AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 8, BLOCK 4, REPLAT OF WINDWOOD PARK, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH MAIN STREET AND ELM AVENUE), BY PERMITTING A REDUCED MINIMUM LOT AREA AND A REDUCED MINIMUM LOT WIDTH IN THE EVENT THAT THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND IS AMENDED TO REZONE THE PROPERTY FROM LR, LOCAL RETAIL DISTRICT TO MF-16, MULTIPLE-FAMILY DWELLING DISTRICT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION (DEVELOPMENT SERVICES)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10150.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant is requesting a special exception to build multi-family housing that does not meet requirements. Staff feels it would be better to build two duplexes because of the size of the lot. Staff does not support this item. No letters of objection were received. If approved, staff asks that conditions A and B be included. Mr. Harrington clarified this is a drastic deviation. Normally multi-family requires 2 acre lots and this property is .316 acres. It was noted that the building comes within five feet of the back of the property.

Mayor Payton opened the public hearing at 10:15 a.m.

Liliana Vergara, 2100 N. Main Street, said she understood what they are saying about this project being too big and is willing to do modifications to her plan. Council Member Blong asked Ms. Vergara to confirm she was willing to make changes that staff is recommending. Ms. Vergara confirmed she was.

There being no one else wishing to speak, the public hearing was closed at 10:18 a.m.

The item died for lack of a motion. Mayor Payton asked staff to explain to Ms. Vergara what she needs to do to bring it back for Council consideration.

19. 10151 – AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR A 1.58-ACRE TRACT OF LAND OUT OF SECTION 31, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF NORTH FAIRGROUNDS ROAD AND MAPLE AVENUE), BY PERMITTING A NON-MASONRY SCREENING WALL OF A REDUCED HEIGHT ALONG THE NORTHERN BOUNDARY OF THE PROPERTY IN THE EVENT THAT THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND IS AMENDED TO REZONE THE PROPERTY FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT TO LR, LOCAL RETAIL DISTRICT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00);

ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION (DEVELOPMENT SERVICES)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10151.

Mayor Payton opened the public hearing at 10:19 a.m.

Bob Gage, TN, explained that they are required to build an eight-foot tall masonry fence between their property and the surrounding property. To their north is a church that is not in use. They are requesting to reduce the fence from eight feet to six feet commercial grade wood privacy fence. They tried unsuccessfully to contact the owner of the property.

There being no one else wishing to speak, the public hearing was closed at 10:22 a.m.

Lori Blong moved to approve the first of two readings of Ordinance No. 10151; seconded by Michael Trost.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Blong

NAY: None

ABSTAIN: None

ABSENT: Ladd

MISCELLANEOUS

20. 015-2021 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE WITH MT223, LLC REGARDING CITY-OWNED PROPERTY DESCRIBED AS AN APPROXIMATE 2,140-SQUARE FOOT PORTION OF SOUTH COLORADO STREET RIGHT-OF-WAY ADJACENT TO LOT 12, BLOCK 65, AND CERTAIN OTHER NEARBY PORTIONS OF SOUTH COLORADO STREET, SOUTH LORAIN STREET, WEST WALL STREET, AND WEST MISSOURI AVENUE RIGHTS-OF-WAY, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (ENGINEERING SERVICES)

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant is requesting a private valet parking service where vehicles would pull into existing City parking spaces, they would valet park the vehicles in a nearby parking garage and return the vehicles to the same area. He noted that there is already a shortage of parking spaces in downtown and does not feel it is best to remove available parking spaces to accommodate a private service. John Ohnemiller clarified that they would pay \$1,000/year for leasing the area.

It was suggested this item be deferred until more information could be obtained.

Scott Dufford moved to defer Motion No. 015-2021; seconded by Michael Trost.

The motion passed by the following vote:

AYE: Payton, Robnett, Trost, Dufford, Norman, Blong

NAY: None

ABSTAIN: None

ABSENT: Ladd

21. 016-2021 – MOTION AUTHORIZING AND DIRECTING THE INTERIM CITY MANAGER OR HIS DESIGNEE TO ESTABLISH A LANDLORD RENTAL ASSISTANCE PROGRAM (THE “PROGRAM”) FOR THE GRANTING OF CARES ACT FUNDS OR OTHER SUCH GRANT FUNDS TO RESIDENTS OF MIDLAND WHO OWN AND OPERATE SINGLE-FAMILY OR TWO-FAMILY (DUPLEX) RENTAL PROPERTIES; PROVIDING THAT THE OWNER OF AN APARTMENT COMPLEX OR OTHER SIMILAR MULTI-FAMILY DEVELOPMENT SHALL NOT BE ELIGIBLE TO PARTICIPATE IN THE PROGRAM; AND PROVIDING FOR THE ESTABLISHMENT OF CERTAIN PROGRAM EVICTION MORATORIUM REQUIREMENTS (CITY ATTORNEY)

Council Member Blong reported she asked staff to put this on the agenda after being contacted by property owners. There is currently a moratorium, through March 31, on evictions for non payment of rent. There is no incentive for renters to seek rental assistance because they know they cannot be evicted. In some cases, rent has not been paid for 6-8 months and the owner of the property is having difficulty in making their mortgage and tax payments and could lose custody of their property. There are programs available to cities with a population of more than 200,000 people and the State of Texas is working on a program, but there is nothing available at this time. She is not proposing to allocate additional money, but suggested using the money that was previously allocated to allow landlords to apply on behalf of their renters for rental assistance. This will not be available for multi-family or investment groups. It will be available for Midland residents who are landlords. She added that there is currently chatter that the moratorium on evictions will be extended beyond March 31. City Attorney John Ohnemiller clarified that whatever Council decides today, this program will not affect whether or not someone can get evicted.

Interim City Manager Robert Patrick clarified that they would like to use the program that is currently in place for larger cities. Council Member Blong reported she has been in contact with the non-profits that are currently administering the funds previously allocated and they could handle this item as well.

Lori Blong moved to approve Motion No. 016-2021; seconded by Scott Dufford.

The motion passed by the following vote:

AYE: Payton, Dufford, Norman, Ladd, Blong

NAY: Robnett

ABSTAIN: Trost

ABSENT: None

EXECUTIVE SESSION

Mayor Payton recessed the meeting to go to Executive Session at 10:54 a.m.

22. Pursuant to Texas Government Code § 551.101, the City Council will hold an Executive Session, which is closed to the public, to discuss the following matters as permitted under the following sections of the Texas Government Code:
 - a. Section 551.071, Consultation with the City Attorney

- a.1. Discuss matters in which the duty of the attorney(s) to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code.

All the business at hand having been completed, the meeting adjourned at 11:29 a.m.

PASSED AND APPROVED February 23, 2021.

Patrick Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary