

**MIDLAND CITY COUNCIL
MINUTES
February 23, 2021**



The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., February 23, 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 10:00 a.m.

OPENING ITEMS

Mayor Payton expressed appreciation to all who had a part in providing relief during the storm last week including City workers, the County and the hospital.

1. Invocation – Pastor Jason Atchley, Greenwood Baptist Church
2. Pledge of Allegiance

CONSENT AGENDA

Michael Trost moved to approve the Consent Agenda items 3-16, excluding item(s) 6; seconded by Spencer Robnett.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: None

3. MOTION APPROVING THE FOLLOWING MINUTES:
 - a. REGULAR CITY COUNCIL MEETING OF FEBRUARY 9, 2021
4. 2021-022 – RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL

SERVICES AGREEMENT WITH JACOBS ENGINEERING GROUP, INC., FOR THE DESIGN OF A WASTEWATER EXTENSION TO REMOVE THE TERRELL AND PECK LIFT STATION AND REROUTE THE DISCHARGE FOR THE UTILITIES DEPARTMENT FOR A COST OF \$150,180.00; AND APPROVING \$30,036.00 FOR CONTINGENCIES (GENERAL SERVICES)

5. 2021-023 – RESOLUTION AUTHORIZING THE EXECUTION OF THE FIFTH AMENDMENT TO THE INTERLOCAL MANAGEMENT SERVICES AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS AND MIDLAND COUNTY HOSPITAL DISTRICT, DOING BUSINESS AS MIDLAND MEMORIAL HOSPITAL, FOR CERTAIN MEDICAL AND WELL-BEING SERVICES; SAID AMENDMENT PROVIDING FOR THE HOSTING OF INFLUENZA CLINICS AND NO ADJUSTMENT TO THE ANNUAL FEE; AND AUTHORIZING PAYMENT (ADMINISTRATIVE SERVICES)
7. 018-2021 – MOTION APPROVING A CONSULTANT SERVICES AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND INTERFLIGHT GLOBAL CORPORATION FOR SERVICES RELATED TO THE PROCUREMENT OF NEW TENANTS FOR FACILITIES LOCATED AT THE SPACEPORT BUSINESS PARK (CITY MANAGER)
8. 2021-024 – RESOLUTION APPROVING A GRANT OF CARES ACT FUNDS TO THE YMCA OF MIDLAND, TEXAS FOR CERTAIN COVID-19 COMMUNITY SERVICES IN THE AMOUNT OF \$241,687.00; AUTHORIZING THE EXECUTION OF ALL RELATED DOCUMENTS NECESSARY AND APPROPRIATE TO EFFECTUATE THE ADMINISTRATION OF SAID FUNDS; AND AUTHORIZING PAYMENT OF SAID FUNDS (CITY MANAGER)
9. 2021-025 – RESOLUTION REAPPOINTING BARRY BEAL JR. TO THE MIDLAND DOWNTOWN PARK CONSERVANCY BOARD OF DIRECTORS; AND DIRECTING THE INTERIM CITY MANAGER TO DELIVER A COPY OF THIS RESOLUTION TO THE MIDLAND DOWNTOWN PARK CONSERVANCY (COMMUNITY SERVICES)
10. 2021-026 – RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO PARSLEY ENERGY OPERATIONS, LLC (“OPERATOR”) TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED IN SECTION 1, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 1,840 FEET NORTH OF EAST LOOP 250 NORTH AND 1,381 FEET WEST OF THE NORTH FAIRGROUNDS ROAD EXTENSION); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT (DEVELOPMENT SERVICES)
11. 019-2021 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE AMENDMENT BETWEEN THE CITY OF MIDLAND AND BETA CRUDE CONNECTOR, LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 44, BLOCK 38, TOWNSHIP 1 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (UTILITIES)
12. 020-2021 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE

BETWEEN THE CITY OF MIDLAND AND TARGA PIPELINE MID-CONTINENT WESTEX L.L.C.; THE PIPELINE IS LOCATED IN SECTION 10, BLOCK 38, TOWNSHIP 2 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (UTILITIES)

13. 021-2021 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND TARGA PIPELINE MID-CONTINENT WESTEX L.L.C., REGARDING CITY OWNED PROPERTY DESCRIBED AS SECTION 2, BLOCK 37, TOWNSHIP 3 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (UTILITIES)
14. 022-2021 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND TARGA PIPELINE MID-CONTINENT WESTEX L.L.C., REGARDING CITY OWNED PROPERTY DESCRIBED AS SECTION 4, BLOCK 38, TOWNSHIP 2 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (UTILITIES)
15. 023-2021 – MOTION AUTHORIZING THE EXECUTION OF A SURFACE USE AGREEMENT BETWEEN THE CITY OF MIDLAND AND ENDEAVOR ENERGY RESOURCES, L.P., REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 24, BLOCK 37, TOWNSHIP 3 SOUTH, T&P R.R. CO. SURVEY, MIDLAND COUNTY, TEXAS (UTILITIES)
16. 024-2021 – MOTION AUTHORIZING THE EXECUTION OF A FIRST AMENDMENT TO RIGHT OF WAY LICENSE BETWEEN THE CITY OF MIDLAND AND OLC KERMIT, LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 5, BLOCK C24, PSL SURVEY, WINKLER AND LOVING COUNTIES, TEXAS, AND SECTIONS 7, 12, 13, 19, 20, AND 27, BLOCK C23, PSL SURVEY, WINKLER COUNTY, TEXAS (UTILITIES)

The following item(s) were pulled from consent agenda and considered individually.

6. 017-2021 – MOTION APPROVING AN AMENDMENT TO THAT CERTAIN LOCATION INCENTIVES AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER FOR THE EXPANSION OF THE PHYSICIAN ASSISTANT STUDIES PROGRAM IN THE CITY OF MIDLAND, TEXAS (CITY MANAGER)

Council Member Ladd asked if we are still subsidizing doctors in Midland. John Trischitti, MDC, reported that the agreement expired.

Council Member Robnett reported that in the last few years there were several agreements with Texas Tech that had matching funds and asked if there were matching funds. Mr. Trischitti reported those started from Speaker Craddick in the last biennium and they had several other funding sources. MDC was the last in.

Jack Ladd moved to approve Motion No. 017-2021; seconded by Michael Trost.

The motion passed by the following vote:

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

NAY: None
ABSTAIN: None
ABSENT: None

SECOND READINGS

17. 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) (FIRST READING HELD FEBRUARY 09, 2021)

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10151.

Spencer Robnett moved to approve the second and final reading of Ordinance No. 10151; seconded by Jack Ladd.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: None

PUBLIC HEARINGS

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

18. 10152 – AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 8, BLOCK 30, SKYLINE TERRACE WEST, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF STILLMEADOW DRIVE AND FARGO AVENUE), BY PERMITTING A REDUCED MINIMUM SIDE YARD SETBACK ON THE SOUTH SIDE OF THE LOT; 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 SueAnn Reyes read the caption of Ordinance No. 10152.

Development Services Director Chuck Harrington gave a brief overview of the item noting

the existing carport is allowed but under new regulations it requires a 15-foot setback for corner lots. From Staff's standpoint, no hardship has been exhibited. This will affect other lots across the City. He clarified that access will be from the alley. The applicant is adding sides to the carport to fully enclose it. Staff confirmed there are no line-of-sight issues.

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.

Spencer Robnett moved to approve the first of two readings of Ordinance No. 10152; seconded by Scott Dufford.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: None

19. 10153 – AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR TRACT 15, NORTH ESTATES, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF SOLOMON LANE AND ACORN LANE), BY PERMITTING A REDUCED MINIMUM SIDE YARD SETBACK ON THE WEST SIDE OF THE TRACT; 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 SueAnn Reyes read the caption of Ordinance No. 10153.

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

Cory Rylander, 221 Solomon Lane, reported that the building was built in the 1960s and they use it as storage. He confirmed that the new expansion will not be closer to the lot line than the existing structure.

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

Spencer Robnett moved to approve the first of two readings of Ordinance No. 10153; seconded by Lori Blong.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: None

20. 10154 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 6, BLOCK 45, FAIRMONT PARK, SECTION 15, 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 HENRY KOONTZ BOULEVARD, APPROXIMATELY 535 FEET WEST OF NORTH MIDLAND DRIVE); 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)

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10154.

Development Services Director Chuck Harrington gave a brief overview of the item noting that previously Home Depot did not do equipment rentals, and now they need the extra parking to store their equipment on the west side of the building. Because this is a Planned Development, it requires Council approval. They will still have plenty of parking spaces. Staff recommends approval.

Mayor Payton opened the public hearing at 10:13 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

John Norman moved to approve the first of two readings of Ordinance No. 10154; seconded by Spencer Robnett.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: None

21. 2021-027 – RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR OUTDOOR RETAIL SALES ON LOT 2, BLOCK 2, GRANDRIDGE PARK ADDITION, SECTION 1, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH LOOP 250 WEST AND WEST WADLEY AVENUE) SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS (DEVELOPMENT SERVICES)

Development Services Director Chuck Harrington gave a brief overview of the item noting this involves the south side of the garden center at Lowes. They have had problems in the past and complaints have been received about the use of this property. They are asking to authorize a seasonal sale, but because this has become such a regular thing, staff feels it would be best for them to extend their enclosed area so as not to impact the adjoining neighborhoods. All of their south side storage has no protective screening and many complaints were received from the neighbors.

Council Member Blong confirmed they store excess sod and non-viable plants, and equipment. She has received many complaints that it is disruptive to the people in the area because of trash and critters.

Mr. Harrington reported that staff recommends denial.

Council Member Dufford suggested the item be deferred, and asked the applicant to come back with a different plan. Mayor Payton added that they have been a good partner through COVID and agreed with deferring this to allow them to come up with a plan to mitigate.

Mayor Payton opened the public hearing at 10:18 a.m.

Travis Spicer with Lowe's spoke via Zoom, asked what needed to be done. Council noted that this space has had fairly continuous usage for storage and suggested the best plan would be to enclose the space which would obstruct the view from the neighbors and prevent blowing trash. Mr. Spicer reported he would go back to the store manager who runs the project and they would look at what options they have. They can look at flexing the space and include some sort of permanent enclosure. He added they would likely want a gate in the rear and front to allow for quick loading.

There being no one else wishing to speak, the public hearing was closed at 10:21 a.m.

Scott Dufford moved to defer Resolution No. 2021-027; seconded by Michael Trost.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: None

MISCELLANEOUS

22. 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 reported that the hours have changed. Originally they wanted to operate 24/7 and now they will operate from 9:00 a.m. to 10:00 p.m.

Sherman Jameson, 222 W. Wall Street, reported their goal is to work with downtown businesses and restaurants to alleviate the parking shortage. They will take up three spaces on the west side of Opals and use that space to valet park vehicles that will be moved to a private parking lot. The term of this agreement is for one year at a cost of \$1,000.00. City Attorney John Ohnemiller added that with 90 days notice, either party can terminate the agreement. Mr. Sherman noted the fee they expect to charge is \$7.00.

Council Member Trost asked if they would also take the handicapped space. Mr. Jameson confirmed the handicapped spot would remain.

Lori Blong moved to approve Motion No. 015-2021 with the amendment to require Council approval for renewal; seconded by Spencer Robnett.

The motion passed by the following vote:

AYE: Payton, Robnett, Dufford, Norman, Blong

NAY: Trost, Ladd

ABSTAIN: None

ABSENT: None

23. 10155 – DISCUSSION AND CONSIDERATION OF ALL MATTERS INCIDENT AND RELATED TO THE ISSUANCE AND SALE OF “CITY OF MIDLAND, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2021,” INCLUDING THE ADOPTION OF AN ORDINANCE AUTHORIZING THE ISSUANCE OF SUCH BONDS, ESTABLISHING PARAMETERS FOR THE SALE AND ISSUANCE OF SUCH BONDS AND DELEGATING CERTAIN MATTERS TO AN AUTHORIZED OFFICIAL OF THE CITY (FINANCE)

Mayor Payton read the caption of Ordinance No. 10155.

Finance Director Mark Mason reported this is for refunding the 2012 bonds. There is \$19.2 million remaining with 10-11 years of debt. They expect to have a market basis savings of \$2.6 million. Rates are currently at the bottom of the market. This item will authorize the pricing officer to make transaction within the next six months that fall within the parameters. They fully expect this to occur within the next 10 days.

Spencer Robnett moved to approve the first and only reading of Ordinance No. 10155; seconded by Jack Ladd.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: None

24. MOTION MAKING APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS (CITY SECRETARY'S OFFICE)

No appointments were made.

EXECUTIVE SESSION

Mayor Payton recessed the meeting to go to Executive Session at 10:37 a.m.

25. 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 11:19 a.m.

PASSED AND APPROVED March 23, 2021.

Patrick Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary