

**MIDLAND CITY COUNCIL
MINUTES
April 27, 2021**



The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., April 27, 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

Mayor Payton announced that Agenda Items 21 and 22 would be heard first.

CONSENT AGENDA

Mayor Payton reconvened the meeting in Regular Session at 11:31 a.m. with all Council Members present.

Michael Trost moved to approve the Consent Agenda, excluding items 8, 9, 12, 16; 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

3. MOTION APPROVING THE FOLLOWING MINUTES:

- 3a. CITY COUNCIL BRIEFING MEETING OF APRIL 13, 2021

3b. REGULAR CITY COUNCIL MEETING OF APRIL 13, 2021

4. 2021-047 – RESOLUTION AWARDDING A CONTRACT FOR THE COMPASS – FORT WORTH AVENUE PAVING PROJECT TO CD KING CONSTRUCTION, DOING BUSINESS AS JD KING CONSTRUCTION, OF SEMINOLE, TEXAS, AT A TOTAL COST OF \$271,927.73; AND AUTHORIZING PAYMENT (GENERAL SERVICES)
5. 2021-048 – RESOLUTION AWARDDING A CONTRACT FOR HEALTH BENEFIT CONSULTING SERVICES TO MCGRIFF INSURANCE SERVICES, INC. OF ADDISON, TEXAS, AT A TOTAL COST OF \$150,000.00; AND AUTHORIZING PAYMENT (GENERAL SERVICES)
6. 2021-049 – RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INC., FOR THE DESIGN OF THE WATER AND SEWER REPLACEMENT ALONG FLORIDA AVENUE (GARDEN CITY HIGHWAY) BETWEEN BIG SPRING STREET AND IH-20 FOR THE UTILITIES DEPARTMENT FOR A COST OF \$390,000.00; APPROVING \$76,000.00 FOR CONTINGENCIES; AND APPROPRIATING FUNDS (GENERAL SERVICES)
7. 2021-050 – RESOLUTION AWARDDING A CONTRACT FOR THE SUNGLO STREET PAVING BOND PROJECT TO REECE ALBERT, INC. OF MIDLAND, TEXAS, AT A TOTAL COST OF \$1,285,572.60; APPROPRIATING FUNDS; AND AUTHORIZING PAYMENT (GENERAL SERVICES)
10. 2021-052 – RESOLUTION OF THE CITY OF MIDLAND, TEXAS, FINDING THAT THE APPLICATION OF ONCOR ELECTRIC DELIVERY COMPANY, LLC (“ONCOR”) FOR APPROVAL TO AMEND ITS DISTRIBUTION COST RECOVERY FACTOR TO INCREASE DISTRIBUTION RATES WITHIN THE CITY SHOULD BE DENIED; AUTHORIZING PARTICIPATION WITH STEERING COMMITTEE OF CITIES SERVED BY ONCOR; AUTHORIZING THE HIRING OF LEGAL COUNSEL AND CONSULTING SERVICES; FINDING THAT THE CITY’S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY ONCOR; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO SEND COPIES OF THIS RESOLUTION TO ONCOR AND LEGAL COUNSEL (CITY MANAGER)
11. 2021-053 – RESOLUTION APPROVING THE ISSUANCE OF PERMITS TO DIAMONDBACK E&P LLC (“OPERATOR”) TO DRILL FOUR OIL AND GAS WELLS LOCATED IN SECTION 24, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED 1,345 FEET NORTH OF BRIARWOOD AVENUE AND BETWEEN 1,684 FEET AND 1,775 FEET EAST OF AVALON DRIVE); AND PROVIDING THAT SAID PERMITS DO NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT (DEVELOPMENT SERVICES)
13. 047-2021 – 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 12, BLOCK 37, TOWNSHIP 3 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (UTILITIES)

14. 048-2021 – MOTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND WPX ENERGY PERMIAN, LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTIONS 3, 6, 7 AND 12, BLOCK C-24, AND SECTION 26, BLOCK C-23, WINKLER AND LOVING COUNTIES, TEXAS (UTILITIES)
15. 049-2021 – MOTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF MIDLAND AND GREENWOOD ISD FOR THE DISCHARGE OF WASTEWATER INTO THE CITY OF MIDLAND WASTEWATER COLLECTION SYSTEM (UTILITIES)

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

8. 2021-051 – RESOLUTION AWARDED A CONTRACT FOR THE SINCLAIR AVENUE MILL & INLAY PAVING BOND PROJECT TO JONES BROS. DIRT & PAVING CONTRACTORS, INC. OF ODESSA, TEXAS, AT A TOTAL COST OF \$638,348.85; APPROPRIATING FUNDS; AND AUTHORIZING PAYMENT (GENERAL SERVICES)

Council Member Blong reported she spoke with Manor Park and they will be significantly impacted with ingress and egress as well as other businesses in the area. Engineering Services Director Jose Ortiz reported he spoke with the contractor emphasizing the main entrance for Manor Park is in that area and their need to have continuous access. Council Member Blong asked for staff to reach out to Manor Park.

Lori Blong moved to approve Resolution No. 2021-051; 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

9. 046-2021 – MOTION APPOINTING ROBERT PATRICK AS CITY MANAGER OF THE CITY OF MIDLAND; AND AUTHORIZING THE MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT (CITY ATTORNEY)

Council Member Robnett stated he is in full support of Mr. Patrick and is looking forward to his continued work noting he has done a great job for the City. Council Member Ladd noted that Mr. Patrick has led the City through a tough year and he has all the confidence in the world in him.

Council Member Norman expressed appreciation for Mr. Patrick's willingness to help in any area and he has his full support. City Manager Robert Patrick thanked Council noting he

has a strong bench with Legal, City Secretary, the City Manager's office and all department heads. Council Member Trost thanked him for all he has done. Council Member Blong was thankful he kept the City between the ditches in a difficult year. Mayor Payton thanked him for all he has done in the last year stating he felt Mr. Patrick was brilliant.

Spencer Robnett moved to approve Motion No. 046-2021; 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

12. 2021-054 – RESOLUTION AUTHORIZING ADDITIONAL FUNDING IN THE AMOUNT OF \$280,000.00 FOR THE CITY OF MIDLAND BUSINESS MICRO-GRANT ASSISTANCE PROGRAM (DEVELOPMENT SERVICES)

Council Member Robnett asked for an update noting there were a lot of applicants for this program. He wanted assurance that the funds were going to people that need them. Development Services Director Chuck Harrington reported that Midland College is very good at putting the applications together and getting the detailed information that the City needs. Isaac spends a lot of hours reviewing them.

Michael Trost moved to approve Resolution No. 2021-054; seconded by Lori Blong.

The motion passed by the following vote:

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

NAY: Robnett

ABSTAIN: None

ABSENT: None

Council Member Trost noted he spoke with CDBG Manager Isaac Garnett yesterday and this money is for those that had already been approved but there was not enough money left in the program. Council Member Ladd added that he has had many people reach out to him sharing how much this money has helped them.

Council Member Norman also had people thanking him noting this money has kept them afloat. This is a great program that has been different than the others and should be used as a model for the future.

16. 050-2021 – MOTION AUTHORIZING THE EXECUTION OF A MUNICIPAL WATER AGREEMENT WITH THE UNIVERSITY OF TEXAS SYSTEM BOARD OF REGENTS FOR THE CITY OF MIDLAND'S PURCHASE AND USE OF WATER PRODUCED FROM THE PAUL DAVIS WELL FIELD (UTILITIES)

Council Member Blong asked for an explanation. Utilities Director Carl Craig reported this is for City of Midland emergency water. We don't currently use it, but if T-Bar or the water plant have issues, this water can be used to keep the pressure up. Our previous contract with University Lands was not the best because University Lands thought we were

using the water source for the mining industry. This time we explained that the mining industry's use of the water is just enough use to maintain the wells in the system and it keeps the water available for the City's emergency use. He clarified that University Lands went back to their pricing from 1960.

Lori Blong moved to approve Resolution No. 050-2021; seconded by Jack Ladd.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: Payton

Mayor Payton left the meeting at 11:44 a.m.

SECOND READINGS

17. 10165 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITHOUT TERM FOR A 0.91-ACRE TRACT OF LAND OUT OF SECTION 5, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 966 FEET WEST OF NORTH MIDKIFF ROAD), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR AUTOMOBILE OR OTHER MOTORIZED VEHICLE SALES AND SERVICE; 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) (DEFERRED FROM MARCH 23, 2021) (FIRST READING HELD APRIL 13, 2021)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10165.

Jack Ladd moved to approve the second and final reading of Ordinance No. 10165; seconded by Lori Blong.

The motion passed by the following vote:

AYE: Trost, Dufford, Norman, Blong

NAY: Robnett, Ladd

ABSTAIN: None

ABSENT: Payton

18. 10170 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE THE SOUTH 50 FEET OF THE NORTHWEST QUARTER AND THE NORTH 50 FEET OF THE SOUTHWEST QUARTER OF BLOCK 19, HOMESTEAD ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF NORTH TERRELL STREET, APPROXIMATELY 143 FEET SOUTH OF EAST KANSAS 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 APRIL 13, 2021)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10170.

Lori Blong moved to approve the second and final reading of Ordinance No.10170; seconded by Jack Ladd.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: Payton

19. 10171 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 8, BLOCK 4, REPLAT OF WINDWOOD PARK, CITY AND COUNTY OF MIDLAND, TEXAS, FROM LR, LOCAL RETAIL DISTRICT TO 2F, TWO-FAMILY DWELLING (DUPLEX) DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH MAIN STREET AND ELM 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 APRIL 13, 2021)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10171.

Lori Blong moved to approve the second and final reading of Ordinance No. 10171; seconded by Michael Trost.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: Payton

20. 10172 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR THE NORTH HALF OF LOT 11 AND ALL OF LOT 12, BLOCK 187, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF EAST FLORIDA AVENUE AND SOUTH BAIRD STREET), 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 APRIL 13, 2021)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10172.

Lori Blong moved to approve the second and final reading of Ordinance No. 10172; seconded by Scott Dufford.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: Payton

PUBLIC HEARINGS

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

21. 10173 – AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO A CERTAIN AREA ADJOINING THE PRESENT CITY LIMITS, BEING A 21.91-ACRE TRACT OF LAND OUT OF LOT 1, BLOCK 21, GRASSLAND ESTATES, SECTION 16, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED APPROXIMATELY 266 FEET EAST OF THE INTERSECTION OF HOMELAND DRIVE AND APPROXIMATELY 258 FEET EAST OF HOMESTEAD BOULEVARD); ORDERING PUBLICATION; AND ORDERING RECORDATION BY THE CITY SECRETARY (DEVELOPMENT SERVICES)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10173.

Development Services Director Chuck Harrington gave a brief overview of the item noting that 21 and 22 were associated public hearings. This is a 22-acre tract of land that is part of the Nueva Vista Golf Course that was left out in a window pane. The City has been asked to annex this portion into the City limits. The second item is an ordinance establishing the initial zoning as Agricultural Estates which is very limited to what it can be used for. He clarified that AE is the same zoning as the rest of the golf course. Council Member Dufford noted that right now, this area is in a window pane with no zoning. He asked if trailer homes could be put on that section of land. Mr. Harrington confirmed it could if it is not brought into the City. When asked what AE could be used for Mr. Harrington reported it is residential with a minimum of two-acre lots.

Council Member Blong read a statement noting the issue was discussed last Thursday at a meeting where close to 30 people signed up to have a conversation with the developer. She doesn't feel like adequate time has been given to have those conversations and she intends to defer this item to allow time to have a fruitful dialogue with the developer. She asked Council for their support in deferring the item following public comments.

Mayor Payton opened the public hearing at 10:12 a.m.

Amy Stretcher Burkes, 6408 Homestead Boulevard reported she has gotten objection letters from 90% of the neighbors. She agreed you can't tell an owner they are not allowed to sell their land. She supports limited government and doesn't believe the government should help in constant zone changes that will help the seller at the expense of

the surrounding neighbors. This would be a simple transfer of wealth and the City Council would have a direct hand. She asked Council to protect and represent the neighborhood.

Levi Harris, 2512 Castlewood, noted if this plan proceeds it will be a lot of residential lots and no schools. He grew up in an area that had the same issue and he had to go to school out of his area. He asked Council to ensure that the developer considers education and provides more seats.

Kim Helm, 6508 Homestead, noted when this proposal began to rezone, the feedback she heard was not to waste her time or breath as the City Council would side with the developer. This is an established neighborhood with an established golf course and many were charged additional money to buy next to a golf course. It requires government intervention to rezone. She felt the decision has already been made. She asked that the owner be made to play by the same rules as the neighborhood. Government intervention should not be in favor of an out-of-towner over the residents of the neighborhood. She was brought up to be conscious of doing no harm to others and asked Council to do them no harm.

Becky Hise, 2105 Windrift, reported the golf course is on a wetland and a needs assessment needs to be done before any developer can move forward. She would like the area protected for the wildlife that lives there. If they start changing the drainage it will encroach on the animals that live there. Lee Hise, reported he is a former tax assessor and felt it was likely that property values of the area would decline.

Charles Nelson, 5616 Grassland Boulevard, owns a roofing company in Midland which has afforded him a lot of benefits. He has always wanted to live in the best and be around the best and when he chose a home he wanted to live in the best area. There is no better place than Grasslands and he does not want anything to change that. Building small houses and low income housing will be taking the best away from him.

Jerry Nevans, 5705 Heartland Court, noted the property may be unzoned now but it appears this is the first step. This Council's intentions may be good, but it could be in the mixture if a new group comes in.

Cindy Smith, 6412 Homestead, she and her husband Ken own one of the 23 homes behind the golf course. She believes the Mayor and Council have an obligation to take care of the existing homeowners. The golf course owner has a right to sell, but not to the detriment of the existing homeowners. She felt this item should be tabled until further review.

Josh Winkles & Autumn Winkles, 5601 Ridgemont, distributed a book of ideas of how the golf course land could be used noting that Herman Park in Houston was being encroached by developers and in risk of being developed. A group of citizens banded together to make it what it is today. She felt the golf course would make a great hike and bike park and could turn Midland into an outdoor recreational asset. The zoning is the first step to lose Nueva Vista and without it the west side would be lacking green space. The City should protect and improve this asset by voting against annexation. The residents do not want to see this piece of land developed.

Alka & Minish Kumar, 2608 Homeland Drive, reported they came from India in 2002 and are now proud to be West Texans. They have put their life savings into this house. The

developer is ready to change the zoning from AE to SF1. He is ready to defend his property. Alka added that the developer would have to redo the drainage of Jal Draw to make this a subdivision and the homeowners in that area will lose value in their homes while the developer will gain much.

Kerri Payne, 2704 Homeland, is a real estate agent. The property values in her neighborhood have increased to \$235/square foot. She sells properties to relocation buyers and felt that taking away the golf course was a huge mistake. If homes were developed behind them they would not be able to get what they purchased the property for 1.5 years ago. It will also lower the values of the entire neighborhood. They paid a higher premium for their home because it is on the golf course. She is all for building as many homes as you can in Midland because she benefits as an agent, but not in this tract because it would decrease her property value.

Johnathon Burkes is an orthopedic surgeon. He paid a premium for his home because of the location. He doesn't see how he would not lose value if the property were developed which means the City will lose value. He asked Council to consider taxpaying residents over a developer. He doesn't think limited government is the problem in this situation, but a developer maximizing his profit contingent on changing the zoning. This is government making a decision on who wins and who loses.

Eric West, 1700 West Wall, clarified that today is for the annexation of a triangle and the initial zoning to match the rest of the golf course. There are additional things to come and everyone will have an opportunity to speak at future hearings as well as Planning & Zoning. No matter what happens later, the City needs to eliminate this window pane and it needs to come into the City and be zoned appropriately. They have not hidden that there will be a future step. Annexing the property allows the City to control the zoning. He asked that this item not be deferred because there is still time before the second reading two weeks from now.

James Gerety, 6404 Homestead Boulevard, owns a property adjacent to the Golf Course and is President of Grasslands Estate. He applauded Council Member Blong for requesting a deferment. Initially Parkhill brought this as SF1 to Planning & Zoning and they fought to stop that so then they changed it to AE to be in line with the the golf course. The net result is they want to build single family homes. The stakes are high and there is a lot of investment in the community. Many have built their dream homes and now they see a major change proposed that could impact their valuations and quality of life outside their back fences. This item requires a lot more conversation and transparency on the part of the developer. There has been a lot of speculation, gossip and miscommunication, and there needs to be time to look at the end result. He supports Ms. Blong's request for deferment to allow for time to understand the value and quality of life. There are a lot of voting residents on the west side of Midland that will watch how Council approaches this. This might be the right green space that the City should invest in.

There being no one else wishing to speak, the public hearing was closed at 10:51 a.m.

Council Member Dufford reported that Hogan Park Golf Course gets subsidized by the City from \$250,000 to \$750,000. Odessa spends about \$1 million on their golf course every year. The idea that the City will buy and maintain Nueva Vista as a golf course is probably

not going to happen. What could happen is that the Council could make this all go away, but in two years it could come back up and future Councils may not be as willing to protect the neighborhood.

Council Member Robnett reported he would not support a deferral today, but as for the other issues, it would remain to be seen.

Mayor Payton thanked all who came to speak. The only thing he took offense to is the inferences made about Council having already made a decision. He assured everyone that was not true and wanted to defend the Council from that assumption. He also thanked those who came with ideas.

Lori Blong moved to defer the first of two readings of Ordinance No. 10173 and Ordinance No. 10174; seconded by Michael Trost.

The motion passed by the following vote:

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

NAY: Robnett

ABSTAIN: None

ABSENT: None

22. 10174 – AN ORDINANCE ESTABLISHING THE INITIAL ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 21.91-ACRE TRACT OF LAND OUT OF LOT 1, BLOCK 21, GRASSLAND ESTATES, SECTION 16, MIDLAND COUNTY, TEXAS, AS AN AE, AGRICULTURAL ESTATE DISTRICT; SAID TRACT BEING GENERALLY LOCATED APPROXIMATELY 266 FEET EAST OF THE INTERSECTION OF HOMELAND DRIVE AND APPROXIMATELY 258 FEET EAST OF HOMESTEAD 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 (DEVELOPMENT SERVICES)

Lori Blong moved to defer the first of two readings of Ordinance No. 10173 and Ordinance No. 10174; seconded by Michael Trost.

The motion passed by the following vote:

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

NAY: Robnett

ABSTAIN: None

ABSENT: None

Mayor Payton announced that Executive Session would be heard next.

23. 10175 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 9.53-ACRE TRACT OF LAND OUT OF LOT 1, BLOCK 4, FREELAND ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO CE, COUNTRY ESTATE DISTRICT (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF EAST GOLF COURSE ROAD AND ELKINS ROAD); 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 Jan Hamilton read the caption of Ordinance No. 10175.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant is requesting to rezone. The current zoning is AE and they wish to rezone to CE which reduces the minimum lot size from two acres to one acre. They plan to develop nine residential lots. This item was reviewed by staff and approved by Planning & Zoning on April 5th. No letters of objection were received. Staff recommends approval.

Mayor Pro Tem Robnett opened the public hearing at 11:59 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Lori Blong moved to approve the first of two readings of Ordinance No. 10175; seconded by Michael Trost.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: Payton

24. 10176 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 1.494-ACRE TRACT OF LAND OUT OF THE WEST HALF OF TRACT 5, AND A 0.14-ACRE TRACT OF LAND OUT OF THE WEST HALF OF TRACT 6, LINDSAY ACRES ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MH, MANUFACTURED HOUSING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF MONTGOMERY AVENUE AND MORAN STREET); 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 Jan Hamilton read the caption of Ordinance No. 10176.

Council Member Trost asked what was being developed. Development Services Director Chuck Harrington reported that the applicant is building a single family home and they can not do that in their current zoning.

Mayor Pro Tem Robnett opened the public hearing at 12:00 p.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. 10176; seconded by Michael Trost.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None
ABSENT: Payton

25. 10177 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 2, BLOCK 2, WALLACE HEIGHTS ADDITION, SECTION 9, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT TO AN AMENDED PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE SOUTH SIDE OF SINCLAIR AVENUE, APPROXIMATELY 290 FEET EAST OF 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 (DEVELOPMENT SERVICES)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10177.

Development Services Director Chuck Harrington reported the applicant, Manor Park, is requesting to amend their site plan. They want to enlarge the lots on Sinclair of their previously approved development.

Mayor Pro Tem Robnett opened the public hearing at 12:02 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Michael Trost moved to approve the first of two readings of Ordinance No. 10177; seconded by Scott Dufford.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: Payton

26. 10178 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 7 AND 8, BLOCK 5, GREENWOOD ADDITION, FIRST SECTION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO 2F, TWO-FAMILY DWELLING (DUPLEX) DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF SOUTH CALHOUN STREET AND EAST KENTUCKY 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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10178.

Mayor Pro Tem Robnett opened the public hearing at 12:03 p.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. 10178; seconded by Lori Blong.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: Payton

27. 10179 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE THE SOUTH 50 FEET OF THE NORTHWEST QUARTER (ALSO KNOWN AS LOT 10), BLOCK 4, HOMESTEAD ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF NORTH TERRELL STREET, APPROXIMATELY 150 FEET NORTH OF EAST KANSAS 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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10179.

Mayor Pro Tem Robnett opened the public hearing at 12:04 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Rebecca Gonzales, 308 Terrell, was sent by her father who owns the property to find out what is going on.

Development Services Director Chuck Harrington gave a brief overview noting the applicant is requesting a zone change from multi family to single family to construct a single family home.

There being no one else wishing to speak, the public hearing was closed at 12:05 p.m.

Lori Blong moved to approve the first of two readings of Ordinance No. 10179; seconded by Michael Trost.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: Payton

28. 10180 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE THE NORTH 50 FEET OF LOT 2, BLOCK 11, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM C, COMMERCIAL DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF NORTH FORT WORTH STREET, APPROXIMATELY 100 FEET NORTH OF EAST OHIO 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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10180.

Mayor Pro Tem Robnett opened the public hearing at 12:06 p.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. 10180; seconded by Lori Blong.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: Payton

29. 10181 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 5 AND 6, BLOCK 118, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM LI, LIGHT INDUSTRIAL DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH WEATHERFORD STREET, APPROXIMATELY 122 FEET SOUTH OF EAST WASHINGTON 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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10181.

Michael Trost moved to approve the first of two readings of Ordinance No. 10181; seconded by Lori Blong.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: Payton

Mayor Pro Tem Robnett opened the public hearing at 12:07 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

30. 10182 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 3, BLOCK 14, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM C, COMMERCIAL DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH TERRELL STREET AND EAST OHIO 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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10182.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is a request to change the zoning in order to construct a single family residence. The property is currently zoned light industrial. It has been reviewed by all staff with no objection and approved by Planning & Zoning. No letters of objection were received and staff recommends approval.

Mayor Pro Tem Robnett opened the public hearing at 12:09 p.m.

Angelita Baesa reported that the property in the area is all commercial and if that property is turned to residential it could affect the price of her property. She also found out if she wants to build a business they will have to put a concrete fence all around the property which will cost them a lot of money. The property is all commercial and if this is changed to residential it will effect the price on her property. When asked what type of business is currently there, Ms. Baesa reported there is not a business there. She just inherited the property about 10 years ago. She stated there is commercial property all around this property.

Development Services Director Chuck Harrington noted that when retail is built next to existing residential, it is a requirement to have a screening wall to separate the activities.

Rosalinda Acosta, via Zoom, reported she is building a garage on the large piece of land in front of her house that is already on the property. She also stated that every property on her street including Ms. Baeza's has a home on the property.

Council Member Trost asked if the requirement to build a fence could be waived. Mr. Harrington said it could not be done now, but she could bring it in at the time she is ready to build a business and they could grant a special exception to be approved by Council.

Ms. Baeza said she would be okay if the neighbor is willing to pay for her fence but she would still object if the price on her property goes down. Council Member Robnett clarified that Council is unable to act on the fence but the zoning needed to be changed to allow her neighbor to build a garage.

There being no one else wishing to speak, the public hearing was closed at 12:21 p.m.

John Norman moved to approve the first of two readings of Ordinance No. 10182; seconded by Michael Trost.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: Payton

31. 10183 – AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 6, BLOCK 44, MOODY ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF SOUTH LEE STREET AND EAST KENTUCKY 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)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10183.

Mayor Pro Tem Robnett opened the public hearing at 12:22 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Lori Blong moved to approve the first of two readings of Ordinance No. 10183; seconded by Jack Ladd.

The motion passed by the following vote:

AYE: Robnett, Trost, Norman, Ladd, Blong

NAY: None

ABSTAIN: None

ABSENT: Payton, Dufford

MISCELLANEOUS

32. 2021-055 – DISCUSSION AND CONSIDERATION OF ALL MATTERS INCIDENT AND RELATED TO APPROVING AND AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE CERTIFICATES OF OBLIGATION, INCLUDING THE ADOPTION OF A RESOLUTION PERTAINING THERETO (FINANCE)

Finance Director Mark Mason reviewed the items covered by this certificate of obligation, reviewed the time table and reviewed the current market conditions.

Council Member Ladd asked if this will affect our current bond rating. Mr. Mason reported the City has a very good bond rating and he does not expect this to have an impact. When asked how our debt compares to other similar cities like Odessa, Abilene and Lubbock, he reported we are a little higher than some, but there are an awful lot of things we need to do. We look at our valuation and the City can support this debt; we are in a good place. As discussed at the retreat, if we issue debt every other year, it won't have much of an impact as long as we continue to improve the City and increase the valuation.

John Norman moved to approve Resolution No. 2021-055; seconded by Lori Blong.

The motion passed by the following vote:

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

NAY: None

ABSTAIN: None

ABSENT: Payton

33. 10184 – AN ORDINANCE ADOPTING AN ACCESS MANAGEMENT POLICY AND AMENDING TITLE IX, "PUBLIC WAYS AND PROPERTY", CHAPTER 4, "SIDEWALKS, DRIVEWAYS AND CURBING", OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO REVISE THE SPECIFICATIONS CONTAINED THEREIN AND TO INCORPORATE THE ACCESS MANAGEMENT POLICY; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; ESTABLISHING AN

EFFECTIVE DATE OF JUNE 1, 2021; AND ORDERING PUBLICATION (ENGINEERING SERVICES)

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 10184.

Traffic Engineer Mike Pacelli gave a brief overview of the item noting this is an Access Management Policy update of driveway standards. It was last done 30 years ago. Seventeen years ago the City requested permission from the State to handle driveway access on state highways. We were granted permission but were required to revise our driveway standards. This new revision adds things like right turn and left turn lanes and use of signals. It addresses turn restrictions. This is another tool in our box and puts in writing for the first time the reference back to require following State standards. It also establishes a procedure for an appeal that wasn't previously clearly defined.

Council Member Blong noted that a few months ago we established a development advisory committee to develop a design manual. Some of the people on that committee have reached out to her wanting to know why this did not go through that committee first. Therefore, she is not supporting this item right now. Mr. Pacelli reported this process was started before the design development manual was authorized or funded. They are bringing this now because they are receiving pushback from TxDOT to clarify the relationship for State highways. Information like this will be included in the manual.

Council Member Dufford noted this is filling in a lot of gaps and stopping the confusion while we are working on some new guidelines.

Scott Dufford moved to approve the first of two readings of Ordinance No. 10184; seconded by Jack Ladd.

The motion passed by the following vote:

AYE: Robnett, Dufford, Norman, Ladd

NAY: Trost, Blong

ABSTAIN: None

ABSENT: Payton

PUBLIC COMMENT

34. Receive public comments where individuals may address the City Council on City related issues and projects not on the present agenda. Any deliberation of or decision by the City Council regarding the item being discussed shall be limited to a motion to place the item on the agenda for a subsequent meeting. (Please limit comments to three minutes or less.)

Barbara Yarborough reported that South Elementary is having a career day. They will be observing social distancing and would like to shut down a few streets on that day. Mayor Pro Tem Robnett asked Development Services Director Chuck Harrington to get with Ms. Yarborough to help her get access to what she needs.

EXECUTIVE SESSION

Mayor Payton recessed the meeting to go to Executive Session at 11:05 a.m.

35. 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 551.087, Deliberate Economic Development Negotiations

a.1. Discuss business prospects that the City seeks to have locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives

Executive Session concluded at 11:27 a.m. (Consent Agenda was heard next.)

All the business at hand having been completed, the meeting adjourned at 12:39 p.m.

PASSED AND APPROVED May 11, 2021.

Patrick Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary