

**MIDLAND CITY COUNCIL
MINUTES
January 12, 2016**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:00 a.m. on January 12, 2016.

Council Members present: Mayor Jerry F. Morales, Mayor Pro Tem Scott Dufford (At-Large), Council Member Jeff Sparks (District 1), Council Member John B. Love, III (District 2), Council Member Sharla Hotchkiss (District 3), and Council Member J.Ross Lacy (District 4).

Council Members absent: Council Member Spencer Robnett (At-Large).

Staff members present: City Manager Courtney Sharp, City Attorney John Ohnemiller, Deputy City Manager Tommy Hudson, Assistant City Manager Robert Patrick, Assistant City Manager Frank Salvato, City Secretary Amy Turner, Development Services Director Charles Harrington, Engineering Director Jose Ortiz, General Services Director Fred Reyes, Planning Division Manager Jessica Carpenter, Senior Planner Kevin Crosby, Assistant City Attorney Stephen Gates, City Engineer Matt Carr, and Public Information Officer Sara Bustilloz.

Mayor Morales called the Briefing Session to order at 9:01 a.m.

1. Receive and discuss the draft Tall City Tomorrow Comprehensive Plan.

Development Services Director Chuck Harrington reported they now have a draft Comprehensive Plan. Memory sticks with a copy of the plan were distributed to Council.

Amy Haase, of RDG Planning & Design, reported she was pleased with the amount of community involvement during this process. She provided a brief overview and discussed each section of the draft Comprehensive Plan referred to as Tall City Tomorrow. The final section of the document focuses on implementation. She noted that this is a living document that will need to be annually reviewed and updated. She emphasized the section on implementation strategy noting it identifies who will take the lead on each section and potential funding sources.

The next steps are to review the document and to have final hearings and approvals. This document should be compatible with the new zoning ordinance.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:41 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., January 12, 2016.

Council Members present: Mayor Jerry F. Morales, Mayor Pro Tem Scott Dufford (At-Large), Council Member Spencer Robnett (At-Large), Council Member Jeff Sparks (District 1), Council Member John B. Love, III (District 2), Council Member Sharla Hotchkiss (District 3), and Council Member J.Ross Lacy (District 4).

Staff members present at the annex table: City Manager Courtney Sharp, City Attorney John Ohnemiller, Deputy City Manager Tommy Hudson, Assistant City Manager Robert Patrick, and Assistant City Manager Frank Salvato.

The Agenda Items were heard in the following order: 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, 6, 14, 15, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46.

Mayor Morales called the meeting to order at 10:01 a.m.

OPENING ITEMS

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

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Mayor Morales presented a proclamation for Crime Stoppers Month.

PUBLIC COMMENT

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.

Willie Barber, 1305 Chestnut, reported he was originally a critic of the bond item (Agenda Item 43) but after discussions with his girlfriend he is in support of the bond noting it includes many quality of life issues that he supports. He thanked the Council for doing a good job.

James Fadal, 4700 Boulder, saw an article in the Midland Reporter Telegram about Hotel Santa Rita and had questions. Council informed him they were unable to answer questions but provided him with contact information so he could talk directly with a Council Member and or Staff.

Council Member Robnett reported that some time ago he had a bow and arrow stolen and it was recently recovered. He thanked the Police Department for their hard work.

CONSENT AGENDA

Council Member Love moved to approve Consent Agenda items 5 - 20 excluding 6, 14, 15; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

5. Approved a motion approving the following minutes:
 - a. Regular meeting of December 15, 2015.
7. Approved a resolution approving the purchase of forty (40) Bunker Coats and forty (40) Bunker Pants from Dooley Tackaberry, Inc. through Buyboard Contract 432-13 for a total cost of \$80,880.00 for the Fire Department. (PURCHASING)

RESOLUTION NO. 2016 - 002

RESOLUTION APPROVING THE PURCHASE OF FORTY (40) BUNKER COATS AND FORTY (40) BUNKER PANTS FOR THE FIRE DEPARTMENT FROM DOOLEY TACKABERRY, INCORPORATED, THROUGH BUYBOARD AT A TOTAL COST OF \$80,880.00

8. Approved a resolution approving the purchase of one (1) RA-400 Spray Patcher from Bee Equipment Sales, Ltd. through Buyboard Contract 424-13 for a total cost of \$195,018.00 for the Garage Division. (PURCHASING)

RESOLUTION NO. 2016 - 003

RESOLUTION APPROVING THE PURCHASE OF ONE (1) ROSCO RA-400 SPRAY PATCHER FOR THE GARAGE DIVISION FROM BEE EQUIPMENT SALES, LIMITED, THROUGH BUYBOARD AT A TOTAL COST OF \$195,018.00

9. Approved a resolution approving the purchase of one (1) Bomag BW-27RH Pneumatic Roller from Anderson Machinery through Buyboard Contract 424-13 for a total cost of \$131,839.50 for the Garage Division. (PURCHASING)

RESOLUTION NO. 2016 - 004

RESOLUTION APPROVING THE PURCHASE OF ONE (1) BOMAG BW-27RH PNEUMATIC ROLLER FOR THE GARAGE DIVISION FROM ANDERSON MACHINERY COMPANY THROUGH BUYBOARD AT A TOTAL COST OF \$131,839.50

10. Approved a resolution authorizing a contract for the Edgewood Booster Station Rehabilitation East and West Ground Storage Tanks project for the Utilities Department. (PURCHASING)

RESOLUTION NO. 2016 - 005

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH DN TANKS, INCORPORATED, AT A TOTAL COST OF \$1,368,625.00, FOR THE EDGEWOOD BOOSTER STATION REHABILITATION EAST AND WEST GROUND STORAGE TANKS PROJECT FOR THE UTILITIES DEPARTMENT

11. Approved a resolution for on-call engineering services for the Utilities Department. (PURCHASING)

RESOLUTION NO. 2016 - 006

RESOLUTION APPROVING THE SELECTION OF PARKHILL, SMITH & COOPER, INCORPORATED, CDM SMITH, INCORPORATED, HDR ENGINEERING, INCORPORATED, ENPROTEC/HIBBS & TODD, INCORPORATED, AND BURGESS & NIPLE, INCORPORATED, AS RESPECTIVE FIRST CHOICES FOR PERFORMANCE OF ON-CALL ENGINEERING SUPPORT SERVICES FOR THE UTILITIES DEPARTMENT OVER THE NEXT FIVE (5) YEARS; AND PROVIDING THAT ANY AGREEMENT EXCEEDING \$50,000 SHALL NOT BECOME EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL

12. Approved a resolution authorizing a contract for the purchase and installation of playground equipment and artificial turf surfacing for the Midland United Girls Softball Association (MUGS) with Playgrounds, Etc. through Buyboard Contract 423-13 for \$56,849.00 for the Community Services Department. (PURCHASING)

RESOLUTION NO. 2016 - 007

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE PURCHASE AND INSTALLATION OF PLAYGROUND EQUIPMENT AND ARTIFICIAL TURF SURFACING FOR THE MIDLAND UNITED GIRLS SOFTBALL ASSOCIATION (MUGS) WITH PLAYGROUNDS ETC, LLC, THROUGH BUYBOARD AT A TOTAL COST OF \$56,849.00

13. Approved a resolution authorizing the advertisement for Request for Qualifications for Professional Engineering and Architectural Services regarding future Capital Improvement Plan (CIP) projects that may be constructed at Midland International Air & Space Port or Midland Airpark Airport. (AIRPORTS)

RESOLUTION NO. 2016 - 008

RESOLUTION APPROVING A REQUEST FOR QUALIFICATIONS AND AUTHORIZING THE CITY MANAGER TO ACCEPT STATEMENTS OF QUALIFICATIONS FOR PROFESSIONAL ENGINEERING AND ARCHITECTURAL SERVICES REGARDING FUTURE CAPITAL IMPROVEMENT PLAN PROJECTS THAT MAY BE CONSTRUCTED AT THE MIDLAND INTERNATIONAL AIR & SPACE PORT AND/OR MIDLAND AIRPARK

16. Approved a resolution approving amendments to the agreements (ED, Sublease, and Standard Form of Agreement) between the Midland Development Corporation and XCOR Aerospace, Inc. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2016 - 011

RESOLUTION APPROVING A SECOND AMENDMENT TO THE ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND XCOR AEROSPACE, INC.; APPROVING AN AMENDMENT TO THE SUBLEASE AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND XCOR AEROSPACE, INC.; AND APPROVING AN AMENDMENT TO THE STANDARD FORM OF AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION, XCOR AEROSPACE, INC., AND N.C. STURGEON, LP

17. Approved a resolution authorizing the City Manager to negotiate and execute a Public Improvement Development Agreement with DDC Merritt Leisure, Ltd., under which the City will contribute one half and developer will contribute one-half of the costs of streets, curb and gutter, sidewalks, and traffic control improvements located in and along Beal Parkway and Leisure Drive; and providing that this resolution supersedes Resolution Numbers 2014-072 and 2015-034. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE, ON BEHALF OF THE CITY OF MIDLAND (THE "CITY"), A PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH DDC MERRITT LEISURE, LTD. ("DEVELOPER") UNDER WHICH THE CITY WILL CONTRIBUTE ONE HALF AND DEVELOPER WILL CONTRIBUTE ONE HALF OF THE COSTS OF STREETS, CURBS, GUTTERS, SIDEWALKS, AND TRAFFIC CONTROLS LOCATED IN AND ADJACENT TO THOSE PORTIONS OF BEAL PARKWAY AND LEISURE DRIVE THAT ARE ADJACENT TO LOTS 1 AND 2, BLOCK 162, AND THE SOUTH 378 FEET OF LOT 1R, BLOCK 163, WILSHIRE PARK ADDITION, SECTION 9, CITY AND COUNTY OF MIDLAND, TEXAS; PROVIDING THAT THIS RESOLUTION SUPERSEDES AND RESCINDS RESOLUTION NOS. 2014-072 AND 2015-034; AUTHORIZING AND DIRECTING THE CITY SECRETARY TO CERTIFY THE RESOLUTION TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS; AND PROVIDING AN EFFECTIVE DATE

18. Approved a resolution approving a Right-of-Way License Agreement with Sprint Communications Company L.P., for the purpose of maintaining and operating a fiber optic cable system to provide long distance service within the City of Midland located in Block 38, Section 42, T-1-S and Block 39, Section 25, T-1-S. (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 013

RESOLUTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND SPRINT COMMUNICATIONS COMPANY, LIMITED PARTNERSHIP, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 42, BLOCK 38, TOWNSHIP 1 SOUTH, AND SECTION 25, BLOCK 39, TOWNSHIP 1 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, FOR THE PURPOSE OF MAINTAINING AND OPERATING A FIBER OPTIC CABLE SYSTEM

19. Approved a motion on request by Newton Engineering, PC to defer public improvements for Desert Winds, and to waive the corresponding financial security guarantee valued at \$638,134, an amount equal to the estimated cost of construction. The subject property is generally located approximately 14,780 feet south of the City of Midland corporate limits, on the south side of West County Road 140 approximately 2,200 feet west of the intersection with South County Road 1210, in the Extraterritorial Jurisdiction of the City of Midland, in Midland County, Texas. (ENGINEERING SERVICES)
20. Approved a motion on request by Engineering Services to renew for one year the existing blanket deferral for wastewater collection and paving improvements to serve Country Sky Addition, and to waive the corresponding financial security guarantee. The subject property is generally located on the south side of Briarwood Avenue, between Roadrunner Trail and Tumbleweed Trail, in the City of Midland, in Midland County, Texas. (ENGINEERING SERVICES)

The following items were pulled from Consent Agenda and considered individually.

6. Consider a resolution awarding a contract for the Scharbauer Sports Complex Improvements Project for the Community Services Department. (PURCHASING)

RESOLUTION NO. 2016 - 001
RESOLUTION AWARDED A CONTRACT FOR THE SCHARBAUER SPORTS
COMPLEX IMPROVEMENTS PROJECT TO MID-TEX OF MIDLAND,
INCORPORATED, IN THE AMOUNT OF \$2,100,000.00; AND APPROVING
\$260,056.00 FOR CONTINGENCIES

Council Member Dufford noted he pulled this item because Staff's recommendation is to turf two fields and put sod on two fields in order to keep it under budget. He suggested turfing all four fields noting there would be lower maintenance costs and eliminating the need to water the fields.

Council Member Lacy agreed and suggested reducing the contingency.

Kyle Huckabee, 2510 Regency Oaks, reported he is the current president of GMFL. There are currently 830 kids in the program and they definitely need more fields. He also noted that turf fields are safer than sod fields because they are not as hard and are not impacted in inclement weather.

Council Member Dufford moved to adopt Resolution No. 2016 - 001 with the amendment of installing turf on all four fields and reducing the contingency to \$50,000; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

14. Consider a resolution authorizing the extension and amendment of a Professional Services Agreement with Luck Design Team, LLC, to perform engineering and architectural design services in accordance with the City of Midland Parks, Recreation, and Open Space Master Plan. (COMMUNITY SERVICES)

RESOLUTION NO. 2016 - 009
RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE
PROFESSIONAL SERVICES AGREEMENT WITH LUCK DESIGN TEAM, LLC, TO
PERFORM ENGINEERING AND ARCHITECTURAL DESIGN SERVICES IN
ACCORDANCE WITH THE CITY OF MIDLAND PARKS, RECREATION, AND OPEN
SPACE MASTER PLAN AT A TOTAL COST OF \$39,500.00; AND APPROPRIATING
FUNDS

Council Member Love asked why the football fields were made a higher priority than Hogan Park.

Parks & Recreation Manager Laurie Williams reported that Luck Design is a small firm and the priority was given to the sports fields at the direction of the 4B Board and Parks & Recreation Board.

Council Member Lacy noted the reason the football fields were a priority was because they need to be built prior to September when the new season begins.

Council Member Dufford moved to adopt Resolution No. 2016 - 009; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

15. Consider a resolution for an Agreement with UTPB for Aerospace Engineering Program. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2016 - 010

RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND THE UNIVERSITY OF TEXAS OF THE PERMIAN BASIN ("UTPB"), AS AUTHORIZED BY CHAPTER 501 OF THE TEXAS LOCAL GOVERNMENT CODE

Council Member Lacy pulled this item to recognize UTPB for working with the community to aid the spaceport industry noting they are a great community partner.

David Watts, President of UTPB, expressed his appreciation of the Council's support of the university noting they currently have over 6,100 students and one in every ten students is currently in an engineering program. They are proposing to add aerospace engineering to the existing mechanical engineering program

Council Member Lacy moved to adopt Resolution No. 2016 - 010; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

SECOND READINGS

21. Consider an ordinance on second reading on a request by Hilton Garden Inn for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a bar generally located northwest of the intersection of Deauville Boulevard and N. Loop 250 West. (DEVELOPMENT SERVICES) (First reading held December 15, 2015.)

ORDINANCE NO. 9515

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 8, BLOCK 2, WESTRIDGE PARK ADDITION, SECTION 20, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF DEAUVILLE BOULEVARD AND NORTH LOOP 250 WEST), 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 BAR 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 SueAnn Lopez read the caption of Ordinance No. 9515.

Council Member Love moved to approve the second and final reading of Ordinance No. 9515 in accordance with the Charter of the City of Midland; seconded by Council

Member Dufford. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Robnett. NAY: None. ABSTAIN: None. ABSENT: Lacy.

22. Consider an ordinance on second reading on a request by Manohar L. Gurr for the vacation of the 0.12-acre portion of the alley right-of-way generally located on the east side of Andrews Highway, approximately 330-feet north of Louisiana Avenue. (DEVELOPMENT SERVICES) (First reading held December 15, 2015.)

ORDINANCE NO. 9516

AN ORDINANCE VACATING AND ABANDONING A 0.12-ACRE PORTION OF ALLEY RIGHT-OF-WAY LOCATED IN BLOCK 5, GARDENS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF ANDREWS HIGHWAY, APPROXIMATELY 330 FEET NORTH OF WEST LOUISIANA AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$20,720.00; RETAINING A GENERAL UTILITY AND ACCESS EASEMENT; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9516.

Council Member Love moved to approve the second and final reading of Ordinance No. 9516 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Robnett. NAY: None. ABSTAIN: None. ABSENT: Lacy.

23. Consider an ordinance on second reading on a request by Michael Harris for a Special Exception to the zoning code, permitting, in a AE, Agriculture-Estate District, a fence up to eight feet in height above natural grade within the front yard setback providing for the fence material above three feet to be designed with a minimum of zero (0) percent openness, as measured from a point perpendicular to the fence from the adjacent street, generally located on the south side of Mockingbird Lane, approximately 230-feet east of North Midland Drive. (DEVELOPMENT SERVICES) (First reading held December 15, 2015.)

ORDINANCE NO. 9517

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 6, BLOCK 2, NORTHWESTERN ADDITION, SECTION 15, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF MOCKINGBIRD LANE, APPROXIMATELY 230 FEET EAST OF NORTH MIDLAND DRIVE), BY PERMITTING A REDUCED OPENNESS OF A FENCE WITHIN THE FRONT YARD SETBACK; 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

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9517.

Council Member Robnett moved to approve the second and final reading of Ordinance No. 9517 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss.

Council Member Love reported he previously voted against this item but after investigation, is now in support of it.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Robnett. NAY: None. ABSTAIN: None. ABSENT: Lacy.

24. Consider an ordinance on second reading on a request by Haskell Restaurant Group, LLC for a Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on a 2,583-square foot portion of land generally located on the north side of West Wadley Avenue, approximately 250-feet west of Sagemont Drive. (DEVELOPMENT SERVICES) (First reading held December 15, 2015.)

ORDINANCE NO. 9518

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 2,583-SQUARE FOOT PORTION OF LOT 15F, BLOCK 40, FAIRMONT PARK ADDITION, SECTION 40, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST WADLEY AVENUE, APPROXIMATELY 250 FEET WEST OF SAGEMONT DRIVE), WHICH IS PRESENTLY ZONED LR-2, 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 SueAnn Lopez read the caption of Ordinance No. 9518.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 9518 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Robnett. NAY: None. ABSTAIN: None. ABSENT: Lacy.

25. Consider an ordinance on second reading amending the budget for Fiscal Year 2015 Yearend Budget Amendment. (FINANCE) (First reading held December 15, 2015.)

ORDINANCE NO. 9519

AN ORDINANCE MAKING CERTAIN TRANSFERS IN VARIOUS FUNDS OF THE 2014-2015 FISCAL YEAR BUDGET AND MAKING CERTAIN BUDGET AMENDMENTS; AND ORDERING RECORDATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9519.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 9519 in accordance with the Charter of the City of Midland; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Robnett. NAY: None. ABSTAIN: None. ABSENT: Lacy.

PUBLIC HEARINGS

26. Hold a public hearing and consider an ordinance on a request by HEB for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in

a restaurant generally located southwest of the intersection of Andrews Highway and North Loop 250 West. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9520

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 3, BLOCK 2, WESTRIDGE PARK ADDITION, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF ANDREWS HIGHWAY AND NORTH LOOP 250 WEST), WHICH IS PRESENTLY ZONED LR-2, 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 SueAnn Lopez read the caption of Ordinance No. 9520.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is a request by HEB at Loop 250 and Andrews to serve alcoholic beverages in a restaurant inside the store with a maximum seating capacity of 140 people and hours of Sunday through Saturday 11:00 a.m. to 11:00 p.m. The Planning & Zoning Commission recommends approval and Staff supports that action.

Mayor Morales opened the public hearing at 10:43 a.m.

Garrett Stauder, 5610 Dunbarton Oaks Boulevard, representing HEB, clarified that they will not allow alcohol served in the restaurant outside of the restaurant area and alcohol purchased in the store cannot be taken into the restaurant. The store expects to open February 26.

There being no one else wishing to speak, the public hearing was closed at 10:47 a.m.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9520 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

27. Hold a public hearing and consider a request by Midland DTP, LLC for a zone change from PD, Planned District for a Shopping Center, in part, and LR-2, Local Retail District, in part, to LR-1, Local Retail District generally located north of the intersection of Thomason Drive and West Illinois Avenue. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9521

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 18B, BLOCK 109, WILSHIRE PARK ADDITION, SECTION 17, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, IN PART, AND LR-2, LOCAL RETAIL

DISTRICT, IN PART, TO BE USED AS AN LR-1, LOCAL RETAIL DISTRICT (GENERALLY LOCATED NORTH OF THE INTERSECTION OF THOMASON DRIVE AND WEST ILLINOIS 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

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9521.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant wishes to change the zoning to LR-1 which is a consistent use for the area. The Planning & Zoning Commission and Staff recommend approval. No letters of objection have been received.

Mayor Morales opened the public hearing at 10:50 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Love moved approval of the first of two readings of Ordinance No. 9521 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

28. 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 22A3 #5H) located 280 feet from the north line and 335 feet from the east line located in Section 22, Block 40, T-1-S, T&P RR Co. Survey, City of Midland and County of Midland, Texas. (Generally located on the south side of the west extension of Mockingbird Lane (West County Road 50), approximately 1 mile north of Briarwood Avenue.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Council Member Lacy noted he would be abstaining on Agenda Item 28 through 31 and left the dais.

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting this application had been reviewed by the Oil & Gas Advisory Committee and all corrections had been made. The applicant is requesting three variances for landscape, a 12-month delay in irrigation, and 24-hour fracing. There will be a new tank battery that has met with the Fire Marshall's approval.

Mayor Morales opened the public hearing at 10:52 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

29. 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 22A4 #6H) located 250 feet from the north line and 335 feet from the east line located in Section 22, Block 40, T-1-S, T&P RR Co. Survey, City of Midland and County of Midland, Texas. (Generally located on the south side of the west extension of Mockingbird Lane (West County Road 50), approximately one mile north of Briarwood Avenue.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting this is the same as previous item and this well will share the same pad.

Mayor Morales opened the public hearing at 10:53 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

30. 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 PSA 2 #9SH) located 577 feet from the north line and 2,560 feet from the east line located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City of Midland and County of Midland, Texas. (Generally located 577 feet south of the west extension of Mockingbird Lane (West County Road 50) and 1,224 feet west of Golden Gate Drive. -District 4) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting this item has also been approved by the Oil & Gas Advisory Committee and corrections have been made. No objections have been received and this well will go to the same tank battery as the previous two items. They are requesting the same three variances as the previous items.

Mayor Morales opened the public hearing at 10:55 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

31. 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 PSA 2 #16AH) located 577 feet from the north line and 2,520 feet from the east line located in Section 23, Block 40, T-1-S, T&P RR Co. Survey, City of Midland and County of Midland, Texas. (Generally located 577 feet south of the west extension of Mockingbird Lane (West County Road 50) and 1,184 feet west of Golden Gate Drive.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting this is the second well on the same pad with the same variances as the previous item.

Mayor Morales opened the public hearing at 10:56 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

32. Hold a public hearing regarding a proposed Oil and Gas Permit to XTO Energy Inc. (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Robbie 2421SH) located 752 feet from the west line and 255 feet from the north line located in Section 24, Block 40, T-1-S, T&P RR Co. Survey, City of Midland and County of Midland, Texas. (Generally located 595 feet west of Avalon Drive and 272 feet from South Mockingbird Lane extension.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting this item was reviewed and approved by the Oil & Gas Advisory Committee. They are requesting a variance for landscaping and will make a \$10,000 donation to the Park &

Recreation Endowment Fund in lieu of landscaping the well. They are requesting a 24-hour fracing variance and have offered to use sound blankets on the residential sides.

Mayor Morales opened the public hearing at 11:00 a.m.

Andy Torres reported he lives about 600 feet from the well. He is not opposed to the well but has a concern for oil field trucks driving through his neighborhood.

Mr. Jenkins noted that the applicant will be accessing the site from Briarwood per the Road Repair Agreement.

There being no one else wishing to speak, the public hearing was closed at 11:04

33. Hold a public hearing and consider an ordinance on a request by Tejas Avenue, LLC for the vacation of a 0.05-acre portion of N. Pecos Street, located adjacent to Lots 1 and 2, Block 59, Original Town Addition, City and County of Midland, Texas. (Generally located southwest of the intersection of West Texas Avenue and North Pecos Street.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9522

AN ORDINANCE VACATING AND ABANDONING A 0.05-ACRE PORTION OF NORTH PECOS STREET RIGHT-OF-WAY ADJACENT TO LOTS 1 AND 2, BLOCK 59, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF WEST TEXAS AVENUE AND NORTH PECOS STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$8,000.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9522.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant is seeking to vacate a portion of Pecos Street. All utilities have approved the request but Staff has concern because it would remove street parking and set a precedent. Staff suggests seeking another alternative such as vacating that entire portion of Pecos Street. One letter of objection has been received.

Council Member Dufford clarified that there is a cut into the property for parking and the street is not actually touched. They are current making improvements to the building and it will only affect four owners in the area. He agreed the better solution would be to vacate that portion of Pecos Street.

Council Member Sparks felt it was hard to justify removing downtown parking when the City is in need of more parking. Council Member Dufford noted the same people park in the spot every day. The owners' improvements will be adding money to the tax rolls.

Mayor Morales opened the public hearing at 11:12 a.m.

Ben Sanchez, Schuman Engineering, 408 N. Pecos, shared that the applicant is seeking to use the parking that is already there as private parking. In 2007 there was a vacation of right-of-way across the street to accommodate parking for another applicant and they would like the same process.

Renea Wells reported she was representing the owners of the property. She noted they wanted to use the same easement as ERP Management is using to the south of their property. They incorporate their easement into the surface lot parking and on their property it cuts into the property. They are the only business around that uses that public parking because Mr. Arrington and Frost already have designated parking for their buildings.

Robert Rendall, 6 Desta Drive, was present on behalf of Mr. Arrington who owns the parking lot across the street. They originally had concerns because they thought a portion of Pecos Street would be closed. After determining the area is behind what would normally be the curb, they no longer have an objection.

John Norwood and Tray Walker, property owners, reported they have a history of improving buildings in downtown. They are literally taking public parking and asking to make it private so the people who work in the building can park in the same spot every day. They are not asking for the spaces to be gifted they are paying for the spaces. They asked for this item to be approved today and then allow them to work on vacating the street with the other owners.

There being no one else wishing to speak, the public hearing was closed at 11:21

Council Member Love moved approval of the first of two readings of Ordinance No. 9522 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy.

Council asked staff to look into the possibility of closing down Pecos in that area to allow for more parking for all parties.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

34. Hold a public hearing and consider an ordinance on a request by Osaka Japanese Steakhouse for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant generally located on the west side of Tradewinds Boulevard, approximately 160-feet north of Deauville Boulevard. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9523

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 5A, BLOCK 3, WESTRIDGE PARK ADDITION, SECTION 14, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF TRADEWINDS BOULEVARD, APPROXIMATELY 160 FEET NORTH OF DEAUVILLE BOULEVARD), 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 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 SueAnn Lopez read the caption of Ordinance No. 9523.

Chuck Harrington gave a brief overview of the item noting Osaka Japanese Steakhouse is proposing to amend their SUP for the sale of alcoholic beverages to include the patio area. Their proposed hours are Sunday through Saturday from 11:00 a.m. to 2:00 a.m. No letters of objection have been received and the Planning & Zoning Commission recommended approval.

Mayor Morales opened the public hearing at 11:27 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9523 in accordance with the Charter of the City of Midland with the amendment to change the ending time for serving alcohol to 12:00 midnight; seconded by Council Member Hotchkiss.

Brief discussion ensued about a restaurant serving alcohol until 2:00 a.m.

Julian Rubio, 2102 Rico Place, owner of Sedona Grill, felt the restaurant should be allowed to be open until 2:00 a.m. if that was what they wanted to do.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Dufford, Lacy, Robnett. NAY: Morales. ABSTAIN: None. ABSENT: None.

35. Hold a public hearing and consider an ordinance on a request by Sedona Grill for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant generally located on the south side of West Wadley Avenue, approximately 670-feet east of North Garfield Street. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9524

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 1-F, BLOCK 5, CORRECTION PLAT OF COLONY PLACE, SECTION 5, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST WADLEY AVENUE, APPROXIMATELY 670 FEET EAST OF NORTH GARFIELD STREET), WHICH IS PRESENTLY ZONED LR-2, 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 SueAnn Lopez read the caption of Ordinance No. 9524.

Development Services Director Chuck Harrington gave a brief overview of the item noting it was a request by Sedona Grill for a SUP. When this item came up in August they had a number of issues including noise and other police offenses. Since that time the owner has worked with Staff to resolve their issues. In the last three months there

were six incidents, none of which included noise. Staff and the Planning & Zoning Commission recommend approval of the item. There were three residents who voices objection at the Planning & Zoning meeting and two letters of objection were received.

Police Chief Price Robinson reported that Mr. Rubio has been working with the Police Department on his issues. They agreed to turn their speakers inward from the street. When he reviewed their call logs there were only three calls which included vandalism to a vehicle and two disturbance calls.

Mayor Morales opened the public hearing at 11:39 a.m.

Julian Rubio, 2102 Rico Place, reported he has been working with Mr. Harrington and Chief Robinson and thanked them for their assistance. He was unaware of any incidents noting that 2101 Wadley is a big address that encompasses many businesses. He noted they have not had a noise complaint since August of 2014 which is over a year and half. They agreed they will not have a DJ or band on the patio but they will keep the DJ stand in the restaurant open to accommodate radio stations and to play music inside the restaurant. They are reducing their hours from 2:00 a.m. to 1:00 a.m. on Friday and Saturday and will keep their grill open until 12:00 midnight.

Council Member Hotchkiss noted that at Planning & Zoning there were a lot of people who were unhappy because of the noise and suggested they felt like they have been heard which is why they are not present today.

There being no one else wishing to speak, the public hearing was closed at 11:51 a.m.

Council Member Hotchkiss moved approval of the first of two readings of Ordinance No. 9524 in accordance with the Charter of the City of Midland with the amendment to have a six-month review by City Council; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

36. Hold a public hearing and consider an ordinance on a request by Graham Brothers Entertainment of Midland and Odessa, Inc. for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a nightclub generally located northwest of the intersection of South Midkiff Road and Bankhead Highway. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9525

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 1, BLOCK 2, BANKHEAD ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF SOUTH MIDKIFF ROAD AND BANKHEAD HIGHWAY), WHICH IS PRESENTLY ZONED C-3, COMMERCIAL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A NIGHTCLUB 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 SueAnn Lopez read the caption of Ordinance No. 9525.

Development Services Director Chuck Harrington gave a brief overview of the item noting the request was for a SUP for the sale of alcoholic beverages noting there have been a number of incidents that needed to be addressed. Since that point, the owners worked to resolve the issues and correct the problems. Staff recommends approval with a six-month review.

Mayor Morales opened the public hearing at 11:56 a.m.

Roger Gearhart, 2104 Indiana, reported he has been working with Chief Robinson and Staff noting he did not know he had these problems. As soon as he received a notice about the noise he immediately began to work on the issue noting they have zero tolerance for narcotics. If they find them they immediately turn it over to the police. He also hired an undercover person that walks through the establishment and if they find a minor drinking they text the manager to immediately address the issue. Their establishment is open Thursday through Saturday.

There being no one else wishing to speak, the public hearing was closed at 12:01 p.m.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9525 in accordance with the Charter of the City of Midland with the amendment of requiring a minimum of two peace officers Thursday through Saturday and a six-month review period by Council; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

37. Hold a public hearing and consider an ordinance on a request by Jia Lin for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on a 3,725-square foot portion of land generally located on the west side of North Loop 250 West, approximately 550-feet north of Deauville Boulevard. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9526

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 3,725-SQUARE FOOT PORTION LOT 6C, BLOCK 2, WESTRIDGE PARK ADDITION, SECTION 24, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH LOOP 250 WEST, APPROXIMATELY 550 FEET NORTH OF DEAUVILLE BOULEVARD), 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 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 SueAnn Lopez read the caption of Ordinance No. 9526.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is a request to serve alcohol in a restaurant. The Planning & Zoning Commission recommends approval and staff concurs.

Mayor Morales opened the public hearing at 12:03 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Love moved approval of the first of two readings of Ordinance No. 9526 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

38. Hold a public hearing and consider an ordinance on a request by Chris White for a Special Exception to the Zoning Code concerning the side yard setback requirements generally located on the south side of Tanforan Avenue, approximately 110-feet west of Saratoga Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9527

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 4, BLOCK 5, GREEN HILL TERRACE, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF TANFORAN AVENUE, APPROXIMATELY 110 FEET WEST OF SARATOGA DRIVE), BY PERMITTING A REDUCED SIDE YARD SETBACK; 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

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9527.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant is requesting a special exception. They were annexed into the City as AE while most of the structures were built along 1F-2 standards. The applicant is seeking to add an addition to his home while maintaining the existing setback. This is not a situation the applicant created and Staff supports his request. The house was built in 1959.

Mayor Morales opened the public hearing at 12:06 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Love moved approval of the first of two readings of Ordinance No. 9527 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

39. Hold a public hearing and consider an ordinance on a request by Regal Licensing, LLC / Hollywood Theaters for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a Movie Theater generally located on the south side of West Loop 250 North, approximately 750-feet west of Henry Koontz Boulevard. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9528

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 3, BLOCK 45, FAIRMONT PARK ADDITION, SECTION 13, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 750 FEET WEST OF HENRY KOONTZ BOULEVARD), 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 MOVIE THEATER 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 SueAnn Lopez read the caption of Ordinance No. 9528.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant is Hollywood Theaters and they are requesting the sale of alcoholic beverages from 10:00 a.m. to 2:00 a.m. Monday through Saturday and from 12:00 noon to 2:00 a.m. on Sundays. By comparison Cinergy served from 10:00 a.m. to 2:00 a.m. seven days a week. There are no churches or schools within 300 feet and no objections were received. When asked how they can assure people are not taking beverages out of the back door it was reported that Cinergy has the same set-up.

Council Member Hotchkiss noted their website says they serve snacks noting Cinergy is a dinner theatre serving substantial food including hamburgers and pizzas. She noted there are few places where it is safe for a child to go where alcohol is not served.

Mayor Morales opened the public hearing at 12:12 p.m.

Tommy Hale, 5112 Anetta, Pastor of Mt. Calvary Missionary Baptist Church reported he lives across from Cinergy and has concerns about places serving alcohol and allowing open carry. He noted he was hit head-on by a drunk driver and spent 62 days in the hospital and has sensitivity to issues with alcohol. He asked that each Council Member ask for God to guide them.

There being no one else wishing to speak, the public hearing was closed at 12:18 p.m.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9528 in accordance with the Charter of the City of Midland with the amendment to change the hours of serving alcohol to Sunday through Saturday from 12:00 noon to 2:00 a.m.; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Love, Morales, Dufford, Lacy, Robnett. NAY: Hotchkiss, Sparks. ABSTAIN: None. ABSENT: None.

MISCELLANEOUS

40. Consider a motion appealing the Building Official's denial of a sign permit application by Chevron, located on 6301 Deauville Boulevard, Midland, Texas. (DEVELOPMENT SERVICES)

Development Services Director Chuck Harrington gave a brief overview of the item noting it is for Chevron who is appealing the denial of sign permit. They originally applied for three free standing signs over two frontages when only two would be allowed. They have since withdrawn the request for the third sign. The remaining request is for 3' by 5' directional signs when the code only allows for four square feet. Staff found no justification and recommends denial of the permit.

Council Member Lacy reported the signs will be well within the applicant's property and the main purpose is to direct traffic on their property. He supports granting the permit because of the commitment Chevron has made to the community. Council Members Dufford and Sparks agreed.

Council Member Hotchkiss noted she is supporting staff's comments and doesn't feel that exceptions should be given based on the cost of a building. She supports Chevron but, in this case, will side with Staff.

It was noted that development has changed in Midland and the current sign ordinance no longer fits. It needs to be addressed for larger developments such as this. Staff reported they will look at the sign ordinance once the comprehensive plan and zoning code have been updated.

Council Member Lacy moved to approve a motion appealing the Building Official's denial of a sign permit application by Chevron, located on 6301 Deauville Boulevard, Midland, Texas.; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: Hotchkiss. ABSTAIN: None. ABSENT: None.

41. Consider an ordinance on request by Rangeland Energy for the vacation of an 10.7901 acre portion of a City Drainage Easement, generally located south of Business 20 and immediately west of County Road 1160; Block 38, T-1-S, Section 42. (ENGINEERING SERVICES)

ORDINANCE NO. 9529

AN ORDINANCE VACATING AND ABANDONING A 10.7901-ACRE PORTION OF A DRAINAGE EASEMENT LOCATED IN SECTION 42, BLOCK 38, T-1-S, T&P RR CO. SURVEY, COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF COUNTY ROAD 1160, APPROXIMATELY ONE QUARTER MILE SOUTH OF BUSINESS INTERSTATE HIGHWAY 20); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$21,580.20; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9529.

Right-of-Way Manager Ryan Farmer gave a brief overview of the item noting they were approached by Rangeland Energy and this is in addition to their previous easements they requested the City to vacate. This is a drainage easement and they own a 15-acre tract in that easement and they are requesting we vacate the portion of the tract that falls outside of the 100-year flood plain. Staff recommends approval.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9529 in accordance with the Charter of the City of Midland; seconded by Council

Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

42. Consider an ordinance amending Title VIII, Chapter 6, Section 24 of the City Code. (SOLID WASTE)

ORDINANCE NO. 9530

AN ORDINANCE AMENDING TITLE VIII, "FOOD ESTABLISHMENTS, HEALTH AND GENERAL SANITATION", CHAPTER 6, "GARBAGE, TRASH AND RUBBISH", SECTION 24, "CHARGES FOR DUMPING OR UNLOADING AT SANITARY LANDFILL OPERATED BY THE CITY OF MIDLAND", OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO INCREASE THE RATES CHARGED FOR DUMPING OR UNLOADING AT THE SANITARY LANDFILL FACILITY OPERATED BY THE CITY OF MIDLAND AND TO ELIMINATE THE STATE PERMIT FEE OF ONE DOLLAR AND TWENTY-FIVE CENTS (\$1.25) PER TON; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF ONE THOUSAND DOLLARS (\$1,000.00); CONTAINING AN ESCALATION CLAUSE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9530.

Solid Waste Director Morris Williams gave a brief overview of the item noting this is to clean up verbiage and to wrap the \$1.25 State fee into the City fee making it all inclusive and cleaner. He clarified that the overall cost is not increasing.

Council Member Love moved approval of the first of two readings of Ordinance No. 9530 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: None. ABSTAIN: None. ABSENT: Robnett.

43. Discuss the possible issuance of certificates of obligation for the purpose of paying for the construction, improvement and acquisition of public works and equipment. The discussion may include the potential amount of the certificates of obligation as well as potential public works projects such as streets, drainage, park and recreational facilities, police facilities, and communication information technology improvements and equipment. Discussion only, no action will be taken.

Finance Director Pam Simecka provided updated sheets to Council regarding the proposed bond issuance. As of yesterday, Midland's bond rating was reconfirmed and Midland is keeping its AAA rating. There is currently about \$48 million in reserves so some money could be spent down from reserves rather than issuing the bond for the entire amount.

City Manager Sharp noted about \$8-10 million could be spent which would leave a 35 percent fund balance. He noted that with the reaffirmed AAA bond rating in light of the slower economy says that the City knows what they are doing and has the necessary controls in place to live in a down economy.

Council Member Lacy noted that February and March numbers will show Christmas spending numbers. If they are lower than anticipated it will be a good sign that the trend will continue. One third of the budget is sales tax and if there is a shortfall the only way to make up those numbers is to raise taxes.

Council Member Sparks spoke against obtaining debt noting you only get two-thirds of its value. Council Member Lacy felt Washington Park Pool was needed but felt it could be paid for by the 4B.

Ms. Simecka answered questions about how specific the bonds needed to be noting projects could be swapped out if they were in the same category.

Council Member Love noted that Washington Park is important to his district because it would 1) increase property values in the surrounding area; 2) encourage the free market to build in the open lots; and 3) the traffic generated from a nice facility would help local businesses.

Council Member Sparks addressed the increasing debt since 1991 and cautioned that if Midland does not continue to grow the cost of debt could not be covered. Other Council Members noted that Midland has grown since that time and we are still in need of infrastructure to accommodate a growing community.

Ensuing discussion raised the following points: Council needs to prioritize what is needed with the bond money. If Midland is to be a world class city then quality of life issues matter. Debt was issued in 2009 when there was the same economic uncertainty; if it had not been issued, the City would not currently have Fairgrounds or Briarwood Road. It may help to have a line item vote on what Council's priorities are.

44. Consider a motion appointing a Mayor Pro Tempore.

Council Member Love moved to appoint J.Ross Lacy as Mayor Pro Tempore; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

45. Consider a motion making appointments to various Boards and Commissions.

Mayor Morales asked Council to have their appointments ready for the next meeting. No appointments were made.

EXECUTIVE SESSION

46. 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 551.087 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.

Mayor Morales recessed the meeting to Executive Session at 1:14 p.m.

All of the business at hand having been completed, the meeting adjourned at 1:43 p.m.

PASSED AND APPROVED the 26th day of January, 2016.

Jerry F. Morales, Mayor

ATTEST:

Amy M. Turner, City Secretary