

**MIDLAND CITY COUNCIL
MINUTES
February 09, 2016**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:30 a.m. on February 09, 2016.

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

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, Police Chief Price Robinson, Finance Director Pam Simecka, and Public Information Officer Sara Bustilloz.

Mayor Morales called the Briefing Session to order at 9:32 a.m.

1. Presentation of the 2015 Midland Police Department Traffic Contact report by Dr. Eric J. Fritsch, Ph.D., Professional Development Institute, University of North Texas.

Police Chief Price Robinson provided hard copies of the Midland Police Department 2015 Racial Profiling Analysis and introduced Dr. Fritsch of the University of North Texas.

Dr. Fritsch noted he is a Professor and Chair at the University of North Texas and works with several departments to compile their Racial Profiling Report. He reviewed the report with Council noting that the law has several stipulations that every agency must meet and Midland is compliant with the law.

The data shows that 8,117 motor vehicles were stopped in 2015 which resulted in a citation, arrest or both. Those numbers are then compared to the base rate. He noted that Midland uses the Fair Roads Standard but could also use the United States Census. He further explained that there are problems with using both of these sources as a benchmark because there is not an accurate record of the driving population. The Fair Roads Standards only uses Midland residents and about 15% of all traffic stops in 2015 were from people who lived outside of Midland.

Next he reviewed consent searches which were about 3.12% of all motor vehicle stops noting this is a low number which is good. There is usually a good reason an officer is asking for consent to search such as nervous behavior. The percentage of all searches including consent searches resulted in finding contraband in 66% of the searches. This number is up 6% over 2014. That number is typically less than 20% which means that Midland Police Officers seem to have very good reasons to conduct searches.

In summary, the Midland Police Department is fully in compliance with the law. Two racial profiling complaints were filed. One was unfounded and the other was exonerated after reviewing the in-car camera.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 10:00 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., February 09, 2016.

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

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, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 7, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47.

Mayor Morales called the meeting to order at 10:05 a.m.

OPENING ITEMS

1. Invocation - Pastor Robert Pase, Grace Lutheran
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to: None.

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.

Carla Repman reported she was not opposed to the 4b tax but felt the language should be clarified and less broad.

Thomas Flourney, 3202 W. Kansas, spoke against the 4b tax.

CONSENT AGENDA

Council Member Lacy moved to approve Consent Agenda items 5 - 27 excluding 7; 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.

5. Approved a motion approving the following minutes:
 - a. Regular meeting of January 26, 2016.
6. Approved a resolution approving the purchase of twenty-one (21) Panasonic laptops including a three year warranty for police vehicles from PCMG, Inc. through Buyboard for a total cost of \$86,571.87 for the Garage Division. (PURCHASING)

RESOLUTION NO. 2016 - 032

RESOLUTION APPROVING THE PURCHASE OF TWENTY-ONE (21) PANASONIC LAPTOPS WITH CORRESPONDING THREE (3) YEAR WARRANTIES FOR POLICE VEHICLES FOR THE GARAGE DIVISION FROM PCMG, INCORPORATED, THROUGH BUYBOARD AT A TOTAL COST OF \$86,571.87

8. Approved a resolution awarding the project described as Aircraft Ramp Lighting System Improvements at Midland International Air & Space Port (7146) to Basin Electric & Technology of Midland, Texas. (AIRPORTS)

RESOLUTION NO. 2016 - 034

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH BASIN ELECTRIC & TECHNOLOGY OF MIDLAND, TEXAS, FOR THE AIRCRAFT RAMP LIGHTING SYSTEM IMPROVEMENTS PROJECT (7146) AT THE MIDLAND INTERNATIONAL AIR & SPACE PORT IN AN AMOUNT NOT TO EXCEED \$311,386.00; AND APPROPRIATING FUNDS IN THE AMOUNT OF \$448,064.00

9. Approved a resolution authorizing the execution of a Mutual Termination and Release Agreement between the XCOR Aerospace, Inc., and the City of Midland. (AIRPORTS)

RESOLUTION NO. 2016 - 035

RESOLUTION AUTHORIZING THE EXECUTION OF A MUTUAL TERMINATION AND RELEASE AGREEMENT BETWEEN XCOR AEROSPACE, INC., AND THE CITY OF MIDLAND, TEXAS, REGARDING A CERTAIN CITY-OWNED 22,500 SQUARE FOOT TRACT OF LAND LOCATED WITHIN TRACT G, SECTION 5, BLOCK 40, TOWNSHIP 2 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS

10. Approved a resolution authorizing the execution of a Commercial Land Lease Agreement between the Midland Development Corporation (MDC) and the City of Midland, Texas. (AIRPORTS)

RESOLUTION NO. 2016 - 036

RESOLUTION AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT BETWEEN THE CITY OF MIDLAND AND THE MIDLAND DEVELOPMENT CORPORATION REGARDING REAL PROPERTY LOCATED AT MIDLAND INTERNATIONAL AIR & SPACE PORT AND DESCRIBED AS APPROXIMATELY 22,500 SQUARE FEET OF BUNKER SPACE

11. Approved a resolution approving a contract between the City of Midland, Texas and SilverWing Enterprises, and appropriate necessary funds. (AIRPORTS)

RESOLUTION NO. 2016 - 037

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH SILVERWING ENTERPRISES, LLC, TO PROVIDE PROFESSIONAL SERVICES IN SUPPORT OF THE OPERATION OF THE SPACEPORT LOCATED AT MIDLAND INTERNATIONAL AIR AND SPACE PORT; AND APPROPRIATING FUNDS

12. Approved a motion authorizing the execution of a Sports Agreement with West Texas BMX to administer programs, special events, and services related to BMX (Bicycle Motocross) racing and riding. (COMMUNITY SERVICES)
13. Approved a motion authorizing the execution of a Sports Agreement with the Texas Cricket Club to administer programs, special events, and services related to cricket. (COMMUNITY SERVICES)
14. Approved a motion authorizing the execution of a Sports Agreement with Midland Softball Association, Incorporated, to administer programs, special events, and services related to softball for ages fifteen and older. (COMMUNITY SERVICES)
15. Approved a motion authorizing the execution of a Sports Agreement with the Midland Junior Baseball Association, Incorporated, to administer programs, special events, and services related to baseball for men ages nineteen and younger. (COMMUNITY SERVICES)
16. Approved a motion authorizing the execution of a Sports Agreement with the Midland Soccer Association, Incorporated, to administer programs, special events, and services related to soccer for adults and youth. (COMMUNITY SERVICES)
17. Approved a motion authorizing the execution of a Sports Agreement with Midland United Girls Softball Association, Incorporated, to administer programs, special events, and services related to softball for girls. (COMMUNITY SERVICES)
18. Approved a motion authorizing the execution of a Sports Agreement with the Greater Midland Football League to administer programs, special events, and services related to youth football. (COMMUNITY SERVICES)
19. Approved a motion authorizing the execution of a Sports Agreement with the Boys and Girls Club of Midland, to administer programs, special events, and services related to flag football and soccer for youth ages eight through twelve. (COMMUNITY SERVICES)
20. Approved a motion authorizing the execution of a Sports Agreement with First Baptist Church Upward Flag Football League, to administer programs, special events, and services related to flag football activities for youth and adults. (COMMUNITY SERVICES)
21. Approved a motion authorizing the execution of a Sports Agreement with Under the Lights Flag Football League to administer programs, special events, and services

related to flag football for youth and adults. (COMMUNITY SERVICES)

22. Approved a motion authorizing the execution of a Sports Agreement with Stonegate Fellowship to administer services related to flag football for youth and adults. (COMMUNITY SERVICES)
23. Approved a motion on request by Schumann Engineering Co. Inc. to defer public improvements for Sunridge Ranch Estates Section 5, and to waive the corresponding financial security guarantee valued at \$345,303.00, an amount equal to the estimated cost of construction. The subject property is generally located approximately 2,050 feet northwest of the City of Midland corporate limits, on the southeast corner of the intersection of North County Road 1246 and West County Road 41 in the Extra Territorial Jurisdiction of the City of Midland, in Midland County, Texas. (ENGINEERING SERVICES)
24. Approved a motion on request by Schumann Engineering Co. Inc. to defer public improvements for Sunridge Ranch Estates Section 6, and to waive the corresponding financial security guarantee valued at \$269,785.73, an amount equal to the estimated cost of construction. The subject property is generally located approximately 690 feet north of the City of Midland corporate limits, on the north side of West County Road 44 approximately 280 feet west of the intersection with North County Road 1240 in the Extraterritorial Jurisdiction of the City of Midland, in Midland County, Texas. (City of Midland ETJ, Midland County) (ENGINEERING SERVICES)
25. Approved a resolution authorizing the execution of a six-month Right-of-Way License with Dawson Geophysical Company, for seismic testing on Midland Airpark property. (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 038

RESOLUTION AUTHORIZING THE EXECUTION OF A SIX-MONTH TEMPORARY RIGHT-OF-WAY LICENSE WITH DAWSON GEOPHYSICAL COMPANY FOR SEISMIC TESTING ACROSS CITY-OWNED PROPERTY AT MIDLAND AIRPARK, SECTIONS 14 & 15, BLOCK 39, TOWNSHIP 1 SOUTH, MIDLAND COUNTY, TEXAS

26. Approved a resolution authorizing the execution of a six-month Right-of-Way License with Dawson Geophysical Company, for seismic testing on City right-of-way, and City-owned parcels, spanning from approximately Holiday Hill Road to Lamesa Road, but excluding the Midland Airpark property. (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 039

RESOLUTION AUTHORIZING THE EXECUTION OF A SIX-MONTH TEMPORARY RIGHT-OF-WAY LICENSE WITH DAWSON GEOPHYSICAL COMPANY FOR SEISMIC TESTING ACROSS CITY-OWNED STREETS AND RIGHTS-OF-WAY

27. Approved a resolution authorizing the renewal of an Operating Certificate for Midland Shuttle Services, Inc. (POLICE)

RESOLUTION NO. 2016 - 040

RESOLUTION AUTHORIZING AN OPERATING CERTIFICATE FOR MIDLAND SHUTTLE SERVICES, INCORPORATED, TO OPERATE A TAXICAB BUSINESS; SETTING FORTH CONDITIONS ACCOMPANYING THE CERTIFICATE; AND ESTABLISHING THE TERMS OF THE CERTIFICATE

The following item was pulled from Consent Agenda and considered individually.

7. Consider a resolution approving specifications and authorizing advertisement for bids for the Fiscal Year 2016 Mill and Inlay Project for the Transportation Division. (PURCHASING)

RESOLUTION NO. 2016 - 033

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE FISCAL YEAR 2016 MILL AND INLAY PROJECT; SAID PROJECT WILL PROVIDE FOR THE REMOVAL AND REPLACEMENT OF TWO TO FIVE INCHES OF ASPHALT PAVEMENT ON CERTAIN ROADWAY SECTIONS

Council Member Lacy thanked staff for the fantastic job they are doing and asked for the context of what roads they are anticipating to do in this project.

Assistant Transportation Manager Gabe McClelland reported the base bid is for Midkiff Road between Wall Street and Interstate Highway 20. Additive Alternate 1: is for Illinois Avenue between N. Street and Andrews Highway. Additive Alternate 2: is for Wadley Avenue between Big Spring Street and A Street. He further clarified that any alternates that cannot be included in this project will be a high priority in the future.

Council Member Lacy moved to adopt Resolution No. 2016 - 033; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

SECOND READINGS

28. Consider an ordinance on second reading on a request by Northstar RR, LLC for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a bar generally located southeast of the intersection of East Interstate Highway 20 and E. State Highway 158. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9531

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 2, BLOCK 1, GARDEN TWENTY, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF EAST INTERSTATE 20 AND EAST STATE HIGHWAY 158), 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 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. 9531.

Council Member Lacy moved to approve the second and final reading of Ordinance No.

9531 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.

29. Consider an ordinance on second reading on a request by Alderson Auto Group for a zone change from PD, Planned District for a Shopping Center, to LR-3, Local Retail District generally located southwest of the intersection of Andrews Highway and Catalina Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9532

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 3, BLOCK 7, WESTRIDGE PARK ADDITION, SECTION 16, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN LR-3, LOCAL RETAIL DISTRICT (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF ANDREWS HIGHWAY AND CATALINA DRIVE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9532.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9532 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.

30. Consider an ordinance on second reading on a request by Timothy Rogers for a Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant generally located southeast of the intersection on Summit Avenue and Belmont Street. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9533

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 2,460-SQUARE FOOT PORTION OF LOT 2B, BLOCK 52, BELMONT ADDITION, SECTION 21, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF SUMMIT AVENUE AND BELMONT 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. 9533.

Council Member Hotchkiss moved to approve the second and final reading of Ordinance

No. 9533 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: Lacy. ABSTAIN: None. ABSENT: None.

31. Consider an ordinance on second reading ordering a Special Election to be held on Saturday, May 7, 2016 for the purpose of voting for repurposing the one-quarter of one percent sales tax currently used for the sports complex. (CITY SECRETARY'S OFFICE)

ORDINANCE NO. 9534

AN ORDINANCE ORDERING A SPECIAL ELECTION TO BE HELD ON MAY 7, 2016, FOR THE PURPOSE OF VOTING FOR OR AGAINST THE EXTENSION OF THE IMPOSITION OF THE SALES AND USE TAX WITHIN THE CITY OF MIDLAND AT THE RATE OF ONE-QUARTER (1/4) OF ONE PERCENT (1%), WHICH IS CURRENTLY USED FOR THE SCHARBAUER SPORTS COMPLEX FOOTBALL/SOCCER STADIUM AND BASEBALL STADIUM, AND RELATED INFRASTRUCTURE, PURSUANT TO TEXAS LOCAL GOVERNMENT CODE, CHAPTER 505, AS AMENDED ("CHAPTER 505"), IN ORDER TO UNDERTAKE PROJECTS AUTHORIZED BY CHAPTER 505; SETTING FORTH SAID PROJECTS HEREIN; MAKING PROVISION FOR THE CONDUCT OF SUCH ELECTION; AND SETTING FORTH OTHER MATTERS INCIDENT AND RELATED TO SUCH ELECTION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9534.

Mayor Morales read a brief statement emphasizing that the Council is trying to do what is best for the community. He asked Council to not support having the election on May 7th but instead move it to November so that the community can be shown the benefits of how a Type B tax can improve Midland.

Council Member Love moved to deny an ordinance on second reading ordering a Special Election to be held on Saturday, May 7, 2016 for the purpose of voting for repurposing the one-quarter of one percent sales tax currently used for the sports complex; seconded by Council Member Dufford. The motion to deny carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

PUBLIC HEARINGS

32. Hold a public hearing and consider an ordinance on a request by Carl Englestad for a vacation of the 0.06-acre portion of the alley right-of-way generally located on the east side of S. Fort Worth Street, approximately 150-feet north of E. Pennsylvania Avenue. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9535

AN ORDINANCE VACATING AND A 0.06-ACRE PORTION OF ALLEY RIGHT-OF-WAY LOCATED IN BLOCK 143, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF SOUTH FORT WORTH STREET, APPROXIMATELY 150 FEET NORTH OF EAST PENNSYLVANIA AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$5,227.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9535.

Development Services Director Chuck Harrington gave a brief overview of the item noting it was a request for the vacation of a portion of the alley. The applicant owns all property surrounding the alley. There are no utilities in the land and staff has no issues. MCAD has valued the property at \$5,227.00 and the applicant is objecting to that price.

Mayor Morales opened the public hearing at 10:31 a.m.

Carl Englestad, 4900 Spy Glass Circle, reported he is disputing the price of the property noting his property adjacent to it, is valued at 71 cents per square foot and that is the amount he is willing to pay. He explained that MCAD's valuation is showing the alley to be \$2 per square foot. When asked if he would replat by adjoining it to the southern or northern portion of property, he answered he wasn't sure yet. He may split it between the two properties.

There being no one else wishing to speak, the public hearing was closed at 10:39 a.m.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9535 in accordance with the Charter of the City of Midland with the amendment to change the value to \$1,856.00; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

33. Hold a public hearing and consider an ordinance on a request by R.J. Daum, RPLS for the vacation of a 5.44-acre portion of right-of-way out of 33.97-acres generally located west of the intersection of Walnut Lane and N. Stonewall Street. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9536

AN ORDINANCE VACATING AND ABANDONING A 5.44-ACRE PORTION OF RIGHT-OF-WAY LOCATED IN BLOCKS 3, 4, 21, AND 22, EAST MIDLAND ADDITION, AND BLOCKS B, C, D, E, F, AND G, MONTGOMERY ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED WEST OF THE INTERSECTION OF WALNUT LANE AND STONEWALL STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$296,208.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9536.

Development Services Director Chuck Harrington gave a brief overview of the item noting this is for the vacation of a piece of right-of-way that the applicant is wishing to put together for a future development. This land is not improved and contains no utilities. Council Member Love expressed concern that C3 zoning allows for nearly any use.

Mayor Morales opened the public hearing at 10:45 a.m.

R.J. Daum, 408 N. Pecos, reported this is an opportune time to make this transaction work for all parties. He plans to put in housing with a village atmosphere and there will be oil and gas development in the area. When asked if he would be willing to change the zoning he was agreeable. It was determined the best way to proceed was to hold

this item up from proceeding to second reading until the application was made for a zone change. Mr. Daum was okay that that request.

Council Member Love moved approval of the first of two readings of Ordinance No. 9536 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.

34. Hold a public hearing and consider a resolution on a request by Robert Ahola for approval of a Temporary Land Use Permit for a Tent Sale generally located on the south side of W. Loop 250 North, approximately 220-feet west of North Midkiff Road. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 041

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A TENT SALE ON LOT 7, BLOCK 17, SKYLINE TERRACE ADDITION, UNIT 7, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 220 FEET WEST OF NORTH MIDKIFF ROAD); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Development Services Director Chuck Harrington gave a brief overview of the item noting it was a request for a tent sale in the parking lot of Midland Park Mall for an 18-day period. This is the same as the item approved last year with the exception that the previous year was 22 days. Staff recommends approval and no letters of objection have been received.

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.

Council Member Robnett moved to adopt Resolution No. 2016 - 041; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Morales, Dufford, Robnett. NAY: Sparks, Lacy. ABSTAIN: None. ABSENT: None.

35. Hold a public hearing and consider an ordinance, on a request by Lockridge Outdoor Advertising, LLC, for a Specific Use Permit, with Term, for a Billboard generally located northwest of the intersection of N. Lamesa Road, and E. Front Street; and a Specific Use Permit, with Term, for a Billboard, on a 2.86-acre tract of land generally located on the south side of Interstate 20, approximately 350-feet east of Lote Bush Drive; and Specific Use Permit for an Electronic Billboard generally located southwest of the intersection of S. Rankin Highway and Collins Avenue; and a Specific Use Permit with Term, for an Electronic Billboard on a 7.98-acre tract. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9537

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 1, BLOCK 16, HALEY HEIGHTS, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF SOUTH RANKIN HIGHWAY AND COLLINS AVENUE), WHICH IS PRESENTLY ZONED LR-3, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR AN

ELECTRONIC BILLBOARD; CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 2.86-ACRE TRACT OF LAND OUT OF SECTION 7, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF INTERSTATE 20, APPROXIMATELY 350 FEET EAST OF LOTE BUSH DRIVE), WHICH IS PRESENTLY ZONED BP, I-20 BUSINESS PARK DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR A BILLBOARD; CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS ALL OF BLOCK 17, LESS 1,351 SQUARE FEET, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF NORTH LAMESA ROAD AND EAST FRONT STREET), WHICH IS PRESENTLY ZONED C-3, COMMERCIAL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR A BILLBOARD; CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 7.98-ACRE TRACT OF LAND OUT OF SECTION 4, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF INTERSTATE 20, APPROXIMATELY 1,100 FEET EAST OF SOUTH MIDKIFF ROAD), WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR AN ELECTRONIC BILLBOARD; MAKING SAID PERMITS 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. 9537.

Development Services Director Chuck Harrington gave a brief overview of the item noting this request is four requests lumped into one. He reported all requests meet all requirements.

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.

Council Member Robnett moved approval of the first of two readings of Ordinance No. 9537 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: Hotchkiss. ABSTAIN: None. ABSENT: None.

36. Hold a public hearing and consider an ordinance on a request by 8086, LLC, for a Specific Use Permit, with Term, for the sale of all alcoholic beverages, for on-premises consumption, in a Lounge or Nightclub, on a 8,853-square foot portion of land generally located southwest of the intersection of Holiday Hill Road and League Drive. (DOWNTOWN DEVELOPMENT)

ORDINANCE NO. 9538

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS AN 8,853-SQUARE FOOT PORTION OF LOT 1A, BLOCK 2, GRANDRIDGE PARK ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION

OF HOLIDAY HILL ROAD AND LEAGUE DRIVE), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE OR 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. 9538.

Development Services Director Chuck Harrington gave a brief overview of the item noting it was for a Specific Use Permit for the sale of alcoholic beverages. This item was previously approved by Council in June of 2014 but due to changes to the building a new SUP is required. They have a max seating of 250 occupants and will provide 63 parking spaces. No churches or schools are within 300 feet and the nearest residential area is over 800 feet away. No letters of objection have been received and staff recommends approval.

Mayor Morales opened the public hearing at 10:59 a.m.

Robert Rendall reported he was available to answer any questions noting it was a minor modification of the size of the building.

There being no one else wishing to speak, the public hearing was closed at 10:59 a.m.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9538 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, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

37. Hold a public hearing and consider an ordinance on a request by Lamar Advertising, for a Zone Change from AE, Agriculture-Estate District, to LR-2, Local Retail District generally located approximately 400-feet north of the intersection of N. Highway 349 and Arapahoe Road. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9539

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1, BLOCK 1, GREEN ACRES, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF NORTH STATE HIGHWAY 349, APPROXIMATELY 400 FEET NORTH OF ARAPAHOE 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

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9539.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is currently zoned AE. The applicant is requesting LR-2 zoning. They are located on the west side of Highway 349. The owner is looking to expand his operations to the north. No letters of objection have been received and staff recommends approval of the zone change.

Mayor Morales opened the public hearing at 11:02 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. 9539 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.

38. Hold a public hearing and consider a request by Lamar Advertising, on appeal, for a Specific Use Permit, with Term, for a Billboard, on Lot 1, Block 1, Green Acres, City and County of Midland, Texas. (Generally located approximately 400 feet north of the intersection of North Highway 349 and Arapahoe Road). This is a public hearing only and no additional action will be taken. (DEVELOPMENT SERVICES)

Development Services Director Chuck Harrington gave a brief overview of the item noting this is a request for a Specific Use Permit for a billboard that falls under the special control area. Two other billboards are required to be removed to replace with an electronic billboard and they have removed two billboards. The maximum square footage is 300 square feet and the billboard the applicant is requesting is 672 square feet. Staff does not support the request because it exceeds the maximum size.

Mayor Morales opened the public hearing at 11:06 a.m.

Chris Stokes, 515 Three Rivers, reported that Planning & Zoning did not have a problem with this billboard. He made a deal with his customer prior to the change of the billboard ordinance and he is trying to honor his deal. He took down two billboards in other locations and this billboard will have a static face. He brought in five letters of support. He feels this billboard is in a unique situation because all of the property surrounding it is industrial in nature and it is screened from the Betenbough residential area by the office and warehouse complex that is in front of the Betenbough development.

Council Member Hotchkiss emphasized that this is the new standard.

There being no one else wishing to speak, the public hearing was closed at 11:15 a.m. No further action was taken.

39. Hold a public hearing and consider a resolution on a request by Westlake Hardware, Inc. for approval of a Temporary Land Use Permit for Outdoor Retail Sales generally located on the north side of Andrews Highway, approximately 390-feet east of Whitney Drive. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 042
RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR OUTDOOR
RETAIL SALES ON LOT 1, BLOCK 5, PARK PLACE ADDITION, SECTION 3, CITY

AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF ANDREWS HIGHWAY, APPROXIMATELY 390 FEET EAST OF WHITNEY DRIVE); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Development Services Director Chuck Harrington gave a brief overview of the item noting it was for a temporary outdoor sales area February through June to sell seasonal products. The area will cover 24 parking spaces but it still leaves an excess of the required number of spots. No letters of objection have been received and staff recommends approval. When asked if it was uncommon to have a TLUP for several months, Mr. Harrington noted it was uncommon.

Mayor Morales opened the public hearing at 11:18 a.m.

Phillip Ulcak, 2303 SCR 1128, reported he is the District Manager for Westlake Hardware. He reported it would be separated by chain link and a shade structure to sell plants and related materials. They will water with a garden hose that will be protected by a temporary speed bump. They plan on doing this again in future years.

There being no one else wishing to speak, the public hearing was closed at 11:20 a.m.

Council Member Love moved to adopt Resolution No. 2016 - 042; 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.

MISCELLANEOUS

40. Receive the 2015 Midland Police Department Racial Profiling Analysis (POLICE)

Police Chief Price Robinson reported an overview was given during briefing session and was available for questions. The report was received.

41. Consider an ordinance establishing intersection stops at various locations within the City of Midland, Texas and authorizing and directing the Traffic Engineer to install appropriate signs and markings at the designated locations. (ENGINEERING SERVICES)

ORDINANCE NO. 9540

AN ORDINANCE ESTABLISHING INTERSECTION STOPS AT VARIOUS LOCATIONS WITHIN THE CITY OF MIDLAND, TEXAS; AUTHORIZING AND DIRECTING THE TRAFFIC ENGINEER TO INSTALL APPROPRIATE SIGNS AND MARKINGS AT THE DESIGNATED LOCATIONS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS (\$200.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9540.

City Traffic Engineer Mike Pacelli gave a brief overview of the item noting it was the standard conversion of yield signs to stop signs.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9540 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, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Morales.

42. Consider an ordinance establishing yield right-of-way signs at various locations within the City of Midland, Texas and authorizing and directing the Traffic Engineer to install appropriate signs and markings at the designated locations. (ENGINEERING SERVICES)

ORDINANCE NO. 9541

AN ORDINANCE ESTABLISHING YIELD RIGHT OF WAY SIGNS AT VARIOUS LOCATIONS WITHIN THE CITY OF MIDLAND, TEXAS; REQUIRING AND AUTHORIZING THE POSTING OF APPROPRIATE SIGNS AT SAID INTERSECTIONS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS (\$200.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9541.

City Traffic Engineer Mike Pacelli reported this was the companion to the stop sign ordinance for yield signs.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9541 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, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Morales.

43. Consider an ordinance on request by Southwest Baptist Church and Fasken Oil and Ranch for the vacation of a 0.45 acre City Utility Easement, generally located one (1) mile east of County Road 1275, and immediately north of State Highway 191. (ENGINEERING SERVICES)

ORDINANCE NO. 9542

AN ORDINANCE VACATING AND ABANDONING A 0.45-ACRE UTILITY EASEMENT LOCATED IN SECTION 33, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, APPROXIMATELY ONE MILE EAST OF COUNTY ROAD 1275); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$10,350.00; WAIVING THE FEE FOR THE COST OF THE UTILITY EASEMENT; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9542.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9542 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.

44. Consider a resolution authorizing the execution of a Professional Services Agreement with Kimley-Horn and Associates, Incorporated, of Irving, Texas for design development, construction documents, bidding assistance, and construction oversight for the Washington Aquatic Center Pool and Bathhouse Renovation Project; and appropriating \$420,000.00 for said professional services. (PURCHASING)

RESOLUTION NO. 2016 - 043

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INCORPORATED, TO PROVIDE DESIGN DEVELOPMENT, CONSTRUCTION DOCUMENTS, BIDDING ASSISTANCE, AND CONSTRUCTION OVERSIGHT FOR THE WASHINGTON AQUATIC CENTER POOL AND BATHHOUSE RENOVATION PROJECT; AND AUTHORIZING THE APPROPRIATION OF \$420,000.00 FOR SAID PROFESSIONAL SERVICES AGREEMENT

Council Member Sparks asked if it was necessary to go through a whole new design plan for the Washing Park Pool since the City just created design specifications for the Doug Russell Pool. Parks & Recreation Manager Laurie Williams reported that there are many differences in the two pools noting that Doug Russell had recently had a bath house renovation when Washington Park had not. Additionally there are different pumps, filters and mechanic parts that are not the same noting that the consultant is the expert. Sparks clarified that he thought it was a lot of man hours when the City recently did a similar project. Assistant City Manager Robert Patrick reported he had the same question of staff and after looking more closely at it realized they could not use the previous plans.

Council Member Love moved to adopt Resolution No. 2016 - 043; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: Sparks. ABSTAIN: None. ABSENT: None.

45. Consider a resolution approving a contract for the purchase and installation of a pre-fabricated shade structure for the Hogan Park Golf Course for tournament operations from Playgrounds Etc. LLC through Buyboard for a total cost of \$103,337.00. (PURCHASING)

RESOLUTION NO. 2016 - 044

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE PURCHASE AND INSTALLATION OF A PRE-FABRICATED SHADE STRUCTURE FOR THE HOGAN PARK GOLF COURSE WITH PLAYGROUNDS ETC, LLC, THROUGH BUYBOARD AT A TOTAL COST OF \$103,337.00

Greg Sikes and David Byrd reported that due to a storm in August the pavilion was blown over onto the golf course. This item will get them back to where they were previously. He noted this pavilion allows for additional covered area and without it they risk losing two tournaments which would cover the cost of the structure. They clarified that it is a bolted together structure that could be moved to another location if needed.

Council Member Lacy moved to adopt Resolution No. 2016 - 044; 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.

46. Consider a motion making an appointment to the Hotel/Motel Tax Advisory Board or other various boards and commissions.

Council Member Love moved to appoint Shirley Howard to Parks & Recreation Board; 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.

EXECUTIVE SESSION

47. 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 551.072 Deliberation Regarding Real Property.

a.1. Discuss the purchase, exchange, lease, or value of real property described as all of Block 7, Original Town Addition, Midland, Midland County, Texas.

Mayor Morales recessed the meeting to Executive Session at 11:37 a.m.

All of the business at hand having been completed, the meeting adjourned at 12:05 p.m.

PASSED AND APPROVED the 23rd day of February, 2016.

Jerry F. Morales, Mayor

ATTEST:

Amy M. Turner, City Secretary