

**MIDLAND CITY COUNCIL
MINUTES
May 10, 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 May 10, 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, Utilities Director Laura Wilson, Finance Director Pam Simecka, Development Services Director Charles Harrington, Engineering Services Director Jose Ortiz, Planning Division Manager Jessica Carpenter, Senior Planner Kevin Crosby, Right-of-Way Manager Ryan Farmer, and Public Information Officer Sara Bustilloz.

Mayor Morales called the meeting to order at 9:03 a.m.

1. Receive a presentation by Verizon Wireless regarding Small Cells and possible locations.

Development Services Director Chuck Harrington reported they have been in communication with major wireless carriers and they are changing the way they do business. The latest technology advance is to use a small cell to transmit wireless communications. These devices are currently being used in major cities including Dallas and San Antonio. Verizon is now seeking to use them in Midland. The purpose of this briefing is to make Council aware of the concept. He introduced Jay Burrus and Aaron Cornish of Verizon.

Jay Burrus reported that technology is rapidly changing and each carrier is looking at the future noting they are now doing a test market for 5G. They are looking to integrate some of the technology changes here in Midland. He provided a high level overview of how the concept works noting they are getting closer to the customer by deploying small cells at street level and inside buildings. The small cell relieves capacity. As technology devices change and people have multiple devices, it creates a higher demand for service. He explained it is increasingly difficult to expand the macro towers, which are the reason for moving to small cells to continue to expand their service. He shared several pictures of small cell towers noting they serve at a distance of 500 to 1,000 feet.

Mr. Harrington reported that the zoning ordinance does not allow for small cell towers so the ordinance would need to be changed. There are 30,000 private utility poles and 15,000 City owned poles that are there as options. Verizon is proposing to use 30-40 locations. He noted the fee would be about \$1,500 per site per year. Staff is also discussing connectivity with street signals. Staff feels this is a good direction to go.

City Manager Courtney Sharp reported that staff will come back with proposed zoning changes. Council did not disagree with moving forward.

2. Receive a presentation from Scott Hibbs of Enprotec Hibbs & Todd regarding the West Texas Water Partnership.

Scott Hibbs, of Enprotec Hibbs & Todd, reported he is the lead Engineer on the West Texas Water Partnership, a partnership between Midland, Abilene and San Angelo. He provided an overview and history of the partnership noting they just celebrated five years of collaborative efforts. The current drought is two to three times more severe than the dust bowl days and shared that farmers are becoming more adept at keeping water on their own land. This means it takes more rain to fill the reservoir.

Mr. Hibbs provided a review of the history of the partnership noting they originally formed when the drought first began. When it was learned that nothing could be done in the short term, the emphasis was moved to looking for long-term solutions. They have explored many options of obtaining water throughout Texas noting they are looking for supplies that can be purchased rather than rented. When asked about efficiency of capturing surface water in draws and channels he noted there is not a lot that can be done other than controlling vegetation.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:54 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., May 10, 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, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 6, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 37, 4, 38, 35.

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

OPENING ITEMS

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

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Proclamation presentation for Children's Mental Health Awareness Day
 - b. Presentation of Proclamation for Willy Nilly and Thumper Book Launch
 - c. Proclamation presentation for Police Memorial Week
 - d. Presentation of proclamation for South East Senior Center Day

CONSENT AGENDA

Council Member Robnett moved to approve Consent Agenda items 5 - 19 excluding 6; 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 April 26, 2016.
7. Approved a resolution approving the purchase of three (3) PowerEdge M630 Blade Servers and four (4) Dell Force10 MXL 10/40 GbE DCB Blade Switches from Dell Marketing LP through the Texas Department of Information Resources contract DIR-SDD-1951 for a total cost of \$99,559.70. (PURCHASING)

RESOLUTION NO. 2016 - 136

RESOLUTION APPROVING THE PURCHASE OF THREE (3) POWEREDGE M630 BLADE SERVERS AND FOUR (4) DELL FORCE10 MXL 10/40 GBE DCB BLADE SWITCHES FROM DELL MARKETING, LP, THROUGH THE TEXAS DEPARTMENT OF INFORMATION RESOURCES AT A TOTAL COST OF \$99,559.70

8. Approved a resolution approving a professional services agreement with Parkhill, Smith & Cooper, Inc. to prepare construction plans for the first phase of construction at Dennis the Menace Park for the Community Services Department. (PURCHASING)

RESOLUTION NO. 2016 - 137

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INCORPORATED, TO PROVIDE CONSULTING SERVICES FOR THE FIRST PHASE OF THE DENNIS THE MENACE PARK RENOVATION PROJECT

9. Approved a resolution approving specifications for the Fiscal Year 2016 Miscellaneous Concrete Program for the Engineering Services Department. (PURCHASING)

RESOLUTION NO. 2016 - 138

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE FISCAL YEAR 2016 MISCELLANEOUS CONCRETE PROGRAM; SAID PROGRAM WILL PROVIDE FOR THE COMPLETION OF VARIOUS TASKS FOR WHICH CONCRETE IS NEEDED

10. Approved a resolution approving the issuance of a request for proposals for City of Midland, Texas Primary Depository/Banking Services and Secondary Depositories for the Finance Department. (PURCHASING)

RESOLUTION NO. 2016 - 139

RESOLUTION AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR PRIMARY DEPOSITORY / BANKING SERVICES AND SECONDARY DEPOSITORY SERVICES; SAID REQUEST FOR PROPOSALS WILL PROVIDE FOR THE SELECTION OF A BANK TO PERFORM AS THE PRIMARY DEPOSITORY FOR THE INVESTMENT OF CITY FUNDS AND SOURCE OF COMMERCIAL BANKING SERVICES, AND FOR THE SELECTION OF A BANK OR BANKS TO PERFORM AS A SECONDARY DEPOSITORY OR DEPOSITORIES FOR THE INVESTMENT OF CITY FUNDS

11. Approved a resolution authorizing the execution of Amendment No. 1 to Parkhill, Smith & Cooper's Professional Services Agreement, and appropriate necessary funds. (AIRPORTS)

RESOLUTION NO. 2016 - 140

RESOLUTION AUTHORIZING THE EXECUTION OF AMENDMENT NUMBER ONE TO THE PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INCORPORATED, FOR PROFESSIONAL ENGINEERING AND ARCHITECTURAL SERVICES AT THE MIDLAND INTERNATIONAL AIR & SPACE PORT AND MIDLAND AIRPARK AIRPORT; SAID AMENDMENT TO INCLUDE PROJECTS DESCRIBED AS THE RECONSTRUCT RUNWAY 16L/34R, TERMINAL BUILDING CHECKPOINT QUEUING EXPANSION, AND AIRPARK NEW HANGAR DEVELOPMENT PLANNING; AND APPROPRIATING NECESSARY FUNDS

12. Approved a resolution amending Resolution 2016-127 for an oil and gas well drilling permit to RSP Permian, L.L.C. (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Mask HZ Unit No 1006H) generally located 806 feet east of North Garfield Street and 1,095 feet north of Passage Way Extension. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 141

RESOLUTION APPROVING AN AMENDMENT TO THE PERMIT ISSUED TO RSP PERMIAN, L.L.C. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 230 FEET FROM THE NORTH LINE AND 830 FEET FROM THE WEST LINE, SECTION 10, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 806 FEET EAST OF NORTH GARFIELD STREET AND 1,095 FEET NORTH OF PASSAGE WAY EXTENSION); SAID AMENDMENT AUTHORIZING TWO FRAC PIT LOCATIONS

13. Approved a resolution authorizing the transfer of a total \$49,082.00 in Community Development Block Grant funds from the 2015-2016 contingency account into the 2015-2016 Homebuyer Assistance Program. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 142

RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS IN THE AMOUNT OF \$49,082.00 FROM THE CDBG CONTINGENCY TO THE 2015-2016 HOMEBUYER ASSISTANCE PROGRAM

14. Approved a resolution authorizing the execution of a Public Improvement Development Agreement between the City of Midland and Real Property Resources Inc., in the amount of \$195,838. (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 143

RESOLUTION AUTHORIZING THE EXECUTION OF A PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH REAL PROPERTY RESOURCES, INC. FOR DEVELOPMENT OF LONE STAR TRAILS ADDITION, SECTIONS 1, 2 AND 5, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH BIG SPRING STREET, APPROXIMATELY 2.2 MILES NORTH OF LOOP 250); AND AUTHORIZING PAYMENT IN THE AMOUNT OF \$195,837.40 THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE

15. Approved a resolution authorizing the execution of a Municipal Maintenance Agreement with the State of Texas for the maintenance of certain state highways within the city limits. (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 144

RESOLUTION APPROVING A MUNICIPAL MAINTENANCE AGREEMENT WITH THE STATE OF TEXAS TO PROVIDE FOR THE MAINTENANCE, CONTROL, SUPERVISION AND REGULATION OF CERTAIN STATE HIGHWAYS AND PORTIONS OF STATE HIGHWAYS IN THE CITY OF MIDLAND; AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE SAID AGREEMENT; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO CERTIFY THIS RESOLUTION TO THE STATE OF TEXAS AND TO TRANSMIT THE EXECUTED AGREEMENT TO THE STATE OF TEXAS

16. Approved a resolution granting a Utility Easement to Oncor Electric Delivery Company LLC., to construct and maintain electric lines and any associated facilities for the Auxiliary Field at the Scharbauer Sports Complex. (City of Midland, Midland County). (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 145

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, ON BEHALF OF THE CITY OF MIDLAND, AN INSTRUMENT GRANTING A 0.038-ACRE UTILITY EASEMENT AND RIGHT-OF-WAY LOCATED IN LOT 4, BLOCK 5, WESTRIDGE PARK ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF CHAMPIONS DRIVE, APPROXIMATELY 0.25 MILES WEST OF LOOP 250), TO ONCOR ELECTRIC DELIVERY COMPANY LLC

17. Approved a resolution accepting two Pedestrian Access Easements by NBY Rankin Hwy for the purpose of allowing pedestrian access across private property; and ordering recordation by the City Secretary. (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 146

RESOLUTION AUTHORIZING THE ACCEPTANCE OF A 62-SQUARE FOOT PEDESTRIAN ACCESS EASEMENT AND A 122-SQUARE FOOT PEDESTRIAN ACCESS EASEMENT LOCATED IN LOT 1A, BLOCK 40, BELMONT ADDITION, SECTION 18, MIDLAND, MIDLAND COUNTY, TEXAS; AND ORDERING RECORDATION BY THE CITY SECRETARY

18. Approved a resolution authorizing the City Manager to acquire any real property interests necessary or appropriate for the use and benefit of the public for street, road, pedestrian access, drainage and public utility purposes, and for any other ancillary

public use as is usual and customary at or near the intersection of Business State Highway (BS) 158 (Andrews Highway) and Woodcrest Drive to the intersection of Sinclair Avenue and Lindora Way. (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 147

RESOLUTION AUTHORIZING THE CITY MANAGER TO ACQUIRE, ON BEHALF OF THE CITY OF MIDLAND, ANY REAL PROPERTY INTERESTS NECESSARY OR APPROPRIATE, BY ANY INSTRUMENTS OF CONVEYANCE NECESSARY OR APPROPRIATE, FOR THE USE AND BENEFIT OF THE PUBLIC FOR STREET, ROAD, PEDESTRIAN ACCESS, DRAINAGE AND PUBLIC UTILITY PURPOSES, AND FOR ANY OTHER ANCILLARY PUBLIC USE AS IS USUAL AND CUSTOMARY IN CONNECTION THEREWITH FROM A POINT AT OR NEAR THE INTERSECTION OF BUSINESS STATE HIGHWAY 158 (ANDREWS HIGHWAY) AND WOODCREST DRIVE TO A POINT AT OR NEAR THE INTERSECTION OF SINCLAIR AVENUE AND LINDORA WAY; AUTHORIZING THE CITY MANAGER TO OBTAIN APPRAISALS, NEGOTIATE, EXECUTE AND FILE ALL DOCUMENTS NECESSARY TO ACQUIRE SAID REAL PROPERTY INTERESTS, PURCHASE TITLE INSURANCE POLICIES AND HOLD THE CLOSINGS FOR SAID ACQUISITIONS; AUTHORIZING PAYMENT FOR SAID APPRAISALS, TITLE INSURANCE POLICIES AND CLOSING COSTS; AND ORDERING THE CITY SECRETARY TO RECORD, OR ENSURE THAT THE TITLE COMPANY HAS RECORDED, ALL INSTRUMENTS OF CONVEYANCE

19. Approved a resolution allowing the City of Midland to enter an Interlocal Agreement with The City of San Angelo for fire training. (FIRE)

RESOLUTION NO. 2016 - 148

RESOLUTION AUTHORIZING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS AND THE CITY OF SAN ANGELO, TEXAS REGARDING COOPERATION BETWEEN THE MIDLAND FIRE DEPARTMENT AND THE SAN ANGELO FIRE DEPARTMENT FOR THE COMPLETION OF TRAINING REQUIRED BY THE TEXAS COMMISSION ON FIRE PROTECTION COURSE ON AIRCRAFT RESCUE AND FIRE FIGHTING

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

6. Consider a resolution awarding a contract for Landscaping at the Airport Terminal Building to the sole bidder Clint Co Corporation of Midland, Texas for a total cost of \$66,974.00 for the Department of Airports. (PURCHASING)

RESOLUTION NO. 2016 - 135

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE AIRPORT LANDSCAPING PROJECT AT THE MIDLAND INTERNATIONAL AIR & SPACE PORT TERMINAL BUILDING TO THE SOLE BIDDER, CLINT CO CORPORATION, OF MIDLAND, TEXAS, AT A TOTAL COST OF \$66,974.00

General Services Director Fred Reyes answered questions about the bidding process.

Council Member Robnett moved to adopt Resolution No. 2016 - 135; 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

20. Consider a request on second reading by Fivestones Ventures for a Zone Change from LR-1, Local Retail District, to LR-2, Local Retail District, generally located on the east side of Holiday Hill Road, approximately 240-feet south of Briarwood Avenue. (DEVELOPMENT SERVICES) (First reading held on April 26, 2016)

ORDINANCE NO. 9558

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1A, BLOCK 20, NORTHGATE ADDITION, SECTION 25, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED LR-1, LOCAL RETAIL DISTRICT, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF HOLIDAY HILL ROAD, APPROXIMATELY 240 FEET SOUTH OF BRIARWOOD 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 Karla Mata read the caption of Ordinance No. 9558.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 9558 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.

21. Consider an ordinance on second reading on a request by Arturo Trillo 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 north side of West Interstate 20, approximately 400-feet east of Johnston Street. (DEVELOPMENT SERVICES) (First reading held on April 26, 2016)

ORDINANCE NO. 9559

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 2,831-SQUARE FOOT PORTION OF LOT 5, BLOCK 1, AMARON ADDITION, SECTION 7, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST INTERSTATE HIGHWAY 20, APPROXIMATELY 400 FEET EAST OF JOHNSTON 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 Karla Mata read the caption of Ordinance No. 9559.

Council Member Hotchkiss moved to approve the second and final reading of Ordinance No. 9559 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.

22. Consider an ordinance on second reading on a request by Bynum School for a zone change from FD, Future Development District, to 1F-1, One-Family Dwelling District, on a 64.96-acre tract of land generally located on the east side of Avalon Drive, approximately 1800-feet north of Briarwood Avenue. (DEVELOPMENT SERVICES) (First reading held April 26, 2016)

ORDINANCE NO. 9560

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 64.96-ACRE TRACT OF LAND OUT OF SECTION 24, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A 1F-1, ONE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF AVALON DRIVE, APPROXIMATELY 1,800 FEET NORTH OF BRIARWOOD 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 Karla Mata read the caption of Ordinance No. 9560.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9560 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.

23. Consider an ordinance on a second reading adopting a Site Plan generally located southwest of the intersection of Sunshine Parkway and Idlewilde Drive. (DEVELOPMENT SERVICES) (First reading held April 26, 2016)

ORDINANCE NO. 9561

AN ORDINANCE ADOPTING A SITE PLAN FOR LOT 1, BLOCK 10, ARBOR PARK ADDITION, SECTION 5, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF SUNSHINE PARKWAY AND IDLEWILDE DRIVE); SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS; 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 Karla Mata read the caption of Ordinance No. 9561.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9561 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.

24. Consider an ordinance on second reading on a request by Reed's Super Bowl for a Specific Use Permit with Term for the sale of alcoholic beverages, for on-premises consumption, in a bowling center generally located on the north side of West Wall Street, approximately 600-feet west of Fasken Drive. (DEVELOPMENT SERVICES) (First reading held April 26, 2016)

ORDINANCE NO. 9562

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 4,300-SQUARE FOOT PORTION OF LOTS 21-25, BLOCK 82, PERMIAN ESTATES ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST WALL STREET, APPROXIMATELY 600 FEET WEST OF FASKEN DRIVE), WHICH IS PRESENTLY ZONED LR-3, 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 BOWLING CENTER 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 Karla Mata read the caption of Ordinance No. 9562.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9562 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: Hotchkiss. ABSTAIN: None. ABSENT: None.

25. Consider an ordinance on second reading on a request by Braxton LP for a vacation of the 2.2-acre portion of utility easement generally located northwest of the intersection of North County Road 1240 and West County Road 44. (DEVELOPMENT SERVICES) (First reading held April 26, 2016)

ORDINANCE NO. 9563

AN ORDINANCE VACATING AND ABANDONING A 2.20-ACRE PORTION OF A UTILITY EASEMENT LOCATED IN LOTS 1, 2 AND 14, BLOCK 8, SUNRIDGE RANCH ESTATES, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF NORTH COUNTY ROAD 1240 AND WEST COUNTY ROAD 44); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$89,100.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9563.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9563 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.

26. Consider an ordinance on second reading on a request by Mark Brown, for a Special Exception to the Zoning Code concerning a detached accessory structure that is not incidental to another permitted use generally located on the west side of Todd Drive, approximately 400-feet south of East Golf Course Road. (DEVELOPMENT SERVICES) (First reading held April 26, 2016)

ORDINANCE NO. 9564

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR TRACT 4, LESS THE SOUTH 31.3 FEET, PARKER ACRES ADDITION, CITY AND COUNTY OF MIDLAND,

TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF TODD DRIVE, APPROXIMATELY 400 FEET SOUTH OF EAST GOLF COURSE ROAD), BY PERMITTING A DETACHED ACCESSORY BUILDING THAT IS NOT INCIDENTAL TO ANOTHER PERMITTED USE; 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 Karla Mata read the caption of Ordinance No. 9564.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9564 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.

27. Consider an ordinance on second reading on a request by Midland Humane Coalition for a zone change from AE, Agriculture Estate District, to PD, Planned District for a Transition District, on a 7.00-acre tract of land generally located on the west side of North Elkins Road, approximately 100-feet north of Crownridge Drive. (DEVELOPMENT SERVICES) (First reading held April 26, 2016)

ORDINANCE NO. 9565

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 7.00-ACRE TRACT OF LAND OUT OF SECTION 5, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A TRANSITION DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF NORTH ELKINS ROAD, APPROXIMATELY 100 FEET NORTH OF CROWNRIDGE 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 Karla Mata read the caption of Ordinance No. 9565.

Mayor Morales reported he attended the meeting yesterday with the local residents and the Humane Coalition. He promised the citizens an opportunity to speak and opened the floor.

Keith Petty, 2033 County Road 2300, asked Council to consider delaying the item until a traffic count can be obtained due to safety issues.

Mayor Morales reported he was told they have about 4,000 cars per day pass through the area. Council Member Robnett noted those road conditions were there before.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9565 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. Consider an ordinance on second reading re-naming a portion of Northrup Drive in Park Place Addition Section 2, between Princeton Avenue and its southern terminus, as Silver Star Way. (ENGINEERING SERVICES) (First reading held April 26, 2016)

ORDINANCE NO. 9566

AN ORDINANCE CHANGING THE NAME OF THE PORTION OF NORTHRUP DRIVE THAT IS ADJACENT TO LOT 6, BLOCK 1, AND LOT 1, BLOCK 2, PARK PLACE ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED BETWEEN PRINCETON AVENUE AND THE SOUTHERN TERMINUS OF NORTHRUP DRIVE), TO "SILVER STAR WAY"; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND DIRECTING THE CITY SECRETARY TO SEND THE MIDLAND EMERGENCY COMMUNICATIONS DISTRICT A CERTIFIED COPY OF THIS ORDINANCE

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9566.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9566 in accordance with the Charter of the City of Midland; seconded by Council Member Love.

Mayor Morales reported he saw a program about Steve Harvey where the City of Cleveland named a portion of his hometown road, without changing the name of the road, by adding an honorary street name sign above the regular street name sign. He asked Council to consider that as an alternative to renaming the existing street.

Council Member Love withdrew his second and the motion was seconded by Council Member Robnett.

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

Council Member Love moved to keep name of the street the same and to add a memorial street name sign naming the person being honored; 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.

PUBLIC HEARINGS

29. 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 2401BH) located 802 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 645 feet east of Avalon Drive and 255 feet south of West 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 it was similar to the permit that was issued in February but located 50 feet to the east of the previous application. The applicant is requesting the same variances for landscape and irrigation and for 24-hour fracing. The Oil & Gas Advisory Committee recommended approval. No letters of objection have been received.

Mayor Morales opened the public hearing at 10:48 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken.

30. Hold a public hearing and consider an ordinance on a request by Jorge Villalobos for a Zone Change from LR-2, Local Retail District, to LR-3, Local Retail District, generally located southeast of the intersection of East Scharbauer and North Lamesa Road. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9567

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 2, BLOCK 10, LYNDSIDE ADDITION, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, TO BE USED AS AN LR-3, LOCAL RETAIL DISTRICT (GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF EAST SCHARBAUER DRIVE AND NORTH LAMESA 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 Karla Mata read the caption of Ordinance No. 9567.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant is operating an auto repair shop at the subject location and is proposing to rezone the location to bring the auto shop into compliance. This will allow him to expand the services that he currently offers. An auto shop requires LR-3 zoning and he is currently on property zoned LR-2. The future zoning calls for retail and staff finds this use acceptable. Planning & Zoning recommended approval and no letters of objection have been received.

Council Member Love asked Building Official Steve Thorpe to talk about the history of noncompliance with the property.

Building Official Steve Thorpe reported they have had issues for some time with the outdoor storage of vehicles and car parts noting the current zoning does not allow for storage but the new zoning would allow him to continue to store these items outside. He reported the business has been troublesome for enforcement to gain compliance on the subject property.

Council Member Love expressed concern about allowing an applicant to rezone in order to avoid cleaning up. He is adamantly opposed to changing the zoning because he doesn't like to solve problems by changing the zoning; it's located next to an LR-3 that has already had issues and he feels these businesses would adversely affect the neighborhood. The comprehensive plans states the property should stay LR-2.

Mayor Morales opened the public hearing at 10:54 a.m.

David Diaz, 208 S. Marienfeld, reported the bigger issue is the undeveloped land in the area noting there is a street on paper but it does not exist. He felt the area should be improved, sold or made available to the people who currently live there.

Council Member Love clarified he would like to see the property developed but feels this is the wrong direction. He also noted that this is a brownfield property with gas tanks underground that have not been removed.

Justin Quiroz, 1230 Hampton, reported he owns a business in the area. He thinks changing this property to LR-3 is a big mistake and the property would look bad all of the time. There is only one person who works there and there are always 10-20 vehicles on site, some without motors or wheels.

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

Council Member Love moved to deny item; seconded by Council Member Hotchkiss. The motion to deny carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

31. Hold a public hearing and consider an ordinance on a request by La Mision for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, generally located northeast of the intersection of Rankin Highway and W. Francis Avenue. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9568

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 7, LESS THE WEST FIVE FEET, AND LOTS 8, 9 AND 10, BLOCK 20, BELMONT ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF RANKIN HIGHWAY AND WEST FRANCIS 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 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 Karla Mata read the caption of Ordinance No. 9568.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant has an active SUP but has made changes to the restaurant. What was formerly used as a banquet facility will now be a separate dining room. One portion will be a restaurant and the other portions a sports bar. They have requested to change their hours from 7:00 a.m. to 2:00 p.m. on the restaurant portion and from 2:00 p.m. to 2:00 a.m. on the sports bar portion. There are no schools or churches within 300 feet and they meet all requirements. Staff recommends approval.

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

Christina Cooper reported they sell breakfast from 7:00 a.m. to 2:00 p.m. They are requesting to extend their hours because they serve a number of clients who work in the oil field and they would like a warm dinner and a beer.

There being no one else wishing to speak, the public hearing was closed at 11:07 a.m.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9568 in accordance with the Charter of the City of Midland; seconded by Council Member Love.

It was clarified that both portions of the restaurant will need to stay within the 60/40 mix for food and alcohol.

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

32. Hold a public hearing and consider an ordinance on a request by Clifford Ray/Permian Sign Company for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District on Lot 1, Block 45, Fairmont Park Addition, Section 10, City and County of Midland, Texas (Generally located on the west side of North Midland Drive, approximately 390-feet north of Fairbanks Drive.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9569

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1, BLOCK 45, FAIRMONT PARK ADDITION, SECTION 10, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 390 FEET NORTH OF FAIRBANKS 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 Karla Mata read the caption of Ordinance No. 9569.

Development Services Director Chuck Harrington gave a brief overview of the item noting the request is made by Permian Sign Co. to change the signs at the Target store. The zoning was originally under a PD and the purpose of this ordinance is to clean up the sign portion. Secondly, they also want to add one small directional sign. All signs meet code and staff recommends approval.

When asked if there was a violation, Mr. Harrington reported the sign that was originally installed did not match the site plan. Now they are trying to clean it up. Planning Manager Jessica Carpenter noted the current elevation is from boundary to boundary for the lot from 1995. It is now impossible to build. They will be removing the existing exhibit to solve the problem of conforming to the Planned District.

Mayor Morales opened the public hearing at 11:14 a.m.

Cliff Gray reported that they only want to add a directional sign to help their customers.

There being no one else wishing to speak, the public hearing was closed at 11:14 a.m.

Council Member Love moved approval of the first of two readings of Ordinance No. 9569 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.

33. Hold a public hearing and consider an ordinance on a request by Midland Neme's LLC for a Specific Use Permit with Term for the sale of alcoholic beverages, for on-premises consumption, in a restaurant generally located southwest of the intersection of West Loop 250 North and North Big Spring. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9570

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 500-SQUARE FOOT PORTION OF LOT 1, BLOCK 1, CLAYDESTA PLAZA NORTH, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF WEST LOOP 250 NORTH AND NORTH BIG SPRING 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 Karla Mata read the caption of Ordinance No. 9570.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is a small taco restaurant that is proposing to sell beer. There are no churches or schools within 300 feet and staff recommends approval with the conditions in the ordinance. When asked about the serving area, Mr. Harrington reported it is an outdoor picnic area that is separated from other areas.

Mayor Morales opened the public hearing at 11:20 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. 9570 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, Morales, Dufford, Lacy, Robnett. NAY: Sparks. ABSTAIN: None. ABSENT: None.

34. Hold a public hearing and consider a resolution on a request by Robert Cory for a Temporary Land Use Permit for a Carnival generally located south of West Loop 250 North, approximately 300-feet west of North Midkiff Road. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 149

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A CARNIVAL ON LOTS 1A, 7 AND 8, BLOCK 17, SKYLINE TERRACE, UNIT 7, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 300 FEET WEST OF NORTH MIDKIFF ROAD); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; AND PROVIDING THAT THE CHIEF OF POLICE SHALL ENSURE THAT ALL PARTICIPANTS ARE LICENSED PURSUANT TO TITLE V, CHAPTER 9 OF THE MIDLAND CITY CODE

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant has moved the site of the carnival back to the original location. No alcohol will be served and there will be a minimum of two peace officers on duty at all times and four officers from 6:00 p.m. to closing. Staff recommends approval.

Mayor Morales opened the public hearing at 11:24 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Dufford moved to adopt Resolution No. 2016 - 149; 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.

MISCELLANEOUS

36. Consider a motion on a proposed preliminary plat of Bynum School Addition, being a 64.96-acre tract of land generally located on the east side of Avalon Drive, approximately 1800-feet north of Briarwood Avenue. (DEVELOPMENT SERVICES)

Development Services Director Chuck Harrington gave a brief overview of the item noting this item was heard at the last meeting for a zone change and now they are bringing forward their preliminary plat that has to be changed. They will be requesting a variance to be within 500 feet of the wells. Planning and Zoning recommended approval.

Council Member Lacy moved to approve a motion on a proposed preliminary plat of Bynum School Addition, being a 64.96-acre tract of land out of Section 24, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of Avalon Drive, approximately 1800-feet north of Briarwood Avenue.); 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.

37. Consider a proposed Ordinance amending Title V, "Business Regulation," Chapter 12, "Transportation Network Companies," of the Midland City Code. (CITY MANAGER'S OFFICE)

ORDINANCE NO. 9571

AN ORDINANCE AMENDING TITLE V, "BUSINESS REGULATIONS", CHAPTER 12, "TRANSPORTATION NETWORK COMPANIES", OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO AMEND THE PROGRAM TO REGISTER AND REGULATE TRANSPORTATION NETWORK COMPANIES WITHIN THE CITY OF MIDLAND; NEGATING AND DISPENSING WITH THE CULPABLE MENTAL STATE REQUIREMENT; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; ORDERING PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE OF JUNE 1, 2016

Mayor Morales read the caption of Ordinance No. 9571.

Assistant City Attorney Nicolas Toulet provided a brief overview of the proposed ordinance noting they were tasked by Council Member Robnett to update the regulations regarding Transportation Network Companies (TNCs). The ordinance does

away with a number of provisions including sharing licensing requirements of drivers and upkeep of vehicles before rides can be given. In the current ordinance, TNCs have the option of performing a background check or request the Chief of Police to perform it on their behalf; the ordinance will remove the portion requesting the Chief of Police to do background checks. Included in the ordinance is a provision allowing for a yearly audit to ensure compliance with all requirements of the ordinance. The new ordinance also decreases the fee from \$3,000 to \$1,500 and decreases the airport pick-up fee from \$2.50 per ride to \$1.00 per ride.

Council Member Love questioned why Uber would want the provision removed about the option of allowing the Chief of Police to perform background checks because this ordinance would not relate only to Uber but to all TNCs. Council Member Robnett suggested revising the ordinance if that request is made in the future by another TNC.

When asked about the sharing of data, Mr. Toulet reported that currently TNCs must share data regarding the drivers and the types of cars they drive; the new ordinance doesn't allow for that but would instead rely on the audit provision to ensure compliance.

Concern was expressed for this change noting that Austin had several sexual predators behind the wheel but the TNCs would not do anything. Council Member Love commented that 70 percent of the budget is spent on public safety and this provision did not make sense.

Council Member Hotchkiss expressed concern about having control over knowing who the drivers were but discovered that the public has a separate concern relating to being able to get a ride home if they've had a drink, which also addresses public safety. Council Member Robnett agreed that the new ordinance will place a lot of responsibility on the TNCs and that it will limit the number of intoxicated drivers on the road.

Mr. Toulet noted that there is a mechanism in place whereby the police can obtain driver information in the case of an incident. He also noted that the terms of the audit must be mutually agreed upon by both parties.

Council Member Sparks personally doesn't understand why they do not want to share background check information, but pointed out that there is a lot of angst about sharing information with government. He suggested adopting the ordinance and making changes at a later date if it does not work out. He also noted that the current taxi ordinance should be reviewed and made to be more in line with the TNC ordinance.

City Attorney John Ohnemiller clarified that the ordinance requires the TNC to perform a background check on every driver. In the audit, the City shall have the right to visually inspect a sample of their records. If there is an issue within the sample, then there are remedies in the ordinance that allows the City to suspend their permit. He explained that this is a tough policy question and not necessarily a legal question.

Mayor Morales asked if a representative from Uber was present. There was no one present. Mayor Morales asked for someone to speak in favor of the ordinance.

Becky Ferguson, 1704 Story, thanked Council for revisiting the ordinance noting Uber makes the community safer for those who have been drinking. Like the City, Uber is very safety oriented and it does not serve them to be careless about whom they hire.

Having Uber is a convenience and shows people who visit that Midland is a modern City since taxis are not always available. She supports the new ordinance and understands the sensitivity about safety but thinks Uber is equally sensitive.

Corey McDowell, 911 Douglass, thanked Council Member Robnett for his hard work and congratulated him on securing a written agreement if the ordinance is approved without changes. He suggested that less accidents and deaths occur when ride sharing services are used. When party goes use Uber it takes folks off the road who have been drinking. Uber has the ability to bring important jobs to Midland noting one driver told him he makes \$60,000 a year. Midlanders want safe transportation. There were 1,600 people that signed the petition in favor of Uber and 300 people signed their Facebook page. He asked Council not to vote against this ordinance.

Gary Sullivan, 3302 Rosemont, noted what is not being addressed is the insurance that covers the driver and rider in a car. He explained there are other companies offering rides flying under the radar who are uninsured. Council Member Love commented that illegal activity is regulated under the taxi ordinance and has nothing to do with today's discussion.

Mayor Morales invited those opposed to the ordinance to speak.

Daniel King, 4415 Northcrest Drive, spoke about the requirement of taxis to do background checks and safety inspections. He explained how dangerous it might be if a background check was not performed. Council Member Dufford noted that Council will address the taxi ordinance if the TNC ordinance is passed.

Thomas Sigh reported they are business people and want to be treated equally. If they are required to have background checks, drug screenings and inspections then the TNC drivers should be subject to the same regulations.

Shafik Tajani, 4113 Ratliff Court, agreed that to be fair both ordinances needed to be equal so as to not cause an unfair advantage to Uber drivers. He noted he is in favor of the TNC ordinance.

Council Member Love noted he was in favor of Uber, has used it and likes it, but is adamant about the safety of citizens. He noted it would be easier to negotiate if Uber hadn't originally negotiated a change that was made and then dropped a story in the newspaper when they changed their mind.

Council Member Lacy struggled with this whole issue because he too reached an agreement with Uber before the last TNC was adopted and then they changed their mind. He noted he would not support or vote against the ordinance but would abstain from voting.

Council Member Dufford hopes that the State Legislature will come up with a state wide ordinance and make this all a moot point. He noted he is willing to give this a year and if Council does not like what is happening, then Uber can be kicked out, but he is willing to give it a try. Council Member Sparks agreed.

When asked about addressing the taxi ordinance, City Manager Sharp noted staff would begin to work on it noting it would not likely be on the next meeting, but they would try.

Mayor Morales noted that Uber has been given a lot of leniency and that safety is a

major issue for all Council and that they will be watching this issue very closely.

Council Member Robnett moved approval of the first of two readings of Ordinance No. 9571 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Robnett. NAY: Love. ABSTAIN: Lacy. ABSENT: 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.

There were no citizens present wishing to speak.

EXECUTIVE SESSION

38. 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 12:19 p.m. noting the meeting would then be recessed to 7:00 p.m. for the final public hearing.

The entire Council met in Executive Session until 12:57 p.m.

REGULAR SESSION (Continued)

Mayor Morales reconvened the meeting in Regular Session at 7:00 p.m. with the following Council Members present: Hotchkiss, Love, Morales, Lacy.

35. At approximately 7:00 p.m. hold a public hearing regarding the Fiscal Year 2016/2017 Community Development Block Grant funding application request. This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Community Development Administrator Isaac Garnet reviewed a Power Point presentation noting the information was similar to the previous year and all of the same applicants had applied. He reviewed the City's high priorities, reviewed the target area, and reviewed the current operating grant noting public service grants are limited to 15% or \$106,919. He reviewed the program applications noting the final approval will take place on July 26, 2016

Mayor Morales opened the public hearing at 7:10 p.m.

Bobble Trimble, 1419 Sparks, asked if Council puts out a report of the projects they complete. Mr. Garnett confirmed that all of the information is available on the City's website. Mr. Trimble noted that his organization does a lot of work for elderly people and that Christmas in Action picked up just about everything for the elderly. He suggested the City should do more for the elderly rather than help just two families.

Jayni Whitefield, Mission Center, 5244 West Loop 250 North, reported they provide the Take Home Terrific evening meal to seniors and disabled who aren't able to get out of their home.

Jay Martinez, Teen Flow, reported they have a day camp for students the entire month of June and a portion of July. Their center is open all week including lunch hours. They have reached over 400 students on their main campus and serve 600 meals a week. Their focus is to help teens become positive leaders in the community noting that graduations have increased as a result of the program.

Kathleen Kirwan Haynie, Senior Link, reported they serve meals for seniors who are 60 and over, noting they served 16,132 meals. They also have weekend meals, a pantry, help with medical and utility bills, and help with wheelchairs and wheelchair ramps.

Ida Fletcher, Casa de Amigos, thanked Council for past funding noting their program is vital to the community, reporting it is a pleasure working with the seniors and the seniors are thankful for the work they do.

There being no one else present wishing to speak, the public hearing closed at 7:23 p.m. Mayor Morales thanked everyone for their input, asked Mr. Trimble to reach out to Isaac and reiterated that the next public hearing will be held on June 14 at approximately 6:00 p.m.

All of the business at hand having been completed, the meeting adjourned at 7:23 p.m.

PASSED AND APPROVED the 24th day of June, 2016.

Jerry F. Morales, Mayor

ATTEST:

Amy M. Turner, City Secretary