

**MIDLAND CITY COUNCIL
MINUTES
June 28, 2016**

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., June 28, 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, and Assistant City Manager Frank Salvato.

The Agenda Items were heard in the following order: 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 13, 14, 15, 16, 6, 12, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30.

Mayor Morales called the meeting to order at 10:02 a.m.

OPENING ITEMS

1. Invocation – Pastor Tom Strope, True Lite Christian Fellowship
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Recognized Public Information Office for receiving two first place awards at the 2016 Texas Association of Municipal Information Officers conference in Arlington.

PUBLIC COMMENT

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

There were no citizens present wishing to speak.

CONSENT AGENDA

Council Member Lacy moved to approve Consent Agenda items 5 - 16 excluding 6 and 12; 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.

5. Approved a motion approving the following minutes:
 - a. Regular meeting of June 14, 2016.
7. Approved a resolution approving the purchase of spring seed to the sole bidder Helena Chemical for a total cost of \$57,925.00 for the Utilities Department. (PURCHASING)

RESOLUTION NO. 2016 - 187

RESOLUTION AUTHORIZING THE PURCHASE OF 8,750 POUNDS OF COTTON SEED FOR SPRABERRY FARM FROM THE SOLE BIDDER, HELENA CHEMICAL, OF STANTON, TEXAS, AT A TOTAL COST OF \$57,925.00

8. Approved a resolution approving the purchase of network switches and wireless access control for the new Municipal Court from Solid IT Networks through the Texas Department of Information Resources contract DIR-TSO-2668 for a total cost of \$83,473.82. (PURCHASING)

RESOLUTION NO. 2016 - 188

RESOLUTION APPROVING THE PURCHASE OF CORE AND NETWORK SWITCHES AND A WIRELESS CONTROLLER AND ACCESS POINTS FROM SOLID IT NETWORKS, THROUGH THE TEXAS DEPARTMENT OF INFORMATION RESOURCES AT A TOTAL COST OF \$83,473.82

9. Approved a resolution approving an emergency contract with ABCO Fire Protection, Inc. for the repair of the fire protection system at Grande Communications Stadium for a cost of \$55,000.00 for the Community Services Department. (PURCHASING)

RESOLUTION NO. 2016 - 189

RESOLUTION APPROVING A CONTRACT WITH ABCO FIRE PROTECTION, INC., FOR THE REPAIR OF THE FIRE PROTECTION SYSTEM AT GRANDE COMMUNICATIONS STADIUM AT A TOTAL COST OF \$55,000.00

10. Approved a resolution authorizing the execution of an Air Cargo Lease Agreement at the Midland International Air & Space Port between Southwest Airlines Company and the City of Midland, Texas. (AIRPORTS)

RESOLUTION NO. 2016 - 190

RESOLUTION AUTHORIZING THE EXECUTION OF AN AIR CARGO LEASE AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS AND SOUTHWEST AIRLINES CO., FOR THE LEASE OF 3,614.80 SQUARE FEET IN THE AIR CARGO FACILITY AT THE MIDLAND INTERNATIONAL AIR & SPACE PORT

11. Approved a resolution granting a 0.120 acre Utility Easement, located in Section 30, Block 36, T-3-S, T&P RR Co. Survey, immediately north of E. County Road 230 and 3.5

miles southwest of E Highway 158, for the purpose of allowing Oncor Electric Delivery Company LLC., to construct and maintain electric lines and any associated facilities; authorizing the execution of said Utility Easement; and ordering recordation by the City Secretary (Midland County). (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 191

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, ON BEHALF OF THE CITY OF MIDLAND, AN INSTRUMENT GRANTING A 0.120-ACRE UTILITY EASEMENT AND RIGHT-OF-WAY LOCATED IN SECTION 30, BLOCK 36, T-3-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED IMMEDIATELY NORTH OF EAST COUNTY ROAD 230, APPROXIMATELY 3.5 MILES SOUTHWEST OF EAST STATE HIGHWAY 158), TO ONCOR ELECTRIC DELIVERY COMPANY LLC

13. Approved a motion on request by West Company to defer public improvements for Covington Addition, Section 4, and to waive the corresponding financial security guarantee valued at \$53,753.00, an amount equal to the estimated cost of construction. The subject property is generally located northwest of the intersection of Tower Road and Jordy Road located within the City of Midland corporate limits. (ENGINEERING SERVICES)
14. Approved a motion approving an Economic Development Agreement between the Midland Development Corporation and the Spaceport Development Corporation for certain infrastructure and improvements at the Spaceport Business Park located at Midland International Air and Space Port. (CITY MANAGER'S OFFICE)
15. Approved a motion approving plans and specifications for the Spaceport Business Park Roadway and Infrastructure Improvement Project; authorizing the City Manager to negotiate and execute an Interlocal Agreement between the City of Midland, the Spaceport Development Corporation, and the Midland Development Corporation regarding development management services and other matters necessary for said project; and authorizing the City Manager to negotiate and execute any and all documents necessary for said project. (CITY MANAGER'S OFFICE)
16. Approved a resolution changing the 2016 City Council meeting calendar by adding three special meetings on July 25, August 02, and August 16; and adding one regular meeting on August 30. (FINANCE)

RESOLUTION NO. 2016 - 193

RESOLUTION ADDING THREE (3) SPECIAL CITY COUNCIL MEETINGS ON JULY 25, 2016, AUGUST 2, 2016, AND AUGUST 16, 2016; AND ADDING ONE (1) REGULAR CITY COUNCIL MEETING ON AUGUST 30, 2016, TO THE CITY COUNCIL MEETINGS SCHEDULED FOR THE 2016 CALENDAR YEAR

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

6. Consider a resolution approving specifications and authorizing advertisement for bids for the Frictional Asphaltic Surface Preservation Treatment Project for the Transportation Division. (PURCHASING)

RESOLUTION NO. 2016 - 186

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE FISCAL YEAR 2016 FRICTIONAL ASPHALTIC SURFACE PRESERVATION TREATMENT PROJECT; SAID PROJECT WILL PROVIDE FOR THE TREATMENT OF ROAD SURFACES TO IMPROVE THE FRICTIONAL CHARACTERISTICS AND EXTEND THE USEFUL LIVES OF THE ROAD SURFACES

Council Member Lacy asked if they are using the same process as last year noting there was an issue with bumps in the road. Assistant Transportation Manager Gabe McClelland reported this was a different process and it should not cause the same issues.

Council Member Lacy moved to adopt Resolution No. 2016 - 186; 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.

12. Consider a resolution authorizing and executing a new Right-of-Way License between the City of Midland and Plains Marketing L.P., to replace Plains Marketing's current Right-of-Way License (Resolution 2006-287) at this location, which will expire in October of 2016. (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 192

RESOLUTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND PLAINS MARKETING, L.P., REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTIONS 3 AND 10, BLOCK 37, T-3-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS

Council Member Sparks moved to adopt Resolution No. 2016 - 192; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: None. ABSTAIN: Robnett. ABSENT: None.

SECOND READINGS

17. Consider an ordinance on second reading on a request by DDC Merritt Leisure, Ltd. for a zone change from PD, Planned District for a Housing Development, in part, and PD, Planned District for a Shopping Center, in part, to PD, Planned District for a Housing Development generally located northwest of the intersection of Beal Parkway and Leisure Drive. (DEVELOPMENT SERVICES) (First reading held April 12, 2016.)

ORDINANCE NO. 9555

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 1 AND 2, BLOCK 162, AND THE SOUTH 378 FEET OF LOT 1R, BLOCK 163, WILSHIRE PARK ADDITION, SECTION 9, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, IN PART, AND PD, PLANNED DISTRICT FOR A SHOPPING CENTER, IN PART, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED NORTHWEST OF THE

INTERSECTION OF BEAL PARKWAY AND LEISURE 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. 9555.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9555 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.

18. Consider an ordinance on second reading on a request by Schumann Engineering for a Special Exception to the Zoning Code concerning the maximum height of an accessory structure with open sides generally located northwest of the intersection of West Broadway Street and West Ohio Avenue. (DEVELOPMENT SERVICES) (First reading held on June 14, 2016.)

ORDINANCE NO. 9576

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 1 AND THE SOUTH HALF OF LOT 2, BLOCK 3, GRAFALAND ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF WEST BROADWAY STREET AND WEST OHIO AVENUE), BY PERMITTING A DETACHED ACCESSORY STRUCTURE WITH OPEN SIDES HAVING A MAXIMUM HEIGHT NOT TO EXCEED 15 FEET; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No.9576.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9576 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.

19. Consider an ordinance on second reading amending Title V, "Business Regulation", Chapter 6, "Taxicabs", of the Midland City Code. (CITY ATTORNEY'S OFFICE) (First reading held on June 14, 2016.)

ORDINANCE NO. 9577

ORDINANCE AMENDING TITLE V, "BUSINESS REGULATIONS", CHAPTER 6, "TAXICABS", OF THE MIDLAND CITY CODE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9577.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9577 in accordance with the Charter of the City of Midland with the following amendments: 1) Add two additional requirements under the Fare Negotiations Subsection 5-6-6(E): a) Required posting of Fare Negotiations Subsection 5-6-6(E) in the taxicab; and b) Required posting of a "complaint notice" sign in the taxicab. 2) Provide an option for taxi companies to obtain one-month airport cabstand permits at a cost of \$25.00 per vehicle; 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.

PUBLIC HEARINGS

20. Hold a public hearing and consider an ordinance adopting the Tall City Tomorrow Comprehensive Plan, as authorized by Chapter 213 of the Texas Local Government Code, said comprehensive plan illustrating the future development of the City. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9578

AN ORDINANCE OF THE CITY OF MIDLAND, TEXAS, ADOPTING THE TALL CITY TOMORROW COMPREHENSIVE PLAN AS AUTHORIZED BY CHAPTER 213 OF THE TEXAS LOCAL GOVERNMENT CODE; SAID COMPREHENSIVE PLAN ILLUSTRATING THE FUTURE DEVELOPMENT OF THE CITY; PROVIDING A SAVINGS AND SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE OF AUGUST 1, 2016

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9578.

Eric West, of Parkhill Smith and Cooper, reported that Council will be approving the Tall City Tomorrow Comprehensive Plan which is a guide for City growth and development for the next twenty years. He noted this is the first step of an action plan to make the vision a reality. When asked about RDG, Mr. West noted he was impressed with RDG's passion for the project noting they led all of the public meetings and truly learned about Midland. He emphasized they did a tremendous job for the City.

Council Member Hotchkiss liked how engaged citizens were in the process both in meetings and on social media. City Manager Courtney Sharp reported that it will be updated every five years, if not annually.

Development Services Director Chuck Harrington reported there were minor revisions that were made to the document since Council last saw it, most notably the table for accomplishing goals has been moved to the appendix to make it easier to revise.

Mayor Morales opened the public hearing at 10:31 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. 9578 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.

21. Hold a public hearing and consider an ordinance on a request by Mis Amigas Restaurant for a Specific Use Permit with Term for the sale of alcoholic beverages, for on-premises consumption, in a restaurant generally located on North Big Spring Street, approximately 300-feet north of Scharbauer Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9579

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS TRACT 9, MORNINGSIDE ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE ON NORTH BIG SPRING STREET, APPROXIMATELY 300 FEET NORTH OF SCHARBAUER DRIVE), WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9579.

Development Services Director Chuck Harrington gave a brief overview of the item noting it was for a restaurant on Big Spring. There are adequate restrooms and their alcoholic service hours will be from 10:00 a.m. to 9:00 p.m. The property is zoned appropriately. The only issue is that it is located within 300 feet of a church or school noting that Kelview Heights Baptist Church youth center is across the street. Therefore, Staff cannot recommend approval. Staff contacted the church and they explained that they knew there were already other locations serving alcohol in the area and they were not opposed to this restaurant. Under the TABC rules the State established, Council has the authority to waive the 300 foot rule and allow a special exception. Planning & Zoning recommended approval.

Mayor Pro Tem Lacy opened the public hearing at 10:36 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. 9579 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford.

Council Member Sparks appreciates that the restaurant has appropriate hours but is disappointed by the proximity of the youth area. Council Member Lacy agreed but noted that there are areas closer to the youth area that currently sells alcohol. Council Member Dufford agreed noting that they knew what was around them when they purchased the property. Council Member Hotchkiss was originally going to vote against this item but since the church is not objecting to it, she won't either.

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

22. Hold a public hearing and consider an ordinance on a request by Rene Robles to vacate the 0.09-acre portion of the street right-of-way, generally located on the south side of

East Hicks Avenue, approximately 580-feet west of South Terrell Street.
(DEVELOPMENT SERVICES)

RESOLUTION NO. 9580

AN ORDINANCE VACATING AND ABANDONING A 0.09-ACRE PORTION OF SOUTH FORT WORTH STREET RIGHT-OF-WAY LOCATED ADJACENT TO LOT 1, BLOCK 44, SOUTH PARK ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF EAST HICKS AVENUE, APPROXIMATELY 580 FEET WEST OF SOUTH TERRELL STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$7,646.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9580.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant owns the property on all three sides. They are acquiring the land to expand their home. Staff recommends approval and one letter of objection was received.

Mayor Morales opened the public hearing at 10:40 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Love reported this is in his district and since they are trying to expand their home, he is in support of the item.

Council Member Love moved approval of the first of two readings of Ordinance No. 9580 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.

23. Hold a public hearing and consider an ordinance on a request by Johnny Reyes for a zone change from CE, Country Estate District, in part, and AE, Agricultural Estate District, in part, to LR-1, Local Retail District, on a 7.45-acre tract of land, generally located northwest of the intersection of Todd Drive and East Highway 80.
(DEVELOPMENT SERVICES)

ORDINANCE NO. 9581

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 7.45-ACRE TRACT OF LAND, BEING ALL OF LOT 1, BLOCK 1, ROLLING GREEN ACRES ADDITION, AND A 6.25-ACRE TRACT OF LAND OUT OF SECTION 42, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED CE, COUNTRY ESTATE DISTRICT, IN PART, AND AE, AGRICULTURE ESTATE DISTRICT, IN PART, TO BE USED AS AN LR-1, LOCAL RETAIL DISTRICT (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF TODD DRIVE AND EAST HIGHWAY 80); 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. 9581.

Development Services Director Chuck Harrington gave a brief overview of the item noting that Green Acres miniature golf is seeking to replat all of their property and are requesting to be changed to LR-1 to allow for a retail area. Originally this area called for retail, but the most recent action on the property was to create a CE Country Estate district for single family homes. Recently, interest has been shown in creating retail for the area. The plan will be to demolish the two homes that sit on the corner closest to Todd Road and leaving the miniature golf course intact. Future land use calls for Todd Drive to be a major arterial and the location is ideal for retail use. Staff recommends approval. Three letters of objection were previously received and an additional three more were received this morning. When asked if this requires a super-majority vote, staff reported that only two of the six letters are actually located within the radius.

Mr. Harrington reported this property previously had LR-1 underlying zoning before it became CE. He further explained that across Todd Drive it is zoned for industrial use and thought that LR-1 would be a good buffer for the neighborhood.

Mayor Morales opened the public hearing at 10:49 a.m.

Ben Sanchez, Schumann Engineering, 408 N. Pecos, reported that the two homes located nearest to Todd Drive are occupied and that the miniature golf will remain. When asked what will go there he reported he wasn't at liberty to say. Council Member Love noted that the application packet stated it was for a Family Dollar.

Yoyo Ketter, 1101 Todd Drive, stated that the area was originally developed as Parker Acres and it had restrictions for residential use only. This zoning would change the whole area. The area that Staff indicated on the map as industrial area is only housing with pastures behind it. Todd Drive is a straight line from Loop 250 to the highway and it already has a lot of oilfield traffic. The area is designated as 30 miles per hour but most vehicles travel at least 50 miles per hour. She objects to having a Dollar General and does not want it stuffed down her throat. She asked what guarantee they would have that this would not devalue their property. Council Member Love asked how she felt about the land having once been zoned retail. She responded that it was never retail. City Manager Sharp reported that the golf course was built prior to any of the homes in the area.

Mr. Harrington explained that when the golf course was built it was platted as a Planned District for recreational purposes with an underlying zoning of LR-1. When the owner wanted to do changes they rezoned it to CE in 2012 so that single family homes could be built on site.

Erica Dominguez, 400 N. Bentwood, lives in the area, doesn't understand how someone can object to traffic when they live so close to Highway 80. She expressed support for the item.

Ronnie Long, 1203 Todd Rd, said the area across Todd is not industrial and the houses built on the other side are nice homes noting no one wants more traffic in the area. He noted cars currently go 50, 60 or even 70 miles per hour. He explained that when the golf course was built, none of this area was located within City limits and felt that this was never zoned retail. He reported this area is quiet and dark at night and retail would bring in lights, traffic and trash.

Harold Davis, 1002 Chukar, noted there is an easement that is part of his yard and wondered how this change might affect that easement. He moved to this area because he did not want to live in town but was incorporated in. He noted they live next to a highway so it is already a gray area where noise is concerned.

Jeanette Reyes, 5409 Hillcrest, turned in a statement from the people who live in the area noting they are currently in Iowa. They plan on building a house in the neighborhood. Neither property has a problem with future development in the area and noted that there is currently a parking lot with lights there for the golf course.

Yoyo Ketter explained the easement referred to by Mr. Davis is a roadway easement that was established for utilities consisting of 15 feet on his property and 45 feet on hers noting she will never allow it to be used for the public.

Zoe Reyes reported she is the owner of the subject property. They recently gave a 35-40 foot right-of-way easement to the City because they know traffic needs to be eased on Todd Road. She doesn't know what type of retail will go there but feels it would be beneficial for the area. As of now, the corner property is hers and they own the two homes that are located on it. They have no intention of closing Green Acres noting it is not for sale. The property was never zoned and she is replatting it so it can be zoned so she can make improvements and even add more entertainment in the future. This was the location of her first date 46 years ago and she recently learned that it was the location of George and Laura Bush's first date as well. LR-1 is the strictest zoning which also allows for a residence. She has no plans at the present time to demolish her home.

Council Member Dufford noted he was leaning toward requiring a site plan for the area because it would have to come back to Council for final approval.

It was noted that if this is voted down the applicant cannot come back to rezone for one year unless it is substantially different. City Manager Sharp reported it would be best to ask the applicant to withdraw their request and start over as a Planned Development and to create a site plan.

Zoe Reyes explained they are requesting to rezone all three sections of future expansion of Green Ares.

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

Mayor Morales requested that staff help facilitate the applicant through the PD process and asked that all fees be waived.

Council Member Love reported he would like to facilitate a meeting between the owner and the neighborhood.

Ben Sanchez, after conferring with the applicant, stated they wished to withdraw their application.

24. Hold a public hearing and consider a resolution on a request by Edwin Jaquez, for a Temporary Land Use Permit, for a festival and concert, generally located northeast of

the intersection of Tradewinds Boulevard and Champions Drive. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 194

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A FESTIVAL AND CONCERT ON LOT 4, BLOCK 5, WESTRIDGE PARK ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF TRADEWINDS BOULEVARD AND CHAMPIONS DRIVE); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Development Services Director Chuck Harrington gave a brief overview of item noting it is the third annual Texas Blow out to be held July 22-23. Their hours of operation will be Friday from 4:00 p.m. to 1:00 a.m. and Saturday from 11:00 a.m. to 1:00 a.m. Alcoholic beverages will be sold; they will provide 12 restrooms and 12 security guards. No complaints were received as a result of the previous year's event and staff recommends approval.

Mayor Morales opened the public hearing at 11:26 a.m.

Edwin Jaquez, 5011 San Saba, reported this was their third annual event that will feature Texas Country on Friday and TexMex music on Saturday. He shared posters highlighting the performers for both nights.

Council Member Lacy reported he did not receive any complaints last year and is in support of the event. Mayor Morales cautioned that they would need to turn down their music below a certain decibel in the later hours.

There being no one else present wishing to speak, the public hearing was closed at 11:28 a.m.

Council Member Love moved to adopt Resolution No. 2016 - 194; 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.

25. Hold a public hearing and consider a resolution on a request by Macedonia Baptist Church for approval of a Temporary Land Use Permit for a gospel festival generally located on the south side of the intersection of West Texas Avenue and North Loraine Street. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 195

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A GOSPEL FESTIVAL ON LOTS 13-24, BLOCK 54, ALL OF BLOCK 55, THE PORTION OF NORTH LORAIN STREET RIGHT-OF-WAY LOCATED BETWEEN WEST TEXAS AVENUE AND WEST MISSOURI AVENUE, AND THE PORTION OF WEST WALL STREET RIGHT-OF-WAY LOCATED BETWEEN SOUTH MAIN STREET AND SOUTH COLORADO STREET, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF THE INTERSECTION OF WEST TEXAS AVENUE AND NORTH LORAIN STREET); 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 Land Use Permit for a gospel fest immediately following the blues fest. The applicant is furnishing restrooms and will be required to clean up and remove fencing by 5:00 a.m. Monday morning. The admin fee of \$200 was waived as requested by Council.

Mayor Morales opened the public hearing at 11:30 a.m.

Woodrow Bailey, 1303 Devonshire, Pastor of Macedonia Baptist Church and Chairman of the 2016 gospel fest, reported they are founders and presenting sponsors of this first gospel fest. This started as a scheduling conflict with their 85th anniversary but they turned it into a partnership with the blues fest. He thanked Lisa Grissom for her leadership and mentoring. He noted that historically gospel and blues have been intertwined. He reported they will have two local artists and will also bring in four artists from across the nation. Their fest is nearly sold out.

Lisa Grissom, 201 W. Wall, is thrilled to be a part of the first annual Tall City Gospel Fest noting it is a significant partnership between gospel fest and the Tall City Blues Fest. The Gospel Brunch will be held Sunday morning inside the Doubletree and the Gospel Fest will follow outdoors that evening.

There being no one else present wishing to speak, the public hearing was closed at 11:34 a.m.

Council Member Love moved to adopt Resolution No. 2016 - 195; 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.

26. Hold a public hearing regarding a proposed Oil and Gas Permit to Diamondback E&P LLC (Operator), for a permit to drill an oil & gas well within the City Limits, (WHITEFISH UNIT 801LS) located 306 feet from the south line and 630 feet from the west line located in Section 8, Block 39, T-1-S, T&P RR Co. Survey, City of Midland and County of Midland, Texas (Generally located 470 feet north of Green Tree Boulevard extension and 586 feet east of North Midland Drive). This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting that two letters of objection that impact all four wells were received this morning. The committee recommended using sound walls and the applicant has changed their application to include sound walls. They are requesting four variances: landscaping and irrigation, one large fence around all four sites rather than four individual fences, one large frac pit rather than four smaller ones, and 24-hour fracing. He clarified that the frac pit would be 315 feet by 170 feet and ordinance allows for 200 feet by 200 feet.

They will access the property from Craddick Highway.

Mayor Morales opened the public hearing at 11:40 a.m.

Marc Dingler, 4505 Bent Tree Trail, reported he works for Diamondback and was present with several others from his company to answer questions if needed.

Jim Eggemeyer, 4400 Verde Glen, reported he has been in Midland for 10 years and in the area his whole life. He bought in Green Tree because it is nice and quiet. He is afraid this will devalue his property and is worried about odors and noises noting he is a light sleeper. He calculated the fracing portion will take 5-6 months and suggested they move to another location and suggested no one should be allowed to drill in the City. He also suggested they buy his house. Council Member Lacy clarified that when it comes to fracing operations, the Council has no control.

Mayor Morales asked Diamondback if their walls could be higher.

Marc Dingler reported they do not yet have a contract out on the walls noting the current plan is 16 feet but they could check into going to 24 feet. The wall will be on 3 sides with the opening to the east. They don't have the right to drill in another area and it is already a two-mile horizontal drill. They expect the time period for the frac to be 25-30 days for all four wells.

There being no one else present wishing to speak, the public hearing was closed at 11:48 a.m.

27. Hold a public hearing regarding a proposed Oil and Gas Permit to Diamondback E&P LLC (Operator), for a permit to drill an oil & gas well within the City Limits, (WHITEFISH UNIT 801WA) located 306 feet from the south line and 720 feet from the west line located in Section 8, Block 39, T-1-S, T&P RR Co. Survey, City of Midland and County of Midland, Texas (Generally located 470 feet north of Green Tree Boulevard extension and 675 feet east of North Midland Drive). This is a public hearing only. No action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting it contained the same information as the previous item.

Mayor Morales opened the public hearing at 11:49 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

28. Hold a public hearing regarding a proposed Oil and Gas Permit to Diamondback E&P LLC (Operator), for a permit to drill an oil & gas well within the City Limits, (WHITEFISH UNIT 801MS) located 306 feet from the south line and 690 feet from the west line located in Section 8, Block 39, T-1-S, T&P RR Co. Survey, City of Midland and County of Midland, Texas (Generally located 470 feet north of Green Tree Boulevard extension and 645 feet east of North Midland Drive). This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting it contained the same information as the previous item.

Mayor Morales opened the public hearing at 11:49 a.m. There being no one present wishing to speak, the public hearing was immediately closed

29. Hold a public hearing regarding a proposed Oil and Gas Permit to Diamondback E&P LLC (Operator), for a permit to drill an oil & gas well within the City Limits, (WHITEFISH UNIT 801WB) located 306 feet from the south line and 660 feet from the west line located in Section 8, Block 39, T-1-S, T&P RR Co. Survey, City of Midland and County of Midland, Texas (Generally located 470 feet north of Green Tree Boulevard extension

and 615 feet east of North Midland Drive). This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting it contained the same information as the previous item.

Mayor Morales opened the public hearing at 11:51 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Hotchkiss thanked Ron Jenkins and the Oil & Gas Advisory Committee for all of their hard work and suggestions.

Jim Eggemeyer, 4400 Verde Glen, noted that even with the sound walls going up, he didn't think it would help with the sound.

EXECUTIVE SESSION

30. 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 11:52 a.m.

All of the business at hand having been completed, the meeting adjourned at 12:45 p.m.

PASSED AND APPROVED the 12th day of July, 2016.

Jerry F. Morales, Mayor

ATTEST:

Amy M. Turner, City Secretary