

**MIDLAND CITY COUNCIL
MINUTES
August 23, 2016**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:30 a.m. on August 23, 2016.

Council Members present: Mayor Jerry F. Morales, Mayor Pro Tem J.Ross Lacy (District 4), 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).

Council Members absent: Council Member Scott Dufford (At-Large).

Staff members present: City Manager Courtney Sharp, City Attorney John Ohnemiller, Deputy City Manager Tommy Hudson, Assistant City Manager Frank Salvato, City Secretary Amy Turner, Finance Director Pam Simecka, Development Services Director Charles Harrington, Engineering Services Director Jose Ortiz, Assistant Transportation Manager Gabe McClelland, Oil & Gas Coordinator Ron Jenkins, Building Official Steve Thorpe, and Public Information Officer Sara Bustilloz.

1. Receive a presentation on beautification and cleanup efforts in Midland from Code Compliance and Keep Midland Beautiful.

Amanda Byrom, Executive Director of Keep Midland Beautiful, provided an update on Keep Midland Beautiful' s progress over the past 12 months outlining each program they offer and providing results. The programs include Pick up Some Trash to Pick up Some Cash, Inmate Litter Cleanup Program, Make a Difference Day Community Cleanup, Great American Cleanup/Don't Mess with Texas Trash Off, Adopt-a-Spot Program, Community Services and Other Litter Cleanup Volunteers, Windlands Park Native Garden Restoration, Fasken Park Tree Planting, Texas Recycles Day, and Education and Public Awareness.

Building Official Steve Thorpe reported on the number of cases of debris removal and reported that they are now working two full-time jail crews for large item pick up. He updated Council on weed mowing noting they previously used a contractor but now they are handling this project in-house. He also reported that there have been 49 cases of graffiti abatement which is provided at no cost to a homeowner.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:58 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., August 23, 2016.

Council Members present: Mayor Jerry F. Morales, Mayor Pro Tem J.Ross Lacy (District 4), 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).

Council Members absent: Council Member Scott Dufford (At-Large).

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, 6, 7, 8, 9, 10, 11, 14, 17, 12, 13, 15, 16, 18, 21, 19, 20, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32.

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

OPENING ITEMS

1. Invocation - Pastor Daniel Stephens, Mid-Cities Community Church
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:

The City Council presented a proclamation to Susie Hitchcock Hall in recognition of her induction into the Texas Women's Hall of Fame.

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.)

Mayor Morales moved public comment period to the end of the agenda.

CONSENT AGENDA

Council Member Robnett moved to approve Consent Agenda items 5 - 17 excluding 12, 13, 15, 16; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

5. Approved a motion approving the following minutes:
 - a. Regular meeting of August 9, 2016.

6. Approved a resolution approving the Fiscal Year 2016-2017 budget of the Space Port Development Corporation. (FINANCE)

RESOLUTION NO. 2016 - 249

RESOLUTION APPROVING THE FISCAL YEAR 2016-2017 BUDGET FOR THE MIDLAND SPACEPORT DEVELOPMENT CORPORATION, AS AUTHORIZED BY CHAPTER 507 OF THE TEXAS LOCAL GOVERNMENT CODE

7. Approved a resolution approving the Fiscal Year 2016-2017 budget of the Sports Complex Development Corporation. (FINANCE)

RESOLUTION NO. 2016 - 250

RESOLUTION APPROVING THE FISCAL YEAR 2016-2017 ANNUAL BUDGET FOR THE MIDLAND FOOTBALL/SOCCER AND BASEBALL COMPLEX DEVELOPMENT CORPORATION, A TYPE B CORPORATION AS AUTHORIZED BY CHAPTER 505 OF THE TEXAS LOCAL GOVERNMENT CODE

8. Approved a resolution approving the Fiscal Year 2016-2017 budget of the Midland Development Corporation. (FINANCE)

RESOLUTION NO. 2016 - 251

RESOLUTION APPROVING THE FISCAL YEAR 2016-2017 BUDGET OF THE MIDLAND DEVELOPMENT CORPORATION, A TYPE A CORPORATION AS AUTHORIZED BY CHAPTER 504 OF THE TEXAS LOCAL GOVERNMENT CODE

9. Approved a resolution awarding a contract for the Midland International Air & Space Port Business Park, Roadway Infrastructure Improvements Project - Phase 1 for the roadway improvements portion 1 for the Administration Department. (PURCHASING)

RESOLUTION NO. 2016 - 252

RESOLUTION APPROVING THE AWARD OF A CONTRACT FOR THE SPACEPORT BUSINESS PARK ROADWAY AND INFRASTRUCTURE IMPROVEMENT PROJECT - PHASE 1 TO JONES BROS. DIRT & PAVING CONTRACTORS, INC., IN THE AMOUNT OF \$973,737.25, FOR THE ROADWAY IMPROVEMENTS PORTION OF SAID PROJECT

10. Approved a resolution awarding a contract for the Midland International Air & Space Port Business Park, Utility Infrastructure Improvements Project - Phase 1 for the utility improvements portions for the Administration Department. (PURCHASING)

RESOLUTION NO. 2016 - 253

RESOLUTION APPROVING THE AWARD OF A CONTRACT FOR THE SPACEPORT BUSINESS PARK ROADWAY AND INFRASTRUCTURE IMPROVEMENT PROJECT - PHASE 1 TO THE SOLE BIDDER, TEC EXCAVATION, INC., IN THE AMOUNT OF \$1,451,513.00, FOR THE UTILITY IMPROVEMENTS PORTION OF SAID PROJECT

11. Approved a resolution awarding a contract for the Bus Transfer Station Project for the Engineering Services Department. (PURCHASING)

RESOLUTION NO. 2016 - 254

RESOLUTION AWARDING A CONTRACT FOR THE DOWNTOWN BUS TRANSFER STATION IMPROVEMENT PROJECT TO ENTRENCH, INC. OF HOBBS, NEW MEXICO, AT A TOTAL COST OF \$145,437.15; AND AUTHORIZING PAYMENT THEREFOR

14. Approved a resolution approving the purchase of twelve (12) Video Camera Systems including software and peripherals from Austin Ribbon & Computer Supplies, Inc. of Austin, Texas through the Department of Information Resources (DIR) contract DIR-TSO-2520 for a total cost of \$66,316.68 for the Garage Division. (PURCHASING)

RESOLUTION NO. 2016 - 257

RESOLUTION APPROVING THE PURCHASE OF TWELVE (12) ARBITRATOR CAMERA SYSTEMS AND ACCESSORIES FOR POLICE VEHICLES FROM AUSTIN RIBBON & COMPUTER SUPPLIES, INCORPORATED, THROUGH THE TEXAS DEPARTMENT OF INFORMATION RESOURCES AT A TOTAL COST OF \$66,316.68

17. Approved a resolution authorizing the City Manager to acquire, on behalf of the City of Midland, for an amount not to exceed \$280,000 including closing costs, any real property interests, 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 at or near the following-described location: from 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 - 260

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 NEGOTIATE, EXECUTE AND FILE ALL DOCUMENTS NECESSARY TO ACQUIRE SAID REAL PROPERTY INTERESTS, PURCHASE TITLE INSURANCE POLICIES AND HOLD THE CLOSINGS FOR SAID ACQUISITIONS; APPROPRIATING AND TRANSFERRING FUNDS IN THE AMOUNT OF \$1,380,000.00 TO THE WOODCREST DRIVE EXTENSION PROJECT; AUTHORIZING PAYMENT FOR SAID REAL PROPERTY INTERESTS, TITLE INSURANCE POLICIES AND CLOSING COSTS IN AN AMOUNT NOT TO EXCEED \$280,000.00; AND ORDERING THE CITY SECRETARY TO RECORD, OR ENSURE THAT THE TITLE COMPANY HAS RECORDED, ALL INSTRUMENTS OF CONVEYANCE

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

12. Consider a resolution awarding a contract for the Cured-In-Place Sewer Manhole Rehabilitation Project - Phase III for the Engineering Services Department. (PURCHASING)

RESOLUTION NO. 2016 - 255

RESOLUTION AWARDING A CONTRACT FOR THE CURED-IN-PLACE SEWER MANHOLE REHABILITATION PROJECT - PHASE THREE TO INFRASTRUCTURE REHABILITATION USA, INC. OF SHREVEPORT, LOUISIANA, AT A TOTAL COST OF \$697,388.00; AND AUTHORIZING PAYMENT THEREFOR

Council Member Love reported that 33 bid packs went out but only two were returned and one was disqualified. He asked if it was possible to send it out again. Utilities Director Laura Wilson reported they could send it out for rebid if Council desired. City Manager Courtney Sharp noted that only a few companies in the United States does this type of work so there would only be a limited number of bids that could be received. It was noted that it would take about six weeks to get additional bids and that would put this project in the next fiscal year.

Council Member Love moved to adopt Resolution No. 2016 - 255; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

13. Consider a resolution awarding a contract for the demolition of the Midland Center and the Midland Chamber of Commerce buildings for the General Services Department; and appropriating funds therefore. (PURCHASING)

RESOLUTION NO. 2016 - 256

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH LLOYD D. NABORS DEMOLITION, LLC, FOR THE DEMOLITION OF THE MIDLAND CENTER AND THE MIDLAND CHAMBER OF COMMERCE BUILDINGS AT A TOTAL COST OF \$157,500.00; APPROVING \$39,375.00 FOR CONTINGENCIES; AND AUTHORIZING THE APPROPRIATION OF \$6,925,000.00 FOR THE MIDLAND CENTER PROJECT

Council Member Sparks pulled the item because he is not in favor of tearing down the Chamber of Commerce building but is in support of the contractor chosen noting they have done a good job in the past.

Council Member Lacy moved to adopt Resolution No. 2016 - 256; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Morales, Lacy, Robnett. NAY: Sparks. ABSTAIN: None. ABSENT: Dufford.

15. Consider a resolution approving a Professional Services Agreement Amendment for the Rehabilitation and Improvements to Spraberry Farms Project contract with HDR Engineering, Incorporated for the Utilities Department. (PURCHASING)

RESOLUTION NO. 2016 - 258

RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH HDR ENGINEERING, INC., FOR ENGINEERING SERVICES FOR THE REHABILITATION AND IMPROVEMENTS TO SPRABERRY FARM AND PLANT FARM

Council Member Love asked for an explanation. Utilities Director Laura Wilson reported that Council previously approved a contract for work on Spraberry Farm to work on isolating the lagoons from the pump station. They were asked to look at the ground

water in the area for possible sale of effluent water. The preliminary draft reports there is not enough water out there so there is no sense in continuing with a formal report. Moving forward, if there is no longer water to irrigate the crops, the only option is for a discharge permit. They can do this within the costs of the original scope but it will take more time.

Council Member Love moved to adopt Resolution No. 2016 - 258; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

16. Consider a resolution authorizing the execution of a Public Improvement Development Agreement between the City of Midland and COG Realty LLC, with a not to exceed value of \$85,000, for the purpose of installing a pedestrian crossing warning system at 600 West Illinois Avenue and relocating school zone flashing beacons. (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 259

RESOLUTION AUTHORIZING THE EXECUTION OF A PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH COG REALTY LLC FOR PEDESTRIAN CROSSING IMPROVEMENTS AT 600 WEST ILLINOIS AVENUE AND THE RELOCATION OF SCHOOL ZONE FLASHING BEACONS; AND APPROPRIATING FUNDS THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE

Council Member Lacy moved to adopt Resolution No. 2016 - 259; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy. NAY: None. ABSTAIN: Robnett. ABSENT: Dufford.

SECOND READINGS

18. Consider an ordinance on second reading on a request by the City of Midland for the vacation of a 0.138-acre portion of the alley right-of-way generally located on the north side of West Wall Street, approximately 140 feet west of North Main Street. (DEVELOPMENT SERVICES) (First reading held August 09, 2016.)

ORDINANCE NO. 9589

AN ORDINANCE VACATING AND ABANDONING A 0.138-ACRE PORTION OF ALLEY RIGHT-OF-WAY LOCATED ADJACENT TO LOTS 1-24, BLOCK 54, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WALL STREET, APPROXIMATELY 140 FEET WEST OF NORTH MAIN STREET); THE CITY OF MIDLAND BEING THE OWNER OF ALL ABUTTING PROPERTY; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9589.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9589 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

PUBLIC HEARINGS

19. Hold a public hearing regarding a proposal establishing the ad valorem tax rate of \$0.403560 per \$100 taxable assessed valuation for the Fiscal Year 2016-2017. This is a public hearing only. No further action will be taken. (FINANCE)

Finance Director Pam Simecka reported this was the second required public hearing on the tax increase for the purpose of obtaining citizen input.

Mayor Morales opened the public hearing at 10:35 a.m.

Buddy Sypes, 902 Citation, former Council Member, disagrees with the proposed tax increase noting it represents an added burden on property owners when a major industry is in recession. According to many experts, many bankruptcies will be seen as a result of the oil and gas bust. He suggested that instead of raising taxes, the Council should pay off the 4B bonds and put the excess in the General Fund. He also suggested that if Council still felt additional money was needed, it should be put to a vote of the people.

Nelson Speer, 4010 Almey Court, reported that the effective rate would bring in more money than the previous year due to new construction. He felt the current economic conditions were not suitable for a tax increase and suggested that Midland's population has decreased from 132,000 to 128,000. He felt that Midland's property taxes are higher than most other cities because our property values are higher. He asked Council to decrease the budget and hold the course.

Pastor Barak Stanford, 1108 Chestnut, expressed concern about a property tax increase noting it may hurt some citizens in Midland and suggested that a public hearing be held in the evening when more people could attend.

Rhonda Shutts, 4310 Arroyo, reported in the last 18 months she has taken a 20% cut in pay and a 15% cut in benefits. Her husband has also received a 10% cut in his pay in the last six months. She has had to rearrange her budget and live within her means and asked Council to do the same thing.

Mark Kimball, 112 S Loraine, reported that the income on his buildings is down 20% from where it was the previous year. He asked Council to get serious about cutting the budget and suggested assigning a citizen committee to look at each department to see what could be cut. He suggested that if growth was good, the overall cost per citizen should go down.

Dorothy Cobos, 4619 Thomason Road, asked when the 4B tax vote would be held. It was reported it would be held next May.

Kade Dutton, 3802 WCR 140, spoke about the eminent domain proceedings on his property. He was informed the City has done no eminent domain and he should direct his comments to the County.

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

Council Member Love reported he was in favor of a tax increase for many reasons. He

shared slides emphasizing the condition of Midland roads and the amount of money it would take to maintain them. The roads are Midland's largest asset and it is important to protect that asset.

Mayor Morales thanked everyone for their input.

20. Hold a public hearing and consider a resolution on a request by the Midland Children's Rehabilitation Center for a Fundraiser generally located northwest of the intersection of Ventura Drive and North 'A' Street. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 261

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A FUNDRAISER ON A 1.12-ACRE PORTION OF LOT 1, BLOCK 4, A STREET COMMUNITY CENTER, SECTION 4, A 2.07-ACRE PORTION OF LOT 1, BLOCK 2, A STREET COMMUNITY CENTER, SECTION 5, LOT 2, BLOCK 4, A STREET COMMUNITY CENTER, SECTION 6, AND A 0.55-ACRE PORTION OF WINDLANDS PARK, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF VENTURA DRIVE AND NORTH A STREET); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Development Services Director Chuck Harrington gave a brief over of the item noting it is for a Temporary Land Use Permit for a live concert and fund raiser for the Midland Children's' Rehab Center. No letters of objection have been received and staff recommends approval.

Mayor Morales opened the public hearing at 11:18 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Love moved to adopt Resolution No. 2016 - 261; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Sparks, Dufford.

21. Hold a public hearing and consider a request by Johnny Reyes for a Zone Change from CE, Country Estate District, in part, and AE, Agriculture Estate District, in part, to PD, Planned District for a Transition District, with an underlying zoning of LR-1, Local Retail District, on a 7.45-acre tract of land generally located northwest of the intersection of Todd Drive and E. Highway 80. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9590

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 A PD, PLANNED DISTRICT FOR A TRANSITION 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. 9590.

Development Services Director Chuck Harrington gave a brief overview of the item noting it was for a zone change. This item came before Council in June and the applicant withdrew their request and brought it back as a Planned Development. This change will allow the applicant to make improvements to the golf course. This is the most restrictive underlying zoning and all changes will come before the City Council in the form of a public hearing. Planning & Zoning recommended approval as does staff. There are enough objection letters that this item will require super-majority approval

Mayor Morales opened the public hearing at 10:29 a.m.

Ben Sanchez, Schuman Engineering, reported he has done everything that Council has asked and requested approval. The applicant is planning to upgrade bathrooms, air conditioners and other items.

Rachel Stone, 1902 N. Pecos, speaking on behalf of Green Acres, reported she went there as a child and has taken her grandson there. The place is in need of improvements and she supports this item. There are not enough alcohol free zones for kids and she would like to see this place stay in business. She also spoke in favor of the Reyes family noting they give to the community in various ways.

Yoyo Ketter, 1101 Todd, thanked Council Member Love for setting up the meeting. The neighbors do not have an issue with upgrading the golf course but she felt that the upgrades they were referring to were minimal and didn't think it would be enough to bring them into compliance with the code. She asked if this truly was for an update or wondered if this was just a way to change this area into a retail zone, which the neighbors would not support.

There being no one else wishing to speak, the public hearing was closed at 10:34 a.m.

Council Member Love commended the applicant for working with the community noting it was an excellent compromise. He emphasized that any changes would require Council approval.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9590 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, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

22. Hold a public hearing and consider a request by Haskell Restaurant Group, LLC for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on premises consumption, in a restaurant generally located approximately 420 feet west of Rankin Highway, and approximately 465 feet south of Wolcott Avenue. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9591

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 3,200-SQUARE FOOT PORTION OF LOT 6A, BLOCK 2, AMARON ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED APPROXIMATELY 420 FEET WEST OF RANKIN HIGHWAY

AND APPROXIMATELY 465 FEET SOUTH OF WOLCOTT AVENUE), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9591.

Development Services Director Chuck Harrington gave a brief overview of the item noting the request is for a Specific Use Permit with Term for the sale of alcoholic beverages Sunday through Saturday from 11:00 a.m. to 10:00 p.m. Staff recommends approval subject to the conditions in the packet.

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. 9591 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, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Sparks, Dufford.

23. Hold a public hearing and consider a request by Haskell Restaurant Group, LLC for a Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant generally on the north side of W. Wadley Avenue, approximately 220 feet west of Desta Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9592

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 3,700-SQUARE FOOT PORTION OF LOT 5A, BLOCK 7, CLAYDESTA PLAZA, SECTION 12, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST WADLEY AVENUE, APPROXIMATELY 220 FEET WEST OF DESTA 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. 9592.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is for a Specific Use Permit with Term for the sale of alcoholic beverages Sunday through Saturday from 11:00 a.m. to 10:00 p.m. No churches or schools are located within 300 feet. Staff recommends approval subject to the conditions in the packet.

Mayor Morales opened the public hearing at 11:22 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9592 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, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Sparks, Dufford.

24. Hold a public hearing and consider a resolution on a request by Senior Link Midland for a Temporary Land Use Permit for a Philanthropic Event (Garage Sale) generally located on the north side of Scharbauer Drive, approximately 250 feet west of Lamesa Road. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 262

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A PHILANTHROPIC EVENT ON THE WEST 51.5 FEET OF LOT 5, ALL OF LOTS 6-10, AND THE EAST 22 FEET OF LOT 11, BLOCK 8, LOMA LINDA REPLAT, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF SCHARBAUER DRIVE, APPROXIMATELY 250 FEET WEST OF LAMESA ROAD); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Development Services Director Chuck Harrington gave a brief overview of the item noting it is for the annual request from Senior Link for their 27th annual garage sale fundraiser. They will operate Friday, October 14 from 10:00 a.m. to 3:00 p.m., Saturday, October 15 from 8:30 a.m. to 3:00 p.m., and Sunday, October 16 from 2:00 p.m. to 4:00 p.m. There will be no street closures, no music and no alcoholic beverages. There have been no incidents and staff recommends approval.

Council Member Love asked if it was necessary to have seven peace officers.

Jody Sneed, 3301 Sinclair, reported that they can have about 1,500 people at one time at their event and they are very comfortable with having the requirement of 7 peace officers noting the officers are very much a part of their event.

Mayor Morales opened the public hearing at 11:26 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Love moved to adopt Resolution No. 2016 - 262; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Sparks, Dufford.

25. Hold a public hearing and consider a resolution on a request by St. Ann's Catholic Church for a Temporary Land Use Permit for a Church Fair and Carnival generally located southeast of the intersection of West Illinois Avenue and O Street. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 263

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A FAIR AND CARNIVAL ON LOT 13, BLOCK 71, WEST END ADDITION, SECTION 15, LOTS 1-6,

BLOCK 77, WEST END ADDITION, AND A 0.66-ACRE PORTION OF WEST TEXAS AVENUE RIGHT-OF-WAY LOCATED BETWEEN NORTH N STREET AND NORTH M STREET, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF WEST ILLINOIS AVENUE AND NORTH O 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 is for the 68th annual St. Ann's church fair and carnival. He reviewed their hours of operation noting they will have music and the sale of alcoholic beverages on Saturday. No letters of objection have been received and staff recommends approval.

Mayor Morales opened the public hearing at 11:28 a.m.

Warren Ivey, 2911 Rebel Drive, owner of 2011 West Wall, reported his property is directly across the alley from this location. They have been there four years. He reported the church is very cooperative with keeping their patrons from parking in his business lot. They are a great neighbor and he appreciates what they do for the community.

Maye DeAnda, 4509 Gleneagles Drive, thanked Council for their support and noted that they do their best to respect their neighbors. They place signs out directing people where to park.

There being no one else wishing to speak, the public hearing was closed at 11:29 a.m.

Council Member Love moved to adopt Resolution No. 2016 - 263; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Sparks, Dufford.

26. Hold a public hearing and consider a request by Maverick Engineering for a Zone Change from PD, Planned District for a Transition District to LR-2, Local Retail District generally located on the east side of N. Loop 250 West, approximately 500 feet north of Andrews Highway. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9593

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 2, BLOCK 1, WALLACE HEIGHTS, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY PD, PLANNED DISTRICT FOR A TRANSITION DISTRICT, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF NORTH LOOP 250 WEST, APPROXIMATELY 500 FEET NORTH OF ANDREWS HIGHWAY); 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. 9593.

Development Services Director Chuck Harrington gave a brief overview of the item noting it was for a zone change to the north of the new Chick-Fil-A for a small strip

center with three spaces. It will have joint access with the Chick-Fil-A lot. Staff received no letters of objection and recommends approval.

Mayor Morales opened the public hearing at 11:32 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Hotchkiss moved approval of the first of two readings of Ordinance No. 9593 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, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Sparks, Dufford.

27. Hold a public hearing and consider a resolution on a request by Juana Mendoza for a Temporary Land Use Permit for a Church Festival generally located northeast of the intersection of S. Terrell Street and E. Dakota Avenue. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 264

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A FESTIVAL ON LOTS 7-9, BLOCK 191, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF SOUTH TERRELL STREET AND EAST DAKOTA AVENUE); 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 is for a Temporary Land Use Permit for a church festival with hours on Friday, August 26 from 6:00 p.m. to 1:00 a.m. and Saturday, August 27 from 10:00 a.m. to 1:00 a.m. The two-day event includes live and recorded music with the volume reducing at 10:00 p.m. No alcoholic beverages will be sold and there were no incidents reported last year. Staff recommends approval.

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

Council Member Love moved to adopt Resolution No. 2016 - 264; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Sparks, Dufford.

28. Hold a public hearing and consider an ordinance on a request by COG Realty, LLC for the vacation of the 0.137-acre portion of the alley right-of-way generally located on the north side of W. Michigan Avenue, approximately 140 feet west of North Pecos Street. (Planning Admin)

ORDINANCE NO. 9594

AN ORDINANCE VACATING AND ABANDONING A 20-FOOT ALLEY RIGHT-OF-WAY LOCATED IN BLOCK 32, HOMESTEAD ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST MICHIGAN AVENUE, APPROXIMATELY 140 FEET WEST OF NORTH PECOS STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$11,928.00; AUTHORIZING THE EXECUTION OF A QUITCLAIM DEED WITH COG REALTY LLC, A TEXAS LIMITED LIABILITY COMPANY, FROM WHICH THE CITY RESERVES AND EXCEPTS A NON-EXCLUSIVE UTILITY EASEMENT AND RIGHT-OF-WAY UNTIL EACH EASEMENT USER ABANDONS ITS USE OF SAID EASEMENT;

AUTHORIZING THE EXECUTION OF ANY DOCUMENTS NECESSARY OR APPROPRIATE TO EFFECT SAID TRANSACTIONS; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9594.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is for future development. The applicant owns both sides of the alley and is asking to vacate the alley. All utilities will be relocated as the site is developed. No letters of objection have been received and staff recommends approval.

Mayor Morales opened the public hearing at 11:37 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. 9594 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, Lacy. NAY: None. ABSTAIN: Robnett. ABSENT: Sparks, Dufford.

APPEAL HEARING

29. Conduct a hearing and consider a motion appealing the Building Official's denial of sign permit applications by Texas Republic Signs for the Stripes located at 11200 Highway 191, Midland, Texas generally located on the northeast corner of the intersection of Farm to Market Road 1788 and Highway 191. (DEVELOPMENT SERVICES)

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant originally requested 712 square feet of signage but reduced it to 696 square feet. Council previously heard the item and upheld the denial of the request. However, the applicant was not given the opportunity to speak at the last meeting so it was carried to this meeting. In the meantime they put in a second application requesting 1,042 square feet of signage to allow for an additional canopy sign and a third free-standing sign.

Council Member Robnett clarified with the applicant that they received a request to also install a canopy sign so they amended their application to include the additional sign.

Following discussion with the applicants, Council Member Robnett moved to approve a motion appealing the Building Official's denial of sign permit applications by Texas Republic Signs for the Stripes located at 11200 Highway 191, Midland, Texas (Generally located on the northeast corner of the intersection of Farm to Market Road 1788 and Highway 191.); seconded by Council Member Love. The motion failed by the following vote: AYE: None. NAY: Hotchkiss, Love, Morales, Lacy, Robnett. ABSTAIN: None. ABSENT: Sparks, Dufford.

MISCELLANEOUS

30. Consider a motion approving a preliminary plat of Devon Addition, Section 6, being a 75.75-acre tract generally located on the southwest corner of the intersection of Wright Drive and State Loop 40. (DEVELOPMENT SERVICES)

Development Services Director Chuck Harrington reported that any preliminary plat larger than 25-acres requires Council approval. The proposed lots will be used for the Texas Department of Public Safety for their new offices. They are aware of all requirements and are working through technical items.

Council Member Love moved to approve a motion approving a preliminary plat of Devon Addition, Section 6, being a 75.75-acre tract within the west half of Section 8, Block 40, T-2-S, T&P RR Co. Survey, City and County of Midland, Texas. (Generally located on the southwest corner of the intersection of Wright Drive and State Loop 40.); seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Sparks, Dufford.

31. Consider an ordinance amending Title X, "Traffic Regulations", Chapter Four, "Traffic Control Devices", Section 11, "School Zones and Crossings", of the Midland City Code, so as to designate each school zone and school crossing within the City and regulate the speed and movement of traffic therein. (ENGINEERING SERVICES)

ORDINANCE NO. 9595

AN ORDINANCE AMENDING TITLE X, "TRAFFIC REGULATIONS", CHAPTER FOUR, "TRAFFIC CONTROL DEVICES", SECTION 11, "SCHOOL ZONES AND CROSSINGS", OF THE MIDLAND CITY CODE, SO AS TO DESIGNATE EACH SCHOOL ZONE AND SCHOOL CROSSING WITHIN THE CITY AND REGULATE THE SPEED AND MOVEMENT OF TRAFFIC THEREIN; AUTHORIZING AND DIRECTING THE TRAFFIC ENGINEER TO INSTALL APPROPRIATE SIGNS AND MARKINGS; REPEALING ORDINANCE NO. 9503; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS (\$200.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9595.

Traffic Engineer Mike Pacelli reported this is a house-cleaning item noting they are lengthening or shortening school zones.

Council Member Love moved approval of the first of two readings of Ordinance No. 9595 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, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Sparks, Dufford.

EXECUTIVE SESSION

32. 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 12:02 p.m.

All of the business at hand having been completed, the meeting adjourned at 12:41 p.m.

PASSED AND APPROVED the 13th day of September, 2016.

Jerry F. Morales, Mayor

ATTEST:

Amy M. Turner, City Secretary