

**MIDLAND CITY COUNCIL  
MINUTES  
September 27, 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 September 27, 2016.

Council Members present: Mayor Jerry F. Morales, Mayor Pro Tem J.Ross Lacy (District 4), Council Member Scott Dufford (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 Spencer Robnett (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, City Engineer Matt Carr, Traffic Engineer Mike Pacelli, and Public Information Officer Sara Bustilloz.

Mayor Morales called the Briefing Session to order at 9:30 a.m.

1. Receive an update from Cameron Walker of Permian Basin MPO regarding the I-20 Corridor Study.

Cameron Walker of Permian Basin MPO explained that a metropolitan planning organization (MPO) is a federally mandated agency that has been in existence for decades and is required by any city with a population over 50,000. The Permian Basin MPO consists of several counties and cities and has a board of seven. They are located at the Midland Airport.

He reviewed the draft I-20 Corridor Study noting they are looking at what the area might look like in 2040 factoring in growth for the region. The study covers an area from west of Odessa to east of Midland an area of 40 miles. \$5 million has been designated to study the conditions of the entire area and to design 12-13 miles. He emphasized it will be fully designed but it is not fully funded. It will be ready to go when funding becomes available. He reviewed the current conditions of the area including hazardous materials, natural resources, crashes, land uses, congestion and pavement and bridge conditions. The group has had three meetings to date noting safety is their number one concern followed by regional mobility. They have received 561 responses from the survey to date and encouraged everyone to go to their website to complete the survey.

He explained how past legislation has been helpful in providing transportation and roadway funding. The MPO has been guaranteed \$167 million, and possibly more, over the next 10 years and now they need to look at how to best use the money for the entire region.

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

## **REGULAR SESSION**

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., September 27, 2016.

Council Members present: Mayor Jerry F. Morales, Mayor Pro Tem J.Ross Lacy (District 4), Council Member Scott Dufford (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 Spencer Robnett (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, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 24, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 33 (second time), 37, 38, 39, 40, 41.

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

### **OPENING ITEMS**

1. Invocation - Monsignor Larry Droll, Saint Ann's Catholic Church
2. Pledge of Allegiance

### **PRESENTATIONS**

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
  - a. Council Member Hotchkiss presented a Proclamation for National Business Women's Week
  - b. Mayor Morales presented a Proclamation for Rock Hounds Day noting it was their third consecutive championship.
  - c. Representatives from Pink the Basin were present to present a Breast Cancer Awareness tie to Mayor Morales.

### **CONSENT AGENDA**

Council Member Lacy moved to approve Consent Agenda items 4 - 25 excluding 24; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: None. ABSTAIN: None. ABSENT: Robnett.

4. Approved a motion approving the following minutes:
  - a. Regular meeting of September 13, 2016.

5. Approved a resolution awarding the project described as Rehabilitate Runways 10/28, 16R/34L and Taxiways at Midland International Air & Space Port to Maxwell Asphalt, Inc. of Salt Lake City, UT, and appropriate the necessary funds. (AIRPORTS)

RESOLUTION NO. 2016 - 289

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH MAXWELL ASPHALT, INC., OF SALT LAKE CITY, UTAH, FOR THE REHABILITATE RUNWAY 10/28, 16R/34L AND TAXIWAYS PROJECT (700203-505) AT MIDLAND INTERNATIONAL AIR & SPACE PORT AT A TOTAL COST OF \$2,272,152.50; AND APPROPRIATING FUNDS FOR SAID PROJECT

6. Approved a resolution authorizing the execution of a 2017 Routine Airport Maintenance Program (RAMP) Agreement between the City of Midland, Texas and Texas Department of Transportation (TXDOT). (AIRPORTS)

RESOLUTION NO. 2016 - 290

RESOLUTION AUTHORIZING THE EXECUTION OF A 2017 ROUTINE AIRPORT MAINTENANCE PROGRAM AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS, AND THE TEXAS DEPARTMENT OF TRANSPORTATION TO PROVIDE AN AUTOMATED WEATHER OBSERVING SYSTEM AT MIDLAND AIRPARK

7. Approved a resolution authorizing the Department of Airports to reimburse the Federal Aviation Administration (FAA) the amount of \$23,845.00 for funds spent on the MAF Access Control System and Cable Upgrade at MAF. (AIRPORTS)

RESOLUTION NO. 2016 - 291

RESOLUTION AUTHORIZING THE DEPARTMENT OF AIRPORTS TO REIMBURSE THE AIRPORT PASSENGER FACILITY CHARGE FUND (501) IN THE AMOUNT OF \$23,845.00 FOR FUNDS SPENT ON THE MAF ACCESS CONTROL SYSTEM AND CABLE UPGRADE PROJECT; AUTHORIZING THE EXECUTION OF MAF PASSENGER FACILITY CHARGE APPLICATION 8; AND APPROPRIATING FUNDS

8. Approved a motion approving a contract with Midland Tennis Center DBA Bush Tennis Center in the amount of \$25,000.00 to promote tennis activities in the City of Midland from funds available and as approved in the Fiscal Year 2016-2017 Budget (Hotel-Motel Fund/Non Departmental). (CITY SECRETARY'S OFFICE)
9. Approved a motion approving a contract with George W. Bush Childhood Home, Inc. in the amount of \$15,000.00 to promote tourism and the hotel industry in Midland from funds available and as approved in the Fiscal Year 2016-2017 Budget (Hotel-Motel Fund/Non Departmental). (CITY SECRETARY'S OFFICE)
10. Approved a motion approving a contract with Midland Chamber of Commerce for the management of the Midland Center in the amount of \$484,896.00 to promote tourism and the hotel industry in Midland from funds available and as approved in the Fiscal Year 2016-2017 Budget (Hotel-Motel Fund/Non Departmental). (CITY SECRETARY'S OFFICE)
11. Approved a motion approving a contract with Midland Chamber of Commerce in the amount of \$1,638,668.00 to promote tourism, convention, and the hotel industry in

Midland from funds available and as approved in the Fiscal Year 2016-2017 Budget (Hotel-Motel Fund/Non Departmental). (CITY SECRETARY'S OFFICE)

12. Approved a motion approving a contract with Midland College (Athletic Department) in the amount of \$20,000.00 to promote tourism and the hotel industry in Midland from funds available and as approved in the Fiscal Year 2016-2017 Budget (Hotel-Motel Fund/Non Departmental). (CITY SECRETARY'S OFFICE)
13. Approved a motion approving a contract with Midland Community Theatre in the amount of \$20,000.00 to promote tourism and the hotel industry in Midland from funds available and as approved in the Fiscal Year 2016-2017 Budget (Hotel-Motel Fund/Non Departmental). (CITY SECRETARY'S OFFICE)
14. Approved a motion approving a contract with Midland County Fair in the amount of \$25,000.00 to promote tourism and the hotel industry in Midland from funds available and as approved in the Fiscal Year 2016-2017 Budget (Hotel-Motel Fund/Non Departmental). (CITY SECRETARY'S OFFICE)
15. Approved a motion approving a contract with Midland County Public Library Foundation in the amount of \$30,000.00 to promote tourism and the hotel industry in Midland from funds available and as approved in the Fiscal Year 2016-2017 Budget (Hotel-Motel Fund/Non Departmental). (CITY SECRETARY'S OFFICE)
16. Approved a motion approving a contract with Midland Softball Association in the amount of \$139,900.00 to promote tourism and the hotel industry in Midland from funds available and as approved in the Fiscal Year 2016-2017 Budget (Hotel-Motel Fund/Non Departmental). (CITY SECRETARY'S OFFICE)
17. Approved a motion approving a contract with Midland Athletic Association, Inc. DBA Tournament of Champions in the amount of \$20,000.00 to promote tourism and the hotel industry in Midland from funds available and as approved in the Fiscal Year 2016-2017 Budget (Hotel-Motel Fund/Non Departmental). (CITY SECRETARY'S OFFICE)
18. Approved a motion approving a contract with West Texas Kennel Club in the amount of \$8,000.00 to promote tourism and the hotel industry in Midland from funds available and as approved in the Fiscal Year 2016-2017 Budget (Hotel-Motel Fund/Non Departmental). (CITY SECRETARY'S OFFICE)
19. Approved a resolution authorizing the execution of a Professional Services Agreement between the City of Midland, Texas, and Midland Sports, Incorporated, in the amount of \$98,000.00, for professional marketing, promotion, and management services at the Scharbauer Sports Complex. (COMMUNITY SERVICES)

RESOLUTION NO. 2016 - 292

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS, AND MIDLAND SPORTS, INCORPORATED, IN THE AMOUNT OF \$98,000.00, FOR PROFESSIONAL MARKETING, PROMOTION, AND MANAGEMENT SERVICES AT THE SCHARBAUER SPORTS COMPLEX

20. Approved a resolution authorizing the execution of a Professional Services Agreement between the City of Midland, Texas, and Parkhill, Smith and Cooper, in the amount of \$33,300.00, to prepare the construction plans, specifications, and estimates, oversee the bidding process, provide construction oversight, and provide for reimbursables such as a survey and ADA inspection, for the development of concrete paving, ADA access, and curbing at the Bill Williams Softball Complex; and allocating funds for this project available in the 2016 budget (090690-56187) in the amount of \$230,824.00, to project number 900223-091. (COMMUNITY SERVICES)

RESOLUTION NO. 2016 - 293

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INC., IN AN AMOUNT NOT TO EXCEED \$33,300.00, FOR ENGINEERING SERVICES IN CONNECTION WITH THE BILL WILLIAMS PAVING PROJECT; SAID AGREEMENT SHALL PROVIDE FOR THE DEVELOPMENT OF CONCRETE PAVING, ADA ACCESS, AND CURBING AT THE BILL WILLIAMS SOFTBALL COMPLEX; AND ALLOCATING FUNDS FOR SAID PROJECT

21. Approved a resolution authorizing the execution of a Public Improvement Development Agreement between the City of Midland and Los Conchos Ventures LLC in the amount of \$547,531 for the purpose of constructing drainage & utility improvements to serve Greathouse Addition Section 7; and appropriating funds therefor; said agreement being authorized by Section 395.081 of the Texas Local Government Code. (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 294

RESOLUTION AUTHORIZING THE EXECUTION OF A PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH LOS CONCHOS VENTURES, LLC IN AN AMOUNT NOT TO EXCEED \$547,531.00 FOR DEVELOPMENT OF GREATHOUSE ADDITION, SECTION 7, PHASE 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED BETWEEN HOLIDAY HILL ROAD AND ORIOLE DRIVE AND BETWEEN MOCKINGBIRD LANE AND HILLTOP DRIVE); AND APPROPRIATING AND ALLOCATING FUNDS IN THE AMOUNT OF \$585,000.00; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE

22. Approved a resolution accepting a Roadway Easement between the City of Midland and Gerardo Garcia, located in the general vicinity of North County Road 1130 and East County Road 60, for the purpose of dedicating 0.22-acres as a roadway easement to the public. (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 295

RESOLUTION AUTHORIZING THE ACCEPTANCE OF A 0.22-ACRE ROADWAY EASEMENT LOCATED IN SECTION 22, BLOCK 38, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS; AND ORDERING RECORDATION BY THE CITY SECRETARY

23. Approved a resolution authorizing and executing a Right-of-Way License between the City of Midland and MRC Permian, said Right-of-Way License is for entering the City of Midland's property for the purpose of placing, installing, constructing, operating, repairing, maintaining and removing one (1) oil flowline, not to exceed seven (7) inches in diameter, and one (1) gas lift return line, not to exceed three (3) inches in diameter,

and related facilities; to have the right to ingress and egress at convenient points for such purpose; all facilities are located on City of Midland property, Section 18 Block C-24, Loving County, Texas, Sections 1 and 2, Block C-24, and Section 24, Block C-23, Winkler County Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 296

RESOLUTION AUTHORIZING THE EXECUTION OF A LICENSE AGREEMENT BETWEEN THE CITY OF MIDLAND AND MRC PERMIAN COMPANY REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 18, BLOCK C-24, P.S.L. SURVEY, A-1030, LOVING COUNTY, TEXAS, SECTION 1, BLOCK C-24, P.S.L. SURVEY, A-1395, WINKLER COUNTY, TEXAS, SECTION 2, BLOCK C-24, P.S.L. SURVEY, A-1396, WINKLER COUNTY, TEXAS, AND SECTION 24, BLOCK C-23, P.S.L. SURVEY, A-1393, WINKLER COUNTY, TEXAS

25. Approved a resolution to accept and appropriate funds awarded through the FY2017 Edward Byrne Memorial Justice Assistance Grant Program by the Office of the Governor of Texas Criminal Justice Division. (POLICE)

RESOLUTION NO. 2016 - 297

RESOLUTION ACCEPTING A GRANT IN THE AMOUNT OF \$15,790.00 FROM THE FISCAL YEAR 2017 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM PROVIDED BY THE GOVERNOR'S OFFICE; SAID GRANT FUNDS WILL BE USED TO PURCHASE TWO (2) SPEED RADAR TRAILERS TO BE PLACED AT KNOWN HIGH-CRASH LOCATIONS

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

24. Consider a motion approving additional Hotel/Motel funding to Promising Projects for Tall City Blues Fest in the amount of \$7,500.00 to promote tourism and the hotel industry in Midland from funds available in the Fiscal Year 2015-2016 Budget (Hotel-Motel Fund/Non Departmental); and providing that said funds are governed by the terms and conditions of the existing contract between the parties for said event. (CITY SECRETARY'S OFFICE)

Council Member Hotchkiss expressed concern that this organization was asking for additional funds when their event was rained out noting the Hotel/Motel is not a fallback when things don't go as expected. She felt it was not a good precedent to set. Council Member Lacy echoed the same comments.

Council Member Sparks pointed out that if Council is willing to spend \$60 million for the Midland Center then they should consider this group since they have stayed downtown and puts more heads in beds than some other projects.

Council Member Love moved to approve a motion approving additional Hotel/Motel funding to Promising Projects for Tall City Blues Fest in the amount of \$7,500.00 to promote tourism and the hotel industry in Midland from funds available in the Fiscal Year 2015-2016 Budget (Hotel-Motel Fund/Non Departmental); and providing that said funds are governed by the terms and conditions of the existing contract between the parties for said event; seconded by Council Member Dufford. Following brief discussion, the motion carried by the following vote: AYE: Love, Sparks, Morales, Dufford. NAY: Hotchkiss, Lacy. ABSTAIN: None. ABSENT: Robnett.

## SECOND READINGS

26. Consider an ordinance on second reading on a request by Shannan McCain for a Specific Use Permit with Term, for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant generally located on the south side of W. Wadley Avenue, approximately 550 feet west of N. Midland Drive. (DEVELOPMENT SERVICES)

### ORDINANCE NO. 9598

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 3-G, BLOCK 6, SCOTSDALE ADDITION, NINETEENTH SECTION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST WADLEY AVENUE, APPROXIMATELY 550 FEET WEST OF NORTH MIDLAND 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. 9598.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9598 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. NAY: None. ABSTAIN: None. ABSENT: Robnett.

27. Consider an ordinance on second reading on a request by Javi's Sports Bar for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a bar, generally located northeast of the intersection of Rankin Highway and W. Francis Avenue. (DEVELOPMENT SERVICES)

### ORDINANCE NO. 9599

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 BAR FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9599.

Council Member Love moved to approve the second and final reading of Ordinance No. 9599 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. NAY: Lacy. ABSTAIN: None. ABSENT: Robnett.

## **PUBLIC HEARINGS**

28. Hold a public hearing and consider an ordinance on a request by Alan Biel for a Special Exception from the Zoning Code concerning the property line setback generally located southwest of the intersection of Humble Avenue and North "I" Street. (DEVELOPMENT SERVICES)

### **ORDINANCE NO. 9601**

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR THE EAST 23.00 FEET OF LOT 21 AND ALL OF LOT 22, BLOCK 4, AVALON ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF HUMBLE AVENUE AND NORTH I STREET), BY PERMITTING A REDUCED SIDE YARD SETBACK; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9601.

Development Services Director Chuck Harrington gave a brief overview of the item noting the property was platted and built in 1959. At that time the side yard setback was 10 feet and now it is 20 feet. He currently has an accessory building and a carport which he plans to replace with a four car garage. The new plan does not meet even the 10-foot setback and staff found no special hardships and cannot support the request.

When asked how it might affect line of sight, Mr. Harrington noted it would not change because there is currently an accessory building in the location.

Council Member Hotchkiss reported she investigated this site, asked the applicant to pave all the way back where there is currently landscaping and offered her support of the project.

Mayor Morales opened the public hearing at 10:39 a.m.

Alan Biel, 2003 Boyd Avenue, reported they are replacing their storage building and carport with a four car garage with room for storage. They will pave all the way back as requested. He explained cars will enter the garage through the alley.

There being no one else wishing to speak, the public hearing was closed at 10:41 a.m.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9601 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: None. ABSTAIN: None. ABSENT: Robnett.

29. Hold a public hearing and consider an ordinance on a request by Jatin Patel for a Zone Change from O-1, Office District, in part, and 1F-1, One-Family Dwelling District, in part, to 1F-3, One-Family Dwelling District, generally located northeast of the intersection of Belmont Street and Wolcott Avenue. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9602

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING BLOCK 42, BELMONT ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED O-1, OFFICE DISTRICT, IN PART, AND 1F-1, ONE-FAMILY DWELLING DISTRICT, IN PART, TO BE USED AS A 1F-3, ONE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF BELMONT STREET AND WOLCOTT AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9602.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant is proposing to develop into 48 affordable homes. The plan is in compliance with the comprehensive plan and staff recommends approval.

Council Member Love is pleased that this is not manufactured homes noting this type of housing was needed in the area.

Mayor Morales opened the public hearing at 10:43 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. 9602 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. NAY: None. ABSTAIN: None. ABSENT: Robnett.

30. Hold a public hearing and consider an ordinance on a request by HealthSouth Rehabilitation Hospital of Midland/Odessa for a Zone Change from PD, Planned District for a Shopping Center, to O-1, Office District, generally located northwest of the intersection of North Loop 250 West and Andrews Highway. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9603

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1, BLOCK 6, GRASSLAND ESTATES ADDITION, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN O-1, OFFICE DISTRICT (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF NORTH LOOP 250 WEST AND 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. 9603.

Development Services Director Chuck Harrington gave a brief overview of the item noting it was a request by Health South for an addition to their property. They would like to add 20 beds to their facility. There is ample parking, no letters of objection have been received and staff recommends approval.

Mayor Morales opened the public hearing at 10:46 a.m.

Sergio Diaz, 6310 South County Road 1169, reported he is the Director at Health South. They are wishing to add 20 beds to their facility noting they serve a large number of people in the Permian Basin.

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

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9603 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: None. ABSTAIN: None. ABSENT: Robnett.

31. Hold a public hearing and consider an ordinance on a request by Midland Oil & Gas, Inc. for a Zone Change from PD, Planned District for a Shopping Center, with an underlying zoning of LR-1, Local Retail District, to O-1, Office District, generally located southeast of the intersection of West Wadley Avenue and North Pecos Street. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9604

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 12, 13, AND 14, BLOCK 2, KELVIEW HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN O-1, OFFICE DISTRICT (GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF WEST WADLEY AVENUE AND NORTH PECOS STREET); 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. 9604.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is for the construction of an office building at this site. The property is currently a PD for Shopping Center. Staff feels an office building is perfect for the neighboring residential neighborhood, has reviewed the item and recommends approval noting it is in compliance with the comprehensive plan. No letters of objection have been received. He clarified it is a one-story building.

Mayor Morales opened the public hearing at 10:52 a.m.

Andrew Mellen, Maverick Engineering, 1909 W. Wall, reported it will be an office center for an oil company and ensured they will comply with all landscape requirements. By switching from a Planned District they will no longer be required to return if they wish to install a fence post light that was not on the original plan.

There being no one else wishing to speak, the public hearing was closed at 10:53 a.m.

Council Member Love moved approval of the first of two readings of Ordinance No. 9604 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: None. ABSTAIN: None. ABSENT: Robnett.

32. Hold a public hearing and consider a resolution on a request by Corbette Padilla for a Temporary Land Use for an Outdoor Amusement Event Permit generally located northeast of South Big Spring Street and West Dakota Avenue. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 298

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR AN OUTDOOR AMUSEMENT EVENT ON LOTS 7, 8, AND 9, BLOCK 183, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF SOUTH BIG SPRING STREET AND WEST 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 this is for the temporary land use for an outdoor event. The proposed location is the site of Steak 42 on Rankin Highway. Their hours will be on Tuesday from 5:00 p.m. to 12:00 midnight. They will have live music on premise and the sale and consumption of alcohol. There will be two restrooms and one officer. Council Member Lacy suggested changing it to two officers.

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

Council Member Lacy moved to adopt Resolution No. 2016 - 298 with the amendment to require two security officers instead of one; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: None. ABSTAIN: None. ABSENT: Robnett.

33. Hold a public hearing and consider an ordinance on a request by Uriol Caballero for a special exception to the Zoning Code concerning front yard setback standards generally located on the west side of Todd Drive, approximately 785-feet south of East Golf Course Road. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9605

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR THE NORTH 157 FEET OF TRACT 5, PARKER ACRES, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF TODD DRIVE, APPROXIMATELY 785 FEET SOUTH OF EAST GOLF COURSE ROAD), BY PERMITTING A REDUCED FRONT YARD SETBACK; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9605.

Development Services Director Chuck Harrington gave a brief overview of the item noting this item is for the construction of a new porch located on the property. The current zoning requires a 40-yard front yard setback. The property currently has a porch that encroaches into the setback. The new porch would leave only 24-feet of setback. Staff found no hardships that would justify this item and suggested repairing what is currently there. No letters of objection were received but a phone call came in with concern that the applicant is not caring for the property.

Council Member Hotchkiss asked if widening Todd Road would cause future problems if this were approved. Staff needed to check into the item.

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

(This item was heard a second time immediately following Agenda Item No. 36.)

Engineering Services Director Jose Ortiz reported he reviewed the right-of-way at the subject property and found no future right-of-way needs.

Mayor Morales opened the public hearing at 11:12 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. 9605 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. NAY: None. ABSTAIN: None. ABSENT: Robnett.

34. Hold a public hearing and consider a resolution on a request by MODE Communications for approval of a Temporary Land Use Permit for a Festival on a 15,185.5 square foot portion of land generally located northeast of the intersection of Big Spring Street and West Missouri Avenue. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 299

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A FESTIVAL ON A 15,185.5-SQUARE FOOT PORTION OF BLOCK 64, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF BIG SPRING STREET AND WEST MISSOURI 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 the application is requesting a Temporary Land Use Permit for an Oktoberfest on October 6<sup>th</sup> from 6:00 p.m. to 10:00 p.m. in the Bank of America Plaza. There will be a minimum of eight restrooms and two security guards. No letters of objection have been received and staff supports the request.

Mayor Morales opened the public hearing at 11:02 a.m.

Elizabeth McLellan, 908 W. Wall, reported she was available to answer questions.

There being no one else wishing to speak, the public hearing was closed at 11:03 a.m.

Council Member Lacy moved to adopt Resolution No. 2016 - 299; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: None. ABSTAIN: None. ABSENT: Robnett.

35. Hold a public hearing and consider a resolution on a request by MODE Communications for approval of a Temporary Land Use Permit for an Ice Skating Rink on a 15,185.5 square foot portion of land generally located northeast of the intersection of Big Spring Street and West Missouri Avenue. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 300

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR AN ICE SKATING RINK ON A 15,185.5-SQUARE FOOT PORTION OF BLOCK 64, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF BIG SPRING STREET AND WEST MISSOURI 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 this is for a temporary ice skating rink in the Bank of America Plaza. It will be in operation for a total of three weeks and ice skating will be available from 2:00 p.m. to 9:00 p.m. No alcoholic beverage will be sold and they will have four restrooms and one security guard. Staff endorses the request.

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

Elizabeth McLellan, 908 W. Wall, reported it is a synthetic ice that snaps together. It lubricates the blades to feel like you are skating on real ice. They will have their window displays again this year noting it is a free event and skating will be \$5 for 30 minutes.

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

Council Member Love moved to adopt Resolution No. 2016 - 300; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: None. ABSTAIN: None. ABSENT: Robnett.

36. Hold a public hearing and consider a resolution on a request by Steve Aicinena and the University of Texas of the Permian Basin (UTPB) Athletics for an Outdoor Amusement Event generally located northwest of the intersection of North Loop 250 West and Champions Drive. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 301

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR AN OUTDOOR AMUSEMENT EVENT ON LOT 4, BLOCK 5, WESTRIDGE PARK ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF NORTH LOOP 250 WEST 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 the item noting University of Texas will be having a game here at the stadium on October 2<sup>nd</sup>. The event will include tailgating from 9:00 a.m. to 10:00 p.m. Restrooms will be available at Grande Stadium.

Council Member Love asked if there was any way to handle these types of events administratively. City Attorney John Ohnemiller reported Council could adopt a resolution, blanket in nature, for any events that fit certain criteria, and authorize staff to administer those applications.

Mayor Morales opened the public hearing at 11:10 a.m.

Steve Aicinena, 1805 Ward Street, explained how the event would be laid out noting they would mainly use the west lot.

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

Council Member Love moved to adopt Resolution No. 2016 - 301; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: None. ABSTAIN: None. ABSENT: Robnett.

## **MISCELLANEOUS**

37. Consider an ordinance regulating the direction of vehicular traffic on certain portions of Illinois Avenue; authorizing and directing the Traffic Engineer to install appropriate signs and markings. (ENGINEERING SERVICES)

### **ORDINANCE NO. 9606**

**AN ORDINANCE REGULATING THE DIRECTION OF VEHICULAR TRAFFIC ON ILLINOIS AVENUE, BETWEEN MAIN STREET AND BAIRD STREET, AS TWO-WAY TRAFFIC; AUTHORIZING AND DIRECTING THE TRAFFIC ENGINEER TO ERECT APPROPRIATE SIGNS; 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. 9606.

Traffic Engineer Mike Pacelli gave a brief overview of the item noting they were only changing one block of Illinois at this time from one-way to two-way. When funding becomes available they will address the remainder of Illinois to Main Street and Texas Avenue.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9606 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: None. ABSTAIN: None. ABSENT: Robnett.

38. Consider an ordinance establishing temporary construction speed zones at various locations in the City of Midland, Texas. (ENGINEERING SERVICES)

ORDINANCE NO. 9607

AN ORDINANCE ESTABLISHING TEMPORARY REGULATORY CONSTRUCTION SPEED LIMITS, AS DESIGNATED BY THE CITY TRAFFIC ENGINEER, DURING PERIODS OF CONSTRUCTION; SAID TEMPORARY REGULATORY CONSTRUCTION SPEED LIMITS BEING NO LOWER THAN 25 MILES PER HOUR AND HAVING DURATIONS OF NO MORE THAN 21 DAYS; AUTHORIZING THE INSTALLATION OF APPROPRIATE SIGNS AND MARKINGS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS (\$200.00), EXCEPT THAT THE MAXIMUM PENALTY OR FINE SHALL BE FOUR HUNDRED DOLLARS (\$400.00) IF AN OFFENSE OCCURS IN A CONSTRUCTION OR MAINTENANCE WORK ZONE WHEN WORKERS ARE PRESENT; AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9607.

Traffic Engineer Mike Pacelli reported that when road work is done there usually is not time to go to Council to update regulatory speed limits, so advisory speed limits are typically posted. For safety reasons, staff is asking Council to adopt this Ordinance that grants authority to the Traffic Engineer to install regulatory speed limits for no more than 21 days for speeds not less than 25 miles per hour based on the type of work that is occurring. Regulatory signs will be posted as needed in the areas.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9607 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: None. ABSTAIN: None. ABSENT: Robnett.

39. Consider a resolution authorizing the execution of a third amendment to the Master Development Agreement between the City of Midland, the Midland Development Corporation, and HSR Realty No. 1 Development, LLC. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2016 - 302

RESOLUTION AUTHORIZING THE EXECUTION OF A THIRD AMENDMENT TO THE MASTER DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MIDLAND, THE MIDLAND DEVELOPMENT CORPORATION, AND HSR REALTY NO. 1 DEVELOPMENT, LLC

City Manager Courtney Sharp reported that Hotel Santa Rita is asking for an extension of their deadline from September 30 to January 31.

Council Member Love moved to adopt Resolution No. 2016 - 302; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: None. ABSTAIN: None. ABSENT: Robnett.

40. Consider a motion making appointments to various boards and commissions.

Council Member Lacy moved to reappoint Vicky Hurt to another term; appoint Ferrell Davis to replace John Echols, and appoint Scooter Brown to replace Greg Baiano on the **Airport Planning and Development Board**; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: None. ABSTAIN: None. ABSENT: Robnett.

Council Member Lacy moved to reappoint Wesley Bownds and Gary Douglas to the **Midland Development Corporation**; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: None. ABSTAIN: None. ABSENT: Robnett.

**PUBLIC COMMENT**

- 41. 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.

All of the business at hand having been completed, the meeting adjourned at 11:28 a.m.

PASSED AND APPROVED the 11th day of October, 2016.

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Jerry F. Morales, Mayor

ATTEST:

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Amy M. Turner, City Secretary