

**MIDLAND CITY COUNCIL
MINUTES
October 25, 2016**

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., October 25, 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, 15, 16, 17, 18, 19, 22, 6, 12, 13, 14, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31.

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

OPENING ITEMS

1. Invocation - Reverend Pat Bryant, Travis Baptist Church

A moment of silence was observed in memory of the two children who were killed in a go-cart accident.

2. Pledge of Allegiance

PRESENTATIONS

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

CONSENT AGENDA

Council Member Dufford moved to approve Consent Agenda items 4 - 22 excluding 6, 12, 13, 14, 20, 21; 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.

4. Approved a motion approving the following minutes:
 - a. Regular meeting of October 11, 2016.
5. Approved a resolution approving a Professional Services Agreement with HDR Engineering, Inc. for the final design review for pre-construction services for the Water

Pollution Control Plant for the Utilities Department; and appropriating funds therefore. (PURCHASING)

RESOLUTION NO. 2016 - 311

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH HDR ENGINEERING, INC., FOR FINAL DESIGN REVIEW SERVICES OF PLANS AND SPECIFICATIONS FOR THE CONSTRUCTION OF SECONDARY IMPROVEMENTS AT THE WATER POLLUTION CONTROL PLANT; AND APPROPRIATING FUNDS THEREFOR

7. Approved a resolution approving the purchase of fifty-five (55) Nema TS2 Type Controllers with Maxtime from Texas Highway Products through TxSmart Buy contract 550-A2 for a total cost of \$120,285.00 for the Traffic Operations Division. (PURCHASING)

RESOLUTION NO. 2016 - 313

RESOLUTION APPROVING THE PURCHASE OF FIFTY-FIVE (55) NEMA TS2 TYPE 2 CONTROLLERS WITH MAXTIME FOR THE TRAFFIC OPERATIONS DIVISION FROM TEXAS HIGHWAY PRODUCTS, LTD., THROUGH TXSMARTBUY AT A TOTAL COST OF \$120,285.00

8. Approved a resolution approving the purchase of one (1) street sweeper from Tymco, Inc. through Buyboard contract 420-13 for a total cost of \$253,750.50 for the Garage Division. (PURCHASING)

RESOLUTION NO. 2016 – 314

RESOLUTION APPROVING THE PURCHASE OF ONE (1) STREET SWEEPER FOR THE GARAGE DIVISION FROM TYMCO, INC., THROUGH BUYBOARD AT A TOTAL COST OF \$253,750.50

9. Approved a resolution awarding annual agreements for Uniforms for the Police Department. (PURCHASING)

RESOLUTION NO. 2016 – 315

RESOLUTION AUTHORIZING THE EXECUTION OF TWO PURCHASE AGREEMENTS FOR AN ANNUAL SUPPLY OF UNIFORMS FOR THE POLICE DEPARTMENT FROM GALLS, LLC, OF LEXINGTON, KENTUCKY, AND GT DISTRIBUTORS, INC., OF AUSTIN, TEXAS, AT A TOTAL COST OF \$52,460.50

10. Approved a resolution approving a professional services agreement with HDR Engineering, Inc. for engineering services for the 2017 Midland Water Pollution Control Plant Rehabilitation Project for the Utilities Department. (PURCHASING)

RESOLUTION NO. 2016 – 316

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH HDR ENGINEERING, INC., FOR DESIGN, BIDDING, AND CONSTRUCTION SERVICES FOR THE 2017 MIDLAND WATER POLLUTION CONTROL PLANT REHABILITATION PROJECT

11. Approved a resolution ratifying a change order in the amount of \$119,777.54 for the Frictional Asphaltic Surface Preservation Treatment Project. (PURCHASING)

RESOLUTION NO. 2016 – 317

RESOLUTION RATIFYING THE EXECUTION OF CHANGE ORDER NUMBER ONE WITH CROSSROADS ASPHALT PRESERVATION, INC. REGARDING THE FISCAL

YEAR 2016 FRICTIONAL ASPHALTIC SURFACE PRESERVATION TREATMENT PROJECT; SAID CHANGE ORDER TO PROVIDE FOR ADDITIONAL WORK; AND AUTHORIZING PAYMENT THEREFOR IN THE AMOUNT OF \$119,777.54

15. Approved a resolution approving the issuance of a permit to RSP Permian, L.L.C. (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (MCC HZ Unit 1101H) generally located 1,388 feet west of North State Highway 349 and 5,030 feet north of Mockingbird Lane. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 – 321

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. (“OPERATOR”) TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 285 FEET FROM THE NORTH LINE AND 1,388 FEET FROM THE EAST LINE, SECTION 11, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 1,388 FEET WEST OF NORTH STATE HIGHWAY 349 AND 5,030 FEET NORTH OF MOCKINGBIRD LANE); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

16. Approved a resolution approving the issuance of a permit to RSP Permian, L.L.C. (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (MCC HZ Unit 1102H) generally located 1,418 feet west of North State Highway 349 and 5,030 feet north of Mockingbird Lane. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 – 322

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. (“OPERATOR”) TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 285 FEET FROM THE NORTH LINE AND 1,418 FEET FROM THE EAST LINE, SECTION 11, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 1,418 FEET WEST OF NORTH STATE HIGHWAY 349 AND 5,030 FEET NORTH OF MOCKINGBIRD LANE); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

17. Approved a resolution approving the issuance of a permit to RSP Permian, L.L.C. (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (MCC HZ Unit 1103H) generally located 1,448 feet west of North State Highway 349 and 5,030 feet north of Mockingbird Lane. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 – 323

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. (“OPERATOR”) TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 285 FEET FROM THE NORTH LINE AND 1,448 FEET FROM THE EAST LINE, SECTION 11, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 1,448 FEET WEST OF NORTH STATE HIGHWAY 349 AND 5,030 FEET NORTH OF MOCKINGBIRD LANE); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

18. Approved a resolution approving the issuance of a permit to RSP Permian, L.L.C. (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (MCC HZ Unit 1104H) generally located 1,478 feet west of North State Highway 349 and 5,030 feet north of Mockingbird Lane. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 – 324

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. (“OPERATOR”) TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 285 FEET FROM THE NORTH LINE AND 1,478 FEET FROM THE EAST LINE, SECTION 11, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 1,478 FEET WEST OF NORTH STATE HIGHWAY 349 AND 5,030 FEET NORTH OF MOCKINGBIRD LANE); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

19. Approved a resolution authorizing the City Manager to negotiate and execute a lease of City-owned minerals generally located north of Andrews Highway and south of West Wadley Avenue and west of North Midland Drive and east of North Loop 250 West. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 – 325

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE, ON BEHALF OF THE CITY OF MIDLAND, AN AGREEMENT FOR THE LEASE OF CITY-OWNED MINERALS LOCATED IN SECTION 19, BLOCK 39, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED NORTH OF ANDREWS HIGHWAY, WEST OF NORTH MIDLAND DRIVE, SOUTH OF WEST WADLEY AVENUE, AND EAST OF NORTH LOOP 250 WEST), SAID AGREEMENT TO REQUIRE COMPLIANCE WITH ALL APPLICABLE ORDINANCES, LAWS, RULES AND REGULATIONS

22. Approved a resolution approving a Discharge License with Broadbent and Associates, Inc. (UTILITIES)

RESOLUTION NO. 2016 – 328

RESOLUTION AUTHORIZING THE EXECUTION OF A SANITARY SEWER DISCHARGE LICENSE AGREEMENT WITH BROADBENT & ASSOCIATES, INC., FOR THE PURPOSE OF DISCHARGING EFFLUENT AT 4015 S. FM 1788, MIDLAND, TEXAS

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

6. Consider a resolution accepting the offer of \$252,000.00 from the Midland Chamber of Commerce for the properties described as 301 North Colorado Street, 0.451 acres, and, 310 West Illinois Avenue, 0.448 Acres. (PURCHASING)

RESOLUTION NO. 2016 – 312

RESOLUTION AUTHORIZING THE SALE OF REAL PROPERTY DESCRIBED AS LOT 7A, BLOCK 27, ORIGINAL TOWN ADDITION, SECTION 3 (301 NORTH COLORADO STREET), AND LOT 13A, BLOCK 27, ORIGINAL TOWN ADDITION, SECTION 3 (310 WEST ILLINOIS AVENUE), CITY AND COUNTY OF MIDLAND, TEXAS, TO THE MIDLAND CHAMBER OF COMMERCE; PROVIDING THAT THE PURCHASE PRICE SHALL BE \$252,000.00; AUTHORIZING THE NEGOTIATION AND EXECUTION OF ALL DOCUMENTS NECESSARY FOR SAID SALE; AND ORDERING RECORDATION BY THE CITY SECRETARY

Council Member Sparks reported he felt the property was undervalued and suggested waiting to sell the property until a better price could be obtained.

Discussion ensued about the original purchase price, the price per square foot and that the City paid to have the building demolished that was on the property. It was suggested that a willing buyer today should not be turned away for a potential buyer in the future.

Taylor Mayne, 9 Saddle Club Drive, reported he is the current Chairman of the Midland Chamber of Commerce which has over 1,000 members. The design is conceptual and is very much in line with the ideas of the Chamber Board. They shared space in the past with the MDC and would like to extend an offer for them to move into the new building, but MDC is under no obligation to join them. If they choose not to move into the building, the building size may change. Council Member Lacy asked if the Board would be okay with paying \$268,000. Taylor reported they would be okay with that amount.

Council Member Lacy moved to adopt Resolution No. 2016 - 312 with the amendment to change the purchase price to \$268,000. The purchase price is non-refundable if they do not meet the timeline; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: Sparks. ABSTAIN: None. ABSENT: None.

12. Consider a resolution approving the issuance of a permit to Callon Petroleum Operating Company (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Pecan Acres 22A4 #12UL) generally located 4,972 feet north of Briarwood Avenue and 2,383 feet west of Trobaugh Boulevard. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 318

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO CALLON PETROLEUM OPERATING COMPANY ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 310 FEET FROM THE NORTH LINE AND 335 FEET FROM THE EAST LINE, SECTION 22, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 4,972 FEET NORTH OF BRIARWOOD AVENUE AND 2,383 FEET WEST OF TROBAUGH BOULEVARD); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT

Council Member Dufford moved to adopt Resolution No. 2016 - 318; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Robnett. NAY: None. ABSTAIN: Lacy. ABSENT: None.

13. Consider a resolution approving the issuance of a permit to Callon Petroleum Operating Company (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Pecan Acres 23 PSA 3 #10SH) generally located 4,753 feet north of Briarwood Avenue and 1,730 feet west of Golden Gate Drive. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 319

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO CALLON PETROLEUM OPERATING COMPANY ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 528 FEET FROM THE NORTH LINE AND 2,210 FEET FROM THE WEST LINE, SECTION 23, BLOCK 40, T-1-S, T&P RR CO.

SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 4,753 FEET NORTH OF BRIARWOOD AVENUE AND 1,730 FEET WEST OF GOLDEN GATE DRIVE); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT

Council Member Hotchkiss moved to adopt Resolution No. 2016 - 319; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Robnett. NAY: None. ABSTAIN: Lacy. ABSENT: None.

14. Consider a resolution approving the issuance of a permit to Callon Petroleum Operating Company (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Pecan Acres 23 PSA 3 #3H) generally located 4,753 feet north of Briarwood Avenue and 1,690 feet west of Golden Gate Drive. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 320

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO CALLON PETROLEUM OPERATING COMPANY ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 528 FEET FROM THE NORTH LINE AND 2,251 FEET FROM THE WEST LINE, SECTION 23, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 4,753 FEET NORTH OF BRIARWOOD AVENUE AND 1,690 FEET WEST OF GOLDEN GATE DRIVE); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT

Council Member Love moved to adopt Resolution No. 2016 - 320; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Robnett. NAY: None. ABSTAIN: Lacy. ABSENT: None.

20. Consider a resolution authorizing the City Manager to Execute the First Amendment Agreement with Midland-Odessa Urban Transit District ("MOUTD"), City of Odessa and McDonald Transit Associates, Inc. for management of the transportation system. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 326

RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE CONTRACT WITH THE MIDLAND-ODESSA URBAN TRANSIT DISTRICT, THE CITY OF ODESSA, TEXAS, AND MCDONALD TRANSIT ASSOCIATES, INC., RELATED TO THE MANAGEMENT AND OPERATION OF A MOTORBUS TRANSIT SYSTEM IN THE CITY OF MIDLAND AND THE CITY OF ODESSA

Council Member Sparks asked for clarification of what this item will do. Development Services Director Chuck Harrington reported that all parts of the contract will remain the same except for travel expenses.

Rob Stephens reported that the City's contribution of \$300,000 will remain the same. This amendment is to move reimbursement of travel expenses from the local level to Macdonald Transit Associates, Inc. This amendment has been approved by his board and the City of Odessa. There will be no changes to the service noting he is very proud to serve the Permian Basin in Austin where he has been able to help make transportation advances with the legislature.

Council Member Hotchkiss and Love both commended Mr. Stephens for his service.

Council Member Dufford moved to adopt Resolution No. 2016 - 326; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

21. Consider a resolution authorizing and executing a Surface Use Agreement between the City of Midland and Endeavor Energy Resources, LP, all facilities are located on City of Midland property, Section 09, Block 37, Midland County, Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2016 - 327

RESOLUTION AUTHORIZING THE EXECUTION OF A SURFACE USE AGREEMENT BETWEEN THE CITY OF MIDLAND AND ENDEAVOR ENERGY RESOURCES, LP, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 9, BLOCK 37, TOWNSHIP 3 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS

Council Member Sparks asked where this property is located. Right-of-Way Manager Ryan Farmer reported it is at Spraberry Farm located outside of the City limits.

Council Member Love moved to adopt Resolution No. 2016 - 327; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: Dufford. ABSENT: None.

SECOND READINGS

23. Consider an ordinance on second reading on a request by Dave Carter for a Zone Change from LR-2, Local Retail District, to LR-3, Local Retail District, generally located northwest of the intersection of West I-20 and Commerce Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9608

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 6, BLOCK 5, MIDLAND INDUSTRIAL PARK ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, TO BE USED AS AN LR-3, LOCAL RETAIL DISTRICT (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF INTERSTATE 20 AND COMMERCE 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. 9608.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9608 in accordance with the Charter of the City of Midland; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

PUBLIC HEARINGS

24. Hold a public hearing and consider an ordinance on a request by Percy Engineer for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a lounge, generally located on the south side of West Wall Street, approximately 170 feet east of South Colorado Street. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9609

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 3,170-SQUARE FOOT PORTION OF LOT 3, LESS THE WEST 1.5 FEET, LOTS 4-6, AND LOT 7, LESS THE EAST 24.25 FEET, BLOCK 65, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST WALL STREET, APPROXIMATELY 170 FEET EAST OF SOUTH COLORADO STREET), WHICH IS PRESENTLY ZONED C-1, CENTRAL AREA DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A LOUNGE 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. 9609.

Development Services Director Chuck Harrington gave a brief overview of the item noting they propose to sell coffee in the morning and craft beers later in the day. Their maximum seating capacity is 153 people and their proposed hours of operation mirrors their alcohol service hours of Monday through Friday from 6:30 a.m. to 12:00 a.m. and Saturday through Sunday from 10:00 a.m. to 12:00 a.m. There are no schools or churches within 300 feet and no letters of objection have been received.

Mayor Morales opened the public hearing at 10:43 a.m.

Percy Engineer, 3804 St. Andrews Court, was asked by Council Member Lacy if he objected to the alcohol service hours being changed to 10:00 a.m. start time. Mr. Engineer did not object.

There being no one else wishing to speak, the public hearing was closed at 10:45 a.m.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9609 in accordance with the Charter of the City of Midland with the amendment to change the start time for alcohol sales to 10:00 a.m. Monday through Friday; 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.

25. Hold a public hearing and consider an ordinance on a request by Martinez Bakery for a Specific Use Permit with Term for the sale of beer and wine, for on-premises consumption, in a restaurant, generally located southwest of the intersection of East

Florida Avenue and South Weatherford Street. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9610

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 4,320-SQUARE FOOT PORTION OF LOTS 1 AND 2, BLOCK 187, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF EAST FLORIDA AVENUE AND SOUTH WEATHERFORD STREET), 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 BEER AND WINE 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. 9610.

Development Services Director Chuck Harrington gave a brief overview of the item noting it was for Martinez Bakery for on-premises consumption of alcohol in a restaurant. Their hours of operation requested are from 6:00 a.m. to 9:30 p.m. Tuesday through Saturday and Sunday from 12:00 p.m. to 9:30 p.m. No schools or churches are located within 300 feet and staff recommends approval. Two letters of objection have been received which is about 26 percent and therefore a super-majority is required for approval.

Mayor Morales opened the public hearing at 10:49 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Love asked the owner if he is okay with changing the hours to begin alcohol service at 10:00 a.m. The owner agreed.

Council Member Love moved approval of the first of two readings of Ordinance No. 9610 in accordance with the Charter of the City of Midland with the amendment to change the starting time for the sale of alcohol to 10:00 a.m. Tuesday through Saturday; 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 and consider an ordinance on a request by Miguel Bustilloz for a zone change from PD, Planned District for a Recreation Center, to an Amended Planned District generally located on the north side of Briarwood Avenue, approximately 1,300-feet west of Holiday Hill Road. (Planning Admin)

ORDINANCE NO. 9611

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1, BLOCK 10, BUSH TENNIS CENTER, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A RECREATION CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF BRIARWOOD AVENUE,

APPROXIMATELY 1,300 FEET WEST OF HOLIDAY HILL ROAD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9611.

Development Services Director Chuck Harrington gave a brief overview of the item noting that Bush Tennis Center is wishing to amend some landscaping and other features at the tennis center. Staff reported the amendments meet all requirements and recommend approval. It was noted that these amendments are for Opportunity Park.

Mayor Morales opened the public hearing at 10:51 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. 9611 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.

27. Hold a Public Hearing and consider an ordinance on a request by Jorge's Café for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, on a 630-square foot portion of the Common Area and a 6,250 square foot portion of Lots 14-17, Block 11A, Fairway Park Addition, Section 3, City and County of Midland Texas. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9612

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 630-SQUARE FOOT PORTION OF THE COMMON AREA AND A 6,250-SQUARE FOOT PORTION OF LOTS 14-17, BLOCK 11A, FAIRWAY PARK ADDITION, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH BIG SPRING STREET, APPROXIMATELY 100 FEET SOUTH OF PALMER 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. 9612.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is for Jorge's Cafe on North Big Spring Street. The applicant is wishing to extend the hours offered by their current SUP. Their current hours are from 12:00 p.m. to 12:00 a.m. and they would like to change them to 10:00 a.m. to 12:00 a.m. All other aspects will remain the same. No letters of objection have been received and Staff recommends approval.

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

Jorge Veloz, 4713 Spring Meadow #4, reported they open at 10:00 a.m. and would like to begin their alcohol service at that time. He asked about some of the language in the caption of the ordinance and received a reply from City Attorney John Ohnemiller.

There being no one else wishing to speak, the public hearing was closed at 10:57 a.m.

Council Member Love moved approval of the first of two readings of Ordinance No. 9612 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, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

28. Conduct a public hearing on a request by the Midland Odessa Urban Transit District for route and schedule changes. (This is a public hearing only. No action will be taken.) (DEVELOPMENT SERVICES)

Development Services Director Chuck Harrington gave a brief overview of the item noting the public hearing is a requirement for federal funding. They already had one public hearing in August in Odessa. No action is required. They plan to change Route 5 to accommodate a stop in front of the new HEB.

Mayor Morales opened the public hearing at 10:59 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

MISCELLANEOUS

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

Council Member Lacy moved to reappoint Brent Hilliard on the Midland Development Corporation; appoint Randy Stolp to replace Annabel Wiesman on the Zoning Board of Adjustment; appoint Stephanie Martin to replace the Sisco vacancy on the Parks & Recreation Commission; appoint Marjorie Terry to the vacancy on the Midland Housing Authority Commission; and appoint Stephen Lowery to replace Robert Rendall when his term expires January 2017 on the Midland Development Corporation; 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.

PUBLIC COMMENT

30. 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.)

Coluin Domingo, 3407 Princeton, reported he previously helped solve Loop 250 exit ramp issues with TxDOT. He reported that warning signs on the service roads are unable to be seen by drivers exiting the Loop because their headlights do not directly hit

the signs. He suggested using orange or yellow reflective tape to solve the issue. He also asked about his Fifth Amendment right to the use of his private property noting TxDOT used his property to solve issues previously and he was not compensated. Council responded that Mr. Domingo should directly contact TxDOT.

EXECUTIVE SESSION

Mayor Morales recessed the meeting to Executive Session at 11:10 a.m.

31. 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 551.071, Consultation with Attorney
 - a.1. Discuss a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code.

All of the business at hand having been completed, the meeting adjourned at 12:37 p.m.

PASSED AND APPROVED the 8th day of November, 2016.

Jerry F. Morales, Mayor

ATTEST:

Amy M. Turner, City Secretary