

**MIDLAND CITY COUNCIL  
MINUTES  
November 08, 2016**

**REGULAR SESSION**

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., November 08, 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, 6, 8, 9, 10, 11, 12, 13, 7, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28.

Mayor Morales called the meeting to order at 10:03 a.m.

**OPENING ITEMS**

1. Invocation - Minister Freeman Robinson, Northside Church of Christ
2. Pledge of Allegiance

**PRESENTATIONS**

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
  - a. Mayor Morales presented a proclamation for National Radiologic Technologist Week.

**CONSENT AGENDA**

Council Member Love moved to approve Consent Agenda items 4 - 13 excluding 7; 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.

4. Approved a motion approving the following minutes:
  - a. Regular meeting of October 25, 2016.
  - b. Special meeting of October 26, 2016.
5. Approved a resolution approving the purchase of one (1) Caterpillar 953DQ Track Loader from Warren Power & Machinery, Inc. through Buyboard contract 424-13 for the Garage Division. (PURCHASING)

RESOLUTION NO. 2016 - 329

RESOLUTION APPROVING THE PURCHASE OF ONE (1) CATERPILLAR 953DQ TRACK LOADER FOR THE GARAGE DIVISION FROM WARREN POWER & MACHINERY, INC., THROUGH BUYBOARD AT A TOTAL COST OF \$247,480.00

6. Approved a resolution ratifying the expenditure of \$66,481.31 for the repair of a Caterpillar 826H Trash Compactor for the Garage Division. (PURCHASING)

RESOLUTION NO. 2016 - 330

RESOLUTION RATIFYING THE PAYMENT OF \$66,481.31 TO WARREN POWER & MACHINERY, INC., OF ODESSA, TEXAS, FOR THE REPAIR OF THE FRONT RIGHT INTERNAL DRIVE OF THE UNIT 7917 CATERPILLAR 826H TRASH COMPACTOR FOR THE GARAGE DIVISION

8. Approved a resolution approving the purchase of one (1) Heil DP5000 Rear Loader complete refuse truck and two (2) Kann 29 cubic yard commercial side loader complete refuse trucks from Austin Truck & Equipment Ltd, DBA Freightliner of Austin through Buyboard contract 430-13 for the Garage Division. (PURCHASING)

RESOLUTION NO. 2016 - 332

RESOLUTION APPROVING THE PURCHASE OF ONE (1) HEIL DP5000 REAR LOADER COMPLETE REFUSE TRUCK AND TWO (2) KANN 29 CUBIC YARD COMMERCIAL SIDE LOADER COMPLETE REFUSE TRUCKS FOR THE GARAGE DIVISION FROM AUSTIN TRUCK & EQUIPMENT, LTD., DBA FREIGHTLINER OF AUSTIN THROUGH BUYBOARD AT A TOTAL COST OF \$547,656.00

9. Approved a resolution authorizing the execution of a Lease Agreement at Midland International Air & Space Port between the United States General Services Administration and the City of Midland, Texas, and appropriate funds. (AIRPORTS)

RESOLUTION NO. 2016 - 333

RESOLUTION AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT WITH THE UNITED STATES GENERAL SERVICES ADMINISTRATION FOR THE LEASE OF 2,924 SQUARE FEET OF OFFICE SPACE AT THE MIDLAND INTERNATIONAL AIR & SPACE PORT; AND APPROPRIATING FUNDS SO AS TO COMPLY WITH CERTAIN OBLIGATIONS UNDER SAID LEASE AGREEMENT

10. Approved a resolution authorizing the execution of an Independent Professional Consultant Contract with Frances Stapp to provide curator management and other services to the Heritage District. (COMMUNITY SERVICES)

RESOLUTION NO. 2016 - 334

RESOLUTION AUTHORIZING THE EXECUTION OF AN INDEPENDENT PROFESSIONAL CONSULTANT AGREEMENT WITH FRANCES STAPP TO PROVIDE CURATOR MANAGEMENT AND OTHER SERVICES TO THE HERITAGE DISTRICT

11. Approved a resolution accepting funds from the 2017 Texas "J"- Regional Advisory Council Grant. (FIRE)

RESOLUTION NO. 2016 - 335

RESOLUTION ACCEPTING A GRANT AWARD FROM THE TEXAS "J" REGIONAL ADVISORY COUNCIL IN THE AMOUNT OF \$15,403.00; SAID FUNDS TO BE USED

BY THE MIDLAND FIRE DEPARTMENT FOR TRAINING, EQUIPMENT, AND SUPPLIES

12. Approved a resolution to approve and appoint volunteer candidates from the Citizens Police Academy Alumni as volunteers enforcing parking restrictions. (POLICE)

RESOLUTION NO. 2016 - 336

RESOLUTION APPOINTING INDIVIDUALS TO SERVE AS VOLUNTEERS TO ENFORCE PARKING RESTRICTIONS AS AUTHORIZED BY CHAPTER 681 OF THE TEXAS TRANSPORTATION CODE

13. Approved a resolution to accept and appropriate funds for the FY2016 Justice Assistance Grant (JAG) Program. (POLICE)

RESOLUTION NO. 2016 - 337

RESOLUTION AUTHORIZING THE CITY OF MIDLAND IN CONJUNCTION WITH MIDLAND COUNTY TO ACCEPT THE FISCAL YEAR 2016 JUSTICE ASSISTANCE GRANT FUNDS TOTALING \$30,915.00; THE CITY OF MIDLAND WILL RECEIVE \$18,549.00 (60%) AND MIDLAND COUNTY WILL RECEIVE \$12,366.00 (40%) OF THE GRANT FUNDS; AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS; AND APPROPRIATING FUNDS

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

7. Consider a resolution approving a professional services agreement with HDR Engineering, Inc. for Utility Design for New Electric Utility Provider Services for the Water Pollution Control Plant for the Utilities Department. (PURCHASING)

RESOLUTION NO. 2016 - 331

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH HDR ENGINEERING, INC., FOR DESIGN, BID, AND CONSTRUCTION PHASE SERVICES FOR THE CONSTRUCTION OF NEW ELECTRICAL SERVICE FACILITIES AT THE WATER POLLUTION CONTROL PLANT

Utilities Director Laura Wilson reported this is for the design of transformers and associated electrical equipment as required by TCEQ. HDR will have oversight of the entire process.

Council Member Love moved to adopt Resolution No. 2016 - 331; 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.

**SECOND READINGS**

14. Consider an ordinance on second reading 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, on a 4,320-square foot portion of lots generally located southwest of the intersection of East Florida Avenue and South Weatherford Street. (DEVELOPMENT SERVICES) (First reading held October 25, 2016.)

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 Karla Mata read the caption of Ordinance No. 9610.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9610 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks.

Council Member Hotchkiss pointed out that the staff memo does not have the correct times but the ordinance is correct, noting that their service hours were changed at the last meeting.

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

15. Consider an ordinance on second reading 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-foot west of Holiday Hill Road. (DEVELOPMENT SERVICES) (First reading held October 25, 2016.)

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 Karla Mata read the caption of Ordinance No. 9611.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9611 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.

16. Consider an ordinance on second reading 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) (First reading held October 25, 2016.)

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 Karla Mata read the caption of Ordinance No. 9612.

Council Member Love moved to approve the second and final reading 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.

**PUBLIC HEARINGS**

17. Hold a public hearing and consider an ordinance on a request by Andrew Mellen for a Specific Use Permit without Term for off-street accessory use generally located on the south side of Portico Way, approximately 125 feet east of Mathis Street. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9613

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 2, BLOCK 16, GREATHOUSE ADDITION, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF PORTICO WAY, APPROXIMATELY 125 FEET EAST OF MATHIS STREET), WHICH IS PRESENTLY ZONED NS, NEIGHBORHOOD SERVICE DISTRICT, IN PART, AND O-1, OFFICE DISTRICT, IN PART, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR OFF-STREET PARKING OF MOTOR VEHICLES OTHER THAN AS AN ACCESSORY USE; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9613.

Development Services Director Chuck Harrington gave a brief overview of the item noting that zoning does not allow for parking in an office district as the main use of a lot. The lot will contain 39 angled parking spaces. Planning & Zoning unanimously approved the item and no letters of objection have been received.

Mayor Morales opened the public hearing at 10:17 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. 9613 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.

18. Hold a public hearing and consider an ordinance on a request by Kristi Alldredge for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, generally located northeast of the intersection of East Wadley Avenue and North Fairgrounds Road. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9614

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 3,000-SQUARE FOOT PORTION OF LOT 1A, BLOCK 1, ALLDREDGE GARDENS ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF EAST WADLEY AVENUE AND NORTH FAIRGROUNDS ROAD), WHICH IS PRESENTLY ZONED LR-3, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9614.

Development Services Director Chuck Harrington gave a brief overview of the item noting that there is currently a discrepancy between where Alldredge Gardens is selling alcohol and what their original floor plan shows. They have submitted a new floor plan and site plan of where they are currently serving. There is also a difference in their hours. They would like to serve from 9:00 a.m. to 12:00 a.m. Monday through Saturday and from 10:00 a.m. to 12:00 a.m. on Sunday. He noted they are not open during all of those hours but would like to have those hours for parties and private events. There are no schools or churches within 300 feet and staff recommends approval subject to the conditions.

Mayor Morales opened the public hearing at 10:21 a.m.

Justin Smith, Alldredge Gardens, reported when they originally filled out the application they forgot to include the events they have such as weddings, showers, and office parties. He indicated he would be okay with a 10:00 a.m. start time.

There being no one else wishing to speak, the public hearing was closed at 10:23 a.m.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9614 in accordance with the Charter of the City of Midland with the amendment to change the hours of alcohol service to Monday through Sunday from 10:00 a.m. to 12:00 a.m.; 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.

19. Hold a public hearing and consider an ordinance on a request by Café Nitro LLC for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, generally located southwest of the intersection of Starboard Drive and Liberty Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9615

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 1,933-SQUARE FOOT PORTION OF LOT 3A, BLOCK 1, GATEWAY PLAZA, SECTION 9, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF STARBOARD DRIVE AND LIBERTY DRIVE), WHICH IS PRESENTLY ZONED LR-3, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9615.

Development Services Director Chuck Harrington gave a brief overview of the item noting this is a new restaurant in a strip center close to Cinergy Theatre. They are proposing to sell alcoholic beverages from 11:00 a.m. to 10:00 p.m. Monday through Sunday and their operating hours will be from 6:30 a.m. to 9:00 p.m. They are not located within 300 feet of a church or school and the request meets the comprehensive plan. Staff recommends approval subject to the conditions in the ordinance.

Mayor Morales opened the public hearing at 10:26 a.m. The applicant was present and available for questions if needed. There being no one else wishing to speak, the public hearing was closed.

Council Member Love moved approval of the first of two readings of Ordinance No. 9615 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

20. Hold a public hearing and consider a resolution on a request by Oregon Trail Trees - Joseph L. Smith for a Christmas Tree lot generally located west of North Midland Drive, approximately 180 feet south of West Dengar Drive. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2016 - 338

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR OUTDOOR CHRISTMAS TREE SALES ON LOT 1, BLOCK 1, SCOTSDALE ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDLAND DRIVE, APPROXIMATELY 180 FEET SOUTH OF WEST DENGAR 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 an annual Christmas Tree lot located at Case Verde Gardens. They have been there for a number of years with no issues or problems. Staff recommends approval.

Mayor Morales opened the public hearing at 10:27 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 - 338; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

21. Hold a public hearing and consider an ordinance on a request by Borgata Partners, LLC for an Amended Planned District generally located west of the intersection of Holiday Hill Road and North Loop 250 West. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9616

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1A, BLOCK 2, GRANDRIDGE PARK ADDITION, SECTION 6, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF THE INTERSECTION OF HOLIDAY HILL ROAD AND NORTH LOOP 250 WEST); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9616.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant is proposing to add a drive-thru for Tea To Go. This is their third amendment and the proper paperwork has been submitted.

Mayor Morales opened the public hearing at 10:30 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. 9616 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.

22. Hold a public hearing and consider an ordinance on a request by Dave Carter for a special exception to the Zoning Code concerning the rear yard setback generally located northwest of the intersection of West 1-20 and Commerce Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9617

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 6, BLOCK 5, MIDLAND INDUSTRIAL PARK ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF INTERSTATE 20 AND COMMERCE DRIVE), BY PERMITTING A REDUCED REAR 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 Karla Mata read the caption of Ordinance No. 9617.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant had parking and landscaping issues due to the shape of the lot. They are requesting a reduced rear yard setback in order to meet all of the requirements. Staff is in the support of the request.

Mayor Morales opened the public hearing at 10:32 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9617 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

23. Hold a public hearing and consider an ordinance on a request by CHC Family Properties, LLC for vacation of a 0.2-acre portion of alley right-of-way generally located 480 feet south of West Wadley Avenue, approximately 175 feet west of North Midland Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9618

AN ORDINANCE VACATING AND ABANDONING AN 8,685-SQUARE FOOT PORTION OF ALLEY RIGHT-OF-WAY LOCATED ADJACENT TO LOT 2, BLOCK 6, SCOTSDALE ADDITION, SECTION 5, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED APPROXIMATELY 480 FEET SOUTH OF WEST WADLEY AVENUE, AND APPROXIMATELY 175 FEET WEST OF NORTH MIDLAND DRIVE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$34,740.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9618.

Development Services Director Chuck Harrington gave a brief overview of the item noting there is a little alley between their site and the adjoining site that houses apartments. It was determined it would be best if the alley did not exist and the City will retain a utility easement. All other utilities in the area are aerial. The land will be used for drainage and will allow for a better development. The adjoining apartment complex has agreed to sell their portion of the right-of-way. Staff recommends approval. A question was raised about the cost at \$4 a square foot. Mr. Harrington noted that was the amount appraised by Midland Central Appraisal District.

Mayor Morales opened the public hearing at 10:36 a.m.

Jeff Russell, Odessa, also asked about the appraised value. Council noted they rely on Midland Central Appraisal District to assess value.

There being no one else wishing to speak, the public hearing was closed at 10:37 a.m.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9618 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

## MISCELLANEOUS

24. Consider an ordinance amending Title VIII, Chapter 6, Sections 8 and 9 of the City Code. (SOLID WASTE)

### ORDINANCE NO. 9619

AN ORDINANCE OF THE CITY OF MIDLAND AMENDING TITLE VIII, "FOOD ESTABLISHMENTS, HEALTH AND GENERAL SANITATION," CHAPTER 6, "GARBAGE, TRASH AND RUBBISH," SECTION 8, "CHARGES FOR COLLECTION AND DISPOSAL; MECHANICALLY LOADED REFUSE CONTAINER REGULATIONS," AND SECTION 9, "COLLECTION FROM COMMERCIAL CUSTOMERS," OF THE MIDLAND CITY CODE SO AS TO INCLUDE ESCALATION CLAUSES FOR THE RATES CHARGED FOR MECHANICALLY LOADED REFUSE CONTAINERS AND TO COMMERCIAL CUSTOMERS FOR THE COLLECTION AND DISPOSAL OF GARBAGE, TRASH AND RUBBISH; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9619.

Council Member Lacy asked about the 2% increase each year and suggested it might be better to review it in five years. Solid Waste Director Morris Williams reported the 2% increase only goes into effect if Council takes no other action.

City Manager Sharp clarified that it would not automatically go to Council for approval but it could be reviewed during the budget process.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9619 in accordance with the Charter of the City of Midland with the amendment to review in three years; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

25. Consider an ordinance establishing fees and charges for Parks & Recreation. (COMMUNITY SERVICES)

### ORDINANCE NO. 9620

AN ORDINANCE ESTABLISHING CERTAIN FEES AND CHARGES OF THE CITY OF MIDLAND COMMUNITY SERVICES DEPARTMENT, PARKS AND RECREATION DIVISION; AND REPEALING PRIOR ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH SUCH FEES AND CHARGES SET FORTH HEREIN

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9620.

Parks & Recreation Manager Laurie Williams reported that the auxiliary fields at the sports complex are near completion. This item sets the fees that will be charged for the fields for both practice and games. When asked if MISD will have to pay for use of the fields, it was noted that would be a decision of City Council.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9620 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

26. Consider a motion on request by Parkhill Smith & Cooper Inc. to defer public improvements for Vista Del Cielo, and to waive the corresponding financial security guarantee valued at \$1,503,824.00, an amount equal to the estimated cost of construction and consider a request to waive the sewer pro rata, assessed at \$38,538.00. The subject property is generally located at the northwest corner of the intersection of Passage Way and Garfield Road, within the City of Midland corporate limits. (ENGINEERING SERVICES)

Assistant City Engineer Jeff Cohen gave a brief overview of the item noting this was a request for deferral of paving and utilities and a waiver of security. Staff supports deferral of paving and waiving the fees since it is unlikely that development will make it to that area in the next ten years.

Engineering Services Director Jose Ortiz clarified that due to expenses tied into extending Garfield, north it is not a high priority for the City when there are many other higher priority items that need to be addressed first.

Council Member Lacy moved to approve a motion on request by Parkhill Smith & Cooper Inc. to defer public improvements for Vista Del Cielo, and to waive the corresponding financial security guarantee valued at \$1,503,824.00, an amount equal to the estimated cost of construction and consider a request to waive the sewer pro rata, assessed at \$38,538.00; seconded by Council Member Robnett.

Eric West, Parkhill, Smith & Cooper, reported they usually don't request deferrals. He explained that this is a ranch area. The lot will be subdivided into four lots with the smallest being 15 acres and the largest being 23 acres. All lots will have access on unpaved roadway and there is no desire to tie into City water. They have given 20 additional feet for any expansion for Garfield and another 10 feet for pedestrian and utility easement. Another 15 acres has been given for drainage that will later be included into the Midland Draw. He believed that due to the size of the lots this was a reasonable request.

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

## **PUBLIC COMMENT**

27. 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.

## **EXECUTIVE SESSION**

Mayor Morales recessed the meeting to Executive Session at 10:58 a.m.

28. 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.

All of the business at hand having been completed, the meeting adjourned at 11:39 a.m.

PASSED AND APPROVED the 22nd day of November, 2016.

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Jerry F. Morales, Mayor

ATTEST:

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Amy M. Turner, City Secretary