

**MIDLAND CITY COUNCIL  
MINUTES  
January 09, 2018**

**REGULAR SESSION**

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., January 09, 2018.

Council Members present: Mayor Jerry F. Morales, Mayor Pro Tem Sharla Hotchkiss (District 3), 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 J.Ross Lacy (District 4).

Staff members present at the annex table: City Manager Courtney Sharp, City Attorney John Ohnemiller, Assistant City Manager Frank Salvato, and Assistant City Manager Robert Patrick.

The Agenda Items were heard in the following order: 1-15, 17, 16, 18-35.

Mayor Morales called the meeting to order at 10:00 a.m.

**OPENING ITEMS**

1. Invocation - Monsignor Larry J. 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. Mayor Morales, Andy Cedillo and Joey Jolly recognized the 2017 Christmas Parade Float Winners: Alamo Junior High School – Best Lighted Float; Peppermint Plantation – 3<sup>rd</sup> Place; YMCA – 2<sup>nd</sup> Place; Hillcrest School – 1<sup>st</sup> Place; Midland Memorial Hospital Lab – Grand Prize.
  - b. Mayor Morales presented a proclamation for Crime Stoppers Month.

**CONSENT AGENDA**

Council Member Love moved to approve Consent Agenda items 4 - 17 excluding 16; 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 December 12, 2017

5. Approved a resolution authorizing the City Treasurer to write off as uncollectible certain delinquent accounts for Emergency Medical Services and Health Department Receivables. (FINANCE)

RESOLUTION NO. 2018 - 001

RESOLUTION AUTHORIZING THE CITY TREASURER TO WRITE OFF AS UNCOLLECTIBLE CERTAIN DELINQUENT ACCOUNTS FOR EMERGENCY MEDICAL SERVICES RECEIVABLES AND HEALTH DEPARTMENT RECEIVABLES

6. Approved a resolution authoring the City Treasurer to write off as un-collectible certain delinquent accounts for miscellaneous receivable and insufficient fund checks. (FINANCE)

RESOLUTION NO. 2018 - 002

RESOLUTION AUTHORIZING THE CITY TREASURER TO WRITE OFF AS UNCOLLECTIBLE CERTAIN DELINQUENT ACCOUNTS FOR MISCELLANEOUS ACCOUNTS RECEIVABLE AND INSUFFICIENT FUNDS CHECKS

7. Approved a resolution authorizing the Water, Sewer and Sanitation Write Offs for 2017. (FINANCE)

RESOLUTION NO. 2018 - 003

RESOLUTION AUTHORIZING THE CITY TREASURER TO WRITE OFF AS UNCOLLECTIBLE CERTAIN DELINQUENT ACCOUNTS FOR WATER, SEWER, AND SANITATION SERVICES

8. Approved a resolution awarding a contract for the Fiscal Year 2018 Hot-In-Place Recycle Project for the Transportation Division. (PURCHASING)

RESOLUTION NO. 2018 - 004

RESOLUTION AWARDING A CONTRACT FOR THE FISCAL YEAR 2018 HOT IN PLACE ASPHALT RECYCLING PROJECT TO THE SOLE BIDDER, CUTLER REPAVING, INC. OF LAWRENCE, KANSAS, AT A TOTAL COST NOT TO EXCEED \$1,442,945.00; AND AUTHORIZING PAYMENT THEREFOR

9. Approved a resolution awarding a contract for the Fiscal Year 2018 Micro-Surfacing Project for the Transportation Division. (PURCHASING)

RESOLUTION NO. 2018 - 005

RESOLUTION AWARDING A CONTRACT FOR THE FISCAL YEAR 2018 MICRO-SURFACING PROJECT TO INTERMOUNTAIN SLURRY SEAL, INC. OF NORTH SALT LAKE CITY, UTAH, AT A TOTAL COST OF \$2,082,880.65; AND AUTHORIZING PAYMENT THEREFOR

10. Approved a resolution approving the purchase of one (1) 2018 GapVax MC1311-3S3X Combination Jet/Vac from Lonestar Freightliner Group, LLC through Buyboard contract 521-16 for a total cost of \$385,733.00 for the Garage Division. (PURCHASING)

RESOLUTION NO. 2018 - 006

RESOLUTION APPROVING THE PURCHASE OF ONE (1) 2018 GAPVAX MC1311-3S3X COMBINATION JET/VACUUM UNIT FOR THE GARAGE DIVISION FROM LONESTAR FREIGHTLINER GROUP, LLC, THROUGH BUYBOARD AT A TOTAL COST OF \$385,733.00

11. Approved a resolution approving the purchase of one (1) Tractor Deck Mower from Professional Turf Products, L.P. through Buyboard contract 529-17 for a total cost of \$57,911.56 for the Garage Division. (PURCHASING)

RESOLUTION NO. 2018 - 007

RESOLUTION APPROVING THE PURCHASE OF ONE (1) TORO GM4000 TRACTOR DECK MOWER FOR THE GARAGE DIVISION FROM PROFESSIONAL TURF PRODUCTS, L.P., THROUGH BUYBOARD AT A TOTAL COST OF \$57,911.56

12. Approved a resolution approving the purchase of three (3) Utility Service bodies and one (1) Platform body for the Garage Division. (PURCHASING)

RESOLUTION NO. 2018 - 008

RESOLUTION APPROVING THE PURCHASE OF THREE (3) UTILITY SERVICE BODIES AND ONE (1) PLATFORM BODY FOR THE GARAGE DIVISION FROM FABCO INDUSTRIES, LLC, THROUGH BUYBOARD AT A TOTAL COST OF \$77,532.25

13. Approved a resolution approving the purchase of one (1) 3 cubic yard Wheel Loader for the Garage Division. (PURCHASING)

RESOLUTION NO. 2018 - 009

RESOLUTION AUTHORIZING THE PURCHASE OF ONE (1) THREE-CUBIC YARD WHEEL LOADER FOR THE GARAGE DIVISION FROM BEARD EQUIPMENT CO., INC., OF MIDLAND, TEXAS, AT A TOTAL COST OF \$142,900.00

14. Approved a resolution approving the purchase of Ammunition for the Police Department. (PURCHASING)

RESOLUTION NO. 2018 - 010

RESOLUTION AUTHORIZING THE PURCHASE OF AMMUNITION OF ASSORTED TYPES AND IN ASSORTED QUANTITIES FOR THE MIDLAND POLICE DEPARTMENT FROM THE RESPECTIVE LOW BIDDERS, GT DISTRIBUTORS, INC., AND KIESLER POLICE SUPPLY, AT A TOTAL COST OF \$86,786.94

15. Approved a resolution awarding a contract for Pivot Irrigation Systems for the Utilities Department. (PURCHASING)

RESOLUTION NO. 2018 - 011

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE PURCHASE AND INSTALLATION OF FOUR PIVOT IRRIGATION SYSTEMS AND PARTS FOR USE AT THE SPRABERRY FARM TO THE SOLE BIDDER, LAMESA IRRIGATION COMPANY, OF LAMESA, TEXAS, AT A TOTAL COST OF \$349,352.74

17. Approved a resolution authorizing and executing a Right-of-Way License between the City of Midland and RSP Permian, LLC. (ENGINEERING SERVICES)

RESOLUTION NO. 2018 - 013

RESOLUTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND RSP PERMIAN, LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 1, BLOCK X, H.P. HILLIARD SURVEY, MIDLAND COUNTY, TEXAS

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

16. Consider a resolution appropriating \$820,415 from the Hotel Motel Fund to the Midland Center Project for the purchase and installation of a Media Mesh Panel and the construction of a Splash Pad Pump Room. (COMMUNITY SERVICES)

RESOLUTION NO. 2018 - 012

RESOLUTION AUTHORIZING THE APPROPRIATION OF \$820,415.00 FROM THE HOTEL MOTEL FUND (090) TO THE MIDLAND CENTER PROJECT (800979) FOR THE INSTALLATION OF A MEDIA MESH PANEL AND THE CONSTRUCTION OF A SPLASH PAD PUMP ROOM FOR SAID PROJECT

Council Member Sparks reported that the \$295,000 for the splash pad pump room should not be paid from Hotel/Motel Funds but from Parks Funds. City Manager Courtney Sharp reported he has taken care of it.

Council Member Love moved to adopt Resolution No. 2018 - 012; 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

18. Consider an ordinance on second reading on a request by Original Site Ltd, dba Cotton Patch Café 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 north side of West Loop 250 North, approximately 505 feet west of North Garfield Street. (DEVELOPMENT SERVICES) (First reading held December 12, 2017)

ORDINANCE NO. 9721

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 4A, BLOCK 28, PLANTATION HILLS, SECTION 21, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 505 FEET WEST OF NORTH GARFIELD STREET), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9721.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9721 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.

19. Consider an ordinance on second reading on a request by Bill Musar for a Zone Change from PD, Planned District for a Housing Development to PD, Planned District for a Shopping Center generally located northwest of the intersection of Beal Parkway and Leisure Drive. (DEVELOPMENT SERVICES) (First reading held December 12, 2017)

ORDINANCE NO. 9722

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 2.943-ACRE TRACT OF LAND OUT OF LOTS 1 AND 2, BLOCK 162, WILSHIRE PARK ADDITION, SECTION 9, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS A PD, PLANNED DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF BEAL PARKWAY AND LEISURE DRIVE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9722.

Council Member Love moved to approve the second and final reading of Ordinance No. 9722 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.

20. Consider an ordinance on second reading on a request by Bill Musar for a Zone Change from PD, Planned District for a Housing Development to PD, Planned District for a Shopping Center, generally located on the west side of Beal Parkway, approximately 400 feet south of Thomason Drive. (DEVELOPMENT SERVICES) (First reading held December 12, 2017)

ORDINANCE NO. 9723

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 6.161-ACRE TRACT OF LAND OUT OF BLOCKS 162 AND 163, WILSHIRE PARK ADDITION, SECTION 9, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS A PD, PLANNED DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED ON THE WEST SIDE OF BEAL PARKWAY, APPROXIMATELY 395 FEET SOUTH OF THOMASON 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. 9723.

Council Member Love moved to approve the second and final reading of Ordinance No. 9723 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

21. Hold a public hearing and consider an ordinance on a request by Clay Bingham for a Special Exception from Ordinance No. 8288, concerning the rear yard setback, generally located northwest of the intersection of Almont Place and Gunnison Drive. (DEVELOPMENT SERVICES)

### ORDINANCE NO. 9724

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 21, BLOCK 4, WOODLAND PARK ADDITION, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF ALMONT PLACE AND GUNNISON 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 SueAnn Lopez read the caption of Ordinance No. 9724.

Development Services Director Chuck Harrington gave a brief overview of the item noting this is for a special exception to a Planned Development. At the rear of the house they constructed a pergola over an outdoor kitchen without proper permitting. Normally, this would be an acceptable use, but since this is in a planned development that has a 10-foot setback requirement, it is in violation. Staff found there is no hardship and because work was done without a permit, staff recommends denial.

Council Member Sparks noted that the existing wooden fence was replaced by a brick fence with no change to the fence line. The HOA president does not have an issue with the work that was done. He asked what contractor did the work noting that the contractor should know that a permit needs to be obtained.

Council Member Love noted that this Council needs to decide if it is going to accept projects after the fact or send a message to the City of Midland and developers that this is not acceptable.

Mayor Morales opened the public hearing at 10:23 a.m.

Clay Bingham, 900 Almont Place, reported he was ill-advised by his contractor that he did not need a permit but reported he takes full responsibility and full blame for not following protocol.

Discussion briefly ensued about options to notify contractors/developers of the requirement to pull permits and consequences if they are not pulled.

Mr. Bingham reported that they called in for a final electrical inspection and that was when it was discovered that a permit was needed. It was noted that if this home was not located inside a PD, this structure would be legal. It was also agreed that had the owner applied for a special exception, they would likely have been granted one. When asked, Mr. Bingham noted the contractor was Lorenzo Concrete.

There being no one else wishing to speak, the public hearing was closed at 10:29 a.m.

Council Member Robnett moved approval of the first of two readings of Ordinance No. 9724 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

22. Hold a public hearing and consider an ordinance on a request by Texas Roadhouse for a Zone Change from PD, Planned District for a Shopping Center, to an Amended Planned District, generally located on the north side of West Loop 250 North, approximately 695-foot west of North Midland Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9725

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 2E, BLOCK 33, CORRECTION PLAT NORTHGATE ADDITION, SECTION 21, 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 NORTH SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 695 FEET WEST OF NORTH MIDLAND 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. 9725.

Development Services Director Chuck Harrington gave a brief overview of the item noting that Texas Roadhouse is requesting a zone change to expand their building to allow additional seating and parking. It is in compliance with the comprehensive plan and staff recommends approval.

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 Love moved approval of the first of two readings of Ordinance No. 9725 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.

Mayor Morales introduced Midland's new Police Chief, Steve Henry and welcomed him to Midland.

23. Hold a public hearing and consider an ordinance on a request by Texas Roadhouse for a Specific Use Permit with Term, for the sale of all alcoholic beverages, for on-premise consumption, in a restaurant, generally located on the north side of West Loop 250 North, approximately 695 feet west of North Midland Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9726

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 2E, BLOCK 33, CORRECTION PLAT NORTHGATE ADDITION, SECTION 21, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY

LOCATED ON THE NORTH SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 695 FEET WEST OF NORTH MIDLAND DRIVE), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9726.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is a follow up to the previous item and is for changing their alcoholic beverages permit. There are no changes to their hours of operation and there are no schools or churches located within 300 feet. No letters of objection have been received. Staff recommends approval.

Mayor Morales opened the public hearing at 10:34 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. 9726 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.

24. Hold a public hearing regarding the proposed granting of oil and gas permits to Permian Deep Rock Oil Co., LLC, for the drilling of oil gas wells, being Charger #H145WA located 109 feet from the south line and 1,320 feet from the west line, Charger #H145SS located 109 feet from the south line and 1,350 feet from the west line, Charger #H150LS located 109 feet from the south line and 1,020 feet from the west line and Charger #H150MS located 109 feet from the south line and 1,050 feet from the west line Section 3, Block 39, T-2-S, T&P RR. CO. Survey, City and County of Midland, Texas. (Said wells sharing a pad site area that is generally located between 1,082 and 1,412 feet east of South Garfield Street and 326 feet north of West County Road 111.) This is a public hearing only. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting it is for another group of wells with the same type of setup as their previous four wells. They will have a sound wall and are requesting the same variances as they did with the previous wells. No letters of objection have been received and they will use the same tank battery.

Mayor Morales opened the public hearing at 10:37 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

25. Hold a public hearing and consider an ordinance on a request by Zac Garth for a Zone Change from PD, Planned District for a Transition District, to O-1, Office District, generally located at the southeast intersection of North Midkiff Road and Bluebird Lane. (DEVELOPMENT SERVICES)



ORDINANCE NO. 9727

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1, BLOCK 2, BENT TREE ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A TRANSITION DISTRICT, TO BE USED AS AN O-1, OFFICE DISTRICT (GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF NORTH MIDKIFF ROAD AND BLUEBIRD LANE); 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. 9727.

Development Services Director Chuck Harrington gave a brief overview of the item noting this is for the addition of a new office building near the current vet office. They will need to replat the lot. Planning & Zoning had concerns about the height and recommended changing it to a Planned District with underlying zoning of O-1 and the restriction of 1.5 story maximum height for all structures. Staff reviewed the item and recommends changing the zoning to O-1 without a Planned District.

Mayor Morales opened the public hearing at 10:40 a.m.

Zac Garth reported he made the initial request on behalf of the owner. The new office building will be used by Keller Williams Realty and the lot will be replatted into four lots.

There being no one else wishing to speak, the public hearing was closed at 10:42 a.m.

Discussion ensued about whether this still needed to be in PD because of the vet clinic. O-1 does not allow for outdoor kenneling and this location is near two arterial streets.

Geoffrey Nunn, 3206 Southridge Court, expressed concern about the platting change noting that at Planning & Zoning they did not say it would be platted into four lots. He also reported that dogs can be heard barking in the morning.

Mayor Morales asked Mr. Garth to meet with the neighborhood and keep them informed. Mr. Garth agreed he would.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9727 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.

**MISCELLANEOUS**

26. Consider an ordinance on first reading amending Fiscal Year 2017-2018 Operating Budget. (FINANCE)

ORDINANCE NO. 9728

AN ORDINANCE MAKING CERTAIN AMENDMENTS TO THE 2017-2018 FISCAL YEAR BUDGET FOR MUNICIPAL PURPOSES SO AS TO INCREASE AMOUNTS APPROPRIATED TO CERTAIN FUNDS

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9728.

Finance Director Pam Simecka reported this is a request to amend the 2018 operating budget. They estimated that closing 4B funds would be \$30 million but it ended up being \$31.2 million. Approval of this item will transfer \$1.2 million from the General Fund to the sports operating account.

Council Member Love moved approval of the first of two readings of Ordinance No. 9728 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.

27. Discussion and consideration of all matters incident and related to the issuance and sale of the "City of Midland, Texas, General Obligation Improvement and Refunding Bonds, Series 2018A", including the adoption of an ordinance authorizing the issuance of such bonds and providing for the redemption of the obligations being refunded. (FINANCE)

ORDINANCE NO. 9729

AN ORDINANCE AUTHORIZING THE ISSUANCE OF "CITY OF MIDLAND, TEXAS, GENERAL OBLIGATION IMPROVEMENT AND REFUNDING BONDS, SERIES 2018A," SPECIFYING THE TERMS AND FEATURES OF SAID BONDS; LEVYING A CONTINUING DIRECT ANNUAL AD VALOREM TAX FOR THE PAYMENT OF SAID BONDS; AND RESOLVING OTHER MATTERS INCIDENT AND RELATED TO THE ISSUANCE, SALE, PAYMENT AND DELIVERY OF SAID BONDS, INCLUDING THE APPROVAL AND EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT AND A PURCHASE AGREEMENT, AND THE APPROVAL AND DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT AND AN OFFICIAL STATEMENT PERTAINING THERETO; AND PROVIDING AN EFFECTIVE DATE.

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9729.

Finance Director Pam Simecka reported the City is requesting permission to issue two series of bonds for the utilities and road projects approved by the voters and for refunding of the 2007 certificate of obligations that is now taxable due to the sale of effluent water to Pioneer.

George Williford, Hilltop Securities, provided an overview of the bonds and reviewed the bond books with Council.

Council Member Lacy moved approval of the first and only reading of Ordinance No. 9729 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.

28. Discussion and consideration of all matters incident and related to the issuance and sale of the "City of Midland, Texas, General Obligation Refunding Bonds, Taxable Series 2018B", including the adoption of an ordinance authorizing the issuance of such bonds and providing for the redemption of the obligations being refunded. (FINANCE)

ORDINANCE NO. 9730

AN ORDINANCE AUTHORIZING THE ISSUANCE OF "CITY OF MIDLAND, TEXAS, GENERAL OBLIGATION REFUNDING BONDS, TAXABLE SERIES 2018B," SPECIFYING THE TERMS AND FEATURES OF SAID BONDS; LEVYING A CONTINUING DIRECT ANNUAL AD VALOREM TAX FOR THE PAYMENT OF SAID BONDS; AND RESOLVING OTHER MATTERS INCIDENT AND RELATED TO THE ISSUANCE, SALE, PAYMENT AND DELIVERY OF SAID BONDS, INCLUDING THE APPROVAL AND EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT AND A PURCHASE AGREEMENT, AND THE APPROVAL AND DISTRIBUTION OF A PRELIMINARY OFFICIAL STATEMENT AND AN OFFICIAL STATEMENT PERTAINING THERETO; AND PROVIDING AN EFFECTIVE DATE.

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9730.

Finance Director Pam Simecka reported this is the second bond issuance.

Council Member Sparks moved approval of the first and only reading of Ordinance No. 9730 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.

29. Review the Specific Use Permit with Term for the sale of all alcoholic beverages for on-premises consumption in a nightclub on the property described as being generally located northwest of the intersection of West Wadley Avenue and North Midkiff Road and consider a possible motion to direct the Director of Development Services to propose an amendment to said permit to be processed in accordance with the procedures established by Title XI of the City Code and applicable state law. (DEVELOPMENT SERVICES)

Development Services Director Chuck Harrington gave a brief overview of the item noting the next three items are all similar and are being brought to Council for direction. All three items were approved with a six month review period. Council has the option of taking no action or giving direction to bring back through the normal public hearing process for a new permit. The first application is from Rock Star Karaoke and there have been no issues with this establishment. When asked if there was a reason these were coming back to Council, City Manager Sharp reported that they were all controversial items and he wanted to give Council the opportunity to review them. No action was taken.

30. Review the Specific Use Permit with Term for the sale of all alcoholic beverages for on-premises consumption in a lounge on the property described as generally located on Briarwood Avenue, approximately 185 feet west of North Midland Drive and consider a possible motion to direct the Director of Development Services to propose an amendment to said permit to be processed in accordance with the procedures established by Title XI of the City Code and applicable state law. (DEVELOPMENT SERVICES)

Development Services Director Chuck Harrington gave a brief overview of the item noting Council asked for a six month review. Staff completed the review and has no concerns. No action was taken.

31. Review the Specific Use Permit with Term for the sale of all alcoholic beverages for on-premises consumption in a nightclub on the property described as generally located northwest of the intersection of South Midkiff Road and Bankhead Highway and consider a possible motion to direct the Director of Development Services to propose an amendment to said permit to be processed in accordance with the procedures established by Title XI of the City Code and applicable state law. (DEVELOPMENT SERVICES)

Development Services Director Chuck Harrington gave a brief overview of the item noting Club Arriba did have some police activity at the site but overall the volume has reduced. Mayor Morales asked if there was still issues with the food truck. Building Official Steve Thorpe reported they still show up. Mayor Morales asked staff to send a letter to the owner. Council Member Lacy asked for Police activity for 2017 noting what was provided was through 2016. Staff will forward that information to Council and if Council has issues they will notify staff. No action was taken.

32. Consider a motion appointing a Mayor Pro Tempore.

Council Member Hotchkiss moved to appoint Spencer Robnett as Mayor Pro Tem; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: None. ABSTAIN: Robnett. ABSENT: None.

33. Consider a motion making appointments to various Boards & Commissions.

Council Member Lacy moved to appoint Derek Whiting to the Zoning Board of Adjustments and Stacy Grosse to the City Development Advisory Board; 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 COMMENT**

34. 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**

35. Pursuant to Texas Government Code §551.101, the Council will hold an Executive Session which is closed to the public to discuss the following matters as permitted under the following Texas Government Code Sections:

a. Section 551.087 Deliberate Economic Development Negotiations

- a.1. Discuss business prospects that the City seeks to have, locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.

Mayor Morales recessed the meeting to Executive Session at 11:22 a.m.

All of the business at hand having been completed, the meeting adjourned at 12:44 p.m.

PASSED AND APPROVED the 23rd day of January, 2018.

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Jerry F. Morales, Mayor

ATTEST:

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Amy M. Turner, City Secretary