

**MIDLAND CITY COUNCIL
MINUTES
January 10, 2017**

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., January 10, 2017.

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, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17, 18, 19, 20, 15, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39.

Mayor Morales called the meeting to order at 10:01 a.m.

OPENING ITEMS

1. Invocation - Pastor Roy Smith, True Lite Christian Fellowship
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Mayor Morales and Parks & Recreation staff recognized the 2016 Christmas Parade Float Winners. Best Lighted Band: San Jacinto Jr. High Band. Best Lighted Float: 3rd place – YMCA; 2nd place - West Texas Longhorns; 1st place – Midland Memorial Hospital Laboratory. Best Themed Float: La Roca the Rock Church.
 - b. Council Member Sparks presented a proclamation for Crime Stoppers Month.
 - c. Downtown Development Manager Cristina Odenborg and Mayor Morales presented the 2016 Texas Downtown Association President's Awards winners: Best Downtown Partner - Mode Communications. Best New Construction – Wall Street Lofts.

CONSENT AGENDA

Council Member Lacy moved to approve Consent Agenda items 4 - 20 excluding 15; 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 13, 2016.
5. Approved a resolution authorizing the City Treasurer to write off as uncollectible certain delinquent accounts for miscellaneous receivable and insufficient fund checks. (FINANCE)

RESOLUTION NO. 2017 - 001
RESOLUTION AUTHORIZING THE CITY TREASURER TO WRITE OFF AS UNCOLLECTIBLE CERTAIN DELINQUENT ACCOUNTS FOR MISCELLANEOUS ACCOUNTS RECEIVABLE AND INSUFFICIENT FUNDS CHECKS

6. Approved a resolution approving request for proposals for an oil and gas lease generally located south of East Loop 250 North and east of North Garfield Street and north of West Wadley Drive and west of North A Street. (PURCHASING)

RESOLUTION NO. 2017 - 002
RESOLUTION AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR THE LEASE OF CITY-OWNED MINERALS LOCATED IN APPROXIMATELY 337.08-ACRES OUT OF SECTION 15, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTH OF WEST WADLEY AVENUE, EAST OF NORTH GARFIELD STREET, SOUTH OF LOOP 250, AND WEST OF NORTH A STREET); SAID LEASE TO REQUIRE COMPLIANCE WITH ALL APPLICABLE ORDINANCES, LAWS, RULES AND REGULATIONS

7. Approved a resolution approving request for proposals for an Oil and Gas Lease generally located south of East Loop 250 North and east of North A Street and north of West Wadley Drive and west of North Lamesa Road. (PURCHASING)

RESOLUTION NO. 2017 - 003
RESOLUTION AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR THE LEASE OF CITY-OWNED MINERALS LOCATED IN APPROXIMATELY 114.37-ACRES OUT OF SECTION 14, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTH OF WEST WADLEY AVENUE, EAST OF NORTH A STREET, SOUTH OF LOOP 250, AND WEST OF NORTH LAMESA ROAD); SAID LEASE TO REQUIRE COMPLIANCE WITH ALL APPLICABLE ORDINANCES, LAWS, RULES AND REGULATIONS

8. Approved a resolution approving request for proposals for an Oil and Gas Lease generally located south of West Wadley Drive and east of North Garfield Street and north of West Golf Course Road and west of North A Street. (PURCHASING)

RESOLUTION NO. 2017 - 004
RESOLUTION AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR THE LEASE OF CITY-OWNED MINERALS LOCATED IN APPROXIMATELY

68.61-ACRES OUT OF SECTION 22, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTH OF WEST GOLF COURSE ROAD, EAST OF NORTH GARFIELD STREET, SOUTH OF WEST WADLEY AVENUE, AND WEST OF NORTH A STREET); SAID LEASE TO REQUIRE COMPLIANCE WITH ALL APPLICABLE ORDINANCES, LAWS, RULES AND REGULATIONS

9. Approved a resolution approving request for proposals for an Oil and Gas Lease generally located south of West Wadley Drive and east of North A Street and north of East Golf Course Road and west of North Lamesa Road. (PURCHASING)

RESOLUTION NO. 2017 - 005

RESOLUTION AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR THE LEASE OF CITY-OWNED MINERALS LOCATED IN APPROXIMATELY 9.11-ACRES OUT OF SECTION 23, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTH OF EAST GOLF COURSE ROAD, EAST OF NORTH A STREET, SOUTH OF WEST WADLEY AVENUE, AND WEST OF NORTH LAMESA ROAD); SAID LEASE TO REQUIRE COMPLIANCE WITH ALL APPLICABLE ORDINANCES, LAWS, RULES AND REGULATIONS

10. Approved a resolution approving request for proposals for an Oil and Gas Lease generally located north of Illinois Avenue and east of North A Street and south of East Golf Course Road and west of North Lamesa Road. (PURCHASING)

RESOLUTION NO. 2017 - 006

RESOLUTION AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR THE LEASE OF CITY-OWNED MINERALS LOCATED IN APPROXIMATELY 6.74-ACRES OUT OF SECTION 26, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTH OF ILLINOIS AVENUE, EAST OF NORTH A STREET, SOUTH OF EAST GOLF COURSE ROAD, AND WEST OF NORTH LAMESA ROAD); SAID LEASE TO REQUIRE COMPLIANCE WITH ALL APPLICABLE ORDINANCES, LAWS, RULES AND REGULATIONS

11. Approved a resolution awarding a contract for the Fiscal Year 2017 Crack Seal Project for the Engineering Department. (PURCHASING)

RESOLUTION NO. 2017 - 007

RESOLUTION AWARDING A CONTRACT FOR THE 2017 CRACK SEAL PROJECT TO CHAMPION INFRASTRUCTURE LLC OF SALADO, TEXAS, AT A TOTAL COST OF \$363,141.00; AND AUTHORIZING PAYMENT THEREFOR

12. Approved a resolution approving the purchase of six (6) administrative cars, seven (7) full size one-half (½) ton regular cab pickups and one (1) full size three quarter (¾) ton super cab pickup for the Garage Division. (PURCHASING)

RESOLUTION NO. 2017 - 008

RESOLUTION APPROVING THE PURCHASE OF SIX (6) ADMINISTRATIVE CARS, SEVEN (7) FULL-SIZE ONE-HALF (½) TON REGULAR CAB PICKUP TRUCKS AND ONE (1) FULL-SIZE THREE-QUARTER (¾) TON SUPER CAB PICKUP TRUCK FOR THE GARAGE DIVISION FROM CALDWELL AUTOMOTIVE PARTNERS, LTD., D/B/A

CALDWELL COUNTRY CHEVROLET, OF CALDWELL, TEXAS, AT A TOTAL COST OF \$294,175.00

13. Approved a resolution approving the purchase of thirteen (13) police package sport utility vehicles for the Garage Division. (PURCHASING)

RESOLUTION NO. 2017 - 009

RESOLUTION APPROVING THE PURCHASE OF TWELVE (12) POLICE PACKAGE SPORT UTILITY VEHICLES FOR THE GARAGE DIVISION FROM FREEDOM CHEVROLET, OF DALLAS, TEXAS, AND ONE (1) POLICE PACKAGE SPORT UTILITY VEHICLE FOR THE GARAGE DIVISION FROM CALDWELL AUTOMOTIVE PARTNERS, LTD., D/B/A CALDWELL COUNTRY CHEVROLET, OF CALDWELL, TEXAS, AT A TOTAL COST OF \$421,725.00

14. Approved a resolution approving the purchase of one thousand (1,000) three (3) cubic yard refuse containers with lids and three hundred (300) three and one-half (3.5) cubic yard refuse containers with lids for the Solid Waste Department. (PURCHASING)

RESOLUTION NO. 2017 - 010

RESOLUTION APPROVING THE PURCHASE ONE THOUSAND (1000) THREE (3) CUBIC YARD REFUSE CONTAINERS WITH LIDS AND THREE HUNDRED (300) THREE AND ONE-HALF (3.5) CUBIC YARD REFUSE CONTAINERS WITH LIDS FROM ROLL OFFS USA, INC., OF DURANT, OKLAHOMA, AT A TOTAL COST OF \$579,200.00

16. Approved a resolution awarding a contract for the purchase and installation of clubhouse flooring in the Security Bank Ballpark at the Scharbauer Sports Complex from Sport Surfaces Distributing, Inc. through The Cooperative Purchasing Network (TCPN) Contract #R5224 for the Community Services Department. (PURCHASING)

RESOLUTION NO. 2017 - 012

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE PURCHASE AND INSTALLATION OF CLUBHOUSE FLOORING IN THE SECURITY BANK BALLPARK AT THE SCHARBAUER SPORTS COMPLEX WITH SPORTS SURFACES DISTRIBUTING, INC., THROUGH THE COOPERATIVE PURCHASING NETWORK AT A TOTAL COST OF \$62,960.00; AND PROVIDING \$6,000.00 IN CONTINGENCY FUNDING THEREFOR

17. Approved a resolution authorizing the execution of a Professional Services Agreement with Cushman & Wakefield PIREs to provide real estate marketing services to the City of Midland in connection with certain real property described as approximately 49.18 acres of land out of Section 8, Block 40, Township 2 South, T&P RR Co. Survey, Midland County, Texas. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2017 - 013

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH CUSHMAN & WAKEFIELD | PIREs TO PROVIDE REAL ESTATE MARKETING SERVICES IN CONNECTION WITH CERTAIN REAL PROPERTY DESCRIBED AS APPROXIMATELY 49.18 ACRES OF LAND OUT OF SECTION 8, BLOCK 40, TOWNSHIP 2 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS

18. Approved a resolution approving the transfer of the Oil and Gas Well Permits and Road Repair Agreements issued to Rust Oil Corporation to DE Operating LLC generally located on the west side of the extension of North Garfield Street, approximately one half mile north of Mockingbird Lane.) (DEVELOPMENT SERVICES)

RESOLUTION NO. 2017 - 014

RESOLUTION APPROVING THE TRANSFER OF CERTAIN OIL AND GAS WELL PERMITS FROM RUST OIL CORPORATION ("OPERATOR") TO DE OPERATING LLC "TRANSFeree"); AND APPROVING THE TRANSFER OF THE ROAD REPAIR AGREEMENT REGARDING SAID OIL AND GAS WELL PERMITS FROM OPERATOR TO TRANSFeree; THE OIL AND GAS WELLS BEING MOSS PARTNERSHIP "9" WELL NO. 1, MOSS PARTNERSHIP "9" WELL NO. 2, SMITH-HUGHES "9" WELL NO. 1, AND SMITH-HUGHES "9" WELL NO. 2; SAID OIL AND GAS WELLS BEING LOCATED IN SECTION 9, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF THE EXTENSION OF NORTH GARFIELD STREET, APPROXIMATELY ONE HALF MILE NORTH OF MOCKINGBIRD LANE)

19. Approved a resolution authorizing and approving the assignment of previously executed Right-of-Way License between the City of Midland and Rust Oil Corporation, to DE Operating LLC. (ENGINEERING SERVICES)

RESOLUTION NO. 2017 - 015

RESOLUTION APPROVING RUST OIL CORPORATION'S ASSIGNMENT OF AN EXISTING RIGHT-OF-WAY LICENSE TO DE OPERATING, LLC, REGARDING CITY-OWNED PROPERTY IN A PORTION OF GARFIELD STREET RIGHT-OF-WAY AND A PORTION OF THE MIDLAND DRAW FLOODWAY LOCATED APPROXIMATELY 1/4 MILE EAST OF PASSAGE WAY IN SECTIONS 9 AND 10, BLOCK "X", H.P. HILLIARD SURVEY, MIDLAND COUNTY, TEXAS

20. Approved a resolution inviting the United States Army Special Operations Command (USASOC) to conduct the Unconventional Warfare Exercise 17 (UWEX 17), in Midland, Texas from March 31, 2017 through April. 24, 2017. (POLICE)

RESOLUTION NO. 2017 - 016

RESOLUTION OF THE CITY OF MIDLAND, TEXAS, INVITING THE UNITED STATES ARMY SPECIAL OPERATIONS COMMAND TO CONDUCT THE UNCONVENTIONAL WARFARE EXERCISE 17 IN MIDLAND, TEXAS, FROM MARCH 31, 2017, THROUGH APRIL 24, 2017

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

15. Consider a resolution approving the issuance of a Request for Proposals for Cellular Phone Services for the Communication and Information Systems Department. (PURCHASING)

RESOLUTION NO. 2017 - 011

RESOLUTION AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR CELLULAR SERVICES; SAID SERVICES WILL PROVIDE VOICE, DATA AND MESSAGING FEATURES FOR CELLULAR DEVICES USED BY CITY PERSONNEL

Council Member Lacy inquired what will be covered in the contract. Chief Information Officer Willie Resto gave an overview of what items were covered in the program.

Council Member Lacy moved to adopt Resolution No. 2017 - 011; 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.

SECOND READINGS

21. Consider an ordinance on second reading on a request by Cuthbert Mansion for a Zone Change from PD, Planned District for a Shopping Center, to LR-1, Local Retail District, generally located on the south side of West Cuthbert Avenue, approximately 150 feet east of North Midkiff Road. (DEVELOPMENT SERVICES) (First reading held on December 13, 2016)

ORDINANCE NO. 9625

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1A, BLOCK 7, TOWN AND COUNTRY ANNEX, SECTION 9, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN LR-1, LOCAL RETAIL DISTRICT (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST CUTHBERT AVENUE, APPROXIMATELY 150 FEET EAST OF NORTH MIDKIFF 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. 9625.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9625 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: None. ABSTAIN: None. ABSENT: Robnett.

22. Consider an ordinance on second reading amending Midland City Code Section 6-2-7 in order to require loose animal repeat offenders to be neutered/spayed before being released back to the owner if the offense occurs twice during a three year period. (COMMUNITY SERVICES) (First reading held on December 13, 2016)

ORDINANCE NO. 9626

AN ORDINANCE AMENDING TITLE VI, "POLICE REGULATIONS", CHAPTER 2, "ANIMALS AND FOWL", SECTION 7, "LICENSE AND FEES; ISSUANCE OF TAGS; PENALTIES", SUBSECTION (C), OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO REQUIRE THE NEUTERING OR SPAYING OF A REPEAT ANIMAL-AT-LARGE BEFORE THE OWNER MAY RECLAIM THE IMPOUNDED ANIMAL FROM THE ANIMAL SERVICES DIVISION; CONTAINING A CUMULATIVE CLAUSE AND EXPRESSLY REPEALING ANY ORDINANCE OR PART THEREOF IN CONFLICT WITH THIS ORDINANCE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9626.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9626 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.

23. Consider an ordinance on second reading amending Ordinance Number 8189 which established fees and charges for the City of Midland Community Services Department. (COMMUNITY SERVICES) (First reading held on December 13, 2016)

ORDINANCE NO. 9627

AN ORDINANCE AMENDING THE UNALTERED IMPOUNDMENT FEE OF THE CITY OF MIDLAND COMMUNITY SERVICES DEPARTMENT, ANIMAL SERVICES DIVISION; AND REPEALING PRIOR ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH SAID FEE SET FORTH HEREIN

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9627.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9627 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 Basin Burger House 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 North Colorado Street and West Louisiana Avenue. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9628

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 1A, BLOCK 29, HOMESTEAD ADDITION, SECTION 8, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF NORTH COLORADO STREET AND WEST LOUISIANA AVENUE), 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 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. 9628.

Development Services Director Chuck Harrington gave a brief overview of the item noting Basin Burger House was requesting to expand their operation to serve brunch and have requested extended service hours all week. Planning & Zoning recommended

extended their service hours on Sundays only from 9:00 a.m. to 12:00 midnight. He explained that the applicant now wants to expand his brunch to Saturdays as well. No objections have been received and staff recommends approval of the added hours on Sundays only.

Mayor Morales opened the public hearing at 10:33 a.m.

Sergio Arriola, 5613 Rio Grande, reported he is the General Manager of Basin Burger House. They currently have brunch on Sundays from 9:00 a.m. to 2:00 p.m. When they first obtained their permit they had no idea they would do brunch and asked for hours of 11:00 a.m. to 12:00 a.m. He did not realize that they were serving outside of the hours they were allowed and now they want to fix that situation.

Council Member Lacy reported Council has set a precedent that the earliest they allow is 10:00 a.m.

There being no one else wishing to speak, the public hearing was closed at 10:36 a.m.

Council Member Robnett moved approval of the first of two readings of Ordinance No. 9628 in accordance with the Charter of the City of Midland with the amendment to change alcohol service hours from 10:00 a.m. to midnight seven days a week; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Morales, Dufford, Robnett. NAY: Sparks, Lacy. ABSTAIN: None. ABSENT: None.

It was suggested that all applicants be informed that the earliest times Council will allow is 10:00 a.m. Mr. Harrington noted they will bring a policy back before Council for adoption.

25. Hold a public hearing and consider an ordinance on a request by THDT Investments, Inc. for a zone change from PD, Planned District for a Shopping Center to an Amended Planned District generally located on the east side of W. Loop 250 North and approximately 490 feet north of Tremont Avenue. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9629

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 32B1 AND 32B2, BLOCK 39, FAIRMONT PARK ADDITION, SECTION 48, 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 EAST SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 490 FEET NORTH OF TREMONT AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9629.

Development Services Director Chuck Harrington gave a brief overview of the item noting that the site was found to be in compliance but it was discovered that the database had the wrong ordinance listed. This item is to match what has actually been

built on the ground. No objections have been received. It was clarified that this item was not initiated by the applicant.

Mayor Morales opened the public hearing at 10:44 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. 9629 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.

26. Hold a public hearing and consider an ordinance on a request by Alli Bixler for a Specific Use Permit With Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, generally located southeast of the intersection of N. Garfield Street and Castleford Road. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9630

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 5,141-SQUARE FOOT PORTION OF LOT 1, BLOCK 8, POLO PARK ADDITION, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF NORTH GARFIELD STREET AND CASTLEFORD ROAD), 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. 9630.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is for Brew Street Bakery. Their outdoor patio was never included and they would like to include it in their alcohol service area.

Mayor Morales opened the public hearing at 10:46 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Robnett moved approval of the first of two readings of Ordinance No. 9630 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. Hold a public hearing regarding a proposed Oil and Gas Permit to Diamondback E&P LLC (Operator), for a permit to drill an oil & gas well within the City Limits, (Bozeman Unit 803LS) located 306 feet from the south line and 2,145 feet from the west line located in Section 8, Block 39, T-1-S, T&P RR Co. Survey, City of Midland and County of Midland, Texas (Generally located 405 feet north of Green Tree Boulevard extension

and 2,102 feet east of North Midland Drive). This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting the next four applications were all from Diamondback. All four have been to the Oil & Gas Advisory Committee and their applications have been updated. They are requesting variances for landscaping and irrigation, one perimeter fence around all four pad sites, one large pit rather than four smaller pits and 24-hour fracing. One letter of objection was received from Johnson and Associates objecting to the 500 foot buffer crossing into their future real estate development with the request they move their wells to the north. He answered questions of Council.

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

Stan Crawford, Johnson and Associates, Houston, reported he is representing the Evans Family who owns the property directly to the south. The Evans Family has future claims to real estate development in the area and asked that their wells be moved to the north so that the 500 foot buffer line does not cross into their property. When asked if he made this request directly to Diamondback he reported he had not because variances were not granted in the past. When asked if the Evans family has development plans currently in place Mr. Crawford reported they did not.

Marc Dangler, 4505 Bent Tree Trail, Counsel for Diamondback, reported this is a field with no structures. There are vertical wells in the north part of that section and directly to the south is the Evans' property. They also have 14 wells on the Evans' property. The wells to east have already been drilled and they are trying to build in the same plane. When asked if everything on their application was in compliance he reported it was with the exception of the waivers requested.

When asked if a building was even feasible within the area of question, Building Official Steve Thorpe reported that the land does not have current platting and that other properties in the area have rear entry garages that require a five foot setback.

There being no one else wishing to speak, the public hearing was closed at 11:00 a.m.

28. Hold a public hearing regarding a proposed Oil and Gas Permit to Diamondback E&P LLC (Operator), for a permit to drill an oil & gas well within the City limits, (Bozeman Unit 803MS) located 306 feet from the south line and 2,175 feet from the west line located in Section 8, Block 39, T-1-S, T&P RR Co. Survey, City of Midland and County of Midland, Texas (Generally located 405 feet north of Green Tree Boulevard extension and 2,132 feet east of North Midland Drive). This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins reported this item had the same information as the previous item.

Mayor Morales opened the public hearing at 11:01 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

29. Hold a public hearing regarding a proposed Oil and Gas Permit to Diamondback E&P LLC (Operator), for a permit to drill an oil & gas well within the City Limits, (Bozeman

Unit 803WA) located 306 feet from the south line and 2,115 feet from the west line located in Section 8, Block 39, T-1-S, T&P RR Co. Survey, City of Midland and County of Midland, Texas (Generally located 405 feet north of Green Tree Boulevard extension and 2,072 feet east of North Midland Drive). This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins reported this item had the same information as the previous item.

Mayor Morales opened the public hearing at 11:02 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

30. Hold a public hearing regarding a proposed Oil and Gas Permit to Diamondback E&P LLC (Operator), for a permit to drill an oil & gas well within the City Limits, (Bozeman Unit 803WB) located 306 feet from the south line and 2,085 feet from the west line located in Section 8, Block 39, T-1-S, T&P RR Co. Survey, City of Midland and County of Midland, Texas (Generally located 405 feet north of Green Tree Boulevard extension and 1,976 feet east of North Midland Drive). This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins reported this item had the same information as the previous item.

Mayor Morales opened the public hearing at 11:03 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

31. Hold a public hearing and consider an ordinance on a request by Maverick Engineering for a vacation of the combined 0.227-acre Service Access, Utility, and Water Line Easement, less the 20-foot Utility Easement along the westernmost property boundary generally located southwest of the intersection of Sunshine Parkway and Idlewilde Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9631

AN ORDINANCE VACATING AND ABANDONING A 0.196-ACRE SERVICE ACCESS AND UTILITY EASEMENT AND A 0.034-ACRE WATER LINE EASEMENT LOCATED IN LOT 1, BLOCK 10, ARBOR PARK ADDITION, SECTION 5, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF SUNSHINE PARKWAY AND IDLEWILDE DRIVE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$24,720.30; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9631.

Development Services Director Chuck Harrington gave a brief overview of the item noting Maverick Engineering, on behalf of Manner Park, is requesting to vacate .227 acres of a water line easement. The easement will be replaced with a standard 15-foot easement. There are currently utilities located in the easement and they will have to be relocated at the applicant's expense. One letter of objection was received.

Mayor Morales opened the public hearing at 11:06 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. 9631 in accordance with the Charter of the City of Midland with the amendment to waive the \$24,720.30 fee; 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.

32. Hold a public hearing and consider an ordinance on a request by Hutton Team, LLC for a vacation of the 0.046-acre portion of the alley right-of-way, generally located on the north side of Marlin Avenue, approximately 190 feet west of Rankin Highway. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9632

AN ORDINANCE VACATING AND ABANDONING A 0.046-ACRE PORTION OF ALLEY RIGHT-OF-WAY LOCATED ADJACENT TO LOTS 1, 2 AND 18, TRACT 6, REPLAT OF TRACTS 5 & 6, LINDSAY ACRES ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF MARLIN AVENUE, APPROXIMATELY 190 FEET WEST OF RANKIN HIGHWAY); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$4,007.52; AND ORDERING RECORDATION BY THE CITY SECRETARY

Mayor Morales announced this item was being pulled by staff.

33. Hold a public hearing and consider an ordinance on a request by Hutton Team, LLC for a Special Exception from the Zoning Code concerning the side yard setback on Lots 1, 2, and 18, and a 0.046-acre portion of alley right-of-way, out of Tract 6, generally located northwest of the intersection of Rankin Highway and Marlin Avenue. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9633

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOTS 1, 2 AND 18, AND A 0.046-ACRE PORTION OF ALLEY RIGHT-OF-WAY LOCATED ADJACENT TO SAID LOTS, TRACT 6, REPLAT OF TRACTS 5 AND 6, LINDSAY ACRES ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHWEST OF THE INTERSECTION OF RANKIN HIGHWAY AND MARLIN AVENUE), BY PERMITTING A REDUCED SIDE YARD SETBACK; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

Mayor Morales announced this item was being pulled by staff.

34. Hold a public hearing and consider an ordinance on a request by Mac's BBQ & Catering for a Special Exception to the City of Midland Zoning Ordinance Section 11-1-7 concerning parking requirements generally located southwest of the intersection of West Indiana Avenue and Baldwin Street. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9634

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOTS 1-4, 7 AND 8, BLOCK 2, BALL PARK ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF WEST INDIANA

AVENUE AND BALDWIN STREET), BY PERMITTING OFF-SITE PARKING BENEFITTING LOTS 16-18, BLOCK A, GARRETT PLACE ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF WEST INDIANA AVENUE, APPROXIMATELY 160 FEET EAST OF CARLTON STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); 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. 9634.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is a request for a special exception. The applicant is wishing to increase their alcohol beverage service to 300 seats and need additional parking to make that happen. The applicant has worked out an agreement with a neighboring church for shared parking in order to meet the requirements. No letters of objection have been received and Planning & Zoning recommended approval. He confirmed he has a copy of the agreement between the applicant and the church and noted that if the agreement becomes invalid, they would lose their SUP.

Mayor Morales opened the public hearing at 11:12 a.m.

Wesley Webb, 5913 Mile High Road, reported the parking is an empty basketball court that is not in use. Mr. Webb will pay for the improvements and the church can use the lot on Sundays when his business is not open and his business will use the lot the remainder of the week. He noted he has asked the church for first right of refusal if the lot is ever sold.

There being no one else wishing to speak, the public hearing was closed at 11:14 a.m.

Council Member Love moved approval of the first of two readings of Ordinance No. 9634 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.

35. Hold a public hearing and consider a resolution on a request by MODE Communications for approval of a Temporary Land Use Permit for an event generally located southwest of the intersection of North Colorado Street and West Texas Avenue. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2017 - 017

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR AN OUTDOOR AMUSEMENT EVENT ON LOTS 1-12 AND 16-18, A 0.55-ACRE PORTION OF NORTH COLORADO STREET RIGHT-OF-WAY AND A 0.14-ACRE PORTION OF ALLEY RIGHT-OF-WAY, BOTH LOCATED ADJACENT TO LOTS 1-12, ALL OUT OF BLOCK 56, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF NORTH COLORADO STREET AND WEST TEXAS AVENUE); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Development Services Director Chuck Harrington gave a brief overview of the item noting this is for MODE Communication's next event which is a Mardi Gras to be held February 25 through 28. There will be two security guards on site at all times, alcohol beverages will be sold and a portion of Colorado will be closed from February 23 through March 1. Staff recommends approval noting it meets the second goal of the comprehensive plan of having cultural activities that support downtown.

Mayor Morales opened the public hearing at 11:17 a.m.

Elizabeth McLelland, 1402 Casper, gave a brief overview of the event and was available to answer questions.

There being no one else wishing to speak, the public hearing was closed at 11:19 a.m.

Council Member Love moved to adopt Resolution No. 2017 - 017; 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.

MISCELLANEOUS

36. Consider an ordinance on first reading amending Fiscal Year 2015-2016 budgets for certain funds. (FINANCE)

ORDINANCE NO. 9635

AN ORDINANCE MAKING CERTAIN AMENDMENTS TO THE 2015-2016 FISCAL YEAR BUDGET SO AS TO INCREASE AMOUNTS APPROPRIATED TO CERTAIN FUNDS

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9635.

Finance Director Pam Simecka gave a brief overview of the item noting additional budget authorization was needed for minor funds after all end of the year expenditures have been entered. There are six funds that went over their adopted budget and noted that there is an adequate fund balance to handle all expenditures.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9635 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.

37. Consider a motion appointing a Mayor Pro Tempore.

Council Member Lacy moved to appoint Council Member Hotchkiss as Mayor Pro Tempore; 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

38. 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.)

Azrael Martinez, 410 N. Lamesa Road, owns the barber shop on Lamesa and Houston. He asked when the road on Houston would be paved. Council Member Love asked him to meet with him after the meeting. Mr. Martinez also asked about getting lighted fields for West Texas Longhorns. Mayor Morales noted that Council Members are working on making changes to the 4b funding and asked to meet with him after the meeting.

All of the business at hand having been completed, the meeting adjourned at 11:26 a.m.

PASSED AND APPROVED the 24th day of January, 2017.

Jerry F. Morales, Mayor

ATTEST:

Amy M. Turner, City Secretary