

**MIDLAND CITY COUNCIL
MINUTES
January 24, 2017**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:30 a.m. on January 24, 2017.

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: City Manager Courtney Sharp, City Attorney John Ohnemiller, Deputy City Manager Tommy Hudson, Assistant City Manager Robert Patrick, City Secretary Amy Turner, Finance Director Pam Simecka, Development Services Director Charles Harrington, Community Services Director Tina Jauz, General Services Director Fred Reyes, Building Official Steve Thorpe, Parks & Recreation Manager Laurie Williams, Assistant Utilities Director Carl Craigo, City Engineer Matt Carr, Downtown Development Manager Christina Odenborg, Traffic Engineer Mike Pacelli, Civil Engineer Josh Ferguson, and Public Information Officer Sara Bustilloz.

Mayor Morales called the meeting to order at 9:32 a.m.

1. Receive a presentation from General Services regarding update on the Midland Center Project and overview of Guaranteed Maximum Price (GMP).

Fred Reyes thanked Council and Staff for all of the work to date to ensure the project is ready to move forward.

Jim Rhotenberry of Rhotenberry Wellen Architects provided an update on the Midland Center Project. In June 2016 a guaranteed maximum price was presented. Competitive bids were received from all contractors in December. Since that time Lee Lewis has vetted the bids. Mr. Rhotenberry briefly reviewed the project noting it is nearly 77,000 square feet with three levels including a basement. He reviewed the design highlights including state-of-the-art audio visual systems, full service commercial kitchen, Wi-Fi connectivity throughout, fully programmable lighting, and an expanded lobby with park access. He reviewed building elevations and conceptual drawings of the Midland Center. The new construction guaranteed maximum price (GMP) is \$33,132,612.00

Fred Reyes answered questions about the GMP and square footage noting the price per square foot of the court house GMP was \$449 compared to \$431 for the Midland Center. He noted that the City is also paying for rerouting utilities, purchasing the lease from the Midland Chamber and shoring the basement.

Jim Rhotenberry reviewed the project summary costs noting the total project cost has remained unchanged but some funds have been reallocated. He feels good with the

contingency allowances. He reviewed the project schedule noting the utility relocations should be complete by May, building shoring and demo should be done by June, construction will begin in the summer of 2017 and the estimated completion date is summer of 2019.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:50 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., January 24, 2017.

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, Deputy City Manager Tommy Hudson, and Assistant City Manager Robert Patrick.

The Agenda Items were heard in the following order: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 26 (second time), 29 (second time).

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

OPENING ITEMS

1. Invocation - Pastor Robert Pase, Grace Lutheran Church
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Council Member Love presented a proclamation to Downtown Midland Management District for their Mardi Gras Event.

CONSENT AGENDA

Council Member Robnett moved to approve Consent Agenda items 4 - 14; 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.

4. Approved a motion approving the following minutes:
 - a. Special meeting of January 5, 2017.
 - b. Special meeting of January 9, 2017.

- c. Regular meeting of January 10, 2017.
- 5. Approved a resolution approving a contract between the City of Midland, Texas and SilverWing Enterprises, and appropriating necessary funds. (AIRPORTS)

RESOLUTION NO. 2017 - 018

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH SILVERWING ENTERPRISES, LLC, TO PROVIDE PROFESSIONAL SERVICES IN SUPPORT OF THE OPERATION OF THE SPACEPORT LOCATED AT MIDLAND INTERNATIONAL AIR AND SPACE PORT; AND APPROPRIATING FUNDS

- 6. Approved a resolution of the City of Midland denying the effective date of Sharyland Utilities, L.P.'s and Sharyland Distribution & Transmission Services, L.L.C. application(s) to change rates and requiring reimbursement of the reasonable rate case expenses. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2017 - 019

RESOLUTION DENYING THE EFFECTIVE DATE AND THE PROPOSED CHANGE OF RATES OF SHARYLAND UTILITIES, L.P. AND SHARYLAND DISTRIBUTION & TRANSMISSION SERVICES, L.L.C. (COLLECTIVELY, "SHARYLAND"); REQUIRING REIMBURSEMENT OF REASONABLE RATE CASE EXPENSES; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO SEND A COPY OF THIS RESOLUTION TO SHARYLAND AND LLOYD GOSSELINK ROCHELLE & TOWNSEND, P.C.

- 7. Approved a resolution approving an amendment to the agreement between the MDC and Basin PBS. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2017 - 020

RESOLUTION APPROVING A THIRD AMENDMENT TO THE PROMOTIONAL AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND PERMIAN BASIN PUBLIC TELECOMMUNICATIONS, INC., TO ADVERTISE OR PUBLICIZE THE CITY OF MIDLAND FOR THE PURPOSE OF DEVELOPING NEW AND EXPANDED BUSINESS ENTERPRISES

- 8. Approved a resolution authorizing the execution of an Economic Development Agreement between the Midland Development Corporation and the City of Midland accepting funds for the acquisition of any real property interests necessary or appropriate, by any instruments of conveyance necessary or appropriate, for the use and benefit of the public for street, road, pedestrian access, drainage and public utility purposes, and for any other ancillary public use as is usual and customary for the future extension of Wadley Avenue. (ENGINEERING SERVICES)

RESOLUTION NO. 2017 - 021

RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND THE CITY OF MIDLAND FOR IMPROVEMENTS TO WADLEY AVENUE, AS AUTHORIZED BY CHAPTER 501 OF THE TEXAS LOCAL GOVERNMENT CODE

9. Approved a resolution authorizing the City Manager to acquire on behalf of the City of Midland any real property interests necessary or appropriate for the use and benefit of the public for street, road, pedestrian access, drainage and public utility purposes, and for any other ancillary public use as is usual and customary in connection therewith. (ENGINEERING SERVICES)

RESOLUTION NO. 2017 - 022

RESOLUTION AUTHORIZING THE CITY MANAGER TO ACQUIRE, ON BEHALF OF THE CITY OF MIDLAND, ANY REAL PROPERTY INTERESTS NECESSARY OR APPROPRIATE, BY ANY INSTRUMENTS OF CONVEYANCE NECESSARY OR APPROPRIATE, FOR THE USE AND BENEFIT OF THE PUBLIC FOR STREET, ROAD, PEDESTRIAN ACCESS, DRAINAGE AND PUBLIC UTILITY PURPOSES, AND FOR ANY OTHER ANCILLARY PUBLIC USE AS IS USUAL AND CUSTOMARY IN CONNECTION THEREWITH FROM A POINT ON STATE HIGHWAY 158 APPROXIMATELY 0.25 MILES SOUTHEAST OF THE INTERSECTION OF STATE HIGHWAY 158 AND NORTH COUNTY ROAD 1247 TO A POINT APPROXIMATELY 600 FEET WEST OF THE INTERSECTION OF WADLEY AVENUE AND CALLAWAY DRIVE; AUTHORIZING THE CITY MANAGER TO OBTAIN APPRAISALS, NEGOTIATE, EXECUTE AND FILE ALL DOCUMENTS NECESSARY TO ACQUIRE SAID REAL PROPERTY INTERESTS, PURCHASE TITLE INSURANCE POLICIES AND HOLD THE CLOSINGS FOR SAID ACQUISITIONS; APPROPRIATING FUNDS; AUTHORIZING PAYMENT FOR SAID REAL PROPERTY INTERESTS, APPRAISALS, TITLE INSURANCE POLICIES AND CLOSING COSTS; AND ORDERING THE CITY SECRETARY TO RECORD, OR ENSURE THAT THE TITLE COMPANY HAS RECORDED, ALL INSTRUMENTS OF CONVEYANCE

10. Approved a motion approving a contract with Wayne Needham DBA Ultimate Calf Roping in the amount of \$12,500 to promote tourism and the hotel industry in Midland from funds available and as approved in the Fiscal Year 2016-2017 Budget (Hotel-Motel Fund/Non Departmental). (CITY SECRETARY'S OFFICE)
11. Approved a motion authorizing the submission of the Schedule for CDBG Application Cycle, 2017-2018 Action Plan. (DEVELOPMENT SERVICES)
12. Approved a resolution authorizing and executing a Right-of-Way License between the City of Midland and Navitas Midstream Midland Basin, LLC. (ENGINEERING SERVICES)

RESOLUTION NO. 2017 - 023

RESOLUTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND NAVITAS MIDSTREAM MIDLAND BASIN, LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 30, BLOCK 36, TOWNSHIP 3 SOUTH, B. LEE SURVEY, ABSTRACT NO. 957, MIDLAND COUNTY, TEXAS

13. Approved a resolution authorizing and executing a Right-of-Way License between the City of Midland and EnLink Crude Pipeline, LLC. (ENGINEERING SERVICES)

RESOLUTION NO. 2017 - 024

RESOLUTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND ENLINK CRUDE PIPELINE, LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTIONS 9 AND 10, BLOCK 38, TOWNSHIP 2 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS

14. Approved a resolution to appropriate proceeds from the sealed bid sale of old service weapons and court awarded weapons. (POLICE)

RESOLUTION NO. 2017 - 025

RESOLUTION APPROPRIATING PROCEEDS FROM THE SEALED BID SALE OF OLD SERVICE WEAPONS AND COURT AWARDED WEAPONS TO THE POLICE EQUIPMENT AND TECHNOLOGY PROJECT (800820) FOR THE REPLACEMENT OF MIDLAND POLICE DEPARTMENT DUTY WEAPONS

SECOND READINGS

15. Consider an ordinance on second reading 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) (First reading held January 10, 2017.)

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 Karla Mata read the caption of Ordinance No. 9628.

Council Member Hotchkiss moved to approve the second and final reading of Ordinance No. 9628 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, Morales, Dufford, Robnett. NAY: Sparks, Lacy. ABSTAIN: None. ABSENT: None.

16. Consider an ordinance on second reading 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 West Loop 250 North and approximately 490 feet north of Tremont Avenue. (DEVELOPMENT SERVICES) (First reading held January 10, 2017.)

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 Karla Mata read the caption of Ordinance No. 9629.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9629 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.

17. Consider an ordinance on second reading 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 North Garfield Street and Castleford Road. (DEVELOPMENT SERVICES) (First reading held January 10, 2017.)

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 Karla Mata read the caption of Ordinance No. 9630.

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

18. Consider an ordinance on second reading on a request by Maverick Engineering for 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) (First reading held January 10, 2017.)

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 Karla Mata read the caption of Ordinance No. 9631.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9631 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.

19. Consider an ordinance on second reading 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) (First reading held January 10, 2017.)

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 Karla Mata read the caption of Ordinance No. 9634.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9634 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. Consider an ordinance on seconding reading amending Fiscal Year 2015-2016 budgets for certain funds. (FINANCE) (First reading held January 10, 2017.)

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 Karla Mata read the caption of Ordinance No. 9635.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 9635 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.

MISCELLANEOUS

21. Consider a motion directing staff to begin the annexation of a 36.36-acre tract of land out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas (Generally located on the north side of Brandy Hill Road, approximately 330 feet east of State Highway 158.) (DEVELOPMENT SERVICES)

Council Member Love moved to direct staff to begin the annexation of a 36.36-acre tract of land out of Section 35, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas (Generally located on the north side of Brandy Hill Road, approximately 330 feet east of State Highway 158.); 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.

22. Consider a motion directing staff to begin the annexation of a 120.625-acre tract of land out of Section 38, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas (Generally located on the west side of Arlington Road.) (DEVELOPMENT SERVICES)

Council Member Lacy moved to direct staff to begin the annexation of a 120.625-acre tract of land out of Section 38, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas (Generally located on the west side of Arlington Road.); 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. Consider a resolution approving plans and specifications and accepting the guaranteed maximum price of \$33,132,612.00 for the construction of the new Midland Center from Lee Lewis Construction, Inc.; approving the total estimated project cost for an amount not to exceed \$42,839,259.00; authorizing the City Manager to execute contracts associated with the project; and appropriating funds in the amount of \$33,055,508.58 for the General Services Department. (PURCHASING)

RESOLUTION NO. 2017 - 026

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND ACCEPTING A GUARANTEED MAXIMUM PRICE OF \$33,132,612.00 FOR THE CONSTRUCTION OF THE MIDLAND CONVENTION CENTER FROM LEE LEWIS CONSTRUCTION, INC.; AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT FOR THE CONSTRUCTION OF THE MIDLAND CONVENTION CENTER WITH LEE LEWIS CONSTRUCTION, INC.; AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE ALL RELATED AGREEMENTS; AND APPROPRIATING FUNDS THEREFOR

Council Member Sparks noted that when Council originally approved moving forward with Option 2 the contingency was one-half million dollars and now it is one million dollars which has increased the overall project amount.

Brad Barnet was asked about the added alternative for the media mesh screen. He noted they are seeking a private/public partnership for the cost of the screen and they continue to look at other funding sources of \$799,000.

Council Member Love moved to adopt Resolution No. 2017 - 026; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: Sparks. ABSTAIN: None. ABSENT: None.

24. Consider a resolution awarding a contract for the Midland Center Design and Build Shoring Project for the General Services Department. (PURCHASING)

RESOLUTION NO. 2017 - 027

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH HAYWARD BAKER, INC., FOR THE MIDLAND CENTER DESIGN & BUILD SHORING PROJECT AT A TOTAL COST OF \$173,000.00; AND PROVIDING \$43,250.00 IN CONTINGENCY FUNDING THEREFOR

General Services Director Fred Reyes was asked why the contingency is 25 percent. He responded that because the walls are nearly 100 years old staff felt it best to include additional contingency to ensure they had adequate funds to cover the costs. It was noted that the demo was way under what was originally budgeted.

Council Member Lacy moved to adopt Resolution No. 2017 - 027; 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.

25. Consider an ordinance ordering a Special Election to be held on Saturday, May 6, 2017 for the purpose of voting for repurposing the one-quarter of one percent sales tax currently used for the sports complex. (CITY SECRETARY'S OFFICE)

ORDINANCE NO. 9636

AN ORDINANCE ORDERING A SPECIAL ELECTION TO BE HELD ON MAY 6, 2017, FOR THE PURPOSE OF VOTING FOR OR AGAINST THE EXTENSION OF THE IMPOSITION OF THE SALES AND USE TAX WITHIN THE CITY OF MIDLAND AT THE RATE OF ONE-QUARTER (1/4) OF ONE PERCENT (1%), WHICH IS CURRENTLY USED FOR THE SCHARBAUER SPORTS COMPLEX FOOTBALL/SOCCER STADIUM AND BASEBALL STADIUM, AND RELATED INFRASTRUCTURE, PURSUANT TO TEXAS LOCAL GOVERNMENT CODE, CHAPTER 505, AS AMENDED ("CHAPTER 505"), IN ORDER TO UNDERTAKE PROJECTS AUTHORIZED BY CHAPTER 505; SETTING FORTH SAID PROJECTS HEREIN; MAKING PROVISION FOR THE CONDUCT OF SUCH ELECTION; AND SETTING FORTH OTHER MATTERS INCIDENT AND RELATED TO SUCH ELECTION

Deputy City Secretary Karla Mata read the caption of Ordinance No. 9636.

Mayor Morales opened the floor for anyone wishing to speak on this item.

Bill Kirby, 5017 Belle Grove Court, noted that the ballot language did not include the word "golf". He was concerned that if the specific language were not included on the

ballot it might cause trouble later if funds were used to improve the municipal golf course.

City Attorney John Ohnemiller reported that the language is statutory and that sports and parks were both included in the language.

Mr. Kirby suggested that if the City is not willing to get behind the municipal golf course they should sell it and let someone else develop and run it. Council Member Dufford noted that it was losing money before the City took back over the management of the golf course.

Council Member Love moved approval of the first of two readings of Ordinance No. 9636 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks.

Council Member Sparks asked for a guarantee that the sports complex will be paid off and suggested that a change be made to the ballot language.

City Attorney John Ohnemiller reported that the sports complex bond must be paid off, but the timing of those payments is where there is some discretion. Council Member Lacy reported he will instruct staff to put an item on the agenda to address the issue.

Mayor Morales noted that of the 21 public parks there are 16 more that need improvements noting that this money could make an immediate impact on those neighborhoods and that everyone receives a benefit from improving parks.

Council Member Lacy noted he would like to see a good portion of the money go to road improvements. Council Member Hotchkiss noted that when the Comprehensive Plan was addressed many people requested improvements to public parks including hike and bike trails. She noted that those concerns will all be addressed with this item.

Council Member Robnett noted that the ballot language includes the ability to use funding for maintenance and operations which allows the flexibility to take care of what we currently have and to invest in the community. Council Member Love noted his favorite part is that it takes the burden off of those who pay property tax noting it is paid by those who contribute to sales tax, including people from outside of Midland.

Mayor Morales noted this is a great opportunity to increase quality of place in Midland.

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

Council Member Lacy moved to defer this item; 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. (This item was heard again after Executive Session.)

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

No appointments were made.

PUBLIC COMMENT

28. 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

29. 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.
 - b. Section §551.074 Personnel Matters
 - b.1. Deliberate the employment, evaluation, and duties of the City Manager, City Attorney, City Secretary, Municipal Court Presiding Judge, and Municipal Court Associate Judge.

Mayor Morales recessed the meeting to Executive Session at 10:52 a.m.

The meeting was reconvened at 12:03 p.m. with all Council Members present.

MISCELLANEOUS (Continued)

26. Reconsider a motion authorizing the negotiation and execution of a fourth amendment to the Master Development Agreement between the City of Midland, the Midland Development Corporation, and HSR Realty No. 1 Development, LLC. (CITY MANAGER'S OFFICE)

Council Member Robnett moved to amend the Proof of Financing requirement in the Master Development Agreement from January 31, 2017 to March 28, 2017 and extend the deadline for providing 50% of construction drawings to March 28, 2017; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Robnett. NAY: None. ABSTAIN: Lacy. ABSENT: None.

EXECUTIVE SESSION (Continued)

29. 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:

b. Section §551.074 Personnel Matters

- b.1. Deliberate the employment, evaluation, and duties of the City Manager, City Attorney, City Secretary, Municipal Court Presiding Judge, and Municipal Court Associate Judge.

Mayor Morales recessed the meeting to Executive Session 12:06 p.m.

All of the business at hand having been completed, the meeting adjourned at 1:20 p.m.

PASSED AND APPROVED the 14th day of February, 2017.

Jerry F. Morales, Mayor

ATTEST:

Amy M. Turner, City Secretary