

**MIDLAND CITY COUNCIL
MINUTES
February 14, 2017**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:00 a.m. on February 14, 2017.

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

Council Members absent: Council Member Scott Dufford (At-Large).

Staff members present: City Manager Courtney Sharp, City Attorney John Ohnemiller, Deputy City Manager Tommy Hudson, Assistant City Manager Frank Salvato, Assistant City Manager Robert Patrick, City Secretary Amy Turner, Police Chief Price Robinson, Interim Fire Chief Chip Balzer, Utilities Director Laura Wilson, Administrative Services Director Catherine Clifton, Finance Director Pam Simecka, Development Services Director Charles Harrington, Community Services Director Tina Jauz, Engineering Services Director Jose Ortiz, Director of Airports Justine Ruff, General Services Director Fred Reyes, Chief Information Officer Willie Resto, Solid Waste Director Morris Williams, Planning Division Manager Jessica Carpenter, Building Official Steve Thorpe, and Public Information Officer Sara Bustilloz.

Mayor Morales called the meeting to order at 9:02 a.m.

1. Presentation of the 2016 Midland Police Department Traffic Contact report by Dr. Eric J. Fritsch, Ph.D., Professional Development Institute, University of North Texas.

Chief Robinson introduced Dr. Eric Fritsch to review the data from the racial profiling report.

Dr. Fritsch reported that the Midland Police Department is fully in compliance and met all seven of the standards that are set out in the Code of Criminal Procedure. He reviewed the raw data for motor vehicle stops that result in citations, arrests or both noting these are the requirements that are set out by the Texas Commission on Law Enforcement. The raw data was compared to a benchmark of the Fair Road Standards. Just because there is disproportionality of the driving population versus the data does not mean there is racial profiling. He explained there is difficulty with the standards because there is not an accurate measure of the driving population. Any standard that is used does not take into account the percentage of drive time of each individual as well as people who are pulled over who do not live in your community but are driving through.

Police Chief Price Robinson noted each person was asked if they were residents of Midland and they found 25% of those ticketed did not live in Midland.

Dr. Fritsch reported that the data shows that 99.7% of the time the officer reported they did not know the ethnicity of the driver prior to pulling them over. Statewide that number is 97.1% and in Region 2, which Midland is a part of, that number is 98%.

He noted that 7.44% of the stops resulted in a search and 3.3% were consent searches. When you compare all searches to consent searches the percentage is similar to each race. Contraband was found in 59% of the searches. He reviewed arrest data. Police Chief Robinson noted that 46% of the arrests were for outstanding warrants, 27% were for penal code violations and 20% were for health and safety code violations such as public intoxication or DWI. Dr. Fritsch concluded that based upon the evidence, there is no racial profiling in the Midland Police Department.

2. Receive a presentation from Information Services regarding update on the Request for Proposal Process for Public Safety Software.

Chief Information Officer Willie Resto reported the City currently uses Tiberon for public safety software noting that the contract will expire in 2018 and that the software is no longer being supported. If the City would like to upgrade to their new software, the cost is a substantial amount of money. The City is using Barry Dunn to evaluate software and they have identified 13 challenges and or issues with Tiburon including limited functionality, lack of integration, technical and other issues. He reviewed the needs assessment executive summary noting a request for proposal has been developed and Barry Dunn will assist in the selection of a system and contract negotiations. It will take about a year to implement a new system that will involve police, fire and Midland County. This item will be on the next City Council agenda. One system will not meet all of the needs.

Council expressed a need for more information and a better understanding of how all products will work together. Mr. Resto noted he would prepare a briefing item to review with Council in more detail the roadmap of what has been done and where we are going.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:40 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., February 14, 2017.

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

Council Members absent: Council Member Scott Dufford (At-Large).

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, 8, 11, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 36, 37, 38, 39, 6, 7, 9, 10, 12, 13, 14, 15, 35, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52

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

OPENING ITEMS

1. Invocation - Pastor Daniel Stephens, Mid-Cities Community Church
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. The entire Council presented a Retirement Commendation to Tommy T. Hudson.

CONSENT AGENDA

Council Member Lacy moved to approve Consent Agenda items 4 - 39 excluding 6, 7, 9, 10, 12, 13, 14, 15, and 35; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

4. Approved a motion approving the following minutes:
 - a. Regular meeting of January 24, 2017.
5. Approved a resolution approving the purchase of five hundred (500) tons of Asphaltic Concrete Patching Material from CSA Materials, Inc. through TXSmartBuy contract 745-A1 for a total cost of \$55,000.00 for the Transportation Division. (PURCHASING)

RESOLUTION NO. 2017 - 028

RESOLUTION APPROVING THE PURCHASE OF FIVE HUNDRED (500) TONS OF ASPHALTIC CONCRETE PATCHING MATERIAL FOR THE TRANSPORTATION DIVISION FROM CSA MATERIALS, INC., THROUGH TXSMARTBUY AT A TOTAL COST OF \$55,000.00

8. Approved a resolution authorizing the City Manager and the City Attorney to negotiate and execute a professional services agreement with Priority Power Management, L.L.C for aggregation, consulting and negotiation services regarding the city's supply, transmission and distribution of electric service for the General Services Department. (PURCHASING)

RESOLUTION NO. 2017 - 031

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH PRIORITY POWER MANAGEMENT, LLC, FOR AGGREGATION, CONSULTING AND NEGOTIATION SERVICES REGARDING THE CITY'S ELECTRICITY SUPPLY

11. Approved a resolution approving the purchase of Netvault back up replication servers from Dell Marketing, LP through Department of Information Resources contract DIR-SDD-1951 for a total cost of \$76,024.20 for the Communication and Information Systems Department. (PURCHASING)

RESOLUTION NO. 2017 - 034

RESOLUTION APPROVING THE PURCHASE OF NETVAULT BACK-UP REPLICATION SERVERS FOR THE COMMUNICATION AND INFORMATION SYSTEMS DEPARTMENT FROM DELL MARKETING, LP, THROUGH THE TEXAS DEPARTMENT OF INFORMATION RESOURCES AT A TOTAL COST OF \$76,024.20

16. Approved a resolution amending the Professional Services Agreement with Stantec Consulting Services, Inc. for design for temporary (construction) and permanent traffic signals at the intersection of "A" Street and Wadley Avenue by extending the expiration date for the Engineering Services Department. (PURCHASING)

RESOLUTION NO. 2017 - 039

RESOLUTION AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH STANTEC CONSULTING SERVICES, INC. FOR TRAFFIC SIGNAL DESIGN SERVICES RELATED TO THE RECONSTRUCTION OF THE INTERSECTION OF WEST WADLEY AVENUE AND NORTH A STREET; SAID AMENDMENT EXTENDING THE TERM OF THE AGREEMENT TO DECEMBER 31, 2018

17. Approved a resolution amending the Professional Services Agreement with Maverick Civil & Survey LLC dba Maverick Engineering for survey and all other civil engineering design at the intersection of "A" Street and Wadley Avenue by extending the expiration date for the Engineering Services Department. (PURCHASING)

RESOLUTION NO. 2017 - 040

RESOLUTION AUTHORIZING THE EXECUTION OF A SECOND AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH MAVERICK CIVIL & SURVEY, LLC, DOING BUSINESS AS MAVERICK ENGINEERING, FOR SURVEYING AND CIVIL ENGINEERING DESIGN SERVICES RELATED TO THE RECONSTRUCTION OF THE INTERSECTION OF WEST WADLEY AVENUE AND NORTH A STREET; SAID AMENDMENT EXTENDING THE TERM OF THE AGREEMENT TO DECEMBER 31, 2018

18. Approved a resolution appropriating funds from the Midland Development Corporation's 2015-2016 Fiscal Year Budget to be used for promotional purposes, as authorized by Chapter 504 of the Texas Local Government Code. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2017 - 041

RESOLUTION APPROVING THE MIDLAND DEVELOPMENT CORPORATION'S APPROPRIATION OF \$871,464.00 FROM THE FISCAL YEAR 2015-2016 BUDGET TO BE USED FOR PROMOTIONAL PURPOSES, AS AUTHORIZED BY CHAPTER 504 OF THE TEXAS LOCAL GOVERNMENT CODE

19. Approved a resolution appointing a member to the Midland Emergency Communication District Board of Managers. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2017 - 042

RESOLUTION APPOINTING CLIFFORD BALZER AND PRICE ROBINSON TO THE BOARD OF MANAGERS OF THE MIDLAND EMERGENCY COMMUNICATION DISTRICT

20. Approved a motion authorizing the execution of a sports agreement with the Boys and Girls Club of the Permian Basin, to administer programs, special events, and services related to flag football and soccer for youth ages eight through twelve. (COMMUNITY SERVICES)
21. Approved a motion authorizing the execution of a sports agreement with First Baptist Church Upward Flag Football League, to administer programs, special events, and services related to flag football activities for youth and adults. (COMMUNITY SERVICES)
22. Approved a motion authorizing the execution of a sports agreement with the Greater Midland Football League to administer programs, special events, and services related to youth football. (COMMUNITY SERVICES)
23. Approved a motion authorizing the execution of a sports agreement with the Midland Junior Baseball Association, Incorporated, to administer programs, special events, and services related to baseball for men ages nineteen and younger. (COMMUNITY SERVICES)
24. Approved a motion authorizing the execution of a sports agreement with the Midland Soccer Association, Incorporated, to administer programs, special events, and services related to soccer for adults and youth. (COMMUNITY SERVICES)
25. Approved a motion authorizing the execution of a sports agreement with Midland United Girls Softball Association, Incorporated, to administer programs, special events, and services related to softball for girls. (COMMUNITY SERVICES)
26. Approved a motion authorizing the execution of a sports agreement with Stonegate Fellowship to administer services related to flag football for youth and adults. (COMMUNITY SERVICES)
27. Approved a motion authorizing the execution of a sports agreement with the Texas Cricket Club to administer programs, special events, and services related to cricket. (COMMUNITY SERVICES)
28. Approved a motion authorizing the execution of a sports agreement with Under the Lights Flag Football League to administer programs, special events, and services related to flag football for youth and adults. (COMMUNITY SERVICES)
29. Approved a motion authorizing the execution of a sports agreement with West Texas BMX to administer programs, special events, and services related to BMX (Bicycle Motocross) racing and riding. (COMMUNITY SERVICES)
30. Approved a motion authorizing the execution of a sports agreement with Midland Softball Association, Incorporated, to administer programs, special events, and services related to softball for ages fifteen and older. (COMMUNITY SERVICES)
31. Approved a resolution approving the issuance of a permit to Diamondback E&P LLC for a Permit to Drill an Oil & Gas Well within the City Limits, (Bozeman Unit 803LS) generally located 405 feet north of Green Tree Boulevard extension and 2,102 feet east of North Midland Drive. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2017 - 043

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO DIAMONDBACK E&P LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 306 FEET FROM THE SOUTH LINE AND 2,145 FEET FROM THE WEST LINE, SECTION 8, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED APPROXIMATELY 405 FEET NORTH OF THE GREEN TREE BOULEVARD EXTENSION AND APPROXIMATELY 2,102 FEET EAST OF NORTH MIDLAND DRIVE); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT

32. Approved a resolution approving the issuance of a permit to Diamondback E&P LLC for a Permit to Drill an Oil & Gas Well within the City Limits, (Bozeman Unit 803MS) generally located 405 feet north of Green Tree Boulevard extension and 2,132 feet east of North Midland Drive. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2017 - 044

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO DIAMONDBACK E&P LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 306 FEET FROM THE SOUTH LINE AND 2,175 FEET FROM THE WEST LINE, SECTION 8, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED APPROXIMATELY 405 FEET NORTH OF THE GREEN TREE BOULEVARD EXTENSION AND APPROXIMATELY 2,132 FEET EAST OF NORTH MIDLAND DRIVE); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT

33. Approved a resolution approving the issuance of a permit to Diamondback E&P LLC for a Permit to Drill an Oil & Gas Well within the City Limits, (Bozeman Unit 803WA) generally located 405 feet north of Green Tree Boulevard extension and 2,072 feet east of North Midland Drive. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2017 - 045

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO DIAMONDBACK E&P LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 306 FEET FROM THE SOUTH LINE AND 2,115 FEET FROM THE WEST LINE, SECTION 8, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED APPROXIMATELY 405 FEET NORTH OF THE GREEN TREE BOULEVARD EXTENSION AND APPROXIMATELY 2,072 FEET EAST OF NORTH MIDLAND DRIVE); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT

34. Approved a resolution approving the issuance of a permit to Diamondback E&P LLC for a Permit to Drill an Oil & Gas Well within the City Limits, (Bozeman Unit 803WB) generally located 405 feet north of Green Tree Boulevard extension and 1,976 feet east of North Midland Drive. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2017 - 046

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO DIAMONDBACK E&P LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS

LOCATED 306 FEET FROM THE SOUTH LINE AND 2,085 FEET FROM THE WEST LINE, SECTION 8, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED APPROXIMATELY 405 FEET NORTH OF THE GREEN TREE BOULEVARD EXTENSION AND APPROXIMATELY 1,976 FEET EAST OF NORTH MIDLAND DRIVE); AND PROVIDING THAT SAID PERMIT DOES NOT REQUIRE A NEW ROAD REPAIR AGREEMENT BUT SHALL BE CONSOLIDATED UNDER AN EXISTING ROAD REPAIR AGREEMENT

36. Approved a resolution authorizing and executing a Surface Use Agreement between the City of Midland and Endeavor Energy Resources, LP, and rescinding a Surface Use Agreement dated October 26, 2016 between the City of Midland and Endeavor Energy Resources. (ENGINEERING SERVICES)

RESOLUTION NO. 2017 - 048

RESOLUTION AUTHORIZING THE EXECUTION OF A SURFACE USE AGREEMENT BETWEEN THE CITY OF MIDLAND AND ENDEAVOR ENERGY RESOURCES, LP, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTIONS 9 AND 16, BLOCK 37, TOWNSHIP 3 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS

37. Approved a resolution authorizing and executing a Right-of-Way License between the City of Midland and Navitas Midland Basin, LLC. (ENGINEERING SERVICES)

RESOLUTION NO. 2017 - 049

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 SECTIONS 18, 19, AND 30, BLOCK 36, TOWNSHIP 3 SOUTH, B. LEE SURVEY, ABSTRACT NOS. 956, 501, AND 957, MIDLAND COUNTY, TEXAS

38. Approved a resolution authorizing and executing a Right-of-Way License between the City of Midland and Navitas Midland Basin, LLC. (ENGINEERING SERVICES)

RESOLUTION NO. 2017 - 050

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 SECTIONS 18, 19, AND 30, BLOCK 36, TOWNSHIP 3 SOUTH, B. LEE SURVEY, ABSTRACT NOS. 956, 501, AND 957, MIDLAND COUNTY, TEXAS, AND SECTION 12, BLOCK 37, TOWNSHIP 3 SOUTH, B. LEE SURVEY, ABSTRACT NO. 955, MIDLAND COUNTY, TEXAS

39. Received the 2016 Midland Police Department Racial Profiling Analysis. (POLICE)

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

6. Consider a resolution approving the purchase of one (1) Caterpillar 826K Compactor from Warren Power & Machinery, Inc. through Buyboard contract 424-13 for the Garage Division. (PURCHASING)

RESOLUTION NO. 2017 - 029

RESOLUTION APPROVING THE PURCHASE OF ONE (1) CATERPILLAR 826K COMPACTOR FOR THE GARAGE DIVISION FROM WARREN POWER & MACHINERY, INC., THROUGH BUYBOARD AT A TOTAL COST OF \$726,990.00

Council Member Love noted he heard there is another machine that will do the work for \$170,000 less and it has great reviews. General Services Director Fred Reyes gave a brief overview of how they review equipment noting that Warren Cat was second to none. Solid Waste Director Morris Williams noted he asked his counterparts about the other equipment and found it did not receive good reviews. He did not want to be the guinea pig on such a vital piece of equipment noting that less expensive equipment can cost more when you factor in down time. Council suggested more information such as age of equipment should be included in staffs' memos. Council Member Lacy questioned using Buyboard versus the RFP process. Questions were answered about the disposal of old equipment.

Council Member Robnett moved to adopt Resolution No. 2017 - 029; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

7. Consider a resolution approving the purchase of one (1) Wheel Loader from Yellowhouse Machinery Company through Buyboard contract 424-13 for a total cost of \$138,000.00 for the Garage Division. (PURCHASING)

RESOLUTION NO. 2017 - 030

RESOLUTION APPROVING THE PURCHASE OF ONE (1) JOHN DEERE 444K 4WD LOADER FOR THE GARAGE DIVISION FROM YELLOWHOUSE MACHINERY COMPANY THROUGH BUYBOARD AT A TOTAL COST OF \$138,000.00

Council Member Lacy questioned why this item was 53% over what was budgeted. General Services Director Fred Reyes reported the unit being purchased is bigger than what was budgeted. Council Member Robnett reported this item was net neutral because garbage trucks did not cost as much as budgeted. Council suggested this should be addressed in staffs' memos.

Council Member Lacy moved to adopt Resolution No. 2017 - 030; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

9. Consider a resolution approving the issuance of a request for proposals for the expansion of ShoreTel Connect VOIP Phone System and Associated SIP Trunks Citywide for the Communication and Information Systems Department. (PURCHASING)

RESOLUTION NO. 2017 - 032

RESOLUTION AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR SOFTWARE AND IMPLEMENTATION SERVICES FOR THE EXPANSION OF THE SHORTEL VOIP TELEPHONE SYSTEM; SAID SYSTEM WILL REPLACE THE CITY-WIDE NORTEL PHONE SYSTEM

Council Member Sparks inquired why the phone system needed to be replaced right away. Chief Information Officer Willie Resto reported that Customer Service phones went completely down without the ability to get phone calls in. The system was purchased in 1988. When asked about the monthly savings Mr. Resto reported the AT&T lines currently cost \$46,364 monthly and VOIP will cost \$19,000 per month and there are other anticipated savings once the technology has been evaluated. He

anticipated it will drop another \$6,000 per month in three years. He explained about phone equipment that will be used.

Council Member Lacy moved to adopt Resolution No. 2017 - 032; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

10. Consider a resolution approving the purchase of Emergency Medical Dispatch software for the Communication and Information Systems Department. (PURCHASING)

RESOLUTION NO. 2017 - 033

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE PURCHASE OF EMERGENCY MEDICAL DISPATCH SOFTWARE FOR THE COMMUNICATION AND INFORMATION SYSTEMS DEPARTMENT FROM PRIORITY DISPATCH CORPORATION OF SALT LAKE CITY, UTAH, AT A TOTAL COST OF \$145,910.00; AND APPROPRIATING FUNDS THEREFOR

Council Member Sparks noted this was not the lowest priced software. Communications Manager Eva Luna reported that a committee consisting of Communications, Fire and hospital personnel evaluated the software and recommended this software because they have a better online recertification of protocols and standards of care than the other product and confirmed they have more experience litigating issues on behalf of their clients. She further clarified they will not be requesting the Fire Marshall module.

Council Member Love moved to adopt Resolution No. 2017 - 033; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

12. Consider a resolution approving the issuance of a request for proposals for a new Electronic Medical Records System for the Midland Health Department for the Communication and Information Systems Department. (PURCHASING)

RESOLUTION NO. 2017 - 035

RESOLUTION AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR A NEW ELECTRONIC MEDICAL RECORDS SYSTEM FOR THE CITY'S HEALTH DEPARTMENT

Council Member Sparks noted they did not see all of the information. Chief Information Officer Willie Resto reported he confirmed that they only placed the first page of the packet into the system in error. Council has now been given a copy of the entire document. He confirmed that it will work with the hospital's medical records system.

Council Member Love moved to adopt Resolution No. 2017 - 035; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

13. Consider a resolution awarding a contract for the Bill Williams Softball Complex Concrete Improvement Project for the Community Services Department. (PURCHASING)

RESOLUTION NO. 2017 - 036
RESOLUTION AWARDDING A CONTRACT FOR THE BILL WILLIAMS SOFTBALL
COMPLEX IMPROVEMENT PROJECT TO MID-TEX OF MIDLAND, INC., IN THE
AMOUNT OF \$195,700.00; AND APPROVING \$1,824.00 FOR CONTINGENCIES

Council Member Robnett pulled the item for a question that has since been answered.

Council Member Robnett moved to adopt Resolution No. 2017 - 036; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

14. Consider a resolution selecting one (1) firm to provide Construction Material Testing services for all City Departments for the Engineering Services Department. (PURCHASING)

RESOLUTION NO. 2017 - 037
RESOLUTION APPROVING THE SELECTION OF RRC POWER & ENERGY, LLC TO
PROVIDE PROFESSIONAL SERVICES TO ASSIST THE CITY WITH
CONSTRUCTION MATERIALS TESTING AS NEEDED; AUTHORIZING THE CITY
MANAGER TO NEGOTIATE AND EXECUTE PROFESSIONAL SERVICES
AGREEMENTS FOR SAID SERVICES; PROVIDING THAT NO SUCH AGREEMENT
EXCEEDING \$50,000.00 SHALL BECOME EFFECTIVE UNTIL THE CITY COUNCIL
AUTHORIZES THE EXECUTION OF THE AGREEMENT; AND AUTHORIZING
PAYMENT THEREFOR

Council Member Sparks noted that the memo reports this can be used for roads in addition to other departments. He asked how many of these were expected in the next year or two. City Engineer Matt Carr reported he could not answer that question because he didn't know what would come up. In speaking to other departments he learned they occasionally had a need for testing. This process will allow all departments to use the testing immediately. When asked about the time limit Mr. Carr intended to have a three year limit.

Council Member Sparks moved to adopt Resolution No. 2017 - 037 with the amendment for no more than three years; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

15. Consider a resolution approving the selection of five (5) firms for On Call Professional Engineering Services for the Engineering Services Department. (PURCHASING)

RESOLUTION NO. 2017 - 038
RESOLUTION APPROVING THE SELECTION OF DUNAWAY ASSOCIATES, L.P.,
FREESE AND NICHOLS, INC., MAVERICK ENGINEERING, PARKHILL, SMITH &
COOPER, INC., AND STANTEC CONSULTING SERVICES, INC. TO ASSIST THE
ENGINEERING SERVICES DEPARTMENT BY PROVIDING PROFESSIONAL
ENGINEERING SERVICES, ARCHITECTURE SERVICES, LANDSCAPE
ARCHITECTURE SERVICES, LAND SURVEYING SERVICES, REAL ESTATE
APPRAISING SERVICES, AND SERVICES PROVIDED IN CONNECTION
THEREWITH ON AN AS-NEEDED BASIS; AUTHORIZING THE NEGOTIATION AND
EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH EACH FIRM;
PROVIDING THAT EACH AGREEMENT SHALL BE FOR A TERM NOT TO EXCEED

THREE YEARS; AUTHORIZING THE NEGOTIATION AND EXECUTION OF TASK ORDERS IN ACCORDANCE WITH SUCH AGREEMENTS; PROVIDING THAT THE PAYMENT FOR EACH TASK ORDER EXECUTED IN ACCORDANCE WITH SUCH AN AGREEMENT SHALL NOT EXCEED \$150,000.00; PROVIDING THAT THE TOTAL COST TO THE CITY FOR ALL TASK ORDERS EXECUTED EACH YEAR IN ACCORDANCE WITH EACH AGREEMENT SHALL NOT EXCEED \$300,000.00 PER AGREEMENT PER YEAR; AND AUTHORIZING PAYMENT THEREFOR

Council Member Lacy suggested adding in a penalty clause for firms that do not complete the work on time. A suggestion was made that an incentive would be better than a penalty. Discussion ensued about accountability, relationship with firms, and reasons that some firms were late in the past. Mr. Carr noted he has every intention of holding firms accountable to be on time and if they are not, staff has no obligation to use that firm again during the time period.

Council Member Love moved to adopt Resolution No. 2017 - 038; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

35. Consider a resolution authorizing the City Manager to negotiate and execute leases of City-owned minerals for tracts of four acres or less. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2017 - 047

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE, ON BEHALF OF THE CITY OF MIDLAND, AGREEMENTS FOR LEASES OF CITY-OWNED MINERALS LOCATED IN TRACTS OF LAND EACH HAVING AN AREA OF NO MORE THAN FOUR ACRES, SAID AGREEMENTS TO PROHIBIT DRILLING ON THE SURFACE OF CITY-OWNED PROPERTY AND REQUIRE COMPLIANCE WITH ALL APPLICABLE ORDINANCES, LAWS, RULES AND REGULATIONS

Council Member Lacy suggested adding a Council representative who is more familiar with the process.

Council Member Lacy moved to adopt Resolution No. 2017 - 047 with the amendment to authorize the City Manager and a Council representative; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

SECOND READINGS

40. Consider an ordinance on second reading 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) (First reading held on January 24, 2017.)

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 SueAnn Lopez read the caption of Ordinance No. 9636.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9636 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, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

PUBLIC HEARINGS

41. Hold a public hearing and consider an ordinance on a request by Francisco Gomez 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 southeast corner of South Baird Street and East Florida Avenue. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9637

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 1,140-SQUARE FOOT PORTION OF THE NORTH HALF OF LOT 11 AND LOT 12, BLOCK 187, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF SOUTH BAIRD STREET AND EAST FLORIDA AVENUE), WHICH IS PRESENTLY ZONED LR-3, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9637.

Mayor Morales recessed the meeting at 11:02 a.m. due to technical difficulties. The meeting reconvened with all Council Members present at 11:10 a.m.

Mayor Morales opened the public hearing at 11:11 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. 9637 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett.

Council Member Sparks moved to amend the motion by starting alcohol service time on Sunday mornings at 11:00 a.m.; seconded by Council Member Lacy. The motion to

amend failed by the following vote: AYE: Hotchkiss, Sparks, Lacy. NAY: Love, Morales, Robnett. ABSTAIN: None. ABSENT: Dufford.

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

42. Hold a public hearing and consider an ordinance on a request by Mac's BBQ & Catering for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in restaurant, generally located on the north side of West Indiana Avenue, approximately 160 feet east of Carlton Street. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9638

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS AN 8,319-SQUARE FOOT PORTION OF 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), WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9638.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant currently has a SUP for alcoholic beverages with seating for 160 people with service hours from 11:00 a.m. to 12:00 a.m. Monday through Saturday. The applicant is requested a revised permit for 300 people between the hours of 10:00 a.m. to 10:00 p.m. and will be closed on Sundays. No letters of objection have been received and now there is adequate parking. Staff recommends approval with the conditions set forth in the item.

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

Wesley Webb, 2400 W. Indiana, reported they would like to revise their request to include Sundays from 2:00 p.m. to midnight for special events such a birthday parties. The church is open on Sundays from 7:00 a.m. to 2:00 p.m. and the church is in agreement with the request.

There being no one else wishing to speak, the public hearing was closed at 11:18 a.m.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9638 in accordance with the Charter of the City of Midland with the amendment to allow alcohol service hours on Sundays from 2:00 p.m. to midnight; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

43. Hold a public hearing and consider a resolution to amend the 2016 Community Development Annual Action Plan authorizing a reallocation of certain Community Development Block Grant funds. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2017 - 051

RESOLUTION AUTHORIZING AN AMENDMENT TO THE 2016/2017 ACTION PLAN TO THE CITY OF MIDLAND CONSOLIDATED PLAN FOR COMMUNITY DEVELOPMENT AND HOUSING FUNDS PER AMENDMENT DOCUMENTS ON FILE WITH THE CITY SECRETARY; SAID AMENDMENT TO INCLUDE THE REALLOCATION OF \$707,030.23 AND RELATED BUDGET TRANSFERS; AND A COPY OF SAID AMENDMENT DOCUMENTS SHALL BE ON FILE IN THE CITY SECRETARY'S OFFICE

Community Development Administrator Isaac Garnett gave a brief overview of the item noting staff is recommending approval to changes in the 2016-2017 action plan to reflect an allocation change of an additional \$150,000.00 for first-time home buyers' assistance program and to add a sidewalk improvement plan project near Bunch Elementary.

Mayor Morales opened the public hearing at 11:21 a.m.

Isaiah Jackson, 108 N. Jackson, reported he supported making improvements to Bunch Elementary noting it is dangerous to have kids walk on the street.

There being no one else wishing to speak, the public hearing was closed at 11:22 a.m.

Council Member Love moved to adopt Resolution No. 2017 - 051; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

44. Hold a public hearing and consider an ordinance on a request by Goudeau Realty Holdings for a Special Exception to the Zoning Ordinance concerning parking regulations generally located southeast of the intersection of North Pecos Street and West Wadley Avenue. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9639

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 12A, BLOCK 2, KELVIEW HEIGHTS, SECTION 10, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF NORTH PECOS STREET AND WEST WADLEY AVENUE), BY PERMITTING A REDUCED NUMBER OF PARKING SPACES; 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. 9639.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant is proposing to use an office building with half of the space for general offices and half for a concierge doctor. The code requires one parking space for every 300 square feet of doctors' offices which means the applicant does not have

adequate parking. Normally a doctor's office would have heavy demand for parking however, since this is a concierge doctor it wouldn't have the same demand. The applicant has worked with staff to ensure proper landscaping. Staff feels this request warrants a special exception. No letters of objection have been received.

Mayor Morales opened the public hearing at 11:25 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. 9639 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, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

45. Hold a public hearing and consider an ordinance on a request by BRR Architecture for a zone change from PD, Planned District for a Shopping Center, to an Amended Planned District generally located northeast of the intersection of Northgate Avenue and Northcrest Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9640

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1C, BLOCK 33, NORTHGATE ADDITION, SECTION 26, 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 NORTHEAST OF THE INTERSECTION OF NORTHGATE AVENUE AND NORTHCREST 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. 9640.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant, on behalf of Walmart, has requested an amended planned district to include a canopy for package pick up. The use is compatible with all uses in the surrounding area and staff recommends approval of the zone change. No letters of objection have been received.

Mayor Morales opened the public hearing at 11:27 a.m.

Molly Viscayno, 4505 N. Midland Drive, on behalf of Panda Express, wanted to ensure this project would not impact their store such a road closures. Staff showed on the map where the canopy would be ensuring that Panda Express would not be affected.

There being no one else wishing to speak, the public hearing was closed at 11:28 a.m.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9640 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, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

46. 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. 9641

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

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9641.

Development Services Director Chuck Harrington gave a brief overview of the item noting this will be an auto parts store that wishes to make use of the alleyway as part of their development. They asked that the alley be vacated but all utilities will be retained within the alley. The main portion of the alley will be left open. This item was originally on the January 24th agenda but the applicant asked to wait until they came to an agreement with the neighbors as far as alley access. A letter of objection was received from the same property owners regarding dedication. The value of the property is \$2.00 per square foot or \$4,007.52. The original concern of the neighbors was access to their property from the alley.

Mayor Morales opened the public hearing at 11:33 a.m.

Josh Ligon, Tennessee, representing the owner, reported they are proposing to develop a parcel of land for an auto parts store and need the additional lot in the rear for additional parking. They will be creating an access easement 26 feet wide from Marlin to the adjoining neighbors. They will assume responsibility of taking care of the property and it will not be blocked by any means. The utility easement will stay. He reported he spoke to the Cruz Family and they have agreed in concept and are in the process of drawing up a full agreement with the specifics for construction concessions.

There being no one else wishing to speak, the public hearing was closed at 11:35 a.m.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9641 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, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

47. 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 and parking regulations generally located northwest of the intersection of Rankin Highway and Marlin Avenue. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9642

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 AND A REDUCED NUMBER OF PARKING SPACES; 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. 9642.

Development Services Director Chuck Harrington gave a brief overview of the item noting this is a follow-up to the previous item noting the applicant is required to provide a 15-foot side yard setback along Marlin Avenue and 36 parking spaces. They are proposing 28 spaces and a five-foot setback. Staff finds no hardship and recommends denial of the special exception. Should council grant the request he asked that conditions on the agenda report be included.

Council Member Love reported he was originally concerned with the five-foot setback, but after visiting the property and talking with the applicant he has no problem because there is not a line-of-sight issue for people trying to turn on Rankin. He also noted there is a large portion of the property taken up by a retention pond.

Mayor Morales opened the public hearing at 11:43 a.m.

Josh Ligon, Tennessee, reported the Marlin Street side is the one with the five-yard setback noting they have a corner lot. He also noted the need for the retention pond.

There being no one else wishing to speak, the public hearing was closed at 11:45 a.m.

Council Member Love moved approval of the first of two readings of Ordinance No. 9642 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, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

48. Hold a public hearing and consider a resolution on a request by Our Lady of Guadalupe Catholic Church for approval of a Temporary Land Use Permit for a Church Family Fair and Carnival generally Located northeast of the intersection of North Tyler Street and Garden Lane. (DEVELOPMENT SERVICES)

ORDINANCE NO. 2017-052

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A CHURCH FAMILY FAIR AND A CARNIVAL ON LOT 8, BLOCK 7, GLENDALE ADDITION, AND LOT 13A, BLOCK 7, GLENDALE ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF NORTH TYLER STREET AND GARDEN LANE); 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 the church's annual carnival that will be held April 27 through April 30.

They will have onsite sale of alcohol on Saturday and Sunday. Adequate restrooms and security guards will be provided and staff recommends approval.

Mayor Morales opened the public hearing at 11:47 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Love moved to adopt Resolution No. 2017-052; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

MISCELLANEOUS

49. Consider a resolution authorizing the City Council to support the adoption of a letter of support and revitalization to The Michaels Organization for TDHCA tax credit application. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2017-053

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS, SUPPORTING THE PROPOSED CHAPARRAL APARTMENTS AND CONFIRMING THAT THE CITY SHALL PROVIDE A LOAN, GRANT, REDUCED FEE OR CONTRIBUTION OR OTHER VALUE OF BENEFIT IN THE NOMINAL AMOUNT OF \$10.00 FOR SUCH DEVELOPMENT; THE APPLICANT IS MIDLAND CHAPARRAL ASSOCIATES, LP, AN AFFILIATE OF THE MICHAELS ORGANIZATION; THE PROPOSED DEVELOPMENT IS LOCATED AT 4201 NORTH GARFIELD STREET; PROVIDING AN EFFECTIVE DATE; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO CERTIFY THE RESOLUTION TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Development Services Director Chuck Harrington gave a brief overview of the item noting this is the second year this group is applying to remodel and rebuild existing apartments using Texas Department of Community Affairs Tax Credits. They are requesting \$10 from the City which will add points and help them on their application.

Council Member Sparks moved to adopt Resolution No. 2017-053; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

50. Consider an ordinance amending Title III "Departments", Chapter 1, Water Department. (UTILITIES)

ORDINANCE NO. 9643

AN ORDINANCE AMENDING TITLE III, "DEPARTMENTS", CHAPTER 1, "WATER DEPARTMENT", SECTION 2, "RATES," OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO AMEND THE REQUIREMENT THAT NON-RESIDENTIAL CUSTOMERS THAT USE WATER FOR OUTSIDE LANDSCAPE IRRIGATION PURPOSES HAVE A SEPARATE WATER METER FOR SUCH PURPOSES AND SO AS TO LIST CURRENT WATER AND SEWER RATES; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; ORDERING PUBLICATION; AND DIRECTING NOTIFICATION TO CUSTOMERS OUTSIDE THE CITY LIMITS AS REQUIRED BY STATE LAW

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9643.

Utilities Director Laura Wilson reported they are revising the ordinance that was passed in 2013. The Water Advisory Council felt that conservation measures put into place were in conflict with commercial landscaping requirements. They are requesting to exempt existing commercial customers. However if they do a major remodel or expansion then they will be required to implement the measures.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9643 in accordance with the Charter of the City of Midland with an amendment to page 3 under A, Customers Inside City Limits, paragraph 1d to read as follows: "All water and sewer rates will increase by 2.5% on October 1, 2017 and every October 1 thereafter through and including October 1, 2019"; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

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

No appointments were made.

PUBLIC COMMENT

52. 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.)

Pedro Munoz, 400 N. Ft. Worth, complained that Code Enforcement was not following up with his complaint that the lights at the church next door were too bright and pointed in his direction. He also spoke of an incident that happened in his alleyway with three gentlemen and a call that was made to the police. When asked if his complaint was also about the Police Department he clarified it was only about Code Enforcement.

Isaiah Jackson, 108 N. Madison, reported he was detained by a police officer in his driveway on January 23, 2017 but was never told why he was being detained. He filed a complaint with the Police Department and has not received an answer.

All of the business at hand having been completed, the meeting adjourned at 12:13 p.m.

PASSED AND APPROVED the 28th day of February, 2017.

Jerry F. Morales, Mayor

ATTEST:

Amy M. Turner, City Secretary