

**MIDLAND CITY COUNCIL
MINUTES
February 26, 2019**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 8:45 a.m. on February 26, 2019.

Council Members present: Mayor Jerry F. Morales, Mayor Pro Tem John B. Love III (District 2), Council Member Spencer Robnett (At-Large), Council Member Michael Trost (At-Large), Council Member Scott Dufford (District 1), Council Member Sharla Hotchkiss (District 3), and Council Member J.Ross Lacy (District 4).

Staff members present: City Manager Courtney Sharp, City Attorney John Ohnemiller, Assistant City Manager Frank Salvato, Assistant City Manager Robert Patrick, Assistant City Manager Morris Williams, City Secretary Amy Turner, Utilities Director Laura Wilson, Administrative Services Director Mark Widmann, Finance Director Pam Simecka, Development Services Director Charles Harrington, Engineering Services Director Jose Ortiz, Assistant Utilities Director Carl Craigo, City Engineer Matt Carr, Traffic Engineer Mike Pacelli, and Assistant Transportation Manager Gabe McClelland.

Mayor Morales called the meeting to order at 8:46 a.m.

1. Receive a presentation from Parkhill Smith & Cooper and Kimley Horn on the draft Land Use Assumptions and Capital Improvement Program pertaining to the proposed impact fees.

Eric West, Parkhill Smith & Cooper, introduced Jeff Whitacre of Kimley Horn and introduced the citizens committee that has been working with their group. Mr. West provided an overview of the project noting there are two legs and today we will be discussing the first leg which is land use and capital improvement plans which will come to Council for consideration on March 26th in the form of a public hearing. Following that meeting, if Council adopts the land use and capital, then we will need to think about what impact fees to adopt and what credits would look like. The final impact fee reports will be put together in March and in May the remaining items will be considered.

Jeff Whitacre reported the first part is technical based and the next part is policy based. He explained how the City was divided into five service areas. The land use establishes infrastructure demands and master plans. They studied land use and applied future land use to the next ten years determining reasonable growth projections. They also projected housing permits and growth in each area. They estimate a 20% increase of existing development for single family and non-residential areas. He shared a map outlining where intersection improvements could be made throughout the city. They also included other projects that they would like to do but funding sources need to be identified. Each service area was broken down to determine cost needed today and in ten years. Service area A will

be \$22 million, Service area B will be \$30.4 million, Service area C will be \$20.97 million, and service area D will be \$23.82 million. All costs are for the ten-year period.

Eric West reported that the water and wastewater CIP applied the same growth noting that works out to just under 5 million gallons per day. All projects together will be about \$125 million but the ten-year cost is \$46 million with \$23 million being recoverable costs. On the wastewater side, the ten-year cost is \$28.8 million with a maximum of \$14.4 million recoverable.

Utilities Director Laura Wilson noted that they are not having to look at the addition of treatment facilities because of conservation by residents. Comments from committee members included the need to look at underutilized areas and how it could impact future development such as what including a sewer line by the stadium area did for development in that area. Impact fees don't need to be added unless it truly advances the City. A study from Texas A&M showed that for every \$1,000 in increased cost of a home it eliminates 20,000 buyers. Focus on creating capital improvements that increase the most efficiency by looking at large areas of land. Focus on things that will add more developable land. Developers can get items built at a more reasonable cost than the City.

Eric West noted that the next steps are to provide written recommendations that will be in the March 26th agenda.

Mayor Morales noted there is a lot more work to do and encouraged the committee to stay engaged.

2. Receive a presentation from the Permian Strategic Partnership outlining their mission and current status.

Michael Wise of Permian Strategic Partnership provided a background to their organization noting that with continued growth in the area many energy company executives got together to address challenges and opportunities revolving around people and logistics. Their organization started with ten energy companies and has grown to 20. They have formed a 501(c)6 and are studying this area noting it is an important place in the world and affects the global economy. Oil production has grown five times in the last decade and gas production has doubled all due to advances in technology. Their goal is focus on public education, housing, health care, roads and workforce development. They intend to influence whatever sources they can and work with partners to improve their focus areas in the Permian Basin. He shared three pricing scenarios of whether the price of oil goes up or down noting that current production is 3.8 million barrels a day and by 2025 it could be 6.1 million barrels a day. He shared a graph of the different pricing scenarios noting that no matter which financial case you review, production will increase in this area. If the Permian Basin were a country, we would be the 4th largest oil producer in the world.

David Christmas reported that no matter how you look at it, production is up. He shared charts showing there will be a flattening in the number of rig counts but production will still increase due to the increase of horizontal wells and their ability to get longer and drill wells faster. They anticipate a doubling of full-time oil and gas employees in the Permian Basin. With an increase in staff they need to recruit people and have some place to house them, educate their kids, etc. They are trying to get trucks off the road and install pipelines. It currently takes 50 trucks per day for fracing.

Mr. Wise noted that safety is paramount and one of the core pillars of the road committee. They have developed a mission statement and goals. They recognize that their industry doesn't have the ability to solve problems on its own, but they plan to form partnerships. This is truly an opportunity to put the country and region on a different international stage and create energy independence.

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., February 26, 2019.

Council Members present: Mayor Jerry F. Morales, Mayor Pro Tem John B. Love III (District 2), Council Member Spencer Robnett (At-Large), Council Member Michael Trost (At-Large), Council Member Scott Dufford (District 1), Council Member Sharla Hotchkiss (District 3), and Council Member J.Ross Lacy (District 4).

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

The Agenda Items were heard in the following order: 1-4, 6, 8-11, 13-16, 18-21, 23-26, 5, 7, 12, 17, 22, 27-43.

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

OPENING ITEMS

1. Invocation - Pastor Randy Sims, Midland Bible Church
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Mayor Morales and Council Member Love presented a proclamation to the Negro Business and Professional Women's Club of Midland for Women's History Month.

CONSENT AGENDA

Council Member Robnett moved to approve Consent Agenda items 4 - 26 excluding 5, 7, 12, 17, 22; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

4. Approved a motion approving the following minutes:
 - a. Regular City Council Meeting of February 12, 2019.
6. Approved a motion approving the purchase of Cradlepoint Netcloud equipment, software and services for one (1) year from CentralSquare Technologies for a cost of \$251,764.15 for the Communication and Information Systems Department. (PURCHASING)
8. Approved a resolution awarding a contract for the Year Two (2) Road Bond Mill & Inlay Paving Project: Michigan Avenue, Texas Avenue & Louisiana Avenue for the Engineering Services Department. (PURCHASING)

RESOLUTION NO. 2019 - 048

RESOLUTION AWARDING A CONTRACT FOR THE MICHIGAN AVENUE, TEXAS AVENUE AND LOUISIANA AVENUE MILL AND INLAY PAVING PROJECT TO JONES BROS. DIRT & PAVING CONTRACTORS, INC. OF ODESSA, TEXAS, AT A TOTAL COST NOT TO EXCEED \$4,744,309.95; SAID PROJECT BEING A YEAR TWO BOND PROJECT; APPROPRIATING FUNDS; AND AUTHORIZING PAYMENT THEREFOR

9. Approved a resolution awarding a contract for the Year Two (2) Bond Project: Wood Drive and Oriole Drive Paving Project for the Engineering Services Department. (PURCHASING)

RESOLUTION NO. 2019 - 049

RESOLUTION AWARDING A CONTRACT FOR THE WOOD DRIVE AND ORIOLE DRIVING PAVING PROJECT TO REECE ALBERT, INC. OF MIDLAND, TEXAS, AT A TOTAL COST NOT TO EXCEED \$2,847,122.00; SAID PROJECT BEING A YEAR TWO BOND PROJECT; APPROPRIATING FUNDS; AND AUTHORIZING PAYMENT THEREFOR

10. Approved a resolution approving the purchase of six (6) Kann refuse truck bodies on International cab and chassis from Roberts Truck Center of Texas LLC dba Summit Truck Group through Sourcewell formerly National Joint Powers Alliance (NJPA) contract #081716-NVS for a cost of \$1,185,656.88 for the Garage Division. (PURCHASING)

RESOLUTION NO. 2019 - 050

RESOLUTION APPROVING THE PURCHASE OF SIX (6) KANN REFUSE TRUCK BODIES ON INTERNATIONAL CAB AND CHASSIS FROM ROBERTS TRUCK CENTER OF TEXAS LLC DBA SUMMIT TRUCK GROUP THROUGH SOURCEWELL FOR THE GARAGE DIVISION AT A TOTAL COST OF \$1,185,656.88

11. Approved a resolution awarding an agreement to the sole proposer, Valor Water Analytics, for Apparent Water Loss Detection Software Services for the Utilities Department. (PURCHASING)

RESOLUTION NO. 2019 - 051

RESOLUTION AWARDING AN AGREEMENT FOR APPARENT WATER LOSS DETECTION SOFTWARE SERVICES TO VALOR WATER ANALYTICS AT A TOTAL COST OF \$146,568.00

13. Approved a resolution ratifying the emergency repair of a twenty-four inch (24") effluent irrigation line at Spraberry Farm and authorizing payment to Red Deer Construction, LLC for the Utilities Department. (PURCHASING)

RESOLUTION NO. 2019 - 053

RESOLUTION RATIFYING AND APPROVING THE PROCUREMENT OF EMERGENCY REPAIR SERVICES FROM RED DEER CONSTRUCTION, LLC, FOR THE REPAIR OF AN EFFLUENT IRRIGATION LINE AT SPRABERRY FARM; AND AUTHORIZING PAYMENT THEREFOR AT A TOTAL COST OF \$77,776.45

14. Approved a resolution awarding the Automated Weather Observation System (AWOS) Installation Project at Midland Airpark Airport to DBT Transportation Service of Lafayette, Colorado. (AIRPORTS)

RESOLUTION NO. 2019 - 054

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH DBT TRANSPORTATION SERVICES OF LAFAYETTE, COLORADO, FOR THE AUTOMATED WEATHER OBSERVING SYSTEM INSTALLATION PROJECT AT MIDLAND AIRPARK IN AN AMOUNT NOT TO EXCEED \$149,535.00

15. Approved a resolution awarding and authorizing the City Manager to negotiate and enter into a Lease Agreement for Airport Hangar Facility with The Good Shed, LLC of Midland, Texas; Lots D & E Hangar Development Project, Midland International Air & Space Port. (AIRPORTS)

RESOLUTION NO. 2019 - 055

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A LEASE AGREEMENT WITH THE GOOD SHED, LLC, FOR CERTAIN CITY-OWNED PROPERTY DESCRIBED AS LOTS D AND E, BLOCK 11, MIDLAND INTERNATIONAL AIRPORT INDUSTRIAL PARK ADDITION, SECTION 6, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS, FOR THE PURPOSE OF DEVELOPING A PRIVATE AIRCRAFT HANGAR AT MIDLAND INTERNATIONAL AIR & SPACE PORT

16. Approved a resolution awarding the Airport Security Access Control Software, Hardware, Cable and CCTV System Upgrade at Midland International Air & Space Port to RRC Construction of Midland, Texas. (AIRPORTS)

RESOLUTION NO. 2019 - 056

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH RRC CONSTRUCTION IN AN AMOUNT NOT TO EXCEED \$1,080,000.00 FOR THE AIRPORT SECURITY ACCESS CONTROL AND CCTV UPGRADE PROJECT AT MIDLAND INTERNATIONAL AIR & SPACE PORT; AND APPROPRIATING FUNDS FOR SAID PROJECT

18. Approved a resolution approving the transfer of the Oil and Gas Well Permits and Road Repair Agreement issued to Callon Petroleum Operating Company located in Section 23, Block 40, T-1-S, T&P RRC Co. Survey, City and County of Midland, Texas. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2019 - 058

RESOLUTION APPROVING THE TRANSFER OF 16 OIL AND GAS WELL PERMITS FROM CALLON PETROLEUM OPERATING COMPANY ("OPERATOR") TO DE3

OPERATING LLC ("TRANSFEREE"); AND APPROVING THE TRANSFER OF THE ROAD REPAIR AGREEMENT REGARDING SAID OIL AND GAS WELL PERMITS FROM OPERATOR TO TRANSFEREE; SAID OIL AND GAS WELLS BEING LOCATED IN SECTION 23, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS

19. Approved a resolution authorizing the transfer of Right-of-Way License 2012-128 between the City of Midland and Callon Petroleum Company to DE3 Operating LLC. (UTILITIES)

RESOLUTION NO. 2019 - 059

RESOLUTION APPROVING THE TRANSFER OF A RIGHT-OF-WAY LICENSE FROM CALLON PETROLEUM COMPANY ("LICENSEE") TO DE3 OPERATING LLC ("TRANSFEREE"); SAID RIGHT-OF-WAY LICENSE BEING LOCATED IN SECTION 23, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS

20. Approved a motion approving a proposed Preliminary Plat of Dahlia Industrial Park, being a plat of 148.42-acre tract of land located in the east half of Section 18, Block 40, T-1-S, T&P RR Co. Survey Midland County, Texas, (generally located north of Craddick Highway, approximately 2,717 feet east of North Farm-to-Market Road 1788 - Extraterritorial Jurisdiction). (DEVELOPMENT SERVICES)

21. Approved a resolution of the City Council of the City of Midland, Texas, nominating Silvertip Completion Services Operating, LLC, to the Office of the Governor, Economic Development and Tourism, through the Economic Development Bank as an Enterprise Project pursuant to the Texas Enterprise Zone Act, Chapter 2303, Texas Government Code. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2019 - 060

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS, NOMINATING SILVERTIP COMPLETION SERVICES OPERATING, LLC, TO THE OFFICE OF THE GOVERNOR, ECONOMIC DEVELOPMENT AND TOURISM, THROUGH THE ECONOMIC DEVELOPMENT BANK AS AN ENTERPRISE PROJECT PURSUANT TO THE TEXAS ENTERPRISE ZONE ACT, CHAPTER 2303, TEXAS GOVERNMENT CODE; PROVIDING AN EFFECTIVE DATE; AND DESIGNATING A LIAISON FOR THE COMMUNICATION WITH INTERESTED PARTIES

23. Approved a resolution authorizing the execution of an agreement for the temporary closure of state right-of-way with the State of Texas for use of a state-owned highway, including BS 349C (Big Spring Street) between Ohio Avenue and Missouri Avenue, for the purpose of demolishing the building located at 310 W. Texas Avenue. (ENGINEERING SERVICES)

RESOLUTION NO. 2019 - 062

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR THE TEMPORARY CLOSURE OF STATE RIGHT-OF-WAY WITH THE STATE OF TEXAS FOR USE OF A STATE-OWNED HIGHWAY, INCLUDING BUSINESS STATE HIGHWAY 349C (BIG SPRING STREET) FROM MISSOURI AVENUE TO OHIO AVENUE, FOR THE PURPOSE OF ESTABLISHING A SAFETY ZONE FOR THE DEMOLITION OF A BUILDING

24. Approved a resolution authorizing the execution of three Public Improvement Development Agreements with Betenbough Homes in the amount of \$2,043,786.00 for future design and construction of public paving and water improvements for the development of Lone Star Trails II. (ENGINEERING SERVICES)

RESOLUTION NO. 2019 - 063

RESOLUTION AUTHORIZING THE EXECUTION OF THREE PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENTS WITH BETENBOUGH HOMES FOR THE DEVELOPMENT OF LONE STAR TRAILS II, CITY AND COUNTY OF MIDLAND, TEXAS; APPROPRIATING AND ALLOCATING FUNDS; AUTHORIZING PAYMENT THEREFOR IN AN AMOUNT NOT TO EXCEED \$2,043,786.00; SAID AGREEMENTS BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE; AND AUTHORIZING THE EXECUTION OF TWO ESCROW AGREEMENTS WITH BETENBOUGH HOMES, DAYBREAK DEVELOPMENT, LLC, AND TITLE ONE, DIGITAL TITLE SERVICES, LLC ASSOCIATED WITH BETENBOUGH HOMES'S CONSTRUCTION OF PUBLIC IMPROVEMENTS ON MOCKINGBIRD LANE, FROM ITS EAST END TO FAIRGROUNDS ROAD, AND ON FAIRGROUNDS ROAD, FROM MOCKINGBIRD LANE TO RATTLER LANE

25. Approved a resolution accepting and appropriating funds awarded through the FY2019 Edward Byrne Memorial Justice Assistance Grant Program by the Office of the Governor of Texas Criminal Justice Division. (POLICE)

RESOLUTION NO. 2019 - 064

RESOLUTION ACCEPTING A GRANT IN THE AMOUNT OF \$138,000.00 FROM THE FISCAL YEAR 2019 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT PROGRAM PROVIDED BY THE GOVERNOR'S OFFICE; SAID GRANT FUNDS WILL BE USED TO PURCHASE AN ACCIDENT RECONSTRUCTION TECHNOLOGY SYSTEM AND ELECTRONIC TICKET WRITERS FOR THE POLICE DEPARTMENT

26. Approved a resolution authorizing the execution of a Surface Use Agreement between the City of Midland and Endeavor Energy Resources, L.P.(UTILITIES)

RESOLUTION NO. 2019 - 065

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SURFACE USE AGREEMENT BETWEEN THE CITY OF MIDLAND AND ENDEAVOR ENERGY RESOURCES, L.P., REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTIONS 16 AND 21, BLOCK 37, TOWNSHIP 3 SOUTH, T&P R.R. CO. SURVEY, MIDLAND COUNTY, TEXAS

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

5. Consider a resolution allocating funds from Hotel/Motel Operating Budget to the Midland Softball Field Project. (FINANCE)

RESOLUTION NO. 2019 - 046

RESOLUTION ALLOCATING THE SUM OF \$325,000.00 FROM THE HOTEL/MOTEL FUND'S (090150) 2019 OPERATING BUDGET FOR THE MIDLAND SOFTBALL ACCOUNT (56187) TO THE MIDLAND SOFTBALL FIELD PROJECT (900289)

Council Member Lacy asked if all the money was for the Bill Williams fields. Parks & Recreation Manager Laurie Williams reported the funds were approved through the

budget at the request of Midland Softball Association for field improvements. It was further clarified that City-owned fields were improved based on requests through the Hotel/Motel Tax Advisory Board. Other questions about Hotel/Motel tax funds were answered.

Council Member Lacy moved to adopt Resolution No. 2019 - 046; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

7. Consider a resolution awarding a contract for a Splash Pad for the Dennis the Menace Park to Sunbelt Pools, Inc. for the Community Services Department. (PURCHASING)

RESOLUTION NO. 2019 - 047

RESOLUTION AWARDED A CONTRACT FOR THE PURCHASE AND INSTALLATION OF A SPLASH PAD AT DENNIS THE MENACE PARK TO SUNBELT POOLS, INC., THROUGH BUYBOARD AT A TOTAL COST OF \$820,250.00; APPROVING \$80,000.00 FOR CONTINGENCIES; AND ALLOCATING FUNDS THEREFOR

Council Member Lacy asked if ongoing maintenance had been budgeted. Parks & Recreation Manager Laurie Williams reported they had budgeted \$12,000 for the year for upkeep and they expect a life span of 20-25 years.

Council Member Lacy moved to adopt Resolution No. 2019 - 047; seconded by Council Member Love. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

12. Consider a resolution awarding a professional services agreement to Camp Dresser & McKee, Inc. dba CDM Smith for the design of the Paul Davis pump station improvements for the Utilities Department. (PURCHASING)

RESOLUTION NO. 2019 - 052

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH CAMP DRESSER & MCKEE, INC., D/B/A CDM SMITH, INC., TO PROVIDE DESIGN AND ENGINEERING SERVICES FOR THE DESIGN OF THE PAUL DAVIS PUMP STATION IMPROVEMENTS FOR THE CITY OF MIDLAND, FOR A TOTAL COST OF \$780,300.00

Staff reported that CDM Smith had some changes to the agreement, so this item will not be considered today.

17. Consider a resolution approving certain consulting services agreements between the Midland Development Corporation and the Perryman Group, McChrystal Group LLC, and TIP Strategies, Inc., for services associated with the preparation of a regional economic master strategic plan. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2019 - 057

RESOLUTION APPROVING CERTAIN CONSULTING SERVICES AGREEMENTS BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND THE PERRYMAN GROUP, MCCHRYSTAL GROUP LLC, AND TIP STRATEGIES, INC., FOR SERVICES

ASSOCIATED WITH THE PREPARATION OF A REGIONAL ECONOMIC MASTER STRATEGIC PLAN

Council Member Love reported this is one of the hardest decisions he has had to make noting the different taxing entities are spending a significant amount of money to help improve Midland. If Midland is going to get over the hump, we must take risks and do big things. This project is a significant investment, but it is worth the risk.

Council Member Love moved to adopt Resolution No. 2019 - 057; seconded by Council Member Robnett.

Discussion ensued on whether this was the highest and best use of tax payer dollars. Staff was asked if Council was required to approve any funds over \$50,000 spent by MDC. City Attorney John Ohnemiller confirmed that the bylaws require Council approval over \$50,000.00.

Brent Hillard, Chairman of the MDC, reported that in December the board approved an expenditure of \$4 million to go toward Priority Midland. Council Member Lacy noted that it was a joint meeting with the City Council. City Attorney John Ohnemiller noted that it has not come before City Council previously because they were waiting for contracts to be negotiated and in place for Council to approve. Brent Hillard reported the return on investment will be when other foundations and corporations invest in advancing the economic development of the City.

Mayor Morales pointed out that the City is growing at an aggressive rate and professional consultants are needed to help move our City forward to have a better housing and educational system. This money is the seed money and the other taxing entities and oil companies will help support this initiative in the future.

Council Member Dufford noted we hope to have another \$100 million from other taxing entities, foundations and energy companies. Without a plan, no one knows what to put money into. The risk is to not implement the plan once it is developed.

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

22. Consider a resolution authorizing the City Manager to execute, on behalf of the City of Midland, an instrument granting an aerial easement and a utility easement generally located at the intersection of West Ohio Avenue and North Carrizo Street, to COG Realty LLC. (ENGINEERING SERVICES)

RESOLUTION NO. 2019 - 061

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, ON BEHALF OF THE CITY OF MIDLAND, AN INSTRUMENT GRANTING AN AERIAL EASEMENT AND A UTILITY EASEMENT LOCATED IN A 0.17-ACRE TRACT OF LAND OUT OF OR OTHERWISE ADJACENT TO BLOCK 50, HOMESTEAD ADDITION, LOT 1, BLOCK 36, HOMESTEAD ADDITION, SECTION 16, AND LOT 13, BLOCK 30, ORIGINAL TOWN, SECTION 9, CITY AND COUNTY OF MIDLAND, TEXAS, TO COG REALTY LLC

Council Member Lacy moved to adopt Resolution No. 2019 - 061; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy. NAY: None. ABSTAIN: Robnett. ABSENT: None.

SECOND READINGS

27. Consider an ordinance on second reading on a request by Knights of Columbus for a zone change from 1F-1, One Family Dwelling District, to O-1, Office District generally located on the northeast corner of the intersection of Bates Street and Andrews Highway. (DEVELOPMENT SERVICES) (First reading held February 12, 2019.)

ORDINANCE NO. 9874

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1, TRACT 4, WALLACE HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 1F-1, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS AN O-1, OFFICE DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF BATES STREET AND ANDREWS HIGHWAY); 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 Reyes read the caption of Ordinance No. 9874.

Council Member Hotchkiss moved to approve the second and final reading of Ordinance No. 9874 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

28. Consider an ordinance on second reading on a request by Maverick Engineering for a Zone Change from a PD, Planned District for a Housing Development, to an Amended PD, Planned District for a Housing Development, generally located on the northeast corner of the intersection of East Mockingbird Lane and North Big Spring Street. (DEVELOPMENT SERVICES) (First reading held February 12, 2019.)

ORDINANCE NO. 9884

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 15, BLOCK 2, LOT 1, BLOCK 3, AND THE PREVIOUSLY-VACATED 0.566-ACRE PORTION OF GUADALUPE STREET RIGHT-OF-WAY ADJACENT TO BLOCKS 2 AND 3, ADOBE MEADOWS, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF EAST MOCKINGBIRD LANE AND NORTH BIG SPRING 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); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9884.

Council Member Robnett moved to approve the second and final reading of Ordinance No. 9884 in accordance with the Charter of the City of Midland; seconded by Council Member Love. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

29. Consider an ordinance on second reading on a request by Midland Ambulatory Surgery Center, LLC for a zone change from PD, Planned District for an Office Center to an Amended PD, Planned District for an Office Center generally located on the southeast corner of the intersection of North Midland Drive and Gulf Avenue. (DEVELOPMENT SERVICES) (First reading held February 12, 2019.)

ORDINANCE NO. 9885

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING BLOCK 2, HARRISON TRACT, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR AN OFFICE CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH MIDLAND DRIVE AND GULF 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 Reyes read the caption of Ordinance No. 9885.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9885 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

PUBLIC HEARINGS

30. Hold a public hearing and consider an ordinance on a request by Jay Leeper for a Specific Use Permit, without Term, for an accessory building for living or sleeping quarters, generally located on the west side of Woodcrest Drive approximately 257 feet south of Ric Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9889

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 10, BLOCK 149, WILSHIRE PARK ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF WOODCREST DRIVE, APPROXIMATELY 257 FEET SOUTH OF RIC DRIVE), WHICH IS PRESENTLY ZONED 1F-2, ONE-FAMILY DWELLING DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR AN ACCESSORY BUILDING TO BE USED FOR LIVING OR SLEEPING QUARTERS; 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); ORDERING PUBLICATION; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9889.

Development Services Director Chuck Harrington gave a brief overview of the item noting that staff recommends approval of the permit subject to conditions A-F. No letters of objection have been received.

Council Member Love asked about the previous history noting he thought it required a medical condition with a doctor's note and had to be renewed every two years. When asked how they keep this from becoming a rental property, staff reported that it is a condition that is recorded and will put future buyers on notice.

Mayor Morales opened the public hearing at 10:42 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

City Attorney John Ohnemiller clarified that the two-year term was for temporary mobile homes for medical hardship. It was also noted that the penalty for renting is up to \$2,000 and could be charged daily if a person was in violation.

Council Member Robnett moved approval of the first of two readings of Ordinance No. 9889 in accordance with the Charter of the City of Midland; seconded by Council Member Love. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

31. Hold a public hearing and consider an ordinance on a request by SBC, LP for approval of a Site Plan generally located on the southeast corner of the intersection of North County Road 1247 and West State Highway 158. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9890

AN ORDINANCE ADOPTING A SITE PLAN FOR A 13.36-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 AT THE SOUTHEAST CORNER OF THE INTERSECTION OF NORTH COUNTY ROAD 1247 AND WEST STATE HIGHWAY 158); SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS; 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 Reyes read the caption of Ordinance No. 9890.

Development Services Director Chuck Harrington gave a brief overview of the item noting this tract was recently annexed into the City limits and this item is for approval of the site plan. The applicant will be required to adhere to all site plan review standards. The plan shows 13 3-story buildings with 312 units and 624 parking spaces of which 100 are attached garages. Planning and zoning reviewed it on February 4th and recommended approval. It is in compliance with the comprehensive plan, no letters of objection have been received and staff recommends approval.

Mayor Morales opened the public hearing at 10:50 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. 9890 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

32. Hold a public hearing and consider an ordinance on a request by Stonehawk Capital Partners, LLC for Site Plan approval generally located approximately 688 feet south of State Highway 191 and 2,287 feet west of Avalon Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9891

AN ORDINANCE ADOPTING A SITE PLAN FOR A 21.30-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 APPROXIMATELY 688 FEET SOUTH OF STATE HIGHWAY 191 AND APPROXIMATELY 2,287 FEET WEST OF AVALON DRIVE); SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS; 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 Reyes read the caption of Ordinance No. 9891.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is for Stonehawk Capital Partners. This property was recently annexed and the applicant is requesting approval of the site plan. They will be required to adhere to all site plan review standards. The site plan provided meets all standards. They are proposing six 3-story buildings with 383 units and 766 parking spaces. There is a club house and other typical amenities. The item has been circulated to all departments and was approved by Planning & Zoning on February 4. Staff recommends approval subject to conditions A-C. As of February 19, no letters of objection have been received.

Mayor Morales opened the public hearing at 10:52 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. 9891 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

33. Hold a public hearing and consider an ordinance on a request by Dahlia Development, LLC. for a Zone Change from 1F-2, One-Family Dwelling District to AE, Agriculture Estate District on a 30.74-acre tract of land generally located on the west side of North Garfield Street, approximately 594 feet north of Mockingbird Lane. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9892

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 30.74-ACRE TRACT OF LAND OUT OF SECTION 9, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 1F-2, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS AN AE, AGRICULTURE ESTATE DISTRICT (GENERALLY LOCATED ON THE WEST

SIDE OF NORTH GARFIELD STREET, APPROXIMATELY 594 FEET NORTH OF MOCKINGBIRD LANE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9892.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant would like to go to larger lots and staff has no objection. It is in compliance with the comprehensive plan and staff recommends approval. It was approved by Planning & Zoning on February 4 and as of February 19, no letters of objection have been received. Mr. Harrington answered questions about other property in the vicinity.

Mayor Morales opened the public hearing at 10:55 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. 9892 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

34. Hold a public hearing and consider an ordinance on a request for annexation of a 126.162-acre tract generally located approximately 2,630 feet west of the intersection of Mockingbird Lane and Holiday Hill Road. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9893

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 126.162-ACRE TRACT OF LAND AND A 13.537-ACRE TRACT OF LAND OUT OF SECTION 13, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED APPROXIMATELY 2,630 FEET WEST OF THE INTERSECTION OF MOCKINGBIRD LANE AND HOLIDAY HILL ROAD); APPROVING A PUBLIC SERVICE PLAN; AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9893.

Development Services Director Chuck Harrington gave a brief overview of the item noting this is the final public hearing for the annexation. This item will be followed up with adoption of the ordinance required to complete the annexation. This is for the extension of the Vineyard. Staff recommends approval.

Mayor Morales opened the public hearing at 10:57 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. 9893 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

35. Hold a public hearing and consider an annexation of a 17.55-acre tract of land generally located at the southwest corner of the intersection of Tradewinds Boulevard and Thomason Drive - Extraterritorial Jurisdiction. This a public hearing only. (DEVELOPMENT SERVICES)

Development Services Director Chuck Harrington gave a brief overview of the item noting this is for a 17.55-acre tract located on the southwest corner of Tradewinds and Thomason. The applicant is requesting annexation for future development of multi-family housing. It is in compliance with the comprehensive plan and no letters of objection have been received.

Mayor Morales opened the public hearing at 10:58 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

36. Hold a public hearing and consider a resolution on a request for a temporary land use for an annual church fair and carnival generally located on the northwest corner of the intersection of Garden Lane and North Tyler Street. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2019 - 066

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A CHURCH FAMILY FAIR AND A CARNIVAL ON LOT 13A, BLOCK 7, GLENDALE ADDITION, SECTION 2, A 0.31-ACRE PORTION OF ALLEY RIGHT-OF-WAY AND A 0.86-ACRE PORTION OF NORTH TYLER STREET RIGHT-OF-WAY ADJACENT TO SAID LOT, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH CARVER 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 it is for the annual permit for Our Lady of Guadalupe's annual fair and carnival. They will have music and the sale of alcoholic beverages, eight peace officers and adequate restrooms. This item was routed to all departments and staff recommends approval subject to the conditions outlined in the report.

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.

Council Member Love moved to adopt Resolution No. 2019 - 066; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

MISCELLANEOUS

37. Consider an ordinance on a request by Christopher Liles for approval of a Special Exception to the City of Midland Zoning Ordinance, Section 11-1-7 concerning front yard setbacks on the west 5.2 feet of property generally located on the northeast corner of the intersection of J Street and Douglas Avenue. (DEVELOPMENT SERVICES) (Public hearing heard. Deferred from February 12, 2019.)

ORDINANCE NO. 9886

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR THE WEST 5.2 FEET OF LOT 6 AND LOT 7, BLOCK 5, URBANDALE ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH J STREET AND DOUGLAS 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

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9886.

Development Services Director Chuck Harrington gave a brief overview of the item noting this item was deferred from the last meeting when the entire Council was not present. The applicant is requesting a special exception to allow a privacy security gate in front of the driveway. In June 2017 Council agreed to reduce the side yard setback as long as there were no privacy doors or gates to shut the property off. The property has a very short driveway approach and a gate creates a transportation issue as there is not adequate room for a car to pull off the street in front of the gate. One letter of objection has been received.

Council Member Love asked what part staff is objecting to. Mr. Harrington reported the statutory setback was 20 feet. It was reduced to five feet and was to be treated like a carport so there was off street parking. Traffic Engineer Mike Pacelli reported that the code treats the gate the same as a garage which is why the code requires a 20-foot setback.

Council Member Hotchkiss provided the background to this item noting that she was very clear she would not support zero-setback due to safety reasons but would be in support of a carport. This Council supported the carport. After they were living in the house she saw the posts and brackets go up for the gates and spoke with Trish and informed her that it wasn't allowed. She also spoke with the contractor and told them a gate wasn't allowed. She later heard from Chris and he explained their safety reasons for wanting the gate. She wanted to remind them they knew it was illegal because they asked, and she told them. Additionally, there was no partition between the garage and the swimming pool and that also has been added. She will not support this item and because of this variance she will not support another one in the future.

Chris and Trish Liles, 1512 Douglass, reported they already completed the work unknowingly outside of the law. He is here to take full responsibility and asked for forgiveness and to view the project on its merits. After hearing Ms. Hotchkiss, he said he connected two and two. He viewed the gate as a completely separate issue and was just looking at this from a safety standpoint.

Council Member Trost reported he is struggling with the fact that he has completed the project and is asking for permission after the fact.

Trish Liles reported that she asked her husband to talk to Ms. Hotchkiss and thought everything was fine. She also saw Sharla talking with their builder and thought everything was fine. They did switch builders and the original variance was done with

the first builder. When asked who pulled the permits of the gate, Trish explained she thought the permit for the house covered the gates.

Building Official Steve Thorpe clarified that the gates and the wall that divides the porch from the back yard were never part of the plans from Chuck Dawson. They were added after the fact. The original plans were never amended to include the added items. He also added that this is not the first time in recent history that Mr. Dawson has not filed amended plans and has asked for forgiveness after the fact. He emphasized that the language in the original variance was for a swing-in garage.

Council Member Robnett moved approval of the first of two readings of Ordinance No. 9886 in accordance with the Charter of the City of Midland with the added requirement that the homeowner must always maintain an extended range gate opener to open the gates remotely; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Love, Morales, Dufford, Lacy, Robnett. NAY: Trost, Hotchkiss. ABSTAIN: None. ABSENT: None.

38. Consider an ordinance adopting a fee schedule effective May 1, 2019. (FINANCE)

ORDINANCE NO. 9894

AN ORDINANCE ADOPTING A FEE SCHEDULE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; ESTABLISHING AN EFFECTIVE DATE OF MAY 1, 2019; PROVIDING AN APPEAL PROCESS; AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9894.

Budget Manager Jamie Minor gave a brief overview of the item noting that Finance was requested to gather all fees in the City into one ordinance that will come back for annual review as part of the budget process. She briefly explained which fees were increased.

Council Member Love moved approval of the first of two readings of Ordinance No. 9894 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

39. Consider an ordinance vacating and abandoning a 0.71-acre portion of a public access easement generally located approximately 153 feet south of Widener Strip, between Keenland Drive and Holiday Hill Road. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9895

AN ORDINANCE VACATING AND ABANDONING A 0.71-ACRE PORTION OF A PUBLIC ACCESS EASEMENT LOCATED ADJACENT TO LOTS 13, 17 AND 18, BLOCK 2, GREEN HILL TERRACE, AND LOT 14A, BLOCK 2, GREEN HILL TERRACE, SECTION 15, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED APPROXIMATELY 153 FEET SOUTH OF WIDENER STRIP, BETWEEN KEENLAND DRIVE AND HOLIDAY HILL ROAD); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$14,200.00; RETAINING A NONEXCLUSIVE UTILITY EASEMENT; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9895.

Development Services Director Chuck Harrington gave a brief overview of the item noting it originally had a variance for setback for utility poles. This item will allow for full use of the property. City Attorney John Ohnemiller clarified that this ordinance will supersede the previously adopted ordinance.

Council Member Hotchkiss moved approval of the first of two readings of Ordinance No. 9895 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

40. Consider a motion appealing the Building Official's denial of a sign permit application by James B. Reeder generally located at the east side of North Big Spring Street, approximately 1,111 feet north of West Wadley. (DEVELOPMENT SERVICES) (Deferred from February 12, 2019)

Development Services Director Chuck Harrington gave a brief overview of the item noting it was deferred from February 12. The applicant is requesting to install a new electronic message board onto an existing sign. The existing sign is not in compliance with the sign code as the sign itself extends over the right-of-way by six feet. This item has been circulated to all departments. The right-of-way belongs to TxDOT and they had objection to the sign in their right-of-way. Since there is no hardship, staff must recommend denial of the request.

Council Member Dufford noted the sign has been there for 40 years and they are replacing what was blown down. It was also noted that the assumption of risk is being taken by the applicant. If TxDOT wants their right-of-way the applicant will be required to remove the sign.

James Reeder, 1925 Cedar Springs, reported the sign has been there for 44 years and the pole has never moved. It will cost about \$10,000 to move the pole. A picture was shared of what the sign looked like before and a picture of the proposed sign. The new sign has not yet been installed. The only reason he is replacing it is because the old sign blew down in a wind storm. The electronic message portion will be used only for advertising their facility.

Council Member Robnett moved to approve a motion appealing the Building Official's denial of a sign permit application by James B. Reeder on Lot 7, Block 3, Corporate Plaza, Section 16, City and County of Midland, Texas, (generally located at the east side of North Big Spring Street, approximately 1,111 feet north of West Wadley); seconded by Council Member Love. The motion carried by the following vote: AYE: Trost, Love, Morales, Dufford, Lacy, Robnett. NAY: Hotchkiss. ABSTAIN: None. ABSENT: None.

41. Approved a motion making appointments to various boards and commissions.

Council Member Lacy moved to appoint Joby Rittenhouse to the Zoning Board of Adjustments; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member Hotchkiss moved to move up Karmen Hendrix from an alternate member to a regular member on the Planning & Zoning Commission; seconded by Council Member Love. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

PUBLIC COMMENT

42. 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.)

Richard Smith, 3304 Cimarron, expressed concern for the condition of the animal shelter and offered to put a plan together to help. Mayor Morales noted that Council Members Hotchkiss and Dufford would work with him.

Daniel Burgess, 5803 South County Road 1200, reported he lived 4.5 miles south of I-20 and had a grievance regarding the requirements to obtain a septic system permit. They are working to move a trailer onto their property for his mother-in-law. Because the land isn't platted they are unable to get a septic system installed and platting is a very expensive process which will cost him several thousand dollars and a time delay. Mayor Morales asked staff to speak with him.

Ryan Richards, PO Box 1746, Seminole, reported he installs septic systems and Mr. Burgess is one of his clients. He reviewed the law that governs septic systems noting that Midland Health Services handles the permits in Midland County. He is being delayed because the Engineering Department will not send a paper regarding the flood plain to the Health Department and felt that was illegal. Mayor Morales asked Assistant City Manager Robert Patrick to sit down with Mr. Richards.

EXECUTIVE SESSION

43. 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 551.071, Consultation with Attorney
 - a.1. Discuss a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code.
 - b. Section 551.087, Deliberate Economic Development Negotiations
 - b.1. Discuss business prospects that the City seeks to have locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.

Mayor Morales recessed the meeting to go to Executive Session at 12:03 p.m.

All the business at hand having been completed, the meeting adjourned at 1:07 p.m.

PASSED AND APPROVED the 26th day of March 2019.

Jerry F. Morales, Mayor

ATTEST:

Amy M. Turner, City Secretary