

**MIDLAND CITY COUNCIL
MINUTES
April 10, 2018**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:30 a.m. on April 10, 2018.

Council Members present: Mayor Jerry F. Morales, Mayor Pro Tem Spencer Robnett (At-Large), Council Member Scott Dufford (At-Large), Council Member Jeff Sparks (District 1), Council Member John B. Love III (District 2), 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, City Secretary Amy Turner, Utilities Director Laura Wilson, Finance Director Pam Simecka, Engineering Services Director Jose Ortiz, General Services Director Fred Reyes, Chief Information Officer Willie Resto, Interim Police Chief Seth Herman, Assistant Utilities Director Carl Craigo, Internal Auditor Debbie Gotovac, Traffic Engineer Mike Pacelli, Customer Service Manager Tony Goyang, and City Engineer Matt Carr.

Mayor Morales called the meeting to order at 9:30 a.m.

1. Receive a presentation regarding utility billing software.

Finance Director Pam Simecka gave an overview of the utility billing software project noting the main issue is the cost of North Star over Tyler. Staff feels that North Star is a better software package. One million dollars has been budgeted in the 2018 budget. A review committee was formed across several departments. Five RFPs were received and the committee chose three to review and asked for their final and best offer. Only North Star and Tyler submitted their offers by the deadline. The Committee unanimously chose North Star.

She walked through the review process noting they sent a team to other locations to review the software. They established priorities including, better customer service, better integration, allowing more staff efficiencies, and cost. After making adjustments to their proposals to make them more similar for comparison, North Star ended up being \$184,000.00 more than Tyler. North Star agreed not to raise maintenance fees for three years and to increase them by no more than three percent per year after the initial three years. Staff expects the program to last about 15 years which would mean it is only about \$16,000.00 more per year. Staff recommends moving forward with North Star since it has better efficiencies, better customer service, and better integration with the current system.

City Manager Courtney Sharp noted this item would be on a future agenda for Council action.

Questions were asked about Munis, Opticom and the Communication Ring. Assistant City Manager Frank Salvato reported that there is an item on Consent Agenda for approval of a

50/50 agreement with the MDC. He clarified that it has not yet been approved by the MDC. When the MDC approves the agreement, their funding will be approved for the project.

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., April 10, 2018.

Council Members present: Mayor Jerry F. Morales, Mayor Pro Tem Spencer Robnett (At-Large), Council Member Scott Dufford (At-Large), Council Member Jeff Sparks (District 1), Council Member John B. Love III (District 2), 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, and Assistant City Manager Robert Patrick.

The Agenda Items were heard in the following order: 1-12, 14, 13, 15-27.

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

OPENING ITEMS

1. Invocation - Reverend Pat Bryant, Travis Baptist Church
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:

Council Members Hotchkiss and Love presented a proclamation proclaiming April 2018 as Fair Housing Month in Midland.

CONSENT AGENDA

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

4. Approved a motion approving the following minutes:
 - a. Regular meeting of March 27, 2018
5. Approved a resolution awarding a contract for the Fiscal Year 2018 HA5 Surface Treatment Project for the Transportation Division. (PURCHASING)

RESOLUTION NO. 2018 - 131

RESOLUTION AWARDING A CONTRACT FOR THE FISCAL YEAR 2018 HIGH DENSITY MINERAL BOND SURFACE TREATMENT PROJECT TO THE SOLE BIDDER, ANDALE CONSTRUCTION, INC. OF WICHITA, KANSAS, AT A TOTAL COST NOT TO EXCEED \$824,575.37; AND AUTHORIZING PAYMENT THEREFOR

6. Approved a resolution approving the purchase of twenty (20) police package vehicles for the Police Department and two (2) police package vehicles for the Fire Department for the Garage Division. (PURCHASING)

RESOLUTION NO. 2018 - 132

RESOLUTION AUTHORIZING THE PURCHASE OF TWENTY (20) POLICE-PACKAGE VEHICLES FOR THE POLICE DEPARTMENT AND (2) POLICE-PACKAGE VEHICLES FOR THE FIRE DEPARTMENT FROM RANDALL REED'S PRESTIGE FORD, OF GARLAND, TEXAS, AT A TOTAL COST OF \$650,166.00

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

RESOLUTION NO. 2018 - 133

RESOLUTION APPROVING THE PURCHASE OF ONE THOUSAND (1000) THREE (3) CUBIC YARD REFUSE CONTAINERS WITH LIDS AND THREE HUNDRED (300) THREE AND ONE-HALF (3.5) CUBIC YARD REFUSE CONTAINERS WITH LIDS FROM ROLL OFFS USA, INC., OF DURANT, OKLAHOMA, AT A TOTAL COST OF \$627,100.00

8. Approved a resolution approving a lease agreement between Permian Basin Metropolitan Planning Organization and the City of Midland, Texas at Midland International Air & Space Port. (AIRPORTS)

RESOLUTION NO. 2018 - 134

RESOLUTION AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT BETWEEN THE PERMIAN BASIN METROPOLITAN PLANNING ORGANIZATION AND THE CITY OF MIDLAND, TEXAS, TO LEASE CITY-OWNED OFFICE SPACE IN THE WRIGHT OFFICE COMPLEX LOCATED AT MIDLAND INTERNATIONAL AIR & SPACE PORT

9. Approved a resolution approving the issuance of a permit to RSP Permian, L.L.C., for the drilling of oil gas well, being MCC HZ Unit 1110H generally located 2,258 feet west of North State Highway 349 and 5,030 feet north of Mockingbird Lane. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2018 - 135

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 285 FEET FROM THE NORTH LINE AND 2,258 FEET FROM THE EAST LINE, SECTION 11, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 2,258 FEET WEST OF BUSINESS STATE HIGHWAY 349-C AND 5,030 FEET NORTH OF MOCKINGBIRD LANE); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

10. Approved a resolution approving the issuance of a permit to RSP Permian, L.L.C., for the drilling of oil gas well, being MCC HZ Unit 1111H generally located 2,288 feet west of North State Highway 349 and 5,030 feet north of Mockingbird Lane. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2018 - 136

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 285 FEET FROM THE NORTH LINE AND 2,288 FEET FROM THE EAST LINE, SECTION 11, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 2,288 FEET WEST OF BUSINESS STATE HIGHWAY 349-C AND 5,030 FEET NORTH OF MOCKINGBIRD LANE); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

11. Approved a resolution approving the issuance of a permit to RSP Permian, L.L.C., for the drilling of oil gas well, being MCC HZ Unit 1112H generally located 2,318 feet west of North State Highway 349 and 5,030 feet north of Mockingbird Lane. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2018 - 137

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 285 FEET FROM THE NORTH LINE AND 2,318 FEET FROM THE EAST LINE, SECTION 11, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 2,318 FEET WEST OF BUSINESS STATE HIGHWAY 349-C AND 5,030 FEET NORTH OF MOCKINGBIRD LANE); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

12. Approved a resolution approving the issuance of a permit to RSP Permian, L.L.C., for the drilling of oil gas well, being MCC HZ Unit generally located 2,348 feet west of North State Highway 349 and 5,030 feet north of Mockingbird Lane. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2018 - 138

RESOLUTION APPROVING THE ISSUANCE OF A PERMIT TO RSP PERMIAN, L.L.C. ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 285 FEET FROM THE NORTH LINE AND 2,348 FEET FROM THE EAST LINE, SECTION 11, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED 2,348 FEET WEST OF BUSINESS STATE HIGHWAY 349-C AND 5,030 FEET NORTH OF MOCKINGBIRD LANE); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

14. Approved a resolution authorizing the appropriation of funding for the "Communication Ring" Project, as specified in an Economic Development Agreement between the City of Midland and the Midland Development Corporation, said Agreement authorized by City Council in Resolution 2018-077. (ENGINEERING SERVICES)

RESOLUTION NO. 2018 - 140

RESOLUTION AUTHORIZING THE FUNDING FOR THE COMMUNICATION RING PROJECT IN THE AMOUNT OF \$1,552,000.00, AS CONTEMPLATED BY THAT CERTAIN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF MIDLAND AND THE MIDLAND DEVELOPMENT CORPORATION FOR THE PURPOSE OF COMBINING FUNDS TO PROVIDE FOR THE EXPANSION OF VARIOUS INFRASTRUCTURE IMPROVEMENTS TO STATE AND LOCAL

HIGHWAYS AND RELATED FACILITIES IN AND AROUND THE CORPORATE LIMITS OF THE CITY OF MIDLAND, AS AUTHORIZED BY CHAPTER 501 OF THE TEXAS LOCAL GOVERNMENT CODE; AND APPROVING THE ALLOCATION AND APPROPRIATION OF FUNDS THEREFOR

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

13. Consider a resolution granting a variance to Ordinance 8769, (January 1, 2010 Oil and Gas Well Drilling Ordinance), for a 31.259 acre tract of land generally located on the north side of Interstate 20, approximately 1950 feet west of Midkiff Road, by permitting construction of commercial buildings where no portion of any structure is closer than 250 feet of an existing oil and gas well. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2018 - 139

RESOLUTION GRANTING A VARIANCE FOR AN APPROXIMATE 31.259-ACRE TRACT OF LAND OUT OF SECTION 5, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF INTERSTATE 20, APPROXIMATELY 1,950 FEET WEST OF MIDKIFF ROAD), BY PERMITTING CONSTRUCTION OF COMMERCIAL BUILDINGS WHERE NO PORTION OF ANY STRUCTURE IS CLOSER THAN 250 FEET OF AN OIL AND GAS WELL; AND AUTHORIZING ISSUANCE OF BUILDING PERMITS

Building Official Steve Thorpe reported this is a request for a variance to a permitted well under contract with Pro Petro Development located on the north side of I-20. He indicated on the map the location of the proposed structure noting staff will verify distances once the building permit has been issued.

Mark Pelletier of Vandergriff Group Architects reported the building will be 450 feet long and they need flexibility to ensure it is far enough away from the frontage road.

Council Member Robnett moved to adopt Resolution No. 2018 - 139; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

SECOND READINGS

15. Consider an ordinance on second reading for a request by James Wilson/Basin Roofing for a Zone Change from LR-2, Local Retail District, to LI, Light Industry District, on a 2.43-acre portion of land generally located on the north side of State Highway 191, approximately 1,110 feet east of North County Road 1271. (DEVELOPMENT SERVICES) (First reading held March 27, 2018.)

ORDINANCE NO. 9748

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 2.43-ACRE TRACT OF LAND OUT OF SECTION 33, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, TO BE USED AS AN LI, LIGHT INDUSTRY DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, APPROXIMATELY 1,110 FEET EAST OF NORTH COUNTY ROAD 1271); 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. 9748.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9748 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

16. Consider an ordinance on second reading on a request by Vineyard Reserve, LLC, for a Zone Change from FD, Future Development District to LR-2, Local Retail District, on a 36.18-acre tract of land generally located southwest of the intersection of Becker Drive and Holiday Hill Road. (DEVELOPMENT SERVICES) (First reading held March 27, 2018.)

ORDINANCE NO. 9749

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 36.18-ACRE TRACT OF LAND OUT OF SECTION 13, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF BECKER DRIVE AND HOLIDAY HILL ROAD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9749.

Council Member Robnett moved to approve the second and final reading of Ordinance No. 9749 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

17. Consider an ordinance on second reading on a request by El Jimador Bar & Grill for a Specific Use Permit with Term, for the sale of all alcoholic beverages for on-premises consumption, in a restaurant, generally located northeast of the intersection of West Dakota Avenue and South Big Spring Street. (DEVELOPMENT SERVICES) (First reading held March 27, 2018.)

ORDINANCE NO. 9750

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOTS 7-9, BLOCK 183, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF WEST DAKOTA AVENUE AND SOUTH BIG SPRING 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. 9750.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9750 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

18. Consider an ordinance on second reading on a request by Stonehawk Capital Partners, LLC for approval of a Site Plan generally located on the north side of Briarwood Avenue, approximately 305 feet west of Holiday Hill Road. (DEVELOPMENT SERVICES) (First reading held March 27, 2018.)

ORDINANCE NO. 9751

AN ORDINANCE ADOPTING A SITE PLAN FOR LOT 3, BLOCK 1, CROSS POINTE ADDITION, SECTION 24, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF BRIARWOOD AVENUE, APPROXIMATELY 305 FEET WEST HOLIDAY HILL ROAD); 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 Lopez read the caption of Ordinance No. 9751.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 9751 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

19. Consider an ordinance on second reading on a request by Engineering Services to amend Title XI "Planning and Development" of the City Code of Midland, Texas, by establishing Chapter 13 "Municipal Drainage Utility", Article I "Creation of Utility", so as to declare the drainage of the City of Midland to be a public utility and dedicating City assets to said public utility. (ENGINEERING SERVICES) (First reading held March 27, 2018.)

ORDINANCE NO. 9752

AN ORDINANCE AMENDING TITLE XI, "PLANNING AND DEVELOPMENT", OF THE CITY CODE OF MIDLAND, TEXAS, BY ESTABLISHING CHAPTER 13, "MUNICIPAL DRAINAGE UTILITY", ARTICLE I, "CREATION OF UTILITY", SO AS TO DECLARE THE DRAINAGE OF THE CITY OF MIDLAND TO BE A PUBLIC UTILITY; ESTABLISHING THE SERVICE AREA FOR SAID PUBLIC UTILITY; DEDICATING CITY ASSETS TO SAID PUBLIC UTILITY; PROVIDING FOR EXEMPTIONS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9752.

Mayor Morales noted that he would open up Agenda Item 19 and 20 to the public for comments and invited anyone wishing to speak on those items to come forward.

Douglas Page, 611 W. Estes, reported he was in opposition to the storm drainage noting he was a joint tenant of several properties and he felt this item was in violation of Article 1, Section 10 of the U.S. Constitution.

John Boswell, 2813 Lockheed, spoke in opposition of this item noting he felt like it was a money grab and that most cities do not adopt a fee for drainage. He reported this item was considered years ago and Council previously decided not to adopt. West Texas has some of the harshest conditions and did not feel that a new tax would fix this problem. He suggested that Council instead should balance the budget and use money that is already in the General Fund to address the issue.

Hugh Shaffer, 206 Windridge, reported we have only received 4/10 of an inch of rain so far this year. This problem has been kicked down road too many times and something needs to be done. He asked that the tier structure be considered and to shift the burden of payment to those with larger homes so as not to burden those with limited incomes.

Robert Crites, 606 E. Broadway, reported that property taxes are already high, sales tax revenues are going up and more businesses are moving to town and he did not support this item. He suggested making new contractors address drainage issues instead.

Colvin Domingo, 3407 Princeton, suggested building a culvert in the middle of every road to replicate Wadley which he felt would reduce expenses.

There being no one else wishing to speak, Mayor Morales closed further public comment on these two items.

City Engineer Jose Ortiz reported that staff closely looked at several different tier options and has been considering this drainage issue for the last ten years. They intentionally created 3 tiers for residential and 6 for commercial since it is more complicated. The proposed rates are lower than any other similar sized city. They will reevaluate this again in two years and can make adjustments if necessary. The City needs to establish funds to get the storm water moving.

Council Member Lacy noted this will become effective October 1. He asked how individuals will be notified. Mr. Ortiz reported that flyers will be sent out in water bills.

Council Member Love inquired if people in one tier would pay the same rate or would the multiplier be charged by their square footage. Mr. Ortiz reported all people in a single tier pay the same rate. Council Member Love noted that District 2 has the significant amount of economically disadvantaged residents noting that drainage improvements would considerably help his district.

Staff answered questions about the appeal process and options for making changes to the tier structure. It was noted that this fee will allow the City to improve our drainage. We only have significant rain events every 1-3 years and therefore it is difficult to prioritize money for drainage with so many other needs. This fee would provide designated money to pay for drainage projects as we go.

In response to the question about having developers pay for drainage, staff noted that developers are already required to address drainage and are not allowed to discharge any additional water off their property than what was being discharged prior to the development. When asked if there are any other communities our size that do not have drainage fees in place, staff responded there were none.

Council Member Lacy reported that the City brings in revenue from property tax, sales tax, and other fees. Property tax brings in about \$50 million of which \$5 million is used for debt service leaving a balance of \$45 million. Police and Fire alone costs the City \$55 million and they are not the only departments. Council has been using excess sales tax revenues for one time projects to prepare for future growth including road maintenance. If issues are not addressed, they eventually turn into emergencies such as with the City's roads. Midland is growing whether we want it to or not and it is growing at an unmanageable pace, but Council and staff are doing their best to manage the growth.

Council Member Dufford added that in the last decade when they originally looked at drainage fees, Council did not anticipate the rapid growth of the City. They thought we would be a sunset community with sunset oil and gas business, but due to technology the City has experienced rapid growth and Council feels this is the best way to address those concerns.

Council Member Robnett pointed out that drainage fees are in the 2016 comprehensive plan and the fees will provide long-term maintenance dollars that will maintain the quality of our roads for longer.

Council Member Love asked for those who think the money is already in our budget to go online to the City of Midland Budget and tell Council what should be cut from the budget. He emphasized the City already has a tight budget.

Council Member Love moved to approve the second and final reading of Ordinance No. 9752 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

20. Consider an ordinance on second reading on a request by Engineering Services to amend Title XI "Planning and Development", Chapter 13 "Municipal Drainage Utility" of the City Code of Midland, Texas, by adding Article II "Administration of Drainage Utility", so as to establish rules for the City of Midland Drainage Utility. (ENGINEERING SERVICES) (First reading held March 27, 2018.)

ORDINANCE NO. 9753

AN ORDINANCE AMENDING TITLE XI, "PLANNING AND DEVELOPMENT", CHAPTER 13, "MUNICIPAL DRAINAGE UTILITY" OF THE CITY CODE OF MIDLAND, TEXAS, BY ADDING ARTICLE II, "ADMINISTRATION OF DRAINAGE UTILITY", SO AS TO ESTABLISH RULES FOR THE CITY OF MIDLAND DRAINAGE UTILITY; ESTABLISHING A DRAINAGE UTILITY FUND; LEVYING A SCHEDULE OF DRAINAGE CHARGES THAT SHALL BE BILLED AFTER OCTOBER 1, 2018; PROVIDING AN APPEAL PROCEDURE; NEGATING AND DISPENSING WITH THE CULPABLE MENTAL STATE REQUIREMENT; PROVIDING FOR CRIMINAL ENFORCEMENT AND A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9753.

Council Member Love moved to approve the second and final reading of Ordinance No. 9753 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy.

Council Member Sparks moved to amend the motion by including a sunset after 10 years; seconded by Council Member Robnett. The motion to amend carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Lacy, Robnett. NAY: Love. ABSTAIN: None. ABSENT: None.

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

PUBLIC HEARINGS

21. Hold a public hearing and consider an ordinance on a request by Regal Licensing, LLC, for a Specific Use Permit with Term for the sale of all alcoholic beverages, for on-premises consumption, in a Movie Theater, generally located on the south side of West Loop 250 North, approximately 750 feet west of Henry Koontz Boulevard. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9754

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 3, BLOCK 45, FAIRMONT PARK ADDITION, SECTION 13, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 750 FEET WEST OF HENRY KOONTZ BOULEVARD), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A MOVIE THEATER 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. 9754.

Development Services Director Chuck Harrington gave a brief overview of the item noting this would allow Regal Tall City to sell alcoholic beverages. In 2015 they requested to sell alcohol with service hours of 10:00 a.m. to 2:00 a.m. Monday through Saturday and Sundays from 12:00 noon to 2:00 a.m. The request was denied by Council. They waited the appropriate period of time, made significant changes to their original request and are now requesting alcohol service hours Sunday through Saturday from 11:00 a.m. to 11:00 p.m. When Council approved Chuck E. Cheese's permit they reported they would limit their alcohol sales. The movie theatre is making the same proposal. They are expanding their concession area for bar space and will have a larger food selection. The item was approved by Planning and Zoning, it meets all requirements and staff recommends approval subject to conditions A-G. No letters of objections have been received.

Council asked if any incidents have come in on Chuck E. Cheese and if the other theatre has off-duty officers on Friday and Saturday evenings.

Mayor Morales opened the public hearing at 10:45 a.m.

Marcus Schwartz, reported he was with the law firm representing the theatre. They have added alcohol service to 15 of their theatres in Texas and have had no violations. TABC allows for two drinks to be sold to a person at a time, but they will only be allowing one drink per person at a time. Alcohol will be served in translucent cups and will only be sold at the concessions bar. He noted that alcohol sales are less than 5% of all sales in their other theatres.

Council Member Hotchkiss reported that several people are concerned because they drop their children off at the theatre. They have stated they will not support their business if they sell alcohol. Mr. Schwartz reported they received similar correspondence in other areas but did not experience a real push back or drop in sales.

Joel Chavez, General Manager of the theatre spoke in favor of the item. When asked how it would be publicized that they would be selling alcohol, Mr. Chavez reported that they would have signs up during the remodel and that TABC requires signage out front. Each time a drink is purchased, their ID will be checked and their wrist band will be marked. Each individual will be limited to three drinks.

There being no one else wishing to speak, the public hearing was closed at 10:52 a.m.

Council Member Robnett moved approval of the first of two readings of Ordinance No. 9754 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: Hotchkiss. ABSTAIN: None. ABSENT: None.

22. Hold a public hearing and consider an ordinance on a request by Bill Roberts, for a Special Exception, to the City of Midland Zoning Code Section 11-1-7 area, yard, structure, parking and miscellaneous lot use regulations, concerning an accessory detached structure exceeding the principle structure, and construction materials on a lot generally located west of Coyote Trail and approximately 659 feet south of Briarwood Trail. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9755

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 27, BLOCK 1, COUNTRY SKY ADDITION, SECTION 20, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF COYOTE TRAIL, APPROXIMATELY 659 FEET SOUTH OF BRIARWOOD AVENUE), BY PERMITTING A DETACHED ACCESSORY STRUCTURE OF A SIZE THAT EXCEEDS THE TOTAL FINISHED AREA OF THE PRINCIPAL STRUCTURE AND BY PERMITTING A METAL SKIN EXTERIOR ON A DETACHED ACCESSORY STRUCTURE THAT EXCEEDS 400 SQUARE FEET IN AREA; 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. 9755.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is a special exception to a portion of the code to allow a metal accessory metal

building in an AE district. The ordinance prohibits metal skin exteriors on any detached structure taller than 12 feet and the total square footage should not exceed the main structure, which it does in this case. Staff reviewed the item and found no hardship and recommended denial.

Mayor Morales opened the public hearing at 11:00 a.m.

George Hartzoge, 5908 Dunbarton Oaks, reported he owns the property to the north and immediately to the west of the subject property. He lived there for many years until the yard work got the best of him. This is a residential neighborhood and a wonderful place to live. He felt that a large metal structure on this property would sandwich him in with the storage facilities on his other side and make his property worthless. He has had a number of people asking to buy his property to build a residence. He felt that interest would be gone after a large structure is built. He felt it was not in the best interest of the neighborhood.

Minda Parks, 4310 Tumbleweed Trail, objected to the size of the structure. She cited a number of other structures in the area that have a commercial feel and some that are used commercially since they were grandfathered in. She also spoke of commercial truck parking on one lot. She felt the use would lower her property value. Council asked her to turn in information on anyone who is using their property for commercial use other than the locations that were grandfathered in. Mr. Harrington reported they have been working with the Police Department to address the 18-wheeler parking issues.

Bill & Sherry Roberts 4401 Coyote Trail, reported they plan to build a 50 foot by 100 foot building with 40 by 100 foot awnings on the north side which will allow them to move their trailers from near the street and park them under the awning. This will make them difficult to see from the street. They also plan to landscape the area. He will be using the building to store his classic cars. He's lived in Midland since 1982 noting they were in their last house for 30 years. They own a muffler and brake shop and this building is strictly for pleasure use. They will also eventually install a fence from the house to the structure putting the lower portion of the structure out of view from the street. He also stated the code would allow him to build two 50 by 50 foot buildings and didn't understand why one building being 50 by 100 feet wasn't allowed.

There being no one else wishing to speak, the public hearing was closed at 11:17 a.m.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9755 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy.

Council Member Robnett reported he would have a hard time supporting an item that the neighbors could not support. He would like to see him attempt to resolve the issues with his neighbors.

When asked if would work with his neighbors prior to the second reading and provide letters of support, Mr. Roberts reported he would.

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

23. Hold a public hearing and consider an ordinance on a request by Robert Rendall for a Zone Change from FD, Future Development District to PD, Planned District for a Shopping Center on a 26.92-acre tract of land generally located northeast of the intersection of Briarwood Avenue and Avalon Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9756

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 26.92-ACRE TRACT OF LAND OUT OF SECTION 24, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF BRIARWOOD AVENUE AND AVALON 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. 9756.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant is requesting a zone change from FD to PD with the intent of developing a shopping area and multi-family housing area west of the Bush Tennis Center. They will need to provide an adopted site plan. They are still in the platting process. This item was reviewed by all departments and there are a number of items that will need to be addressed as the property develops. Staff recommends approval of the request and no letters of objection have been received as of April 3.

Mayor Morales opened the public hearing at 11:24 a.m.

Robert Rendall, 6 Desta Drive, reported he was speaking on behalf of Los Conchos Ventures. They are trying to work out issues with one of the oil companies but they would like to move forward with the zoning. This is near Briarwood and Avalon and is an appropriate location for this type of zoning. Council Member Lacy stressed the importance of adding more apartments.

There being no one else wishing to speak, the public hearing was closed at 11:26 a.m.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9756 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

MISCELLANEOUS

24. Consider an ordinance establishing intersection stops at various locations within the City of Midland, Texas; authorizing and directing the Traffic Engineer to install appropriate signs and markings at the designated locations. (ENGINEERING SERVICES)

ORDINANCE NO. 9757

AN ORDINANCE ESTABLISHING INTERSECTION STOPS AT VARIOUS LOCATIONS WITHIN THE CITY OF MIDLAND, TEXAS; AUTHORIZING AND DIRECTING THE TRAFFIC ENGINEER TO INSTALL APPROPRIATE SIGNS AND MARKINGS AT THE

DESIGNATED LOCATIONS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS (\$200.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9757.

Traffic Engineer Mike Pacelli gave a brief overview of the item noting the stop sign ordinance was last updated in July, 2017. This ordinance adds 22 new stop signs. He spoke about some of the changes included.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9757 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

25. Consider an ordinance establishing yield right-of-way signs at various locations within the City of Midland, Texas. (ENGINEERING SERVICES)

ORDINANCE NO. 9758

AN ORDINANCE ESTABLISHING YIELD RIGHT OF WAY SIGNS AT VARIOUS LOCATIONS WITHIN THE CITY OF MIDLAND, TEXAS; REQUIRING AND AUTHORIZING THE POSTING OF APPROPRIATE SIGNS AT SAID INTERSECTIONS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS (\$200.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Lopez read the caption of Ordinance No. 9758.

Traffic Engineer Mike Pacelli reported this is the companion ordinance to the prior item dealing with yields.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9758 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

26. Consider a motion authorizing and directing the City Manager or his designee to issue a Right-of-Way Permit to David Banh relating to the property commonly known as 908 Founders Road; said permit to allow for the existing eight-foot privacy fence constructed in the public right-of-way adjacent to said property and along the Vanguard Road frontage. (ENGINEERING SERVICES)

Traffic Engineer Mike Pacelli reported this is a right-of-way issue. They received a complaint about the eight-foot privacy fence constructed along the property line in place of the original six-foot fence that was closer to the house. He reported that the new fence is now 2.5 feet into the City's right-of-way and is obstructing the sight triangle. Additionally, any fences that are over seven feet require a permit, and no permit was pulled for this location. Staff recommends denial of the item. He further clarified how the sight triangle is measured.

Bruce Pridgen, 1206 Whitney Dr., reported his ignorance was why a fence permit was not pulled. They submitted a claim to the HOA and received approval, and Troy Clabaugh gave permission to fill in with concrete and he did not know a permit was

needed for the fence. He reported his main business is landscaping and irrigation. He shared a number of pictures claiming the line of sight was not obstructed and reported that the alley is almost never used as most enter from the south off Avalon.

David Bahn, 908 Founders Road, shared Google maps showing the two well sites in the neighborhood and noted that no one uses this entrance. He shared pictures showing more tire tracks on the other side. He reported this fence really minimizes the need for weed control and the neighbors appreciate the beautification. They received approval from the HOA and he asked to not be required to move the fence.

Council Member Robnett moved to approve a motion authorizing and directing the City Manager or his designee to issue a Right-of-Way Permit to David Banh relating to the property described as Lot 14, Block 2, Legacy Addition, City and County of Midland, Texas (commonly known as 908 Founders Road); said permit to allow for the existing eight-foot privacy fence constructed in the public right-of-way adjacent to said property and along the Vanguard Road frontage; seconded by Council Member Lacy.

Council Member Sparks reported he drove by the property and also did not see any line of sight issues and agreed that the fence did improve beautification compared to other houses with rocks and weeds between their fence and the sidewalk. He suggested charging him the permit fee, charging him extra for not getting the permit and having him pay the value of the right-of-way use.

Discussion ensued about various options available.

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

Council Member Dufford moved to reconsider the item; seconded by Council Member Lacy. The motion to reconsider carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: Robnett. ABSTAIN: None. ABSENT: None.

Council Member Dufford moved to approve a motion authorizing and directing the City Manager or his designee to issue a Right-of-Way Permit to David Banh relating to the property commonly known as 908 Founders Road; said permit to allow for the existing eight-foot privacy fence constructed in the public right-of-way adjacent to said property and along the Vanguard Road frontage and to charge the fair market value of the land as determined by the City Manager, require the owner to obtain insurance naming the City of Midland as additional insured, indemnify the City, and that the City can require removal of the fence at any point if the right-of-way is needed; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Love, Sparks, Morales, Dufford, Lacy. NAY: Hotchkiss, Robnett. ABSTAIN: None. ABSENT: None.

PUBLIC COMMENT

27. 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.

Brandon Hodges, 2502 Stutz Place, reported he wanted to talk about drainage fees and police patrols in his neighborhood due to an incident and letter he received from the

Police Department that they can't go any further. He asked where the metrics came from for implementing the drainage fees and asked if there is a rebate offer when rainfall is under the average. He asked who is excluded and what the exemptions are. He noted that the opportunity to charge the fees have been around for 13 years and the Midland City Council discussed drainage fees and the item was tabled. Recently there was a bond election and an attempt to extend the 4B which is increasing the citizens' tax burden. He felt this was unfair business practices. Mayor Morales referred Mr. Hodges to City Engineer Jose Ortiz to get answers to his questions.

Tom Miller, 4311 Valley Drive, Executive Director of Family Promise, reported that again Midland is experiencing a crisis of homelessness as the City is once again booming much like 2012-2014. People tend to forget the working poor noting their rents have gone up 35% from this time last year. Many of these are people who work in the service industry and are single parents. Two bedroom apartments are now renting for \$1,350 - \$1,570 and people who make \$11-\$12/hour cannot afford rent that high. He pled with Council to keep the working poor at the forefront.

Chris Posey, 1119 E. Midland, reported on the status of weight equipment at the MLK Community Center noting that it is antiquated and some benches are not properly put together. He expressed concern about exposed wires in treadmills and issues with belt drives. He has not brought this to the attention of Parks and Recreation staff noting he felt this was information that needed to trickle down. He asked that the equipment be updated since for the same \$15/month he could obtain a Planet Fitness membership.

All of the business at hand having been completed, the meeting adjourned at 12:11 p.m.

PASSED AND APPROVED the 24th day of April, 2018.

Jerry F. Morales, Mayor

ATTEST:

Amy M. Turner, City Secretary