

**MIDLAND CITY COUNCIL
MINUTES
April 24, 2018**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:00 a.m. on April 24, 2018.

Council Members present: 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).

Council Members absent: Mayor Jerry F. Morales (arrived at 9:06 a.m.).

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, Interim Police Chief Seth Herman, Utilities Director Laura Wilson, Administrative Services Director Mark Widmann, Development Services Director Charles Harrington, Engineering Services Director Jose Ortiz, General Services Director Fred Reyes, Assistant Utilities Director Carl Craig, Traffic Engineer Mike Pacelli, Comptroller Mark Gonzales, and Public Information Officer Elana Ladd.

Mayor Pro Tem Robnett called meeting to order at 9:01 a.m.

1. Receive an update from Enprotec/Hibbs & Todd regarding the water distribution system.

Scott Hibbs reported they were tasked with taking a look at Midland's water system and updating the water model that is used to predict what is happening in the water system and to make recommendations for system improvements. They will have their final report completed in a couple of months, but have found some system deficiencies that they wanted Council to be aware of. The current water model is over a decade old and this update is important due to the number of significant changes since 2006 including the drought, the addition of T-Bar and the dynamic economic growth. This model becomes a tool to see how development will occur and how new components will affect the system as they come on line.

Midland is required to deliver water pressure at 35 psi and the majority of the time, that requirement is being met. He provided a brief overview of the system and explained that there are two issues. The first issue is pressure difficulties due to infrastructure limitations. He reviewed two projects that would help including modifications to the Wadley elevated storage at a cost of \$600,000 with an 18-24 month timeline. The second project is to move the pressure plane boundary to the east at a cost of \$2.5 million with a two-four year timeline. The second issue is due to continued growth in the northeast quadrant. He explained there are a number of items that could be implemented using a phased approach.

The estimated cost for the first phase is \$11 million with a two-three year timeline and the

second phase would be \$8.8 million with a 6 year timeline for the transmission system improvements and elevated storage.

They expect to have the final report to staff in July with detailed recommendations. They will provide specific items to choose from for expanding the system. He reported that Parkhill is working on an impact fee study. The idea is to overbuild the system to accommodate future development and then charge the impact fees to developers to recoup the cost. Other funding sources might include issuing bonds.

City Manager Courtney Sharp reported there are some low hanging fruit that would cost between \$600,000 and \$2 million that could help get us over the hurdle and allow growth to continue. Mayor Morales asked for a timeline to be discussed at the workshop as well as the sewer system.

2. Presentation of the 2017 Midland Police Department Traffic Contact report by Dr. Eric J. Fritsch, Ph.D., Professional Development Institute, University of North Texas.

Eric Fritsch reported that the City of Midland is fully in compliance with the law. He reviewed the items required to be completed including officer training, collection of data and reporting. In calendar year 2017 Midland had 12,499 citations and/or arrests. He noted that these numbers do not include warnings, but written warning will be required to be reported next year. Interim Police Chief Seth Herman noted they will be reporting on all stops whether or not a written warning is issued.

Mr. Fritsch shared a graph showing the Fair Roads Standard for Midland which is what is used as a benchmark population. The Fair Roads Standard is information taken from the 2010 census and includes all demographics of those households that had access to a vehicle. He shared that the difficulty in using this standard is that people who are cited and/or arrested in Midland don't just live in Midland but could be anyone who is traveling through the area. He next reviewed searches noting that there were 726 drivers that were searched or about 5.81%. He compared consent searches to non-consent searches and arrests noting you want the percentages to remain consistent for the different ethnicities. Midlands' percentages were all consistent.

He concluded that Midland is fully in compliance, that no complaints were received in 2017, and from his standpoint there was no evidence of racial profiling from the Midland Police Department. When he compared this data to the previous three years, he reported that all numbers remained consistent.

When asked if pedestrian stops were recorded, Mr. Fritsch reported that the Texas Legislator took pedestrians out. Mayor Morales asked why a pedestrian would be stopped. Interim Police Chief Herman said it could be due to a complaint, walking towards traffic, riding a bike in the middle of the street, or numerous other reasons. Mayor Morales asked that pedestrian stops also be tracked.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:51 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 24, 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: 1-16, 18-25, 27-29, 17, 26, 30-40.

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

OPENING ITEMS

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

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Representatives from the Midland Association of Retired School Personnel presented a mock check to the City Council showing that in 2017 there were 60,028 volunteer hours which provided a value of \$1,507,303.08.

CONSENT AGENDA

Council Member Love moved to approve Consent Agenda items 4 - 29 excluding 17, 26; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

4. Approved a motion approving the following minutes:
 - a. Regular meeting of April 10, 2018
5. Approved a resolution awarding a contract for the Water Pollution Control Plant (WPCP) Primary Treatment Rehabilitation Project for the Utilities Department. (PURCHASING)

RESOLUTION NO. 2018 - 141
RESOLUTION AWARDING A CONTRACT FOR THE WATER POLLUTION CONTROL
PLANT PRIMARY TREATMENT REHABILITATION PROJECT TO RED RIVER

CONSTRUCTION CO. IN THE AMOUNT OF \$8,807,040.00; APPROVING \$2,201,760.00 FOR CONTINGENCIES; AND APPROPRIATING FUNDS THEREFOR

6. Approved a resolution ratifying contracts issued to Blackmon Mooring of Texas, Inc. for Emergency Remediation in the Security Bank Ballpark Suites in the amount of \$69,724.14 and Emergency Repairs to the Security Bank Ballpark Suites in the amount of \$242,132.94 for a total cost of \$311,857.08 at the Scharbauer Sports Complex for the Community Services Department. (PURCHASING)

RESOLUTION NO. 2018 - 142

RESOLUTION RATIFYING AND APPROVING AN EMERGENCY CONTRACT FOR THE REMEDIATION OF THE SECURITY BALL PARK SUITES IN THE AMOUNT OF \$69,724.14 AND AN EMERGENCY CONTRACT FOR THE REPAIR OF THE SECURITY BALLPARK SUITES IN THE AMOUNT OF \$242,132.94 FOR A TOTAL COST OF \$311,857.08

7. Approved a resolution authorizing the City Manager to negotiate and execute a contract for utility billing software for the Communication and Information Systems Department. (PURCHASING)

RESOLUTION NO. 2018 - 143

RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT WITH NORTHSTAR UTILITIES SOLUTIONS, AN UNINCORPORATED DIVISION OF N. HARRIS COMPUTER, OF NEPEAN, ONTARIO, CANADA, FOR UTILITY BILLING SOFTWARE FOR THE FINANCE DEPARTMENT, AT A TOTAL COST NOT TO EXCEED \$770,250.00; AND AUTHORIZING PAYMENT THEREFOR

8. Approved a resolution approving a change order to the Utility Extension Program 03 for the Engineering Services Department. (PURCHASING)

RESOLUTION NO. 2018 - 144

RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER ONE WITH BOLER EQUIPMENT SERVICE, INC. REGARDING THE UTILITY EXTENSION PROGRAM 03 PROJECT; SAID CHANGE ORDER TO PROVIDE FOR ADDITIONAL WORK BASED ON THE UNIT PRICES IN THE CONTRACT AND IN SAID CHANGE ORDER NUMBER ONE; AND AUTHORIZING PAYMENT THEREFOR IN AN AMOUNT NOT TO EXCEED \$625,000.00

9. Approved a resolution approving a change order to the Water, Wastewater, and Fire Hydrant Taps Expanded Program 04 for the Engineering Services Department. (PURCHASING)

RESOLUTION NO. 2018 - 145

RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER ONE WITH RED DEER CONSTRUCTION, LLC REGARDING THE WATER, WASTEWATER, & FIRE HYDRANT TAPS EXPANDED PROGRAM 04 PROJECT; SAID CHANGE ORDER TO PROVIDE FOR ADDITIONAL WORK BASED ON THE UNIT PRICES IN THE CONTRACT; AND AUTHORIZING PAYMENT THEREFOR IN AN AMOUNT NOT TO EXCEED \$175,000.00

10. Approved a resolution approving the purchase of two (2) brush trucks from Houston Freightliner through the Houston-Galveston Area Council (H-GAC) for a total cost of \$482,170.00 for the Fire Department through the Garage Division. (PURCHASING)

RESOLUTION NO. 2018 - 146

RESOLUTION APPROVING THE PURCHASE OF TWO (2) BRUSH TRUCKS FROM HOUSTON FREIGHTLINER THROUGH THE HOUSTON-GALVESTON AREA COUNCIL AT A TOTAL COST OF \$482,170.00

11. Approved a resolution approving the issuance of a request for proposals for Self Insured Medical, Dental, and Vision Claims Administration, Large Case Management/Precertification, Preferred Provider Organization, Pharmacy Benefit Manager Retail/Mail Order, and Section 125 Claims Administration for the Administrative Services Department. (PURCHASING)

RESOLUTION NO. 2018 - 147

RESOLUTION AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR A THIRD PARTY BENEFITS ADMINISTRATOR FOR THE ADMINISTRATIVE SERVICES DEPARTMENT; SAID REQUEST FOR PROPOSALS INCLUDING SELF-INSURED MEDICAL AND DENTAL CLAIMS ADMINISTRATION, LARGE CASE MANAGEMENT/PRECERTIFICATION, PREFERRED PROVIDER ORGANIZATION, PHARMACY BENEFIT MANAGER RETAIL/MAIL ORDER, AND SECTION 125 CLAIMS ADMINISTRATION

12. Approved a resolution approving the purchase of disaster recovery software and hardware from EST Group, LLC through Buyboard contract 498-15 for a total cost of \$297,125.00 for the Communication and Information Systems Department. (PURCHASING)

RESOLUTION NO. 2018 - 148

RESOLUTION APPROVING THE PURCHASE OF DISASTER RECOVERY AND BUSINESS CONTINUITY PRODUCTS FOR THE COMMUNICATION AND INFORMATION SYSTEMS DEPARTMENT FROM EST GROUP, LLC, THROUGH BUYBOARD AT A TOTAL COST OF \$297,125.00

13. Approved a resolution authorizing the City Manager to approve the plans and specifications and advertise for bids for the Business State (BS) Highway 349 (Big Spring Street) Drainage Basin Project for the Engineering Services Department. (PURCHASING)

RESOLUTION NO. 2018 - 149

RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE THE PLANS AND SPECIFICATIONS AND ADVERTISE FOR BIDS FOR THE BUSINESS STATE HIGHWAY 349 (BIG SPRING STREET) DRAINAGE BASIN PROJECT; SAID PROJECT TO PROVIDE FOR THE CONSTRUCTION OR MODIFICATION OF DETENTION BASINS LOCATED ADJACENT TO BUSINESS STATE HIGHWAY 349 BETWEEN TEJAS STREET AND THE NORTHERN BOUNDARY OF MIDLAND COUNTY

14. Approved a resolution awarding a contract for the purchase and installation of console furniture for the 911 Public Safety Center for the Communication and Information Systems Department. (PURCHASING)

RESOLUTION NO. 2018 - 150

RESOLUTION AWARDING A CONTRACT FOR THE PURCHASE AND INSTALLATION OF CONSOLE FURNITURE FOR THE COMMUNICATION AND INFORMATION SYSTEMS DEPARTMENT TO THE SOLE PROPOSER, WATSON

FURNITURE GROUP, INC. OF POULSBO, WASHINGTON, AT A TOTAL COST OF \$146,639.78

15. Approved a resolution awarding a contract for the Lamesa and Longview Mill and Inlay Project for the Engineering Services Department. (PURCHASING)

RESOLUTION NO. 2018 - 151

RESOLUTION AWARDING A CONTRACT FOR THE LAMESA AND LONGVIEW MILL AND INLAY PAVING PROJECT TO JONES BROS. DIRT & PAVING CONTRACTORS, INC. OF ODESSA, TEXAS, AT A TOTAL COST OF \$1,250,772.47; AND AUTHORIZING PAYMENT THEREFOR

16. Approved a resolution regarding Oncor's filing for distribution cost recovery. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2018 - 152

RESOLUTION OF THE CITY OF MIDLAND, TEXAS, FINDING THAT THE APPLICATION OF ONCOR ELECTRIC DELIVERY COMPANY, LLC ("ONCOR") FOR APPROVAL OF A DISTRIBUTION COST RECOVERY FACTOR PURSUANT TO 16 TEX. ADMIN. CODE § 25.243 TO INCREASE DISTRIBUTION RATES WITHIN THE CITY SHOULD BE DENIED; FINDING THAT THE CITY'S REASONABLE RATE CASE EXPENSES SHALL BE REIMBURSED BY ONCOR; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO SEND COPIES OF THIS RESOLUTION TO ONCOR AND LEGAL COUNSEL FOR THE STEERING COMMITTEE

18. Approved a motion approving a proposed Preliminary Plat of Parsley Addition, being a 66.929-acre tract of land out Section 12, Block 39, T-2-S, T&P RR Co. Survey, Midland County, Texas (generally located northwest of the intersection of East County Road 120 and FM 715 - Extraterritorial Jurisdiction). (DEVELOPMENT SERVICES)

19. Approved a resolution authorizing the annexation or inclusion of approximately 0.442 acres into the Downtown Midland Management District; said property being further described as the south 220 feet of Block 60 1/2, Original Town Addition; and the north 65 feet of Lots 10, 11, and 12, Block 15, West End Addition; all out of the City and County of Midland, Texas. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2018 - 153

RESOLUTION AUTHORIZING, APPROVING AND CONSENTING TO THE DOWNTOWN MIDLAND MANAGEMENT DISTRICT'S ANNEXATION OF APPROXIMATELY 0.442 ACRES OF LAND AND THE INCLUSION THEREOF WITHIN THE BOUNDARIES OF THE DOWNTOWN MIDLAND MANAGEMENT DISTRICT, SAID LAND BEING THE SOUTH 220 FEET OF BLOCK 60 1/2, ORIGINAL TOWN ADDITION, AND THE NORTH 65 FEET OF LOTS 10, 11, AND 12, BLOCK 15, WEST END ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS

20. Approved a resolution authorizing the City Manager to allocate funds to each of the 2017 bond projects for years 2 through 5 at a total cost not to exceed the remaining funds available in the 2017 Year 1 Bond Program. (ENGINEERING SERVICES)

RESOLUTION NO. 2018 - 154

RESOLUTION APPROPRIATING \$10,950,000.00 FROM THE 2018 ROAD BOND FUND (178) UNAPPROPRIATED FUND BALANCE ACCOUNT (53650) TO VARIOUS PROJECTS

21. Approved a resolution approving Change Order One (1) to the Fiscal Year 2018 Citywide Concrete Program contract for the Transportation Division. (PURCHASING)

RESOLUTION NO. 2018 - 155

RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER ONE WITH ONYX GENERAL CONTRACTORS, LLC REGARDING THE FISCAL YEAR 2018 MIDLAND CITYWIDE CONCRETE PROGRAM; SAID CHANGE ORDER TO PROVIDE FOR VEHICULAR AND PEDESTRIAN TRAFFIC IMPROVEMENTS ASSOCIATED WITH ROAD BOND PROJECTS AT OR NEAR THE INTERSECTION OF ILLINOIS AVENUE AND C STREET, ALONG TEXAS AVENUE BETWEEN N STREET AND M STREET, AND AT OR NEAR THE INTERSECTION OF THOMASON DRIVE AND WALL STREET; AND AUTHORIZING PAYMENT THEREFOR IN AN AMOUNT NOT TO EXCEED \$250,000.00

22. Approved a motion on request by Wireline Accessories and Sales, LLC to defer water, and reconfirm deferral of wastewater, paving and sidewalk improvements for Ranchland Acres, Section 4, and to waive the corresponding financial security guarantee valued at \$328,128.00, an amount equal to the estimated cost of construction. The subject property is generally located on the south side of Interstate 20 approximately 400 feet west of Midland Drive, within the corporate limits of the City of Midland, Midland County, Texas. (ENGINEERING SERVICES)
23. Approved a resolution on request by Chris McIntosh, Owner, Wireline Accessories and Sales, LLC, to terminate a Public Improvement Development Agreement for water improvements at the Ranchland Acres Addition. (ENGINEERING SERVICES)

RESOLUTION NO. 2018 - 156

RESOLUTION AUTHORIZING THE EXECUTION OF AN INSTRUMENT TERMINATING THE PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH WIRELINE ACCESSORIES AND SALES, LLC FOR WATER DISTRIBUTION AND WASTEWATER COLLECTION IMPROVEMENTS TO RANCLAND ACRES ADDITION, SECTION 4, MIDLAND COUNTY, TEXAS

24. Approved a motion on request by Maverick Engineering to waive roadway pro-rata assessed by Resolution No. 2014-063 for Bush Tennis Center, Section 2 (Opportunity Park) valued at \$89,464.00, an amount equal to the plat frontage of 424 linear feet times the \$211.00 per linear feet pro-rata assessment. The subject property is generally located on the north side of Briarwood Avenue approximately 2,470 feet west of Holiday Hill, adjacent to the corporate limits of the City of Midland, Midland County, Texas. (ENGINEERING SERVICES)
25. Approved a resolution approving a Municipal Maintenance Agreement with the State of Texas to provide for the maintenance, control, supervision and regulation of certain State Highways and portions of State Highways in the City of Midland. (ENGINEERING SERVICES)

RESOLUTION NO. 2018 - 157

RESOLUTION APPROVING A MUNICIPAL MAINTENANCE AGREEMENT WITH THE STATE OF TEXAS TO PROVIDE FOR THE MAINTENANCE, CONTROL, SUPERVISION AND REGULATION OF CERTAIN STATE HIGHWAYS AND PORTIONS OF STATE HIGHWAYS IN THE CITY OF MIDLAND; APPROVING AN AMENDMENT TO SAID MUNICIPAL MAINTENANCE AGREEMENT TO PROVIDE FOR THE FURNISHING, INSTALLING, OPERATION AND MAINTENANCE OF CAMERAS ON STATE HIGHWAY RIGHTS-OF-WAY TO MONITOR COMPLIANCE WITH TRAFFIC-CONTROL SIGNALS; AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE SAID MUNICIPAL MAINTENANCE AGREEMENT AND SAID AMENDMENT; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO CERTIFY THIS RESOLUTION TO THE STATE OF TEXAS AND TO TRANSMIT THE EXECUTED MUNICIPAL MAINTENANCE AGREEMENT AND AMENDMENT TO THE STATE OF TEXAS

27. Approved a resolution authorizing and executing a Right-of-Way License between the City of Midland and Endeavor Energy Resources, L.P., the pipelines are located within City of Midland property, Sections 5 and 6, Block 39, T-2-S, T&P R.R. Co Survey, Midland County, Texas. (UTILITIES)

RESOLUTION NO. 2018 - 158

RESOLUTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND ENDEAVOR ENERGY RESOURCES, LP, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTIONS 5 AND 6, BLOCK 39, TOWNSHIP 2 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS

28. Approved a resolution authorizing and executing a Right-of-Way License between the City of Midland and Endeavor Energy Resources, L.P., the pipelines are located within City of Midland property, Sections 4 and 9, Block 39, T-2-S, T&P R.R. Co. Survey, Midland County, Texas. (UTILITIES)

RESOLUTION NO. 2018 - 159

RESOLUTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND ENDEAVOR ENERGY RESOURCES, LP, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTIONS 4 AND 9, BLOCK 39, TOWNSHIP 2 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS

29. Approved a resolution authorizing and executing a Right-of-Way License between the City of Midland and Endeavor Energy Resources, L.P., the pipelines are located within City of Midland property, Section 8, Block 39, T-2-S, T&P R.R. Co. Survey, Midland County, Texas. (UTILITIES)

RESOLUTION NO. 2018 - 160

RESOLUTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND ENDEAVOR ENERGY RESOURCES, LP, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTION 8, BLOCK 39, TOWNSHIP 2 SOUTH, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS

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

17. Consider a motion approving a proposed Preliminary Plat of Lone Star Trails, Section 11 being a 272.86-acre tract of land generally located northeast of the intersection of Arapahoe Road and Fairgrounds Road. (DEVELOPMENT SERVICES)

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

26. Receive the 2017 Midland Police Department Racial Profiling Analysis. (POLICE)

Council Member Dufford moved to receive the 2017 Midland Police Department Racial Profiling Analysis; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: Love. ABSENT: None.

SECOND READINGS

30. Consider an ordinance on second reading 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) (First reading held April 10, 2018.)

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 Darlene Eastin read the caption of Ordinance No. 9754.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9754 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: Hotchkiss. ABSTAIN: None. ABSENT: None.

31. Consider an ordinance on second reading 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 generally located west of Coyote Trail and approximately 659 feet south of Briarwood Trail. (DEVELOPMENT SERVICES) (First reading held April 10, 2018.)

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 Darlene Eastin read the caption of Ordinance No. 9755.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9755 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford.

Bill Roberts, 4401 Coyote Trail, reported he met with all of the neighbors that were sent notices and had them sign off on his drawing. Everyone he met with seemed to be on board and he made some new friends.

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

32. Consider an ordinance on second reading establishing intersection stops at various locations within the City of Midland, Texas. (ENGINEERING SERVICES) (First reading held April 10, 2018.)

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 Darlene Eastin read the caption of Ordinance No. 9757.

Council Member Robnett moved to approve the second and final reading of Ordinance No. 9757 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.

33. Consider an ordinance on second reading establishing yield right-of-way signs at various locations within the City of Midland, Texas. (ENGINEERING SERVICES) (First reading held April 10, 2018.)

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 Darlene Eastin read the caption of Ordinance No. 9758.

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

PUBLIC HEARINGS

34. Hold a public hearing and consider an ordinance on request by Gary J. Dawson for a zone change from AE, Agriculture Estates District, to O-1, Office District generally located on the west side of Elkins Road, approximately 610 feet north of East County Road 72. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9759

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1, BLOCK 1, CAMELOT ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS AN O-1, OFFICE DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF ELKINS ROAD, APPROXIMATELY 610 FEET NORTH OF EAST COUNTY ROAD 72); 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 Darlene Eastin read the caption of Ordinance No. 9759.

Development Services Director Chuck Harrington gave a brief overview of the item noting the property is located on Elkins Road. Across the street is outside of the City limits and is developed as industrial. Staff feels that their request meets the comprehensive plan and feels this would be a good buffer to residential use behind the property. Staff recommends approval. No letters of objection have been received.

Council Member Love noted that their application asked for light industrial use but pointed out that use is not allowed. Mr. Harrington reported that all discussions were about the applicant using the use of O-1 for office space.

Mayor Morales opened the public hearing at 10:15 a.m.

Annette Dozier, reported they just purchased the property with the intent to build an 8,000 square foot office building and they have no intention of using it for industrial uses.

There being no one else wishing to speak, the public hearing was closed at 10:16 a.m.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9759 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

35. Hold a public hearing and consider a resolution on a request by Arts Council of Midland for approval of a Temporary Land Use Permit for an arts festival generally located at the intersection of North Colorado Street and West Wall Street. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2018 - 161

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR AN ARTS FESTIVAL ON LOTS 9 THROUGH 12, BLOCK 65, A 0.28-ACRE PORTION OF NORTH COLORADO STREET RIGHT-OF-WAY ADJACENT TO BLOCKS 55 AND BLOCK 56, A 0.25-ACRE PORTION OF SOUTH COLORADO STREET RIGHT-OF-WAY ADJACENT TO BLOCKS 64 AND 65, AND A 0.87-ACRE PORTION OF WEST WALL STREET RIGHT-OF-WAY ADJACENT TO BLOCKS 55, 56, 64, AND 65, ORIGINAL TOWN ADDITION, AND BLOCK 55, ORIGINAL TOWN ADDITION, SECTION 14, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE INTERSECTION OF NORTH COLORADO STREET AND WEST WALL STREET); 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 their 35th annual event. He outlined the changes that will be made noting the premier party will be at Midland Tower on Friday. There is no admission charge at the event on Saturday or Sunday. They are proposing on premise consumption of alcohol and there will be two certified peace officers on duty and adequate restrooms. Staff reviewed the item and found it in compliance and recommends approval subject to conditions A-K.

Mayor Morales opened the public hearing at 10:19 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Dufford moved to adopt Resolution No. 2018 - 161; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

MISCELLANEOUS

36. Consider a resolution granting a variance to Ordinance 8769, (January 1, 2010 Oil and Gas Well Drilling Ordinance), for a 26.92-acre tract of land generally located on the north side of Briarwood, and the east side of Avalon, by permitting construction of multi-family residential and commercial buildings where no portion of any structure is closer than 250 feet of existing oil and gas wells (Well #2415 "Robbie" and Well #2407 "Robbie" and permitted oil and gas wells (Gridiron N007LS, Gridiron N007WA, Gridiron N008LS and Gridiron N008WB). (DEVELOPMENT SERVICES)

RESOLUTION NO. 2018 - 162

RESOLUTION GRANTING A VARIANCE FOR 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 (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION

OF BRIARWOOD AVENUE AND AVALON DRIVE), BY PERMITTING CONSTRUCTION OF COMMERCIAL BUILDINGS AND MULTIPLE-FAMILY RESIDENCES 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 from Los Conchos Ventures LLC for six wells with two already in existence. This item is only referring to the north 8.68 acres of the property where there was an agreement in place. The wells have been sold to XTO but XTO has not acknowledged the prior agreement. This is a U-shaped piece of land of nearly 27 acres. The undrilled but permitted Diamondback wells are to the north. By ordinance, because the wells are permitted but undrilled, no construction can occur within 300 feet regardless. They have asked for a variance of 250 feet.

Robert Rendall, 6 Desta Drive, Suite 1000, speaking on behalf of Los Conchos Ventures reported they are asking for 250 feet for the Diamondback wells but they will be happy with 300 feet. They wanted the plat to show a 500-foot setback in case the wells were drilled before they obtained their certificate of occupancy. As to the southern wells they want a 250-foot setback so it would not touch the apartment complex. It does impact some lots slightly but they can build the strip center around the corner. They plan to do climate-controlled storage on the northern part of the lot. Council Member Lacy confirmed that there was agreement with the prior owner for 250 feet. Mr. Rendall agreed noting the agreement was in the Warranty Deed.

Jack Mohr, 2504 Texland Circle, speaking on behalf of XTO, reported they operate two wells in the area of question. The current ordinance requires a 500 foot separation and asked the City not to encroach into their operations. He expressed concern about the proximity of their well to an apartment complex. They have been in discussions with the developer about the fair market value of their well in exchange for plugging the well noting they still needed to consider royalty payments and oil reserves. He asked that the pre-eminence of mineral rights owners be recognized.

Council Member Lacy reported that when they bought the wells they took on the Warranty Deed that came with the agreement of a 250-foot radius.

Mr. Rendall emphasized they have been trying for three months to have good faith discussions. XTO was sent multiple emails asking for meetings and the only response received back is that they will get back with us. The developer has someone who is ready to move forward and they cannot wait any longer. He did not feel his request was out of the ordinary for what has happened in the past.

Council Member Love asked if the operator would commit to working on a resolution if this item was deferred. Mr. Mohr reported it may seem like they were stalling, but there are many complications including other mineral royalty owners and legal issues that need to be addressed, all of which take time to work through.

Council Member Robnett moved to defer the item for two weeks. The item died for the lack of a second.

Council Member Sparks moved to adopt Resolution No. 2018 - 162 with the following amendment: Revise Section One A to permit the construction of commercial buildings on the portions of the property identified in Exhibit "A" as "Lot 1", "Lot 2", and "Lot 3" where no portion of a structure shall be closer than 300 feet of an oil and gas well; and revise Section One B to permit the construction of multiple-family residences: on the portion of the property identified in Exhibit "A" as "Lot 4" in which a 250-foot "well buffer" is depicted where no portion of a structure shall be closer than 250 feet of an oil and gas well; and on the remainder of the property identified in Exhibit "A" as "Lot 4" where no portion of a structure shall be closer than 300 feet of an oil and gas well; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy. NAY: Robnett. ABSTAIN: None. ABSENT: None.

37. Consider an ordinance on second reading 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) (First reading held April 10, 2018.)

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 Darlene Eastin read the caption of Ordinance No. 9756.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is an accompanying item to the previous item that will be used as a PD for multi-family housing. The item was reviewed by all departments with several comments made. The well situation will be addressed as part of the building permit process. One letter of objection was received.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9756 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.

38. Consider a motion approving a proposed Preliminary Plat of SCP Midland West, being a 26.92-acre tract of out of Section 24, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas (generally located at the northeast intersection of Briarwood Avenue and Avalon Drive). (DEVELOPMENT SERVICES)

Development Services Director Chuck Harrington gave a brief overview of the item noting the preliminary plat will be amended to meet Council's amendment but otherwise staff recommends approval.

Council Member Lacy moved to approve a motion approving a proposed Preliminary Plat of SCP Midland West, being a 26.92-acre tract of out of Section 24, Block 40, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas (generally located at the northeast intersection of Briarwood Avenue and Avalon Drive); 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.

PUBLIC COMMENT

39. 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.)

Lydia Scudder, Chief Operating Officer of Permian Basin Board of Realtors, spoke regarding impact fees and asked that two realtors be placed on the panel so that realtors can be better educated so they can share that information with their buyers.

Ernesto Caldron, also on the Permian Basin Board of Realtors, understands that impact fees will impact affordable housing noting it could place some buyers out of the market.

Mayor Morales appreciated their input and reported he would consider how they could include realtors in the discussion.

EXECUTIVE SESSION

40. Pursuant to Texas Government Code §551.101, the Council will hold an Executive Session which is closed to the public to discuss the following matters as permitted under the following Texas Government Code Sections:
- a. Section 551.087 Deliberate Economic Development Negotiations
 - a.1. Discuss business prospects that the City seeks to have, locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.

Mayor Morales recessed the meeting to Executive Session at 11:02 a.m.

All of the business at hand having been completed, the meeting adjourned at 12:04 p.m.

PASSED AND APPROVED the 8th day of May, 2018.

Jerry F. Morales, Mayor

ATTEST:

Amy M. Turner, City Secretary