

**MIDLAND CITY COUNCIL  
MINUTES  
November 05, 2019**

**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 November 05, 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 Robert Patrick, Assistant City Manager Morris Williams, Assistant to the City Manager Marcia Bentley-German, City Secretary Amy Turner, Utilities Director Carl Craigo, Administrative Services Director Mark Widmann, Engineering Services Director Jose Ortiz, and Public Information Officer Erin Bailey.

Mayor Morales called the meeting to order at 9:31 a.m.

1. Receive a presentation from Permian Basin Metropolitan Planning Organization regarding the F45 Transportation Plan.

Cameron Walker reported that the Forward 45 Transportation Plan was about to be adopted by the Permian Basin Metropolitan Planning Organization board. He gave a brief history of how the MPO receives funds and how those funds have recently increased noting it is making an impact in this area. He explained that the Cities of Midland and Odessa are able to make a bigger impact by contributing additional funds moving their projects up the list.

He reviewed the timeline, planning framework and steps in the planning process. He addressed the population gain of the area compared to similar areas around the state. Midland is expected to grow 319 percent between now and 2050. He reviewed what each chapter of the plan includes and answered questions.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:59 a.m.

**REGULAR SESSION**

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., November 05, 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 Robert Patrick and Assistant City Manager Morris Williams.

The agenda items were heard in the following order: 1-5, 7, 9-11, 13-16, 18, 20-21, 6, 8, 12, 17, 19, 22, 36-44, 23-35, 45.

Mayor Morales called the meeting to order at 10:04 a.m.

### **OPENING ITEMS**

1. Invocation - Pastor Phillip Allman, Grace Lutheran
2. Pledge of Allegiance

### **PRESENTATIONS**

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
  - a. Council Member Lacy presented a proclamation for Municipal Court Week.

### **CONSENT AGENDA**

Council Member Love moved to approve Consent Agenda items 4 - 21 excluding 6, 8, 12, 17, 19; 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 October 22, 2019.
5. Approved a resolution awarding the contract for Abell Junior High School Pedestrian Crossing to Willis Electric Co. LP for \$190,410.00 plus \$9,590.00 in contingences for a total cost of \$200,000.00 for the Engineering Department. (PURCHASING)

#### **RESOLUTION NO. 2019 - 332**

**RESOLUTION AWARDING A CONTRACT FOR THE ABELL JUNIOR HIGH SCHOOL PEDESTRIAN CROSSING PROJECT TO THE SOLE BIDDER, WILLIS ELECTRIC CO., LP OF ABILENE, TEXAS, AT A TOTAL COST OF \$190,410.00; APPROPRIATING FUNDS; AND AUTHORIZING PAYMENT THEREFOR**

7. Approved a resolution awarding the purchase and installation of a ribbon video board for the Security Bank Ballpark to Prismview, LLC for the cost of \$252,917.00 plus \$38,000.00 in contingencies for a project cost of \$290,917.00 for the Community Services Department. (PURCHASING)

#### **RESOLUTION NO. 2019 - 334**

**RESOLUTION AWARDING A CONTRACT FOR THE PURCHASE AND INSTALLATION OF A RIBBON VIDEO BOARD AT SECURITY BANK BALLPARK TO PRISMVIEW, LLC, IN THE AMOUNT OF \$252,917.00; APPROVING \$38,000.00 FOR CONTINGENCIES; AND ALLOCATING FUNDS THEREFOR**

9. Approved a resolution approving the purchase of seventy (70) Bunker Coats and seventy (70) Bunker Pants from Dooley Tackaberry, Inc. through Buyboard contract 524-17 for the cost of \$192,556.70 for the Fire Department. (PURCHASING)

RESOLUTION NO. 2019 - 336

RESOLUTION APPROVING THE PURCHASE OF SEVENTY (70) BUNKER COATS AND SEVENTY (70) BUNKER PANTS FROM DOOLEY TACKABERRY, INC., AT A TOTAL COST OF \$192,556.70 THROUGH BUYBOARD

10. Approved a resolution approving the sole source purchase of MSA Self Contained Breathing Apparatus (SCBA) for a total cost of \$111,144.00 for the Fire Department. (PURCHASING)

RESOLUTION NO. 2019 - 337

RESOLUTION AUTHORIZING THE SOLE-SOURCE PURCHASE OF TWENTY-TWO (22) MSA SELF CONTAINED BREATHING APPARATUSES FOR THE FIRE DEPARTMENT FROM CASCO INDUSTRIES, INC., FOR A TOTAL COST OF \$111,144.00

11. Approved a resolution authorizing the execution of Amendment #12 to Parkhill, Smith & Cooper's Professional Services Agreement, and appropriate necessary funds. (AIRPORTS)

RESOLUTION NO. 2019 - 338

RESOLUTION AUTHORIZING THE EXECUTION OF AMENDMENT NUMBER TWELVE TO THE PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INC., FOR PROFESSIONAL ENGINEERING SERVICES AT THE MIDLAND INTERNATIONAL AIR & SPACE PORT AND MIDLAND AIRPARK SO AS TO INCLUDE THE MAF AIR CARGO ROAD RECONSTRUCTION PROJECT; AND APPROPRIATING FUNDS THEREFOR

13. Approved a resolution approving the 2020 City Council meeting dates. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2019 - 339

RESOLUTION ESTABLISHING THE DATES OF THE REGULAR CITY COUNCIL MEETINGS TO BE HELD DURING THE CALENDAR YEAR 2020

14. Approved a resolution approving cooperation with other cities served by Atmos West Texas. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2019 - 340

RESOLUTION OF THE CITY OF MIDLAND APPROVING COOPERATION WITH CITIES SERVED BY ATMOS WEST TEXAS ("CITIES") TO REVIEW ATMOS ENERGY CORP., WEST TEXAS DIVISION'S REQUESTED RATE CHANGE; HIRING LEGAL AND CONSULTING SERVICES TO NEGOTIATE WITH SAID COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; REQUIRING REIMBURSEMENT OF RATE CASE EXPENSES; AUTHORIZING INTERVENTION IN ANY RATEMAKING PROCEEDING AT THE RAILROAD COMMISSION THAT RELATES TO SAID COMPANY'S FILING; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO DELIVER THIS RESOLUTION TO SAID COMPANY AND CITIES' LEGAL COUNSEL

15. Approved a resolution of the City Council of the City of Midland, Texas, authorizing the execution of an agreement with the owner of a 64.52-acre tract of land generally located approximately 733 feet west of the intersection of Tradewinds Boulevard and Thomason Drive for the provision of services in the area. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2019 - 341

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS, AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH THE OWNER OF A 64.52-ACRE TRACT OF LAND OUT OF SECTION 48, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (THE "AREA") (GENERALLY LOCATED APPROXIMATELY 733 FEET WEST OF THE INTERSECTION OF TRADEWINDS BOULEVARD AND THOMASON DRIVE) FOR THE PROVISION OF SERVICES IN THE AREA, SAID OWNER HAVING SUBMITTED A PETITION FOR ANNEXATION OF THE AREA; AUTHORIZING AND DIRECTING THE CITY SECRETARY'S OFFICE TO FILE SAID AGREEMENT WITH THE MIDLAND COUNTY CLERK FOR RECORDING IN THE OFFICIAL REAL PROPERTY RECORDS OF MIDLAND COUNTY, TEXAS; AND CALLING A PUBLIC HEARING TO CONSIDER AN ORDINANCE ANNEXING THE AREA

16. Approved a motion approving a proposed Preliminary Plat of MMP Midland Terminal, Section 1, being a plat of a 39-acre tract-of-land out of Section 46, Block 38, T-1-S, T&P. RR. Co. Survey, Midland County, Texas, (generally located on the east side of South County Road 1140, approximately 1,837 feet south of East Interstate 20 - Extraterritorial Jurisdiction). (DEVELOPMENT SERVICES)
18. Approved a resolution allocating the sum of \$600,000.00 from the operating budget of the Traffic Division (001083) of the Engineering Department in the General Fund to the Downtown Intersections Updates Project (900291). (ENGINEERING SERVICES)

RESOLUTION NO. 2019 - 342

RESOLUTION ALLOCATING THE SUM OF \$600,000.00 FROM THE OPERATING BUDGET OF THE TRAFFIC DIVISION (001083) OF THE ENGINEERING DEPARTMENT IN THE GENERAL FUND TO THE DOWNTOWN INTERSECTIONS UPDATES PROJECT (900291)

20. Approved a resolution accepting funds in the amount of \$43,249.65 from the Emergency Law Enforcement Assistance Grant Program. (POLICE)

RESOLUTION NO. 2019 - 344

RESOLUTION ACCEPTING A GRANT IN THE AMOUNT OF \$43,249.65 FROM THE EL-EMERGENCY LAW ENFORCEMENT ASSISTANCE GRANT PROGRAM; PROVIDING THAT SAID GRANT SHALL BE USED TO REIMBURSE THE POLICE DEPARTMENT AND FIRE DEPARTMENT FOR OVERTIME, VEHICLE DAMAGE, AND SUPPLY COSTS ASSOCIATED WITH THE ACTIVE-SHOOTER EVENT ON AUGUST 31, 2019; AND AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS

21. Approved a resolution authorizing renewal of an Operating Certificate for Silver Star Senior Transportation, LLC. (POLICE)

RESOLUTION NO. 2019 - 345

RESOLUTION AUTHORIZING AN OPERATING CERTIFICATE FOR SILVER STAR SENIOR TRANSPORTATION, LLC, TO OPERATE A TAXICAB BUSINESS; SETTING

FORTH CONDITIONS ACCOMPANYING THE CERTIFICATE; AND ESTABLISHING THE TERMS OF THE CERTIFICATE

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

6. Consider a resolution ratifying an emergency repair of a 33" water line at Midland Drive and Andrews Highway for the Utilities Department. (PURCHASING)

RESOLUTION NO. 2019 - 333

RESOLUTION RATIFYING AND APPROVING THE EMERGENCY REPAIR OF A WATER MAIN BY RED DEER CONSTRUCTION, LLC, FOR A TOTAL COST OF \$59,094.46

Council Member Love asked why it took so long for approval of this item when it was an emergency item. Utilities Director Carl Craigo reported it took the contractor a while to get the invoice in. When asked if we would be reimbursed, Mr. Craigo reported it will be turned over to them for payment.

Council Member Love moved to adopt Resolution No. 2019 - 333; 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.

8. Consider a resolution approving plans and specifications and authorizing advertisement for bids for construction of a new Animal Shelter and demolition of the existing Animal Shelter for the Community Services Department; and appropriating funds therefore. (PURCHASING)

RESOLUTION NO. 2019 - 335

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE ANIMAL SHELTER DESIGN AND BUILD PROJECT; AND APPROPRIATING FUNDS THEREFOR

Council Member Robnett asked for a quick update. Mayor Morales noted there are many people wishing to speak and asked everyone to be courteous of the other speakers.

Animal Services Manager Leah Lewis reported this is a resolution to advertise for the Request for Proposals for the construction of a new animal shelter. If all goes as planned, they hope to be back December 10<sup>th</sup> for the award of construction. They hope to break ground in early 2020 and be open in the summer of 2021.

Mayor Morales noted he appointed Council Members Robnett and Hotchkiss to work on this with staff. A private donation was made for \$250,000 to rehab the facility, but it did not go well. A lot of time and effort has been expended to understand and design this project. They brought in an expert from Texas Tech Vet School to help with the design.

Cheryl Goin, 3219 Preston Drive, reported she has fostered two dogs that have contracted distemper. People think it originates at the shelter and are discouraged from adopting there. There are a lot of dogs that come in that already have the disease but show no signs or symptoms. The new shelter's ventilation system would be invaluable and would make a drastic difference. She begged Council not to fail the animals.

Sierra Strickland, 4408 Andrews, has been rescuing animals since 2011. There are two key components from outbreak of disease: prevention and treatment. The new shelter will help keep the disease from spreading.

Lauren Disney, 3302 Terrace Ave, adopted a dog from the shelter as a gift for her 9-year-old daughter. Unfortunately, the dog had distemper and they spent hundreds of dollars and nursed him back to health. The animal shelter desperately needs to be rebuilt.

Rumer Ferguson, 10214 West County Road 54, speaking in support of the shelter noted that not every dog that goes into the shelter will contract distemper and it doesn't just come from the shelter. She had a dog that was up to date on all its vaccinations and it still came down with distemper. She reported she has seen Leah cry over people's dogs. Midland is a growing community and a new animal shelter needs to go with it.

Rhonda King, 402 Spring Meadow Court, spoke in support of funding the new animal shelter noting you cannot warehouse, kill or rescue your way out of dog and cat population. Spay and neutering is the only way. The funding is desperately needed. The current shelter is not sufficient for a city Midland's size. She is grateful for Leah and the staff at the shelter and Tracy. She asked Council to support the shelter.

Karen Patterson, 4921 North County Road 27, isn't opposed to a new animal shelter but felt there wasn't enough information to form an opinion and there needs to be an assessment or feasibility study. She researched other organizations and felt that a low cost spay and neuter program would benefit Midland noting that when it costs \$350 to \$675 to spay or neuter an animal, a \$75 voucher isn't sufficient. She reported there is a mobile surgical suite that can provide true low cost spay and neutering for a maximum of \$90 out of pocket expense. She told about a doctor she came across in her research who has a book about best practices for animal shelters. There is a tried and true method of reducing animal intakes and therefore reduce euthanasia. She sent out an email to facilities who used the method and asked for feedback and has some suggestions that might help. Mayor Morales asked her to meet with Council Members Hotchkiss and Robnett.

Sierra Stickland, 4408 Andrews, noted that Midland and Odessa are a completely different environment. They work with vets from all over and none have seen distemper and parvo like you do in West Texas. Outsiders do not understand.

Keith Dial, Odessa, thanked Council for their forward thinking.

Tracye Gearhart, 6706 Mosswood, expressed frustration when she is trying to educate the community about what is going on and everyone offers their opinion without ever having spent time in the shelter. She is open to new ideas, but wants people to spend time there first. She was thankful for Leah Lewis and provided a brief history of Leah's experience and education.

Council Member Robnett moved to adopt Resolution No. 2019 - 335; 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.

12. Consider a motion authorizing the appropriation of \$318,925.00 from the Airport Operating Fund (500) Unappropriated Fund Balance (35650) to the following projects in the following amounts: SpacePort Business Park Environmental Project at Midland International Air & Space Port in the amount of \$243,925.00; and Land Release Project at Executive Airpark in the amount of \$75,000.00. (AIRPORTS)

Council Member Robnett asked where we are in this land release project. Airports Director Justine Ruff reported the FAA requested a lot of information for their audit going back to 1984. They are in the process of doing research back to when the land was first acquired. She noted that the FAA has new policies that may speed the process up. Council Member Robnett asked what prompted the cleanup of the plume. Ms. Ruff confirmed the remediation was prompted by the start of the business park.

Council Member Love moved to approve authorizing the appropriation of \$318,925.00 from the Airport Operating Fund (500) Unappropriated Fund Balance (35650) to the following projects in the following amounts: SpacePort Business Park Environmental Project at Midland International Air & Space Port in the amount of \$243,925.00; and Land Release Project at Executive Airpark in the amount of \$75,000.00.; 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.

17. Consider a motion authorizing the City to reassign Midland Country Club's address from 6101 North State Highway 349 to One Wildcatter Way. (DEVELOPMENT SERVICES)

Council Member Lacy stated it is ridiculous that it is required to go to this level just to change an address.

Council Member Lacy moved to approve authorizing the City to reassign Midland Country Club's address from 6101 North State Highway 349 to One Wildcatter Way.; 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.

19. Consider a resolution authorizing the City Manager to allocate funds in an amount not to exceed \$1.5 million to Midland County for reconstruction of Fairgrounds Road in accordance with the City – County Interlocal Cooperation Contract, dated November 12, 2013. The limits are from Garden City Highway (SH 140) to Front Street (BI 20). (ENGINEERING SERVICES)

RESOLUTION NO. 2019 - 343

RESOLUTION AUTHORIZING MIDLAND COUNTY, TEXAS TO PERFORM PAVING SERVICES ON FAIRGROUNDS ROAD, FROM GARDEN CITY HIGHWAY (STATE HIGHWAY 140) TO FRONT STREET (BUSINESS INTERSTATE 20) (THE "PAVING WORK"), IN ACCORDANCE WITH THE CITY - COUNTY INTERLOCAL COOPERATION CONTRACT AUTHORIZED BY RESOLUTION NO. 2013-401; APPROPRIATING FUNDS; AND AUTHORIZING PAYMENT TO MIDLAND COUNTY IN THE AMOUNT OF ONE-THIRD OF THE COST OF THE PAVING WORK; PROVIDED, HOWEVER, THAT THE CITY'S PAYMENT SHALL NOT TO EXCEED \$1,500,000.00

Council Member Robnett reported this has been discussed for a while and is excited that it is going forward. He asked for a summary of the project highlighting that the City and County are working together on this issue.

Engineering Services Director Jose Ortiz reported this discussion has been ongoing for five years noting Fairgrounds goes in and out of the City limits. They have reached an agreement with the County. This is a hazardous truck route and needed more reinforcement and addresses drainage issues.

Council Member Lacy noted they worked with Judge Johnson and the County will be putting out an RFP this month for construction to start in January. This is another example of long-term plans the City is doing for roads.

When asked about right-of-way Mr. Ortiz noted this is a maintenance project only and right-of-way was not requested for this project.

Council Member Love moved to adopt Resolution No. 2019 - 343; 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.

## **SECOND READINGS**

22. Consider an ordinance on second reading on a request by Terramark, LP for the initial zoning of a 9.784-acre tract of land generally located on the south side of West Industrial Avenue, approximately 454 feet east of South Midland Drive. (DEVELOPMENT SERVICES) (First reading held on October 22, 2019)

### **ORDINANCE NO. 10001**

AN ORDINANCE ESTABLISHING THE INITIAL ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 9.784-ACRE TRACT OF LAND OUT OF SECTION 5, BLOCK 39, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS AN HI, HEAVY INDUSTRIAL DISTRICT; SAID TRACT BEING GENERALLY LOCATED ON THE SOUTH SIDE OF WEST INDUSTRIAL AVENUE, APPROXIMATELY 454 FEET EAST OF SOUTH MIDLAND 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 Reyes read the caption of Ordinance No. 10001.

Council Member Love moved to approve the second and final reading of Ordinance No. 10001 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.

23. Consider an ordinance on second reading on a request by Vine Pizza, LLC, for a Specific Use Designation with Term for the sale of all alcoholic beverages, for on premises consumption in a restaurant, generally located on the south side of West Wadley Avenue, approximately 310 feet east of North Midkiff Road. (DEVELOPMENT SERVICES) (First reading held on October 22, 2019)



ORDINANCE NO. 10002

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 5,800-SQUARE FOOT PORTION OF BLOCK 1, LESS THE 250-FOOT BY 150-FOOT NORTHWEST CORNER AND LESS THE 224-FOOT BY 150-FOOT SOUTHWEST CORNER, REPLAT OF BLOCKS 1 AND 2, IMPERIAL HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON SOUTH SIDE OF WEST WADLEY AVENUE APPROXIMATELY 310 FEET EAST OF NORTH MIDKIFF ROAD), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION 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 Reyes read the caption of Ordinance No. 10002.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 10002 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.

24. Consider an ordinance on second reading on a request by Brian Levy dba Fat Bird, LLC, for a Specific Use Designation with Term for the sale of all alcoholic beverages, for on premises consumption in a restaurant, generally located on the south side of Courtyard Drive, approximately 865 feet east of North Midkiff Road. (DEVELOPMENT SERVICES) (First reading held on October 22, 2019)

ORDINANCE NO. 10003

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 2,400-SQUARE FOOT PORTION OF LOT 5A, BLOCK 1A, MIDKIFF PLAZA, SECTION 16, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF COURTYARD DRIVE, APPROXIMATELY 865 FEET EAST OF NORTH MIDKIFF ROAD), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION 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 Reyes read the caption of Ordinance No. 10003.

Council Member Robnett moved to approve the second and final reading of Ordinance No. 10003 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.

25. Consider an ordinance on second reading on a request by Gonzalo Ornelas, for a zone change from MF-22, Multiple Family Dwelling District, to SF-3, Single Family Dwelling District, generally located on the west side of Bunche Street, approximately 114 feet south of East California Avenue, and on the northeast corner of the intersection of South Madison Street and Cloverdale Road. (DEVELOPMENT SERVICES) (First reading approved on October 22, 2019)

ORDINANCE NO. 10004

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 3 AND 11, BLOCK 63, PARK AVENUE HEIGHTS, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF BUNCHE STREET, APPROXIMATELY 114 FEET SOUTH OF EAST CALIFORNIA AVENUE, AND AT THE NORTHEAST CORNER OF THE INTERSECTION OF SOUTH MADISON STREET AND CLOVERDALE 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 Reyes read the caption of Ordinance No. 10004.

Council Member Love moved to approve the second and final reading of Ordinance No. 10004 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.

26. Consider an ordinance on second reading on a request by Danny Harris for a zone change from MF-22, Multiple Family Dwelling District, to SF-3, Single Family Dwelling District, generally located on the north side of East Pennsylvania Avenue, approximately 216 feet east of South Lamesa Road. (DEVELOPMENT SERVICES) (First reading held on October 22, 2019)

ORDINANCE NO. 10005

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 23, BLOCK 56, PARK AVENUE HEIGHTS, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF EAST PENNSYLVANIA AVENUE, APPROXIMATELY 216 FEET EAST OF SOUTH LAMESA 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 Reyes read the caption of Ordinance No. 10005.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 10005 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, Morales, Dufford, Lacy. NAY: None. ABSTAIN: Love. ABSENT: Robnett.

27. Consider an ordinance on second reading on a request by Danny Harris for a zone change from MF-22, Multiple Family Dwelling District, to SF-3, Single Family Dwelling District, generally located on the west side of Bunche Street, approximately 56 feet south of East California Avenue. (DEVELOPMENT SERVICES) (First reading held on October 22, 2019)

ORDINANCE NO. 10006

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 2, BLOCK 63, PARK AVENUE HEIGHTS, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF BUNCHE STREET, APPROXIMATELY 56 FEET SOUTH OF EAST CALIFORNIA 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. 10006.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 10006 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, Morales, Dufford, Lacy. NAY: None. ABSTAIN: Love. ABSENT: Robnett.

28. Consider an ordinance on second reading on a request by Jesus Jurado, for a zone change from C, Commercial District, to SF-3, Single Family Dwelling District, generally located on the north side of East New York Avenue, approximately 164 feet east of South Baird Street. (DEVELOPMENT SERVICES) (First reading held on October 22, 2019)

ORDINANCE NO. 10007

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 11 THROUGH 13, BLOCK 118, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM C, COMMERCIAL DISTRICT TO SF-3, SINGLE FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF EAST NEW YORK AVENUE, APPROXIMATELY 164 FEET EAST OF SOUTH BAIRD 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. 10007.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 10007 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.

29. Consider an ordinance on a second reading on a request by Scott A. Mommer for a Zone Change from a PD, Planned District for a Shopping Center to an Amended PD, Planned Development District for a Shopping Center generally located approximately 809 feet south of West Loop 250 North and approximately 643 feet west of North Midland Drive. (DEVELOPMENT SERVICES) (First reading held on October 22, 2019)

ORDINANCE NO. 10008

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 6, BLOCK 45, FAIRMONT PARK, SECTION 15, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER TO AN AMENDED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED APPROXIMATELY 809 FEET SOUTH OF WEST LOOP 250 NORTH AND APPROXIMATELY 643 FEET WEST OF NORTH MIDLAND 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 Reyes read the caption of Ordinance No. 10008.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 10008 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.

30. Consider an ordinance on second reading on a request by Jose Mendez for a zone change from a C, Commercial District to SF-3, Single-Family Dwelling District generally located on the west side of South Stonewall Street, approximately 50 feet south of East New York Avenue. (DEVELOPMENT SERVICES) (First reading held on October 22, 2019)

ORDINANCE NO. 10009

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 2, BLOCK 28, GREENWOOD ADDITION, THIRD, FOURTH AND FIFTH SECTIONS, CITY AND COUNTY OF MIDLAND, TEXAS, FROM C, COMMERCIAL DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF SOUTH STONEWALL STREET, APPROXIMATELY 50 FEET SOUTH OF EAST NEW YORK 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. 10009.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 10009 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.

31. Consider an ordinance on second reading on a request by Weldon Carter for a zone change from a MF-22, Multiple-Family Dwelling District to SF-3, Single-Family Dwelling District generally located on the east side of South Benton Street, approximately 60 feet north of East New York Avenue. (DEVELOPMENT SERVICES) (First reading held on October 22, 2019)

ORDINANCE NO. 10010

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 5, BLOCK 23, GREENWOOD ADDITION, THIRD, FOURTH AND FIFTH SECTIONS, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY

DWELLING DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF SOUTH BENTON STREET, APPROXIMATELY 60 FEET NORTH OF EAST NEW YORK 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. 10010.

Council Member Hotchkiss moved to approve the second and final reading of Ordinance No. 10010 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, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: Love. ABSENT: None.

32. Consider an ordinance on second reading on a request by Weldon Carter for a zone change from a MF-22, Multiple-Family Dwelling District to SF-3, Single-Family Dwelling District generally located on the northwest corner of the intersection of South Webster Street and Washington Avenue. (DEVELOPMENT SERVICES) (First reading held on October 22, 2019)

ORDINANCE NO. 10011

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 5 AND 6, BLOCK 12, GREENWOOD ADDITION, THIRD, FOURTH AND FIFTH SECTIONS, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF SOUTH WEBSTER STREET AND EAST WASHINGTON 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. 10011.

Council Member Trost moved to approve the second and final reading of Ordinance No. 10011 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, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: Love. ABSENT: None.

33. Consider an ordinance on second reading on a request by Weldon Carter for a zone change from RR, Regional Retail District to SF-3, Single-Family Dwelling District generally located on the southwest corner of the intersection of Indiana Avenue and South Webster Street. (DEVELOPMENT SERVICES) (First reading held on October 22, 2019)

ORDINANCE NO. 10012

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 1 AND 2, BLOCK 7, GREENWOOD ADDITION, SECOND SECTION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF EAST INDIANA AVENUE AND SOUTH WEBSTER 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. 10012.

Council Member Robnett moved to approve the second and final reading of Ordinance No. 10012 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, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: Love. ABSENT: None.

34. Consider an ordinance on second reading on a request by City of Midland for a zone change from a RR, Regional Retail District and C, Commercial District to SF-3, Single-Family Dwelling District generally located on the southwest corner of the intersection of South Lamesa Road and East New York Avenue and on the west side of South Lamesa Road, approximately 216 feet south of East New York Avenue. (DEVELOPMENT SERVICES) (First reading held on October 22, 2019)

ORDINANCE NO. 10013

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 1, 2 AND 4, BLOCK 137, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT, IN PART, AND C, COMMERCIAL DISTRICT, IN PART, TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF SOUTH LAMESA ROAD AND EAST NEW YORK AVENUE, AND ON THE WEST SIDE OF SOUTH LAMESA ROAD APPROXIMATELY 216 FEET SOUTH OF EAST NEW YORK 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. 10013.

Council Member Hotchkiss moved to approve the second and final reading of Ordinance No. 10013 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, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Love.

35. Consider an ordinance on second reading on a request by Mike Massey to vacate a 0.14-acre tract, 0.07-acre tract and a 0.20-acre tract of land all out of Section 26, Block 39, T-1-S, T&P RR. Co. Survey, City and County of Midland, Texas. (Generally located approximately 227 feet, 425 feet, and 585 feet east of North 'A' Street, approximately 218 feet, 166 feet and 166 feet north of Douglas Avenue respectively). (DEVELOPMENT SERVICES) (First reading held on October 22, 2019)

ORDINANCE NO. 10014

AN ORDINANCE VACATING AND ABANDONING A 0.14-ACRE PORTION OF CLUB DRIVE RIGHT-OF-WAY, A 0.07-ACRE PORTION OF ALLEY RIGHT-OF-WAY, AND A 0.20-ACRE PORTION OF RIDGLEA DRIVE RIGHT-OF-WAY, ALL OUT OF SECTION 26, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED APPROXIMATELY 227 FEET, 425 FEET AND 585 FEET EAST OF NORTH A STREET, AND APPROXIMATELY 218 FEET, 166 FEET AND 166 FEET NORTH OF DOUGLAS AVENUE, RESPECTIVELY); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$31,199.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10014.

Council Member Hotchkiss moved to approve the second and final reading of Ordinance No. 10014 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.

## **PUBLIC HEARINGS**

36. Hold a public hearing and consider an ordinance on a request by Ryan Tomblin for the vacation of the 0.06-acre portion of Scharbauer Drive Right-of-Way, generally located on the northeast corner of the intersection of North I Street and West Scharbauer Drive. (DEVELOPMENT SERVICES)

### **ORDINANCE NO. 10015**

AN ORDINANCE VACATING AND ABANDONING A 0.06-ACRE PORTION OF SCHARBAUER DRIVE RIGHT-OF-WAY LOCATED ADJACENT TO LOT 1, WINDSOR PLACE, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF NORTH I STREET AND WEST SCHARBAUER DRIVE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$6,534.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10015.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant is requesting vacation of a portion of Scharbauer Drive Right-of-Way. The appraised value of the land \$6,534.00. The item has been reviewed by all departments with no objection. Staff recommends approval subject to conditions A and B.

Mayor Morales opened the public hearing at 10:56 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 10015 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.

37. Hold a public hearing regarding the proposed granting of oil and gas well permits to Endeavor Energy Resources, L.P. for the drilling of oil and gas wells, being Elkins Atrelle 31-42 #212 located 2,179 feet from the north line and 1,153 feet from the east line, Elkins Atrelle 31-42 #114 located 2,179 feet from the north line and 1,203 feet from the east line, Elkins Atrelle 31-42 #221 located 2,179 feet from the north line and 1,228 feet from the east line and Elkins Atrelle 31-42 #223 located 2,180 feet from the north line and 1,278 feet from the east line, Section 31, Block 38, T-1-S, T&P RR. CO. Survey, City and County of Midland, Texas, (said wells are generally located between 850 and 851 feet south of East Cynthia Drive extension and between 1,153 and 1,278 feet west of Todd Drive ) This is a public hearing only. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting that Endeavor Energy is requesting well permits in same area as their previous wells. They have completed sound studies. They are asking for four variances: landscape and irrigation, fencing around each well – instead they will do one large fence around all wells, 24-hour fracing, and to use compression gas operations. They will be putting a sound wall on the south end even though their noise will be quieter than the ambient noise of the area. Mayor Morales asked for a future briefing regarding the new technology of quiet fracing.

Mayor Morales opened the public hearing at 11:00 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

38. Hold a public hearing regarding the proposed granting of oil and gas well permits to Endeavor Energy Resources, L.P. for the drilling of oil and gas wells, being Elkins Atrelle 31-42 #132 located 1,837 feet from the north line and 1,675 feet from the east line, Elkins Atrelle 31-42 #233 located 1,837 feet from the north line and 1,700 feet from the east line and Elkins Atrelle 31-42 #244 located 1,839 feet from the north line and 1,775 feet from the east line, Section 31, Block 38, T-1-S, T&P RR. CO. Survey, City and County of Midland, Texas, (said wells are generally located between 514 and 516 feet south of East Cynthia Drive extension and between 1,675 and 1,775 feet west of Todd Drive) This is a public hearing only. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting they are asking the same types of variances. They will have a sound wall that is 400 feet long and 20 feet tall.

Council Member Love asked about the future expansion of Wadley to the east wanting to ensure we procure the necessary right-of-way for any future needs. Engineering Services Director Jose Ortiz reported staff reviewed the application and is not formally requesting right-of-way. The current radius meets their future needs.

Mayor Morales opened the public hearing at 11:03 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

39. Hold a public hearing and consider an ordinance on a request by Landgraf, Crutcher and Associates for a zone change from a PD, Planned District for a Housing Development, in part; and 2F-Two-Family Dwelling District, in part; to SF-3, Single-Family Dwelling District, on a 22.75-acre tract of land generally located on the southeast corner of the intersection of Passage Way and North Midkiff Road. (DEVELOPMENT SERVICES)

ORDINANCE NO. 10016

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 22.75-ACRE TRACT OF LAND OUT OF SECTION 9, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT, IN PART, AND 2F, TWO-FAMILY DWELLING DISTRICT, IN PART, TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF PASSAGE WAY AND NORTH MIDKIFF 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 Reyes read the caption of Ordinance No. 10016.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is a request for a zone change. It has been reviewed by all departments, was recommended for approval by Planning & Zoning, and staff recommends approval subject to condition A. As of October 3, no letters of objection have been received.

Mayor Morales opened the public hearing at 11:05 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. 10016 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.

40. Hold a public hearing and consider an ordinance on a request by Don Clay for a zone change from a LI, Light Industrial District to SF-3, Single-Family Dwelling District generally located on the southwest corner of the intersection of Houston Avenue and North Lee Street. (DEVELOPMENT SERVICES)

#### ORDINANCE NO. 10017

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 1 AND 2, BLOCK 6, MOODY ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM LI, LIGHT INDUSTRIAL DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF HOUSTON AVENUE AND NORTH LEE 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. 10017

Development Services Director Chuck Harrington gave a brief overview of the item noting it is for single family residential houses. It was approved by Planning & Zoning on October 21 and staff recommends approval. No letters of objection have been received.

Council Member Love noted that Mr. Clay and his son have been building homes in Midland for over 20-25 years and do an excellent job.

Mayor Morales opened the public hearing at 11:07 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 10017 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.

41. Hold a public hearing and consider an ordinance on a request by Brian Yates for a Special Exception from the City of Midland Zoning Ordinance concerning the minimum side yard and rear yard setbacks, and the minimum separation from the principal building generally located on the north side of Sentinel Drive, approximately 173 feet west from Ward Street. (DEVELOPMENT SERVICES)

ORDINANCE NO. 10018

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR THE EAST 7.3 FEET OF LOT 15, ALL OF LOT 16, AND THE WEST 68 FEET OF LOT 17, BLOCK 3, MCCALL PLACE, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF SENTINEL DRIVE, APPROXIMATELY 173 FEET WEST OF WARD STREET), BY PERMITTING (1) REDUCED SIDE YARD AND REAR YARD SETBACKS FOR AN ACCESSORY BUILDING AND (2) A REDUCED MINIMUM SEPARATION OF AN ACCESSORY BUILDING FROM THE PRINCIPAL BUILDING; 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. 10018.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is a special exception to deal with side yard setback and building separation for 1309 square foot accessory building that will be located three feet from the side property line and 7 feet from the principal building. Staff reviewed and recommends denial due to no hardship.

Mayor Morales opened the public hearing at 11:09 a.m.

Brian Yates, 2804 Sentinel Drive, answered questions about the location noting that there is currently access to the back yard, but it will all be replaced with a cinderblock fence. The only access to the building will be from the street, not the alley. Council Member Lacy noted there is nothing out of the ordinary for this neighborhood. Council Member Hotchkiss noted she visited with Mr. Yates and he will be using the same materials on the building as the house and the activities in the building will be family centered.

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

Council Member Trost asked if there were any letters of objection. Mr. Harrington confirmed there were none.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 10018 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.

42. Hold a public hearing and consider an ordinance on a request by Karen Pinard for a Zone Change from TP, Technology Park District to MF-22, Multiple-Family Dwelling District on a 13.620-acre tract of land generally located on the northwest corner of the intersection of South 'K' Street and East Stokes Avenue. (DEVELOPMENT SERVICES)

ORDINANCE NO. 10019

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE A 13.620-ACRE TRACT OF LAND OUT OF SECTION 3, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FROM TP, TECHNOLOGY PARK DISTRICT TO MF-22, MULTIPLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF SOUTH K STREET AND EAST STOKES 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. 10019.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant is proposing to change the zoning to multi-family for the development of another Palladium project. They will be building 240 units with approximately 17.62 units per acre. All departments reviewed the item, it is in compliance with the comprehensive plan, and Planning & Zoning recommended approval on October 21. Staff recommends approval. One letter of objection has been received.

Mayor Morales opened the public hearing at 11:14 a.m.

Byron Fender, 6001 Meadowview Lane, didn't think there was anything worse than an apartment complex going into his neighborhood. He expressed concern for increased traffic on his street and was concerned that the public hearing notice was not placed on Francis Street which is where all traffic will exit and enter the property. He expressed concern for different parcels being marked on a map today than what was in the notice. He had concern for traffic.

Charles Hammond, 1606 W. Francis, like Mr. Fender he wouldn't have known what was going on because he only noticed the sign one time. Ever since Garfield was extended it has quadrupled traffic. Right now, he can see the back of the Petroleum Museum and he doesn't want an apartment complex there.

Scott Johnson, Plano, reported he was with the developer. He wanted to reiterate that it is a privately held company that has been in existence for 130 years. They do nothing but multi-family and they are long term holders of all their assets. They do their own in-house management of all their properties. They have a very strong balance sheet with \$1.5 billion on record. This will be their second development in Midland. Their first property is 100% occupied.

There being no one else wishing to speak, the public hearing was closed at 11:23 a.m.

Mr. Harrington reported the placement of the signs is where the apartments will be located. The entrance to the property will be further down the road. As to the transportation issues, they have been working on the extension of Stokes to Garfield which will provide relief to Francis. He clarified the only ingress and egress will be off Francis with an emergency exit on Kansas. When asked about the different maps on the notice Mr. Harrington clarified they only show the property that is being rezoned which is the square area. They own additional land, that is not being rezoned. The apartments will be 3-stories with no site-line issues.

Council Member Love thought a lot of the objections had been adequately countered and emphasized that housing is much needed and asked Council to support this item.

Council Member Love moved approval of the first of two readings of Ordinance No. 10019 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.

43. Hold a public hearing and consider an ordinance on a request by T&S Builders for a Special Exception from the City of Midland Zoning Ordinance Section 5.05, concerning the side-yard setback generally located on the south side of Bluebird Lane, approximately 315 feet east of North Midkiff Road. (DEVELOPMENT SERVICES)

ORDINANCE NO. 10020

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 2B, BLOCK 2, BENT TREE ADDITION, SECTION 8, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF BLUEBIRD LANE, APPROXIMATELY 315 FEET EAST OF NORTH MIDKIFF ROAD), BY PERMITTING A REDUCED MINIMUM SIDE YARD SETBACK FROM AN INTERIOR LOT LINE; 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. 10020.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is a special exception concerning a side yard setback for an office building. The zoning ordinance requires a minimum of a 5-foot side yard setback. The applicant is proposing to construct on the lot line. The building will meet building and fire codes. Staff reviewed and finds no hardship, so they must recommend denial. No letters of objection have been received. Council Member Lacy asked why this was brought forward after the applicant has already begun construction.

Mayor Morales opened the public hearing at 11:31 a.m.

Kyle McGraw, 3004 Bluebird, reported he lives across from this site and had questions as to why this is being considered after the building has already been built and wondered about where they will access the property and what type of business it will be.

Richard Totch reported he bought the property and went through Planning & Zoning to build a dual building with the thought of selling the east half. He already has a client. He felt the civil engineer did not handle this correctly. There are lots of other properties with the exact same things. He needs it divided because the client that has agreed to buy the other half wants his own separate address. He wants to do the same on another piece of property he owns. It is one common building with a fire wall in the middle. There will be parking in the front and it will wrap around back. It is an office building with low traffic. The other portion will be for an accountant.

There being no one else wishing to speak, the public hearing was closed at 11:37 a.m.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 10020 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.

## MISCELLANEOUS

44. Consider a motion appealing the denial of a driveway opening located on Rankin Highway for the Avis Lube and Kent Wash Facility, 1609 Rankin Highway. (DEVELOPMENT SERVICES)

Engineering Services Director Jose Ortiz reported in April 2018 the City Council approved an agreement with TxDOT to review and approve driveway permits along state roadways in the City of Midland. The permit was denied because it does not follow state guidelines. He confirmed that if they don't follow those guidelines TxDOT could take that authority back which could cause delays for other businesses needing driveway permits. He gave examples of other properties that were required to change the access of their business to adjacent streets. If it is a brand new development, they are not automatically grandfathered in just because it already has a driveway. Council Member Dufford noted this will be setting a precedent if this is approved.

Bill Kent, 4911 Island Drive, owns the entire block. They have been working on this project for several years. They have an issue with fiberoptic lines in the back through the alley that was abandoned which means they cannot build there, and this is the only way the facility can be laid out with appropriate stacking of vehicles for both businesses. The Qwik Lube will see about 100 cars a day and the car wash will see 300-400 people per day. When asked if they could reverse the plan Mr. Kent confirmed they have explored every possible layout, and this is the only way it works to have stack room. When asked if the curb cuts were not approved if the property would be developed, Mr. Kent replied it would not.

Dan Corrales, 4604 W. Illinois, noted Council needed to consider how it applies to local and state guidelines. It is a challenge to make everyone happy. He understands this will set a precedent if approved. He advocates for safety issues especially on arterial corridors.

Council Member Love noted that commercial buildings give tax relief to all residential taxpayers. This is a unique situation he feels there is a hardship different from other properties down the way.

Council Member Lacy moved to overturn the denial of a driveway opening located on Rankin Highway for the Avis Lube and Kent Wash Facility (1609 Rankin Highway).; seconded by Council Member Trost. The motion carried by the following vote: AYE: Trost, Morales, Dufford, Lacy. NAY: Hotchkiss, Love, Robnett. ABSTAIN: None. ABSENT: None.

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

Council Member Dufford noted that Midland Christian has paid off their bond and thought there may no longer be a need to keep the Midland Higher Education Facilities Corporation. He asked staff to review.

Council Member Love moved to appoint Cheryl Wadley to the Midland Housing Authority Commission as the resident commissioner; 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.

**PUBLIC COMMENT**

- 46. Receive public comments where individuals may address the City Council on City related issues and projects not on the present agenda. Any deliberation of or decision by the City Council regarding the item being discussed shall be limited to a motion to place the item on the agenda for a subsequent meeting.(Please limit comments to three minutes or less.)

There were no citizens present wishing to speak.

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

PASSED AND APPROVED the 19th day of November 2019.

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Jerry F. Morales, Mayor

ATTEST:

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Amy M. Turner, City Secretary