

**MIDLAND CITY COUNCIL  
MINUTES  
May 06, 2014**

**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 May 06, 2014.

Council Members present: Mayor Jerry F. Morales, Council Member Jeff Sparks (District 1), Mayor Pro Tem John Love (District 2), Council Member Sharla Hotchkiss (District 3), and Council Member J.Ross Lacy (District 4).

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

Staff members present: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, Assistant City Manager Robert Patrick, City Secretary Amy Turner, Interim Utilities Director Holly Rosas McGrath, Interim Utilities Director Matt Irvin, Finance Director Pam Simecka, Development Services Director Charles Harrington, Building Official Steve Thorpe, Traffic Engineer Mike Pacelli, Customer Service Manager Tony Goyang, Public Information Officer Sara Higgins, Accounting Manager Kim Watkins, and Senior Planner Kevin Crosby.

1. Receive an update from Midland County Fresh Water Supply District No. 1 regarding the Clearwater Project.

Jay Edwards of Midland County Fresh Water District presented a Power Point reviewing the timeline of the Clearwater Project noting they expect to have the sale of bonds by the end of May. He reported the construction companies are carrying the interim financing because their contracts outline they will not be paid until the notes are sold. They will be selling the notes directly to the banks at a 3.33% rate.

Finance Director Pam Simecka reviewed the rating process the City went through with T-Bar noting the Clearwater Project bonds were included when they did the rating.

Mr. Edwards reported 16 of the 31 wells have been drilled and the quality of the water is pristine. The water will be blended with water from T-Bar. Approximately 90 percent of the pipeline to T-Bar has been installed and they expect to be done by late summer or early fall. He shared pictures of the construction.

Robert Rendall noted that the contract requires financing to be completed by May 1. Although the financing portion is complete, the bonds will not be sold until the third week of May. Therefore, he is asking Council to amend the contract to change the closing date to May 31.

Mr. Edwards answered other questions of the City Council regarding electricity and generators.

2. Receive an update on the new long-term covered parking lot at Midland International Airport and discuss proposed airport parking rates structure.

Assistant Airports Director Justine Ruff reported the Airports Director previously reported in 2012 about parking shortages at the Airport noting the covered parking lot has been full for years. They are now drawing to close on the construction of the new covered parking lot and need to come to City Council to consider changing the parking rates. She shared current rates versus proposed rates and compared them to other airport parking rates. She shared pictures of the new parking lot noting they expect to open in July. Ms. Ruff reported that there is about \$300,000 in leftover bond money from another project and explained they plan to expand this project by installing an enhanced crosswalk and automated pay stations.

Deputy City Manager Tommy Hudson reported that they will come before the City Council at their next meeting with the proposed rate changes.

3. Receive information from Development Services and Engineering Services regarding street right-of-way for the City of Midland.

Development Services Director Chuck Harrington introduced Midland's new Traffic Engineer, Mike Pacelli. Mr. Harrington gave a presentation explaining the current right-of-way requirements for the various streets and shared the new numbers for right-of-way requirements. The intent is to look at how subdivisions are laid out noting they do not want houses facing arterials on residential streets to speed up the flow of traffic on collectors. He shared pictures of how streets would be laid out with the new right-of-way requirements many of which that would include a median.

They will bring an ordinance back for Council approval on May 20 to consider changing requirements for rights-of-way.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:50 a.m.

## **REGULAR SESSION**

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:02 a.m., May 06, 2014.

Council Members present: Mayor Jerry F. Morales, Council Member Jeff Sparks (District 1), Mayor Pro Tem John Love (District 2), Council Member Sharla Hotchkiss (District 3), and Council Member J.Ross Lacy (District 4).

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

Staff members present at the annex table: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, and Assistant City Manager Robert Patrick.

The Agenda Items were heard in the following order: 1, 2, 3, 4, 6, 7, 8, 9, 11, 13, 14, 15, 17, 18, 19, 20, 21, 22, 24, 5a, 10, 12, 16, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45.

## **OPENING ITEMS**

1. Invocation - Deputy City Manager Tommy Hudson
2. Pledge of Allegiance

## **PRESENTATIONS**

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
  - a. Council Member Sparks presented a Proclamation for "Public Service Recognition Week".
  - b. Council Member Lacy presented a Proclamation for "Motorcycle Safety and Awareness Month".
  - c. Finance Director Pam Simecka presented to Mayor Morales the 19th Annual Distinguished Budget Presentation Award from the Government Finance Officers Association.
  - d. Council Member Love presented a proclamation for "Brain Tumor Awareness Month".

## **PUBLIC COMMENT**

4. Receive public comments where individuals may address the City Council on City related issues and projects. 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.)

Andy Lasater, Odessa, reported he owns three stores known as payday lender stores and noted this type of business is already heavily regulated. He described his customers noting they were of all ages who have a pressing need for capital. Many of his customers cannot qualify for a traditional loan or do not have the desire to wait for the time required to obtain a traditional loan. His customers see this type of loan as a sensible alternative to overdraft fees, bounced check fees and late fees. He reported this type of business is seen as predatory that puts people in a cycle of debt. He reported that is not an accurate description of his business. If it was, he wouldn't have so many repeat customers who needed quick cash. He believes the action Council will be taking today will be a detriment to the people he serves and would likely put him out of business. He asked for the ordinance to be put on hold and invited each Council Member to look at all sides of the issues. He has quarterly and annual reports and is willing to share those with the Council.

Mark Roush, 501 Carol Lane, would like to build a shop but due to restrictions in the area would like to ask for a variance to be equitable with other buildings in the area. Council Member Sparks reported he asked this gentleman to speak to remind himself to speak to staff.

## CONSENT AGENDA

Council Member Love moved to approve Consent Agenda items 5 - 24 excluding 5a, 10, 12, 16, 23; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy. NAY: None. ABSTAIN: None. ABSENT: Dufford.

6. Approved a resolution amending Resolution 2014-076; an agreement with Route Smart Technologies, Inc. for the purchase of Solid Waste Route Optimization software for the Solid Waste Department in the amount of \$98,200.00. (PURCHASING)

### RESOLUTION NO. 2014 - 140

RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO RESOLUTION NO. 2014-076 AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH ROUTESMART TECHNOLOGIES INCORPORATED, OF COLUMBIA, MARYLAND FOR THE PURCHASE OF SOLID WASTE ROUTE OPTIMIZATION SOFTWARE AND ASSOCIATED TRAVEL AND CONTINGENCIES AT A TOTAL COST OF \$98,200.00; AND APPROPRIATING FUNDS; AND THE AGREEMENT PROVIDES FOR SOFTWARE MAINTENANCE AND TECHNICAL SUPPORT AND TRAINING; SAID AMENDMENT TO INCLUDE WAIVING THE PAYMENT AND PERFORMANCE BOND REQUIREMENTS

7. Approved a resolution approving a contract for two (2) years with Alldredge Gardens, LP for turf and landscape management for a total cost of \$3,992,948.00 for the Community Services Department. (PURCHASING)

### RESOLUTION NO. 2014 - 141

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR TURF AND LANDSCAPE MAINTENANCE SERVICES FOR THE CITY OF MIDLAND PARKS, ATHLETIC FIELDS, AND OTHER CITY PROPERTIES MAINTAINED WITHIN THE PARKS AND RECREATION DIVISION FROM THE SOLE BIDDER, ALLDREGE GARDENS, L.P., IN THE AMOUNT OF \$3,992,948.00 FOR TWO YEARS; AND WAIVING THE PAYMENT AND PERFORMANCE BONDS

8. Approved a resolution approving the issuance of a request for proposals for a Comprehensive Plan Review for the Development Services Department. (PURCHASING)

### RESOLUTION NO. 2014 - 142

RESOLUTION AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS FOR A COMPREHENSIVE PLAN REVIEW REGARDING THE FUTURE GROWTH AND DEVELOPMENT FOR THE CITY OF MIDLAND THROUGH 2025 FOR THE DEVELOPMENT SERVICES DEPARTMENT; SAID PLAN WILL INCLUDE SIGNIFICANT PUBLIC INVOLVEMENT, A STRONG EMPHASIS ON LAND USE AND PUBLIC IMPROVEMENTS, AND WILL INCLUDE INFORMATION GATHERED FROM OTHER CITY PLANS, SUCH AS THE PARKS MASTER PLAN, IN ORDER TO CREATE A SINGLE PLAN THAT WILL GUIDE FUTURE GROWTH AND DEVELOPMENT FOR THE CITY OF MIDLAND THROUGH 2025

9. Approved a resolution approving plans and specifications and authorizing advertisement for bids for renovations at Hogan Park Golf Course which will include cart path

additions, re-turfing several areas and rebuilding of certain tees for the Community Services Department. (PURCHASING)

RESOLUTION NO. 2014 - 143

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR RENOVATIONS AT HOGAN PARK GOLF COURSE, SAID RENOVATIONS WILL INCLUDE CART PATH ADDITIONS, RE-TURFING SEVERAL AREAS, AND THE REBUILDING OF CERTAIN TEES

11. Approved a resolution authorizing the execution of the fourth amendment to the Wholesale Water Delivery Agreement. (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2014 - 145

RESOLUTION AUTHORIZING THE EXECUTION OF THE FOURTH AMENDMENT TO THE WHOLESALE WATER DELIVERY AGREEMENT BETWEEN THE CITY OF MIDLAND AND THE MIDLAND COUNTY FRESH WATER SUPPLY DISTRICT NO. 1, REGARDING THE CITY'S WATER SUPPLY IN WINKLER COUNTY AND LOVING COUNTY, TEXAS

13. Approved a resolution appropriating \$100,000 toward an anti-litter campaign from the sanitation fund. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2014 - 147

RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS FOR AN ANTI-LITTER CAMPAIGN FROM THE SANITATION FUND IN THE AMOUNT OF \$100,000.00; A PORTION OF SAID FUNDS WILL BE USED FOR ADVERTISING AND PROMOTING THE ANTI-LITTER CAMPAIGN THROUGH TELEVISION AND RADIO ADVERTISEMENTS, BILLBOARDS, AND OTHER FORMS OF ADVERTISEMENT; AND APPROPRIATING FUNDS

14. Approved a resolution approving the MDC and Frito-Lay Economic Development Agreement. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2014 - 148

RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND ROLLING FRITO-LAY SALES, LP, AS AUTHORIZED BY CHAPTER 501 OF THE TEXAS LOCAL GOVERNMENT CODE

15. Approved a resolution approving the MDC & Frito-Lay Real Estate Purchase Agreement. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2014 - 149

RESOLUTION APPROVING A REAL ESTATE PURCHASE AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND ROLLING FRITO-LAY SALES, LP, REGARDING THE MIDLAND DEVELOPMENT CORPORATION'S SALE OF LOT 10, BLOCK 10, MIDLAND INTERNATIONAL AIRPORT INDUSTRIAL PARK ADDITION, SECTION 5, MIDLAND, MIDLAND COUNTY, TEXAS, TO ROLLING FRITO-LAY SALES, LP

17. Approved a resolution authorizing the execution of an agreement with Rock the Desert Ministries, Incorporated to promote tourism and the convention/hotel industry in Midland. (CITY SECRETARY'S OFFICE)

RESOLUTION NO. 2014 - 151

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH ROCK THE DESERT MINISTRIES, INCORPORATED AS AUTHORIZED BY CHAPTER 351 OF THE TEXAS TAX CODE; THE FUNDS ALLOCATED BY THIS RESOLUTION SHALL BE USED TO PROMOTE TOURISM AND THE MOTEL AND HOTEL INDUSTRY; THE ALLOCATED FUNDS ARE EXPENDED IN A MANNER DIRECTLY ENHANCING AND PROMOTING TOURISM AND THE MOTEL AND HOTEL INDUSTRY; THE USE AND ALLOCATION OF THESE FUNDS ARE AUTHORIZED BY CHAPTER 351 OF THE TEXAS TAX CODE; AND THE APPROVAL OF THIS RESOLUTION SHOULD NOT BE CONSTRUED OR INTERPRETED AS ENDORSING THE MESSAGE OR ACTIVITIES PROMOTED BY ROCK THE DESERT MINISTRIES, INCORPORATED; AND ROCK THE DESERT MINISTRIES, INCORPORATED IS REQUIRED TO PROVIDE INSURANCE PRIOR TO THE EVENT AND THE CITY SECRETARY SHALL ENSURE THAT THE INSURANCE IS RECEIVED AND APPROVED PRIOR TO THE ROCK THE DESERT EVENT; AND ALLOCATING FUNDS

18. Approved a resolution amending contract number 2004-188 between the Hospital District and the City of Midland, Texas as authorized by chapter 791 of the Texas Government Code to provide insurance billing for the City of Midland Health Department. (COMMUNITY SERVICES)

RESOLUTION NO. 2014 - 152

RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO RESOLUTION NO. 2004-188 APPROVING AN INTERLOCAL COOPERATION CONTRACT BETWEEN THE CITY OF MIDLAND, TEXAS AND THE MIDLAND COUNTY HOSPITAL DISTRICT AS AUTHORIZED BY CHAPTER 791 OF THE TEXAS GOVERNMENT CODE; SAID AMENDMENT TO INCLUDE PROVIDING INSURANCE BILLING FOR THE CITY OF MIDLAND HEALTH DEPARTMENT

19. Approved an amendment to Resolution 2013-444 for an Oil and Gas Well Drilling Permit to High Sky Partners, LLC (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Mask No 1002D) located 1176 feet from the south line and 825 feet from the west line located in Section 10, Block X, H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the north side of the extension of Mockingbird Lane, approximately 825 feet east of the extension of North Garfield Street). (DEVELOPMENT SERVICES)

RESOLUTION NO. 2014 - 153

RESOLUTION APPROVING AN AMENDMENT TO THE PERMIT ISSUED TO HIGH SKY PARTNERS, LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 1,176 FEET FROM THE SOUTH LINE AND 825 FEET FROM THE WEST LINE, SECTION 10, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF THE EXTENSION OF MOCKINGBIRD LANE, APPROXIMATELY 825 FEET EAST OF THE EXTENSION OF NORTH GARFIELD STREET); SAID AMENDMENT AUTHORIZES THE RELOCATION OF THE ACCESS ROAD, TANK BATTERY, FRAC

PIT, AND ELECTRIC LINES.

20. Approved an amendment to Resolution 2013-443 for an oil and gas well drilling permit to High Sky Partners, LLC (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Mask No 1001) located 773 feet from the south line and 825 feet from the west line located in Section 10, Block X, H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the north side of the extension of Mockingbird Lane, approximately 825 feet east of the extension of North Garfield Street). (DEVELOPMENT SERVICES)

RESOLUTION NO. 2014 - 154

RESOLUTION APPROVING AN AMENDMENT TO THE PERMIT ISSUED TO HIGH SKY PARTNERS, LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 773 FEET FROM THE SOUTH LINE AND 825 FEET FROM THE WEST LINE, SECTION 10, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF THE EXTENSION OF MOCKINGBIRD LANE, APPROXIMATELY 825 FEET EAST OF THE EXTENSION OF NORTH GARFIELD STREET); SAID AMENDMENT AUTHORIZES THE RELOCATION OF THE ACCESS ROAD, TANK BATTERY, FRAC PIT, AND ELECTRIC LINES.

21. Approved an amendment to Resolution 2013-445 for an oil and gas well drilling permit to High Sky Partners, LLC (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Mask No 1003) located 513 feet from the south line and 1773 feet from the west line located in Section 10, Block X, H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the north side of the extension of Mockingbird Lane, approximately 1773 feet east of the extension of North Garfield Street). (DEVELOPMENT SERVICES)

RESOLUTION NO. 2014 - 155

RESOLUTION APPROVING AN AMENDMENT TO THE PERMIT ISSUED TO HIGH SKY PARTNERS, LLC ("OPERATOR") TO DRILL AN OIL AND GAS WELL WITHIN THE CITY LIMITS LOCATED 513 FEET FROM THE SOUTH LINE AND 1,773 FEET FROM THE WEST LINE, SECTION 10, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF THE EXTENSION OF MOCKINGBIRD LANE, APPROXIMATELY 1,773 FEET EAST OF THE EXTENSION OF NORTH GARFIELD STREET); SAID AMENDMENT AUTHORIZES THE RELOCATION OF THE ACCESS ROAD, TANK BATTERY, FRAC PIT, AND ELECTRIC LINES.

22. Approved a resolution to execute a Right-of-Way License and a Surface Damage Agreement with ATLAS PIPELINE MID-CONTINENT WESTEX, LLC for the installation and maintenance of a natural gas pipeline, not to exceed 8 inches in diameter, located in Block 37, Section 9, T3S, T&P RR Survey Co, Midland County, Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2014 - 156

RESOLUTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND ATLAS PIPELINE MID-CONTINENT WESTEX, LLC; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING CITY OF MIDLAND'S PROPERTY FOR THE PURPOSE OF PLACING, INSTALLING,

CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING A NATURAL GAS PIPELINE AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PROPERTY IS LOCATED IN MIDLAND COUNTY, TEXAS, BEING SECTION 9, BLOCK 37, TOWNSHIP 3 SOUTH, T&P RR CO., SURVEY, RECORDED IN VOLUME 1278, PAGE 577, DEED RECORDS OF MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR FIVE (5) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL FIVE (5) YEAR TERM UPON 120 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

24. Approved a resolution authorizing the execution of a Professional Service Agreement with Enprotec / Hibbs & Todd Inc. for professional services billed on an hourly basis not to exceed \$150,000. Professional services include but are not limited to planning, engineering, and administration services, to assist the Engineering Services Department and the Development Services Department with the development review process. (ENGINEERING SERVICES)

RESOLUTION NO. 2014 - 158

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH ENPROTEC/HIBBS & TODD, INC. FOR PROFESSIONAL SERVICES, INCLUDING BUT NOT LIMITED TO PLANNING, ENGINEERING, AND ADMINISTRATION SERVICES FOR DEVELOPMENT REVIEW SERVICES TO ASSIST THE ENGINEERING SERVICES DEPARTMENT AND THE DEVELOPMENT SERVICES DEPARTMENT; THE CONSULTANT SHALL REVIEW PLATS, PLANS, CONSTRUCTION PLANS, AND DRAINAGE ISSUES AND OTHER ITEMS; AND AUTHORIZING PAYMENT THEREFOR; AND THE AGREEMENT IS FOR \$150,000.00

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

5. Consider a motion approving the following minutes: Regular Meeting of April 22, 2014.

Council Member Sparks reported the minutes regarding dilapidated structures reflected an address of 508 S. Lamesa when they were actually discussing 500 S. Lamesa.

City Manager Sharp noted the gentleman lives at 508 S. Lamesa but the property Council discussed was located at 500 S. Lamesa.

Council Member Lacy moved to approve the minutes of the Regular Meeting of April 22, 2014 with the correction that the property discussed was located at 500 S. Lamesa; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy. NAY: None. ABSTAIN: None. ABSENT: Dufford.

10. Consider a resolution approving labor, material, equipment and supervision necessary for the purchase and installation of heating and cooling systems in the gym and in the weight room at the Martin Luther King, Jr. Community Center from the sole bidder, First Service Air Conditioning Contractors, Inc., for a total cost of \$83,986.00 for the Community Services Department; and appropriating funds. (PURCHASING)

RESOLUTION NO. 2014 - 144

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR LABOR, MATERIAL, EQUIPMENT AND SUPERVISION NECESSARY FOR THE PURCHASE AND INSTALLATION OF HEATING AND COOLING SYSTEMS IN THE GYM AND WEIGHT ROOM LOCATED AT THE MARTIN LUTHER KING, JR. COMMUNITY CENTER FROM THE SOLE BIDDER, FIRST SERVICE AIR CONDITIONING CONTRACTORS, INCORPORATED, IN THE AMOUNT OF \$83,986.00; AND APPROPRIATING FUNDS

Council Member Sparks noted that Council will actually be approving the release of \$175,000. Since the air conditioning came under budget, he asked Staff to explain the other exciting things going on at the MLK.

Community Services Director Tina Jauz reported the MLK center was renovated and reopened in 2011. Since that time there are some items they would like to address including adding air conditioning and heating in the gymnasium and training room and installing a new video board marquis to replace the one that is not working. Their bids came in under budget but they are requesting to use the entire amount to complete some other small projects.

Council Member Sparks moved to adopt Resolution No. 2014 - 144; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy. NAY: None. ABSTAIN: None. ABSENT: Dufford.

12. Consider a resolution accepting the retirement of the City Attorney. (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2014 - 146

RESOLUTION ACCEPTING THE RETIREMENT OF THE CITY ATTORNEY EFFECTIVE AT 5:00 P.M. ON FEBRUARY 28, 2015; AND AUTHORIZING THE MAYOR TO EXECUTE ON BEHALF OF THE CITY OF MIDLAND, AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MIDLAND AND THE CITY ATTORNEY

Council Member Love reported he did not want to accept this but realizes it is necessary. He recognized and thanked City Attorney Stretcher for his service. The Council thanked the City Attorney for his service.

Council Member Love moved to adopt Resolution No. 2014 - 146; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy. NAY: None. ABSTAIN: None. ABSENT: Dufford.

16. Consider a resolution approving an amendment to the MDC & Kenneth Huseman Family Limited Partnership Economic Development Agreement. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2014 - 150

RESOLUTION APPROVING AN AMENDMENT TO THE ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND THE KENNETH HUSEMAN FAMILY LIMITED PARTNERSHIP FOR A WATER LINE EXTENSION AND A SEWER COLLECTION SYSTEM TO SERVE A 48.36-ACRE

TRACT LOCATED IN SECTION 12, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND, MIDLAND COUNTY, TEXAS, AS AUTHORIZED BY CHAPTER 501 OF THE TEXAS LOCAL GOVERNMENT CODE

Council Member Love asked why the project is being extended.

Assistant City Engineer Jeff Cohen reported the delay was with TxDOT because they had a concern with bore pits being located so close to travel lanes. It has since moved forward and is underway.

Council Member Sparks moved to adopt Resolution No. 2014 - 150; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy. NAY: None. ABSTAIN: None. ABSENT: Dufford.

23. Consider a resolution to execute a Right-of-Way License and a Surface Damage Agreement with ATLAS PIPELINE MID-CONTINENT WESTEX, LLC for the installation and maintenance of a natural gas pipeline, not to exceed 8 inches in diameter, located in Block 37, Section 24 T3S, T&P RR Survey Co, Midland County, Texas. (ENGINEERING SERVICES)

RESOLUTION NO. 2014 - 157

RESOLUTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND, TEXAS AND ATLAS PIPELINE MID-CONTINENT WESTEX, LLC; SAID RIGHT-OF-WAY LICENSE IS FOR ENTERING CITY OF MIDLAND'S PROPERTY FOR THE PURPOSE OF PLACING, INSTALLING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING A NATURAL GAS PIPELINE AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PROPERTY IS LOCATED IN MIDLAND COUNTY, TEXAS, BEING SECTION 24, BLOCK 37, TOWNSHIP 3 SOUTH, T&P RR CO., SURVEY, RECORDED IN VOLUME 1508, PAGE 593, DEED RECORDS OF MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR FIVE (5) YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ONE ADDITIONAL FIVE (5) YEAR TERM UPON 120 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION

Council Member Love reported Bill Hodge asked him to pull the item.

GIS Manager Bill Hodge reported there are two right-of-way contracts on the docket this morning both with Spraberry. He reported that for this item they have received word that they will be moving the pipeline. Therefore the contract cannot move forward without a modification. They are requesting to authorize the City Manager to execute the contract once the final terms have been set.

Council Member Sparks moved to adopt Resolution No. 2014-157 with the amendment to allow the City Manager authority to make changes and execute the documents; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy. NAY: None. ABSTAIN: None. ABSENT: Dufford.

**SECOND READINGS**

25. Consider an ordinance on second reading declaring certain structures as dangerous, dilapidated and public nuisances, and ordering their removal or securing. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9261

AN ORDINANCE DECLARING CERTAIN STRUCTURES LOCATED AT 500 NORTH LAMESA ROAD, 105 EAST LOUISIANA AVENUE, 608 SOUTH JACKSON STREET, 427 WEST SPRUCE AVENUE, 506 SOUTH TYLER STREET, 708 EAST TEXAS AVENUE, 710 NORTH MAIN STREET, 901 NORTH WEATHERFORD STREET, 1408 WAYSIDE DRIVE, 1509 SOUTH DALLAS STREET, AND 303 MAPLE AVENUE TO BE DILAPIDATED, SUBSTANDARD OR UNFIT FOR HUMAN HABITATION AND A HAZARD TO THE PUBLIC HEALTH, SAFETY AND WELFARE; ORDERING THEIR DESTRUCTION OR REMOVAL; DIRECTING THE CITY SECRETARY TO PUBLISH NOTICE; AND DIRECTING THE BUILDING OFFICIAL TO DELIVER A COPY OF THIS ORDINANCE TO AFFECTED OWNERS, LIENHOLDERS AND MORTGAGEES; SAID ORDINANCE BEING AUTHORIZED BY CHAPTER 214 OF THE TEXAS LOCAL GOVERNMENT CODE

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9261.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 9261 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy.

Council Member Love asked if there had been any changes since the first reading. Building Official Steve Thorpe reported on the work that has been completed and asked that those properties remain in the order to ensure that the work is completed.

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

26. Consider an ordinance on second reading on a request by Leon Capital Group for a zone change from FD, Future Development District to O-2, Office District on a 3.30-acre tract; MF-1, Multiple-Family Dwelling District on an 11.74-tract; and to LR-2, Local Retail District on a 23.92-acre tract on Lot 7A, Block 3, Westridge Park Addition, Section 12, City and County of Midland, Texas. (Generally located on the northeast corner of the intersection of Avalon Drive and Deauville Boulevard.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9262

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 3.30-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS AN O-2, OFFICE DISTRICT; BY PERMITTING AN 11.74-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS AN MF-1, MULTIPLE-FAMILY DWELLING DISTRICT; BY PERMITTING A 23.92-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT; SAID TRACTS BEING OUT OF LOT 7A, BLOCK 3, WESTRIDGE PARK ADDITION, SECTION 12, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE

INTERSECTION OF AVALON DRIVE AND DEAUVILLE BOULEVARD); 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. 9262.

Council Member Love moved to approve the second and final reading of Ordinance No. 9262 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy.

Council Member Lacy moved to defer the item until the changes are made to the traffic impact analysis.

City Manager Courtney Sharp reported that no building permits will be issued until the traffic impact analysis has been completed.

Melanie Muha, representing the developer, reported they were requested by Council during the first hearing to provide a letter updating the traffic analysis. She was informed that the issuance of a building permit would be conditional upon receiving that update. In 2012 they completed a traffic analysis for the area. The update will show changes to residential which ultimately would show a reduction in traffic. That letter could be provided in a couple of days.

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

27. Consider an ordinance on second reading on a request by Troy Hunt Homes, for a zone change from AE, Agricultural Estate District to PD, Planned District for a Housing Development on a 3.03-acre tract of land out of Section 7, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the east side of Holiday Hill Road, approximately 300 feet north of Mockingbird Lane.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9263

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 3.03-ACRE TRACT OF LAND OUT OF SECTION 7, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE EAST SIDE OF HOLIDAY HILL ROAD, APPROXIMATELY 300 FEET NORTH OF MOCKINGBIRD LANE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9263.

Council Member Sparks moved to approve the second and final reading of Ordinance

No. 9263 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy. NAY: None. ABSTAIN: None. ABSENT: Dufford.

28. Consider an ordinance on second reading on a request by Larry Miller (Midland Holiday Inn Lodging, LLC) for a zone change from PD, Planned District for a Shopping Center to Amended Planned District on Lot 4, Block 2, Westridge Park Addition, Section 7, City and County of Midland, Texas. (Generally located near the west side of N. Loop 250 West, approximately 700 feet south of Andrews Highway.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9264

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 4, BLOCK 2, WESTRIDGE PARK ADDITION, SECTION 7, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED NEAR THE WEST SIDE OF NORTH LOOP 250 WEST, APPROXIMATELY 700 FEET SOUTH OF ANDREWS HIGHWAY); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9264.

Council Member Love moved to approve the second and final reading of Ordinance No. 9264 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy. NAY: None. ABSTAIN: None. ABSENT: Dufford.

29. Consider an ordinance on second reading on a request by Dusty Evans for a zone change from AE, Agriculture Estate District to LR-2, Local Retail District on a 1.50-acre tract of land out of Section 8, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located approximately 460 feet west of N. Midkiff Road, and approximately 750 feet north of Mockingbird Lane.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9265

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 1.50-ACRE TRACT OF LAND OUT OF SECTION 8, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT (GENERALLY LOCATED APPROXIMATELY 460 FEET WEST OF NORTH MIDKIFF ROAD, AND APPROXIMATELY 750 FEET NORTH OF MOCKINGBIRD LANE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9265.

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

9265 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy.

Council Member Sparks asked if Mr. Evans is aware of the request for right-of-way. Planning Division Manager Jim Compton reported he was aware.

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

30. Consider an ordinance on second reading on a request by Amit Garg – Olivia Management, LLC for a zone change from LR-2, Local Retail District to BP, I-20 Business Park District on a 5.70-acre tract of land out of Section 2, Block 39, T-2-S, T&P RR Company Survey, City and County of Midland, Texas. (Generally located on the northwest corner of the intersection of S. Lamesa Road and E. Interstate Hwy 20.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9266

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 5.70-ACRE TRACT OF LAND OUT OF SECTION 2, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, TO BE USED AS A BP, I-20 BUSINESS PARK DISTRICT (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF SOUTH LAMESA ROAD AND EAST INTERSTATE HIGHWAY 20); 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. 9266.

Council Member Love moved to approve the second and final reading of Ordinance No. 9266 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy. NAY: None. ABSTAIN: None. ABSENT: Dufford.

31. Consider an ordinance on second reading on a request by Kathie Grozdanich / Wings and More for a Specific Use Permit with Term for the sale of all alcoholic beverages for on-premises consumption, in a restaurant, on Lot 3G, Block 6, Scotsdale Addition, Nineteenth Section, City and County of Midland, Texas. (Generally located on the south side of W. Wadley Avenue, approximately 525 feet west of N. Midland Drive.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9267

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 3G, BLOCK 6, SCOTSDALE ADDITION, NINETEENTH SECTION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST WADLEY AVENUE, APPROXIMATELY 550 FEET WEST OF NORTH MIDLAND DRIVE), WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC

BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9267.

Council Member Love moved to approve the second and final reading of Ordinance No. 9267 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy. NAY: None. ABSTAIN: None. ABSENT: Dufford.

32. Consider an ordinance on second reading amending Title V, Business Regulations" of the City Code of Midland, Texas, Chapter 10, "Sidewalk Sales and Selling from Fixed Locations." (CITY ATTORNEY'S OFFICE)

ORDINANCE NO. 9270

AN ORDINANCE AMENDING TITLE V, "BUSINESS REGULATIONS", CHAPTER 10, "SIDEWALK SALES AND SELLING FROM FIXED LOCATIONS", OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO MAKE COMPREHENSIVE REVISIONS TO THE REGULATION OF SIDEWALK SALES AND SELLING FROM FIXED LOCATIONS WITHIN THE CITY OF MIDLAND; SETTING FORTH REQUIREMENTS FOR ISSUANCE OF CERTIFICATES, PERMITS, AND LICENSES; PROVIDING FOR A FEE OF ONE HUNDRED DOLLARS (\$100.00) FOR FIXED LOCATION PERMITS AND LICENSES; PROVIDING FOR IMPOUNDMENT UPON FAILURE TO COMPLY WITH AN ORDER TO CEASE OPERATION; SETTING FORTH APPEAL PROCEDURES; NEGATING AND DISPENSING WITH THE CULPABLE MENTAL STATE REQUIREMENT; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9270.

Council Member Love moved to approve the second and final reading of Ordinance No. 9270 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy.

Council Member Lacy asked if once the ordinance is approved, if Code Enforcement will be implementing it. Building Official Steve Thorpe reported Code Enforcement will be issuing warnings and will advise vendors of the steps they need to take to become compliant.

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

**PUBLIC HEARINGS**

33. At approximately 10:30 a.m. hold a public hearing and consider a resolution of the City Council of Midland, Texas, making a finding, pursuant to Chapter 26 of the Texas Parks and Wildlife Code, that there is no feasible and prudent alternative to the extension of a lease at Hogan Park (generally located approximately 1,100 feet north of the Centerline of East Wadley Avenue, and 132 feet east of North Lamesa Road) for use of a cell tower used for transmission and reception of communication signals. (COMMUNITY SERVICES)

RESOLUTION NO. 2014 - 159

RESOLUTION OF THE CITY COUNCIL OF MIDLAND, TEXAS MAKING A FINDING, PURSUANT TO CHAPTER 26 OF THE TEXAS PARKS AND WILDLIFE CODE, THAT THERE IS NO FEASIBLE AND PRUDENT ALTERNATIVE TO THE CHANGE IN USE OF AN APPROXIMATE 0.046-ACRE TRACT OF LAND AND AN APPROXIMATE 0.145-ACRE TRACT OF LAND LOCATED IN HOGAN PARK FROM PUBLIC PARK USE TO USE UNDER A TOWER LEASE AGREEMENT WITH GTP TOWERS IV, LLC FOR SITE SPACE INTENDED FOR CELLULAR TELECOMMUNICATIONS EQUIPMENT; SAID 0.046-ACRE TRACT OF LAND AND SAID 0.145-ACRE TRACT OF LAND ARE LOCATED IN THE SOUTHWEST QUARTER OF SECTION 13, BLOCK 39, T-1-S, T&P RR CO., SURVEY, CITY AND COUNTY OF MIDLAND COUNTY, TEXAS, AND BEING PORTIONS OF HOGAN PARK (GENERALLY LOCATED APPROXIMATELY 1,100 FEET NORTH OF EAST WADLEY AVENUE, AND 132 FEET EAST OF NORTH LAMESA ROAD)

Chief Information Officer Sharlett Chowning gave a brief overview of the item noting the tower has existed in the same spot for the previous ten years at Hogan Park.

Mayor Morales opened the public hearing at 11:07 a.m.

Marcella Olson, Ft. Worth, on behalf of GTE, reported the tower has been in place since 2004 and nothing has changed. They are bringing forth a lease extension changing the lease from \$750 to \$2500 or half of the revenue of subleases, whichever is greater. The lease also allows the provision for the City to place telecommunications equipment on the tower.

City Attorney Stretcher reported on the procedures needed to be adhered to when dealing with park lands due to a change in the law. This item will come back in 30 days.

Council Member Hotchkiss asked if this is a threatening use. City Attorney Stretcher reported it was not as long as the City went through the process and waited 30 days. He further explained that if it was a public emergency such as a water line rupture, then the City could proceed immediately.

There being no one else wishing to speak, the public hearing was closed at 11:15 a.m.

Council Member Sparks moved to adopt Resolution No. 2014 - 159; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy. NAY: None. ABSTAIN: None. ABSENT: Dufford.

34. At approximately 10:33 a.m. hold a public hearing regarding a proposed oil and gas permit to Endeavor Energy Resources, L.P. (Operator), for a Permit to Drill an Oil & Gas

Well within the City Limits, (Madden #1) located 1050 feet from the west line and 1,467 feet from the south line located in Section 3, Block 39, T-2-S, T & P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of the Cotton Flat Road, approximately 900 feet north of West Interstate Highway 20.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting Endeavor has two wells. The Oil & Gas Advisory Committee's recommendations have been completed and no variance has been requested.

Mayor Morales opened the public hearing at 11:18 a.m.

Jim Prince, 6101 N. State Highway 349, owns the property adjacent to this location. He asked what the distance was from the existing facilities to the well location, noting there is an existing 36-unit apartment complex in the area. He also noted there are plans for more apartment complexes in the area and wanted to ensure that the 500 foot distance was maintained.

Mr. Jenkins reported the apartment complex was outside of the 500-foot radius and shared the survey received from Endeavor. He clarified that the 500-foot distance is from the well location to the buildings and not to the property line. Council Member Love noted that for the future apartment complexes, the developer can apply for a variance if they will be building within 500 feet of the well.

Josh Harrison, 5112 Greentree, noted he is representing Endeavor. Council Member Lacy reported he had a well located on property he owned and had difficulty working with Endeavor on that well. He does not want to put others in that same situation. He reported the well on his property had numerous violations and did not operate under the regulations of the Railroad Commission. Those issues were never addressed by the company. Mr. Harrison responded that he is not aware of his situation but would be glad to hear more about it. He has worked with Endeavor since 2009 and they are trying to revamp their PR image in that regard. They are not in any way, shape or form trying to cut corners or do anything that is not within compliance.

Council Member Sparks asked Mr. Jenkins about compliance records of operators in Midland. Mr. Jenkins reported that any time he has had an issue with any operator within the City limits he has always had a great response. When he first started there were operators who needed to clean up locations but he gained compliance from all operators.

There being no one else wishing to speak, the public hearing was closed at 11:29 a.m. No further action was taken on this item.

35. At approximately 10:36 a.m. hold a public hearing regarding a proposed oil and gas permit to Endeavor Energy Resources, L.P. (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Madden #2) located 2,173 feet from the west line and 2,273 feet from the south line located in Section 3, Block 39, T-2-S, T & P RR Co. Survey, City and County of Midland, Texas. (Generally located on the east side of the Cotton Flat Road, approximately 1,700 feet north of West Interstate Highway 20.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting it was the same situation as the previous item. This is a second well located to the north of the Petroleum Museum. The two wells will be sharing a tank battery to the west of this well. There are no occupied residential structures or commercial structures within 500 feet.

Mayor Morales opened the public hearing at 11:31 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

36. At approximately 10:39 a.m. hold a public hearing and consider an ordinance on a request by Schlumberger Technology Corporation for a zone change from BP, I-20 Business Park District to LI, Light Industry District on all of Blocks 1 and 2, Agri-Empresa Subdivision, and an 8.87-acre tract of land out of Block 40, Section 11, T-2-S, T&P Railroad Company Survey, City and County of Midland, Texas. (Generally located on the northeast corner of the intersection of West Interstate Highway 20 and South County Road 1250.) (DEVELOPMENT SERVICES)

ORDINANCE NO. 9271

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING ALL OF BLOCKS 1 AND 2, AGRI-EMPRESA SUBDIVISION, AND AN 8.866-ACRE TRACT OF LAND OUT OF SECTION 11, BLOCK 40, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED BP, I-20 BUSINESS PARK DISTRICT, TO BE USED AS AN LI, LIGHT INDUSTRIAL DISTRICT (GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF WEST INTERSTATE HIGHWAY 20 AND SOUTH COUNTY ROAD 1250); 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

Planning Division Manager Jim Compton gave a brief overview of the item noting it was a request by Schlumberger for a zone change. The applicant will be including additional uses on the property including office space and dry cement powder mixing. Planning & Zoning recommended approval and no letters of opposition have been received.

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

Robert Rendall, 550 W. Texas, on behalf of Schlumberger, reported the north of the property is the rail loading facility and to the east is light industrial. The applicant will be using multiple uses on this large tract of land. He noted the proposed zoning is proper for all of the intended uses of the land. When asked if TCEQ would be involved, Mr. Rendall reported they would for the powder mixing but they did not anticipate any issues. There should be much less dust than what is created by the rail facility.

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

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9271.

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

9271 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy. NAY: None. ABSTAIN: None. ABSENT: Dufford.

37. At approximately 10:42 a.m. hold a public hearing and consider an ordinance on a request by James Isbell for a zone change from AE, Agriculture-Estate District to a 44.61-acre tract of PD, Planned District for a Housing Development and a 33.99-acre tract of 1F-2, One-Family Dwelling District. All out of Section 1, Block "X", H.P. Hilliard Survey, City and County of Midland, Texas. (Generally located on the north side of Solomon Lane, approximately 950 feet east of North Big Spring Street). (DEVELOPMENT SERVICES)

ORDINANCE NO. 9272

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 44.61-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; BY PERMITTING A 33.99-ACRE TRACT OF LAND WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A 1F-2, ONE-FAMILY DWELLING DISTRICT; SAID TRACTS BEING OUT OF SECTION 1, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF SOLOMON LANE, APPROXIMATELY 950 FEET EAST OF NORTH BIG SPRING STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Planning Division Manager Jim Compton gave a brief overview of the item noting the proposal was to rezone property for a residential neighborhood development. On the east side of the property there are storage units with a fence that has razor wire where the proposed residential neighborhood would back up to the fence. To address the razor wire issue, staff has two recommendations to put forth. The preferred method is to have the applicant dedicate a 20-foot alley along the west side to provide a buffer. The alternative choice is to require the developer to install an 8-foot tall masonry screening fence. Another alternative would be to add another zoning district to buffer the two uses.

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

Jay Reynolds owns the adjacent property and expressed concern about developing 44 acres that was previously open space. Their proposed development comes right up to his property line. He would like to see a buffer between the zones and urged Council to reconsider this issue. He noted that the alley or the 8-foot fence should be the minimum of requirements.

Max Richardson, 110 W. Louisiana, reported this is a very diversified product. There is a pipeline that goes across the property on the east side and four well sites that they are working around. The top of the razor wire fence is 7 feet. There will be 1300 feet of fence that needs to be installed. Requiring an alley will add \$100 per foot or \$6,000 to a lot. An 8-foot fence will cost \$80 per foot which increases the cost to nearly \$5000 per

lot. In the area there are houses that have already been built with five lots adjacent to the warehouse. This property has the same issues. They are proposing a 7-foot wood fence that will be above the razor wire.

Mayor Morales expressed concern of safety, build-up of trash between the two fences, and concern for a child getting stuck between the fences. He noted he would like to sit down with the two parties to see if there is a better way to address the safety issues.

There being no one else wishing to speak, the public hearing was closed at 11:58 a.m.

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9272.

Council Member Sparks noted there are have been nearly 2,000 lots approved for development in the area and that Council can approve them much more quickly than developers can build. He felt this was an ill-conceived development. Just because a mistake of approving this type of use had been approved in the past, did not mean Council should repeat the same mistake.

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

Mayor Morales noted he would meet with both parties to see if a better solution could be found.

38. At approximately 10:45 A.M. hold a public hearing and consider an ordinance on a request by Johnny Reyes for a for a zone change from PD, Planned District for a Recreation Center to CE, Country Estate District on Lot 1, Block 1, Rolling Green Acres Addition, City and County of Midland, Texas. (Generally located on the north side of East Highway 80, approximately 400 feet west of Todd Drive.) (DEVELOPMENT SERVICES)

#### ORDINANCE NO. 9273

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, ROLLING GREEN ACRES ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A RECREATION CENTER, TO BE USED AS A CE, COUNTRY ESTATE DISTRICT (GENERALLY LOCATED ON THE NORTH SIDE OF EAST HIGHWAY 80, APPROXIMATELY 400 FEET WEST OF TODD 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

Planning Division Manager Jim Compton gave a brief overview of the item noting it was previously zoned for indoor recreation. The owner now wishes to build a home and needs to change zoning. The property is 1.2 acres in size and Country Estate is appropriate zoning. Planning & Zoning recommended approval with no opposition.

Mayor Pro Tem Love opened the public hearing at 12:07 p.m.

Yoyo Ketter, 1101 Todd, reported she was not notified as to what was going to take place and wanted to be informed of what was going on. When she called she was informed that she was outside of the notification area. She had a concern because she shares a fence with this property.

Planning Division Manager Jim Compton reported they are planning to build a single family home.

There being no one else wishing to speak, the public hearing was closed at 12:14 p.m.

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9273.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9273 in accordance with the Charter of the City of Midland; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy. NAY: None. ABSTAIN: None. ABSENT: Dufford.

## **MISCELLANEOUS**

39. Consider an ordinance amending Title V, "Business Regulations", of the City Code of Midland, Texas, by establishing Chapter 11, "Credit Access Businesses" (CITY ATTORNEY'S OFFICE)

### **ORDINANCE NO. 9274**

AN ORDINANCE AMENDING TITLE V, "BUSINESS REGULATIONS", OF THE CITY CODE OF MIDLAND, TEXAS, BY ESTABLISHING CHAPTER 11, "CREDIT ACCESS BUSINESSES", SO AS TO ESTABLISH A PROGRAM TO REGISTER AND REGULATE CREDIT ACCESS BUSINESSES WITHIN THE CITY OF MIDLAND; THESE CREDIT ACCESS BUSINESSES ARE COMMONLY KNOWN AS "CASH ADVANCE LENDERS", "PAYDAY LENDERS", AND "AUTO TITLE LENDERS"; PROVIDING FOR A FEE OF TWENTY-FIVE DOLLARS (\$25.00); PROVIDING FOR ENFORCEMENT BEGINNING ON AUGUST 1, 2014; NEGATING AND DISPENSING WITH THE CULPABLE MENTAL STATE REQUIREMENT; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); SETTING FORTH AN APPEAL PROCEDURE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; ORDERING PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE; AND THE CITY COUNCIL FINDS IT TO BE IN THE PUBLIC INTEREST TO MAKE CERTAIN AMENDMENTS TO THE MIDLAND CITY CODE SO AS TO REGULATE CREDIT ACCESS BUSINESSES IN AREAS WHERE CHAPTER 393 OF THE TEXAS FINANCE CODE IS SILENT OR DOES NOT PREEMPT SUCH REGULATIONS

Council Member Love reported he would like to defer this item to allow for further study as to what other communities are doing noting there may be another option available.

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

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9274.

40. Consider an ordinance amending Ordinance Number 8400 which established fees and charges for Parks & Recreation, the Martin Luther King, Jr. Community Center, and Hogan Park Golf Course. (COMMUNITY SERVICES)

ORDINANCE NO. 9275

AN ORDINANCE AMENDING ORDINANCE NUMBER 8400 ESTABLISHING FEES AND CHARGES OF THE CITY OF MIDLAND COMMUNITY SERVICES DEPARTMENT FOR PARKS AND RECREATION, WASHINGTON AQUATIC CENTER AND DOUG RUSSELL POOL, ANIMAL SERVICES, AND HEALTH AND SENIOR SERVICES DEPARTMENT; AND REPEALING ORDINANCES SPECIFICALLY IN CONFLICT WITH SUCH FEES AND CHARGES ESTABLISHED HEREIN

Community Services Director Tina Jauz reported the pool fees are being increased from \$1 to \$2 this season and from \$2 to \$3 next season at Doug Russell Pool. The second fee is for Animal Services because the shipping fees have increased for rabies. The third item is for the Health Department. Earlier, Council approved an agreement between the City and the hospital to bill patient services which necessitates the need to set fees.

Council Member Love noted he was concerned about raising prices but was encouraged to see that with punch cards individuals can spend as little as \$1 per visit.

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9275.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 9275 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy. NAY: None. ABSTAIN: None. ABSENT: Dufford.

41. Consider a resolution authorizing a Workforce Housing Incentive Agreement with Formosa Homes, LLC (DEVELOPMENT SERVICES)

ORDINANCE NO. 2014 - 161

RESOLUTION AUTHORIZING THE EXECUTION OF A WORKFORCE HOUSING INCENTIVE AGREEMENT WITH FORMOSA HOMES, LLC FOR THE DEVELOPMENT OF SINGLE-FAMILY RESIDENTIAL CONSTRUCTION IN THE CITY AND COUNTY OF MIDLAND, TEXAS; SAID AGREEMENT BEING AUTHORIZED BY CHAPTER 380 OF THE TEXAS LOCAL GOVERNMENT CODE; ESTABLISHING AN INCENTIVE PROGRAM FOR THE CONSTRUCTION OF SINGLE-FAMILY WORKFORCE HOUSING; AND APPROPRIATING FUNDS IN THE AMOUNT OF \$152,985.00 THEREFOR

Development Services Director Chuck Harrington reported this request was submitted by David Diaz who will be constructing an additional 31 homes in the affordable price range of \$129,000 to \$179,000. They will be spread throughout the CDBG area.

David Diaz, 5101 Sherwood, reported the majority of the lots are located on the 300-400 blocks of S. Dallas and the 300 block of S. Ft. Worth just two blocks south of the Federal Courthouse. The streets are unpaved and do not have curbs or gutters. The incentive will go towards paving those streets.

Mayor Morales noted this program has been in place since 2007.

A request was made to have the City Manager conduct a funding workshop for Council to get a better understanding of how the funds can be used.

Mr. Harrington clarified that this will be a reimbursement noting funds would not be distributed until after documents have been provided that they meet the funding guidelines. City Manager Courtney Sharp noted the amount of \$152,000 will be paid over a three-year period and will come from the unappropriated fund balance.

Council Member Love moved to adopt Resolution No. 2014-161; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy. NAY: None. ABSTAIN: None. ABSENT: Dufford.

42. Consider a motion on a proposed preliminary plat of The Vineyard Addition, Section 5, being a 140.28-acre tract of land out of Section 13, Block 40, T-1-S, T&P Railroad Company Survey, City and County of Midland, Texas (Generally located on the west side of Holiday Hill Road, at the west extension of Green Tree Boulevard.) (DEVELOPMENT SERVICES)

Planning Division Manager Jim Compton gave a brief overview of the item noting the item was approved by Planning & Zoning. The applicant requested to reduce the variance from 120 feet to 80 feet on Greentree Boulevard. Planning and Engineering determined 80 feet was sufficient.

Council Member Lacy moved to approve a motion on a proposed preliminary plat of The Vineyard Addition, Section 5, being a 140.28-acre tract of land out of Section 13, Block 40, T-1-S, T&P Railroad Company Survey, City and County of Midland, Texas (Generally located on the west side of Holiday Hill Road, at the west extension of Green Tree Boulevard.) ; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy. NAY: None. ABSTAIN: None. ABSENT: Dufford.

43. Consider a motion on a request by Evans I for approval of the preliminary plat of Sprayberry Winery Plaza on a 54.48-acre tract of land out of Section 8, Block "X", H. P. Hilliard Survey, Midland County, Texas. (DEVELOPMENT SERVICES)

Planning Division Manager Jim Compton gave a brief overview of the item noting it was a preliminary plat for the winery previously discussed. The item was considered by Planning & Zoning.

Council Member Lacy moved to approve a motion on a request by Evans I for approval of the preliminary plat of Sprayberry Winery Plaza on a 54.48-acre tract of land out of Section 8, Block "X", H. P. Hilliard Survey, Midland County, Texas.; seconded by Council Member Sparks.

Council Member Love asked if the City anticipates Midkiff connecting to Craddick Highway. Planning Division Manager Compton reported it would eventually reach that far but would only connect to the service road.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Lacy.

NAY: None. ABSTAIN: None. ABSENT: Dufford.

44. Consider a motion making appointments to Animal Services Advisory Commission, Housing Authority Commission, Midland Football-Soccer and Baseball Complex Development Corporation, Midland-Odessa Urban Transit District Board, Planning and Zoning Commission; and consider motions appointing individuals to all other Boards and Commissions.

Council Member Lacy moved to appoint Dr. Erickson to the Animal Services Advisory Board to replace Dr. Tom Green; appoint John Love to the Motor MPO Board to replace Mayor Morales, and to appoint Paul Culver to the Housing Authority to replace Carla Repman; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Lacy. NAY: None. ABSTAIN: Love. ABSENT: Dufford.

### **EXECUTIVE SESSION**

45. Mayor Morales announced that 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.
  - b. Section 551.072 Deliberation Regarding Real Property.
    - b.1. Discuss the sale, exchange, lease or value of real property described as Block 55, Original Town Addition, City and County of Midland, Texas. Block 55 is the site of the former Midland County Courthouse. The Council will discuss the proposed sale of said real property to Energy Related Properties, LLC.

Mayor Morales recessed the meeting to Executive Session at 12:55 p.m.

All of the business at hand having been completed, the meeting adjourned at 1:50 p.m.

PASSED AND APPROVED the 20th day of May, 2014.

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Jerry F. Morales, Mayor

ATTEST:

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Amy M. Turner, City Secretary