

**MIDLAND CITY COUNCIL  
MINUTES  
January 08, 2019**

**REGULAR SESSION**

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., January 08, 2019.

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

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

The Agenda Items were heard in the following order: 1-4b, 4d-18, 4c, 19-30, 46, 31-45, 48-49, 47.

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

**OPENING ITEMS**

1. Invocation - Monsignor Larry Droll - St. Ann's Parish
2. Pledge of Allegiance

**PRESENTATIONS**

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
  - a. Presentation of Proclamation for National School Choice Week. (Not presented)
  - b. Council Member Dufford presented the following 2018 Management Awards: External Service Delivery to Joey Jolly and Hugo Rodriguez for Parks & Recreation online reservation software. Internal Organization and Efficiency to Ester Gomez and Lizbeth Sanchez \$500 for employee travel cards. External Service Delivery to Tony Castaneda for Spanish communication public outreach.
  - c. Mayor Morales and Joey Jolly presented trophies to the 2018 Christmas Parade Float Winners: Best Lighted band – San Jacinto. Best lighted float: 3<sup>rd</sup> Place – Girl Scouts of Midland; 2<sup>nd</sup> Place - La Roca the Rock Church; 1<sup>st</sup> Place – Midland Memorial Hospital Lab. Best theme: Midland College Veterans Association.

Mayor Morales recognized Keith Stretcher who was recently appointed by the Governor, as Associate Justice of the 11th Court of Appeals. Keith Stretcher noted that he

needed to submit his resignation from the Midland Development Corporation. He spoke about some of the things the MDC has been able to accomplish working together with the City Council.

## **CONSENT AGENDA**

Council Member Robnett moved to approve Consent Agenda items 4 - 18 excluding 4c; 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. Special City Council Meeting of December 3, 2018
  - b. Regular City Council Meeting of December 11, 2018
  - d. Special City Council Meeting of December 18, 2018
5. Approved a resolution authorizing the Water, Sewer and Sanitation write offs for 2018. (FINANCE)

RESOLUTION NO. 2019 - 001  
RESOLUTION AUTHORIZING THE CITY TREASURER TO WRITE OFF AS UNCOLLECTIBLE CERTAIN DELINQUENT ACCOUNTS FOR WATER, SEWER, AND SANITATION SERVICES

6. Approved a resolution authorizing the write-off of certain weedy lot accounts receivables. (FINANCE)

RESOLUTION NO. 2019 - 002  
RESOLUTION AUTHORIZING THE CITY TREASURER TO WRITE OFF AS UNCOLLECTIBLE CERTAIN DELINQUENT ACCOUNTS FOR WEEDY LOT ACCOUNTS RECEIVABLE

7. Approved a resolution approving and authorizing publication of notice of intent to issue Certificates of Obligation. (FINANCE)

RESOLUTION NO. 2019 - 003  
A RESOLUTION APPROVING AND AUTHORIZING PUBLICATION OF NOTICE OF INTENTION TO ISSUE SERIES 2019 CERTIFICATES OF OBLIGATION IN AN AMOUNT NOT TO EXCEED TWENTY-FIVE MILLION AND NO/100 DOLLARS (\$25,000,000.00)

8. Approved a resolution rejecting all proposals received and authorizing the re-issuance of a request for proposals for the Fiber Connectivity Project for the Communication and Information Systems Department. (PURCHASING)

RESOLUTION NO. 2019 - 004  
RESOLUTION REJECTING ALL PROPOSALS AND AUTHORIZING THE RE-ISSUANCE OF A REQUEST FOR PROPOSALS FOR THE FIBER CONNECTIVITY PROJECT

9. Approved a resolution awarding a contract for the Micro-surfacing and Slurry Seal Project for the Transportation Division. (PURCHASING)

RESOLUTION NO. 2019 - 005

RESOLUTION AWARDING A CONTRACT FOR THE FISCAL YEAR 2019 MICRO-SURFACING AND/OR SLURRY SEAL PROJECT TO INTERMOUNTAIN SLURRY SEAL, INC. OF NORTH SALT LAKE, UTAH, AT A TOTAL COST OF \$2,442,751.05; AND AUTHORIZING PAYMENT THEREFOR

10. Approved a resolution approving the purchase of thirty-three (33) DSR 2X Radar units with Fast Lock Remote and accessories from Applied Concepts, Inc. of Richardson, Texas through the Houston-Galveston Area Council (H-GAC) for a cost of \$96,112.50 for the Garage Division. (PURCHASING)

RESOLUTION NO. 2019 - 006

RESOLUTION APPROVING THE PURCHASE OF THIRTY-THREE (33) DSR 2X RADAR UNITS WITH FAST LOCK REMOTE AND ACCESSORIES FROM APPLIED CONCEPTS, INC., THROUGH THE HOUSTON-GALVESTON AREA COUNCIL AT A TOTAL COST OF \$96,112.50

11. Approved a resolution awarding a contract for Pump and Motor Maintenance for the Utilities Department. (PURCHASING)

RESOLUTION NO. 2019 - 007

RESOLUTION AWARDING A CONTRACT FOR PUMP AND MOTOR MAINTENANCE TO EVANS ENTERPRISES, INC., IN THE ANNUAL AMOUNT OF \$1,226,000.00

12. Approved a resolution awarding a contract to the sole bidder for the Midway Lift Station and Force Main Project for the Utilities Department. (PURCHASING)

RESOLUTION NO. 2019 - 008

RESOLUTION AWARDING A CONTRACT FOR THE MIDWAY LIFT STATION AND FORCE MAIN PROJECT TO TEC EXCAVATION, INC., AT A TOTAL COST OF \$1,709,093.75

13. Approved a resolution approving the purchase of two hundred five (205) Getac Laptops and accessories for the Police and Fire Department for the Public Safety Software Project from SHI Government Solutions, Inc. through the Texas Department of Information Resources (DIR) contract DIR-TSO-4075 for a cost of \$836,015.00 for the Communication and Information Systems Department. (PURCHASING)

RESOLUTION NO. 2019 - 009

RESOLUTION APPROVING THE PURCHASE OF TWO HUNDRED FIVE (205) GETAC LAPTOPS AND ACCESSORIES FOR THE POLICE AND FIRE DEPARTMENTS FROM SHI GOVERNMENT SOLUTIONS, INC., THROUGH THE TEXAS DEPARTMENT OF INFORMATION RESOURCES AT A TOTAL COST OF \$836,015.00 FOR THE COMMUNICATION AND INFORMATION SYSTEMS DEPARTMENT

14. Approved a resolution approving the sale of City-owned property described as Lot one-A (1A), Block forty-one (41), Original Town Addition, an addition to the City of Midland, for the General Services Department. (PURCHASING)

RESOLUTION NO. 2019 - 010

RESOLUTION AUTHORIZING THE EXECUTION OF A PURCHASE AND SALE AGREEMENT WITH AUSBILT, LLC, REGARDING THE CONVEYANCE OF CITY-OWNED REAL PROPERTY DESCRIBED AS LOT ONE-A (1A), BLOCK FORTY-ONE (41), OLD TOWN ADDITION, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

15. Approved a resolution appropriating funds from the Midland Development Corporation's 2017-2018 Fiscal Year budget to be used for promotional purposes, as authorized by Chapter 504 of the Texas Local Government Code. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2019 - 011

RESOLUTION APPROVING THE MIDLAND DEVELOPMENT CORPORATION'S APPROPRIATION OF \$1,409,006.95 FROM THE FISCAL YEAR 2017-2018 BUDGET TO BE USED FOR PROMOTIONAL PURPOSES, AS AUTHORIZED BY CHAPTER 504 OF THE TEXAS LOCAL GOVERNMENT CODE

16. Approved a resolution amending the Economic Development Agreement by and between Reinvestment Zone No. 1, City of Midland, Texas (TIRZ), and Permian Basin Public Telecommunications, Incorporated, DBA Basin PBS (Ritz Theater) by funding an additional economic incentive payment of \$225,000. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2019 - 012

RESOLUTION AUTHORIZING AN ADDITIONAL ECONOMIC INCENTIVE PAYMENT OF \$225,000.00 TO PERMIAN BASIN PUBLIC TELECOMMUNICATIONS, INCORPORATED, DOING BUSINESS AS BASIN PBS ("PBS") UNDER THE ECONOMIC DEVELOPMENT AGREEMENT BY AND BETWEEN THE MIDLAND TAX INCREMENT REINVESTMENT ZONE NO. 1 AND PBS AND APPROVED BY THE CITY OF MIDLAND; SAID ADDITIONAL ECONOMIC INCENTIVE PAYMENT BEING SUBJECT TO CERTAIN CONDITIONS BEING SATISFIED NO LATER THAN JANUARY 31, 2020

17. Approved a motion approving a proposed Preliminary Plat of The Vineyard Addition, Section 13 being a 309.21-acre tract of land out the west half of Section 13, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas, (generally located on the northeast corner of the intersection of Mockingbird Lane and Avalon Drive). (Planning Admin)
18. Approved a resolution authorizing and executing a Right-of-Way License between the City of Midland and Longwood Midstream Delaware, LLC, located on City of Midland property, Sections 5,6,7 & 12 Block C-24, Loving County, Texas. (UTILITIES)

RESOLUTION NO. 2019 - 013

RESOLUTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND LONGWOOD MIDSTREAM DELAWARE, LLC, REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTIONS 5, 6, 7 AND 12, BLOCK C-24, A-1023, PSL SURVEY, LOVING COUNTY, TEXAS

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

4. Consider a motion approving the following minutes:

- c. Special City Council Meeting of December 11, 2018

Council Member Lacy moved to approve the minutes of the Special City Council Meeting of December 11, 2018; 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.

## SECOND READINGS

19. Consider an ordinance on second reading on a request by Caiti Kincaid dba Strategic Restaurant Concepts, LLC, for a Zone Change from a PD, Planned District for a Shopping Center, to an Amended PD, Planned District for a Shopping Center generally located on the south side of West Loop 250 North, approximately 220 feet west of North Midkiff Road. (DEVELOPMENT SERVICES) (First reading held December 11, 2018.)

### ORDINANCE NO. 9857

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 7, BLOCK 17, SKYLINE TERRACE, UNIT 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 ON THE SOUTH SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 220 FEET WEST OF 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 Misty Cryer read the caption of Ordinance No. 9857.

Council Member Robnett moved to approve the second and final reading of Ordinance No. 9857 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.

20. Consider an ordinance on second reading on a request by Tareq Hulali for a Special Exception to the City of Midland Zoning Code, concerning the side yard setback requirements on Lot 12, generally located on the northwest corner of the intersection of Blake Drive and Trennon Drive. (DEVELOPMENT SERVICES) (First reading held December 11, 2018.)

### ORDINANCE NO. 9858

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 12, BLOCK, 1, GRANDRIDGE ESTATES ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF BLAKE DRIVE AND TRENNON PLACE), BY PERMITTING A REDUCED SETBACK FOR THE SIDE YARD ADJACENT TO BLAKE 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); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

Deputy City Secretary Misty Cryer read the caption of Ordinance No. 9858.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9858 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.

21. Consider an ordinance on second reading on a request by Younger Partners, Ltd., for a Zone Change from IP, Industrial Park District to LR-2, Local Retail District on a 1.03-acre tract of land generally located on the east side of South Farm-to-Market 1788 Road, approximately 2,410 feet north of State Highway 80. (DEVELOPMENT SERVICES) (First reading held December 11, 2018.)

ORDINANCE NO. 9859

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 1.03-ACRE TRACT OF LAND OUT OF SECTION 8, BLOCK 40, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED IP, INDUSTRIAL PARK DISTRICT, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF SOUTH FARM-TO-MARKET ROAD 1788, APPROXIMATELY 2,410 FEET NORTH OF STATE HIGHWAY 80); 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 Misty Cryer read the caption of Ordinance No. 9859.

Council Member Hotchkiss moved to approve the second and final reading of Ordinance No. 9859 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.

22. Consider an ordinance on second reading on a request by Younger Partners, Ltd., for a Zone Change from FD, Future Development District to LR-2, Local Retail District and IP, Industrial Park District on a 14.18-acre tract of land generally located on the northeast corner of the intersection of Loop 40 and South Farm-to-Market Road 1788. (DEVELOPMENT SERVICES) (First reading held December 11, 2018.)

ORDINANCE NO. 9860

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 14.18-ACRE TRACT OF LAND OUT OF SECTIONS 7 AND 8, AND A 15.81-ACRE TRACT OF LAND OUT OF SECTION 8, BLOCK 40, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH ARE PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT, IN PART, AND AS AN IP, INDUSTRIAL PARK DISTRICT, IN PART, (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF LOOP 40 AND SOUTH FARM-TO-MARKET ROAD 1788); 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 Misty Cryer read the caption of Ordinance No. 9860.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9860 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.

23. Consider an ordinance on second reading on a request for annexation of a 123.28-acre tract generally located approximately 703 feet west of the intersection of Tradewinds Boulevard and Thomason Drive. (DEVELOPMENT SERVICES) (First reading held December 11, 2018.)

ORDINANCE NO. 9861

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 123.28-ACRE TRACT OF LAND OUT OF SECTIONS 37 AND 48, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED APPROXIMATELY 703 FEET WEST OF THE INTERSECTION OF TRADEWINDS BOULEVARD AND THOMASON DRIVE); APPROVING A PUBLIC SERVICE PLAN; ORDERING PUBLICATION; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Misty Cryer read the caption of Ordinance No. 9861.

Council Member Robnett moved to approve the second and final reading of Ordinance No. 9861 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.

24. Consider an ordinance on second reading on a request for annexation of a 25.410-acre tract generally located approximately 896 feet south of State Highway 191 and 1,020 feet west of Avalon Drive. (DEVELOPMENT SERVICES) (First reading held December 11, 2018.)

ORDINANCE NO. 9862

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 25.410-ACRE TRACT OF LAND OUT OF SECTION 38, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED APPROXIMATELY 896 FEET SOUTH OF STATE HIGHWAY 191 AND APPROXIMATELY 1,020 FEET WEST OF AVALON DRIVE); APPROVING A PUBLIC SERVICE PLAN; ORDERING PUBLICATION; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Misty Cryer read the caption of Ordinance No. 9862.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9862 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.

25. Consider an ordinance on second reading designating Lots 4 through 6, Block 34; and the 0.07-acre portion of alley right of way, the 0.16-acre portion of North Big Spring Street right-of-way, and the 0.16-acre portion of West Texas Avenue right-of-way, all adjacent to said lots; all out of Original Town Addition, City and County of Midland, Texas, as Tax Abatement Reinvestment Zone Number 2018-02, for commercial-industrial tax abatement as authorized by Chapter 312 of the Texas Tax Code. (DEVELOPMENT SERVICES) (First reading held December 11, 2018.)

ORDINANCE NO. 9863

AN ORDINANCE OF THE CITY OF MIDLAND, TEXAS, DESIGNATING A 0.87-ACRE TRACT OF LAND OUT OF LOTS 4, 5 AND 6 AND THE RIGHTS-OF-WAY ADJACENT THERETO, BLOCK 34, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND WEST TEXAS AVENUE), AS TAX ABATEMENT REINVESTMENT ZONE NUMBER 2018-02, FOR COMMERCIAL AND INDUSTRIAL TAX ABATEMENT, AS AUTHORIZED BY CHAPTER 312 OF THE TEXAS TAX CODE; ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; DECLARING FINDINGS OF FACT; AND PROVIDING A SAVINGS AND SEVERABILITY CLAUSE

Deputy City Secretary Misty Cryer read the caption of Ordinance No. 9863.

Council Member Hotchkiss moved to approve the second and final reading of Ordinance No. 9863 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.

26. Consider an ordinance on second reading designating Blocks 88 and 93; and the 0.56-acre portion of West Indiana Avenue right-of-way, the 0.31-acre portion of West Missouri Avenue right-of-way, the 0.82-acre portion of South Big Spring right-of-way, and the 0.62-acre portion of South Marienfeld Street right-of-way, all adjacent to said blocks; all out of Original Town Addition, City and County of Midland, Texas, as Tax Abatement Reinvestment Zone Number 2018-03, for commercial-industrial tax abatement as authorized by Chapter 312 of the Texas Tax Code. (DEVELOPMENT SERVICES) (First reading held December 11, 2018.)

ORDINANCE NO. 9864

AN ORDINANCE OF THE CITY OF MIDLAND, TEXAS, DESIGNATING A 6.11-ACRE TRACT OF LAND OUT OF BLOCKS 88 AND 93 AND THE RIGHTS-OF-WAY ADJACENT THERETO, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF SOUTH BIG SPRING STREET AND WEST MISSOURI AVENUE), AS TAX ABATEMENT REINVESTMENT ZONE NUMBER 2018-03, FOR COMMERCIAL AND INDUSTRIAL TAX ABATEMENT, AS AUTHORIZED BY CHAPTER 312 OF THE TEXAS TAX CODE; ESTABLISHING THE BOUNDARIES THEREOF AND OTHER MATTERS RELATING THERETO; DECLARING FINDINGS OF FACT; AND PROVIDING A SAVINGS AND SEVERABILITY CLAUSE

Deputy City Secretary Misty Cryer read the caption of Ordinance No. 9864.



Council Member Love moved to approve the second and final reading of Ordinance No. 9864 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.

27. Consider an ordinance on second reading amending Fiscal Year 2017-2018 budgets for certain funds. (FINANCE) (First reading held December 11, 2018.)

**ORDINANCE NO. 9865**

AN ORDINANCE MAKING CERTAIN AMENDMENTS TO THE 2017-2018 FISCAL YEAR BUDGET SO AS TO INCREASE AMOUNTS APPROPRIATED TO CERTAIN FUNDS

Deputy City Secretary Misty Cryer read the caption of Ordinance No. 9865.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9865 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.

**PUBLIC HEARINGS**

28. Hold a public hearing and consider an ordinance on a request by John Peterson, Jaime Ramos, Brian Taylor and John Overton for a vacation of the 0.71-acre portion of a public access easement, generally located approximately 153 feet south of Widener Strip, between Keenland Drive and Holiday Hill Road. (DEVELOPMENT SERVICES)

**ORDINANCE NO. 9866**

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

Deputy City Secretary Misty Cryer read the caption of Ordinance No. 9866.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is for the vacation of a public access easement that was granted 36 years ago. The property is no longer being used for the intended purpose and the owner is asking to abandon the public use easement in order to maintain it and make a more aesthetic alley with a fence around the property. The item has been received by all utilities. Oncor is requesting a 5-foot triangle away from their poles. The applicant is currently working with Oncor. Five letters of objection have been received. Staff has reviewed the item and recommends approval.

Mayor Morales opened the public hearing at 10:31 a.m.

Brian Taylor, 4920 Tattenham Corner, moved in about 3 years ago and was asked to clean up the area which was a dump zone in the alley. He cleaned up piles of construction debris and other trash and since that time people continue to dump trash in the area. He thought it would be better to move his fence to stop the continued dumping. He has requested to speak with Oncor because their poles are directly next to fences in other areas.

Robert Rendall, 6 Desta Drive, speaking on behalf of Mr. and Mrs. Peterson, noting they have a similar story. They already pay taxes on the property and are required to maintain it, but they do not have control. In 1982 when the path was dedicated for public use it was a different era and this was a rural urban area. They would like to take back control of their property.

There being no one else wishing to speak, the public hearing was closed at 10:36 a.m.

Council Member Robnett moved approval of the first of two readings of Ordinance No. 9866 in accordance with the Charter of the City of Midland with the amendment to waive the 5-foot setback requirement; seconded by Council Member Love. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

29. Hold a public hearing and consider an ordinance on a request by Greg Clark dba Bully Beds, Inc. for a Specific Use Permit without Term for a Kennel / Sanctuary generally located on the north side of Carter Avenue, approximately 256 feet west of Goode Street. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9867

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT I, TRACT 7, STOCKARD ACRES, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF CARTER AVENUE, APPROXIMATELY 256 FEET WEST OF GOODE STREET), WHICH IS PRESENTLY ZONED C-3, COMMERCIAL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR A KENNEL; 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 Misty Cryer read the caption of Ordinance No. 9867.

Development Services Director Chuck Harrington gave a brief overview of the item noting there have been issues with animals being kept without proper permitting. The applicant is asking to apply for a specific use permit for a kennel/sanctuary. The site plan shows 37 cages and a 4,234 square foot play area. Dogs are kept in kennels except when walking and won't be left outside of the kennels unattended. There will be no drop-off or pick-up from this area. They will board animals 24 hours a day, 7 days a week and will be required to comply with City regulations for this type of activity. The request meets the minimum requirements. There shall be no more than 50 kennel units

and pet waste must be properly disposed. If there is any failure to comply, the City Manager, at his sole discretion, may revoke the permit. Four letters of objection have been received and it constitutes 28% objection. Therefore, this item will require supermajority approval.

Council Member Lacy asked if the applicant is in compliance with the municipal court. Community Services Director Tina Jauz reported that to her knowledge they were not and that a certified letter had been sent to them.

City Attorney John Ohnemiller reported that the applicant was required to submit proof of vaccination and other documentation in November. No proof has been submitted and they are not in compliance with the court order.

Assistant City Manager Robert Patrick noted that as discussed with Planning & Zoning, the applicant informed them they did have all spay/neuter and vaccination records, but staff has not received them. He also noted that there was an animal at large that belonged to the owner, but he was unsure if it was from this particular property. Citations were issued to the owner for that animal.

Mayor Morales opened the public hearing at 10:46 a.m.

Kevin Runkle, 1016 S. Goode, reported he does not have a problem with pets and is a dog lover. He visited with one of the neighbors who reported that after a rainfall, the smell is atrocious. He did an internet search on dog waste and was surprised noting that there is no telling what condition the soil is in and felt that this was a major health situation for the neighborhood.

Byron Fender, 6001 Meadowview Lane, has several properties against Goode Street. He is not against what they are trying to do but felt this was not the right place, noting this has been going on for 4-6 years. The noise of 50 dogs behind your back fence is not pleasant. He asked others to see how it sounds and smells. He is not in support of this item. He is not able to get as much rental rate as he should because of this situation.

Debbie Watlington, 1414 East County Road 145, reported her father owns the property across from Fenders Midland Ironworks and from that property you cannot smell animals. She volunteers to help walk the animals and to clean up. She used to run a kennel by the back gate of the Horseshoe. The ammonia smell of dirt can get strong if you don't know the proper way to get rid of it. She said that feces is picked up daily. She noted there are other animals running loose in the area that these people might help if the neighborhood wasn't against this property. Mayor Morales asked when the feces is picked up. Ms. Watlington reported it was picked up once a day in the afternoon.

Elaina Mills, 2412 Haynes Drive, reported she has been going out to Bully Beds for just over year and has seen an amazing transformation in these dogs. She started volunteering after losing her marriage and being assaulted and the dogs taught her she could fight back. She would hate to see them pack up and move out. The dogs can be rehabilitated if given a chance. When asked how long the dogs stay she reported it depends on how long it takes to rehabilitate them and to find them a good home.

Greg Clark, 1506 Carter, is the owner of Bully Beds. He said he was supposedly sent a registered letter but never received it. He turned over all shot records and spay/neuter certificates to the front desk at Animal Control with the girls there. He is trying to comply. He currently has his place up for sale, so he can get out of the City and quit being a nuisance to his neighbors. Every year he turns the ground over and treats the ground so there is no disease. He has not had a sick animal in over eight years. Dogs will stay from two weeks to two years. They do not put them down. If they do not get adopted, they live out their lives with him. They are fed, walked and taken care of daily.

Mayor Morales reported he went by the property and saw that it was not mowed, not landscaped and the smell and odor indicated the grounds were not being taken care of. Mr. Clark noted that December was a bad month and he has gotten behind in things, but he normally mows, weeds and everything else. In spring he brings in a tractor and treats the ground with sulfur.

Council Member Love reported he read the communication between Bully Beds and Animal Services over the past 3-4 years and it seems to be an antagonistic relationship. It also seems that Bully Beds tries to intentionally embarrass the City when the City is trying to enforce ordinances. The City has been bending over backwards to help. Mr. Clark reported that when Paul was the director they got along fine and worked hand in hand. Issues started when Leah Lewis took over. They are very passionate but know that sometimes they should keep their mouth shut. Things are sometimes said out of anger. Leah has been trying to find ways to take money away from the dogs.

Council Member Robnett said that there are rules on the books that everyone must adhere to and asked that he quit addressing Ms. Lewis as picking on them when she is doing her job. Council Member Love added that there were more complaints against them when Paul was there. Mr. Clark apologized noting he was just telling how it seems to him.

Amy Adams, 1506 Carter Avenue, is the director of Bully Beds. Fifteen years ago, a pit bull walked into her family and changed her life. She knew nothing about the breed but decided to be their voice and has attempted to learn everything she can about the breed. She noted that anyone is welcome on her property. The dogs do create a mess in a matter of minutes, but they do everything they can for the love the dogs. All their dogs have been spayed/neutered and are up to date on their shots. Their temperament is tested with other animals before they are adopted to a home with other animals. If there is a misunderstanding between them and the City she would like to do anything needed to fix it. She thought she was legally doing everything she was supposed to do.

Council Member Love asked what training and certifications Bully Bed has. Ms. Adams reported only what they have learned, and they have no state certifications. Council Member Love said that they have commented on Facebook trying to embarrass the City and staff and asked why the City should approve this item. Ms. Adams noted she is very passionate about animals and she tends to speak exactly how she feels at the time. She is trying to figure out how to save these dogs and lashes out at people who she feels are coming after them.

Council Member Dufford asked if they were looking for a new location. Ms. Adams reported they have their place for sale and are looking for a new location in Midland County. Mr. Clark noted they have just been accepted by Midland County as a place for adults to serve their probation community service hours.

Council Member Hotchkiss reported the crux of the problem is the paperwork which still has never been done. Other agencies know the rules and send in their paperwork monthly and report all changes. Ms. Adams stated she did not know she was supposed to report monthly.

When asked how long it would take to move their location Mr. Clark reported they would be gone in 30 days after their property sells and they currently have a new location if it is still available when the property sells.

Ms. Adams and Mr. Clark were shown proof of the delivery of the certified letter to their attorney. They reported that their attorney won't return their phone calls.

Council Member Hotchkiss stated it was obvious that this is their hearts and that they have put a lot of time and energy into this even though they have not gotten any money back in return. She appreciates all they have done but just wished they would follow the rules as well as their hearts.

Angie Mims, Big Spring, reported she is a former director of the humane society and has housed over 200 dogs. She is the co-founder of a rescue in Big Spring and has traveled all over the United States and toured different facilities. Bully Beds is the most passionate and caring rescue of any she has ever seen. She has been to the property and it is spotless. When she heard the place wasn't being kept clean she was surprised because it has always been immaculate. She said she would help them with their records and help them set up a system. She emphasized that these are lives and not property. Mayor Morales noted you cannot run a City like that; it's not about how much we love the dogs but about having policies and procedures in place that are being followed.

Council Member Robnett emphasized that nobody is questioning their motives. Council Member Love asked Ms. Mims if she knew about what was going on and what she did to help them to come into compliance. Ms. Mims said she told them to hire a lawyer.

Council Member Robnett was interested in helping to get the dogs adopted. It appears that cleanliness is an issue and is afraid the applicant does not have the resources to take care of these animal appropriately or know how to file proper paperwork. The City wants them to come into compliance. It appears that feces hasn't been picked up in about two weeks and he expected it to be in immaculate condition just prior to this hearing. The City wants to help Bully Beds. This has been going on for too long and is not working. No one is suggesting taking and euthanizing the animals but instead we need to work to get the dogs adopted out. This cannot continue just because they have a heart for dogs.

There being no one else wishing to speak, the public hearing was closed at 11:22 a.m.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 9867 in accordance with the Charter of the City of Midland with the amendment to change the term to 90 days; seconded by Council Member Trost.

Council Member Lacy stated that human beings are just as important, and they should be treated with respect. It is not okay to treat people on social media in a way you would not talk to their face.

Council Member Love noted he could not support this. If there was actual evidence of their attempt to come into compliance he would think differently, but everything has been a war and a battle. His district does not support this business.

Council Member Hotchkiss is so disappointed in this organization, not because of emotion, but because the rules have not been followed. For years they have not followed the rules even though they have been requested over and over again. If the dogs have been inoculated and neutered, as they say, why hasn't the paperwork been turned over.

Council Member Dufford clarified that because of the percentage of objections this item needs six votes in favor to pass.

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

Mayor Morales noted this item required super majority approval because the opposition was over 20%. A supermajority requires six votes to pass. Anything less than six votes is a fail.

When asked the next steps, City Attorney John Ohnemiller said that deferral order from Municipal Court needs to be addressed or adjudication will be revoked in February.

Council Member Robnett asked that the City continue to help investigate other rescues for these dogs.

30. Hold a public hearing regarding the proposed granting of oil and gas well permits to Permian Deep Rock Oil Co., LLC, for the drilling of oil and gas wells, being Rebel #H130LS, Rebel #H130MS, Rebel #H130WB, Rebel #H135SS, Rebel #H135WA, Rebel #H140LS, Rebel #H140MS, Rebel #H140WB, Rebel #H145SS, and Rebel #H145WA generally located between 230 and 1,371 feet west of South Lamesa Road and 170 feet south of I-20. This is a public hearing only. (Planning Admin)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting there are three groups of wells. The first group is in the same area as wells previously permitted. They will be using 16-foot sound walls. They have a surface agreement for all wells, no letters of objection have been received and the applicant is seeking the same variances as in the past including landscape and irrigation, one large pad site for multiple wells, and a fence around the group of wells. There will not be a road repair agreement as they will not use any City streets. They are also requesting 24-hour fracing.

Mayor Morales opened the public hearing at 11:33 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

31. Hold a public hearing regarding the proposed granting of oil and gas well permits to Permian Deep Rock Oil Co., LLC, for the drilling of oil and gas wells, being Rebel #H150LS, Rebel #H150MS, Rebel #H155SS, Rebel #H160LS, and Rebel #H160MS, generally located between 1,762 and 2,452 feet west of South Lamesa Road and 170 feet south of I-20. This is a public hearing only. (Planning Admin)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting it is the same information as the previous item.

Mayor Pro Tem Love opened the public hearing at 11:35 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

32. Hold a public hearing regarding the proposed granting of oil and gas well permits to Permian Deep Rock Oil Co., LLC, for the drilling of oil and gas wells, being Mustang #H110LS and Mustang #H110MS generally located between 2,306 and 2,336 feet east of Rankin Highway and 170 feet south of I-20. This is a public hearing only. (Planning Admin)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting it is the same information as the previous item.

Mayor Pro Tem Love opened the public hearing at 11:36 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

33. Hold a public hearing and consider an ordinance on a request by Meredith Burgess for a Special Exception from the City of Midland Zoning Ordinance concerning the front yard setback for the construction of a pool generally located on the north side of Tealwood Place, approximately 230 feet east of Whitney Drive. (DEVELOPMENT SERVICES)

#### ORDINANCE NO. 9868

AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOTS 37 AND 38, BLOCK 5, MIDKIFF PLAZA ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF TEALWOOD PLACE, APPROXIMATELY 230 FEET EAST OF WHITNEY DRIVE), BY PERMITTING A REDUCED FRONT YARD SETBACK; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

Deputy City Secretary Misty Cryer read the caption of Ordinance No. 9868.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant wishes to construct a pool in their back yard but because their back-yard fronts a cul-de-sac it is considered a front yard. Staff recommends approval of this special exception.

Mayor Morales opened the public hearing at 11:38 a.m.

Tom Burgess, 3000 Tealwood, asked the City to trade a portion of his side yard for his front yard so he can construct a fence. Council noted they cannot discuss that item as it is not on the agenda, but they can discuss his pool.

There being no one else wishing to speak, the public hearing was closed at 11:42 a.m.

Council Member Love moved approval of the first of two readings of Ordinance No. 9868 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.

34. Hold a public hearing and consider an ordinance on a request by Midland Independent School District, for the initial zoning of a 123.28-acre tract generally located approximately 703 feet west of the intersection of Tradewinds Boulevard and Thomason Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9869

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 123.28-ACRE TRACT OF LAND OUT OF SECTIONS 37 AND 48, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS A 1F-3, ONE-FAMILY DWELLING DISTRICT; SAID TRACT BEING GENERALLY LOCATED APPROXIMATELY 703 FEET WEST OF THE INTERSECTION OF TRADEWINDS BOULEVARD AND THOMASON 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 Misty Cryer read the caption of Ordinance No. 9869.

Development Services Director Chuck Harrington gave a brief overview of the item noting this is for initial zoning of a recently annexed property for the school district. They are asking for Single Family zoning. Staff reviewed the item and found it in compliance with the comprehensive plan. Planning & Zoning recommended approval. Staff also recommends approval. One letter of objection was received.

Mayor Morales opened the public hearing at 11:44 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. 9869 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.

35. Hold a public hearing and consider an ordinance on a request by PROFFUTT Limited Partnership, for the initial zoning of an 8.464-acre tract generally located approximately 896 feet south of State Highway 191 and 1,020 feet west of Avalon Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9870

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 3.199-ACRE TRACT OF LAND AND A 5.266-ACRE TRACT OF LAND OUT OF SECTION 38, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS AN LR-2, LOCAL RETAIL DISTRICT; SAID TRACT BEING GENERALLY LOCATED APPROXIMATELY 896 FEET SOUTH OF STATE HIGHWAY 191 AND APPROXIMATELY 1,020 FEET WEST OF AVALON DRIVE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION



Deputy City Secretary Misty Cryer read the caption of Ordinance No. 9870.

Development Services Director Chuck Harrington gave a brief overview of the item noting this was recently annexed land and this item is for their initial zoning. The applicant is requesting LR-2. It complies with the comprehensive plan. The property will have to comply with all requirements. One letter of objection was received.

Mayor Morales opened the public hearing at 11:46 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. 9870 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.

36. Hold a public hearing and consider an ordinance on a request by PROFFUTT Limited Partnership, for the initial zoning of a 16.946-acre tract generally located approximately 1,081 feet south of State Highway 191 and 1,020 feet west of Avalon Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9871

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 16.946-ACRE TRACT OF LAND OUT OF SECTION 38, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; SAID TRACT BEING GENERALLY LOCATED APPROXIMATELY 1,081 FEET SOUTH OF STATE HIGHWAY 191 AND APPROXIMATELY 1,020 FEET WEST OF AVALON DRIVE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Misty Cryer read the caption of Ordinance No. 9871.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is for the initial zoning of PD for a housing development with an underlying MF-2 zoning. The site plan included shows 13 3-story buildings and 792 parking spaces and many amenities. The density is 23 units per acre and will be required to have a 20-foot setback around the entire property. It has been reviewed by all departments and is in compliance with the comprehensive plan. Staff recommends approval subject to conditions A-F.

Mayor Morales opened the public hearing at 11:49 a.m.

Andrew Mellen, Maverick Engineering, 1909 W. Wall, spoke to line-of-site noting there was 160 feet between the houses and the buildings. In addition, there are garages between them with 15-20 feet pitched roofs.

Bucky Vaughn, 6610 Patriot Parkway, reported he has been working with Mr. Mellen but had some concerns. He noted there is a 6-foot perimeter fence, but he asked for a taller stone fence. He asked that trash dumpsters be built with enclosures to prevent trash

from going in his yard. He asked if minerals would be mined behind his home. Council noted it was a lease road. He also had concern about parking spilling over to his street. Council noted that he could address that issue if it occurred. He had concern about water runoff. Mr. Vaughn was informed that the property would be required to retain water on their own property and that dumpsters would be enclosed.

Stephen Hanks, 6608 Patriot Parkway, expressed concern for his property value noting that his realtor told him the value of the homes behind Abuelo's decreased in value when the apartments were built.

There being no one else present wishing to speak, the public hearing was closed at 12:06 p.m.

Council Member Lacy asked Andrew Mellen if he would be willing to increase the height of the fence between the garages to eight-feet. Mr. Mellen noted he would, and it would be an 8-foot split CMU wall. He also noted that they will over dig their basin to allow for a 100-year storm.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9871 in accordance with the Charter of the City of Midland with the amendment to require an 8-foot fence between the garages on the south side; 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.

37. Hold a public hearing and consider an ordinance on a request for annexation of a 21.30-acre tract generally located approximately 688 feet south of State Highway 191 and 2,287 feet west of Avalon Drive. (DEVELOPMENT SERVICES)

#### ORDINANCE NO. 9872

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 21.30-ACRE TRACT OF LAND AND A 6.975-ACRE TRACT OF LAND OUT OF SECTION 38, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED APPROXIMATELY 688 FEET SOUTH OF STATE HIGHWAY 191 AND APPROXIMATELY 2,287 FEET WEST OF AVALON DRIVE); APPROVING A PUBLIC SERVICE PLAN; ORDERING PUBLICATION; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Misty Cryer read the caption of Ordinance No. 9872.

Development Services Director Chuck Harrington gave a brief overview of the item noting this is a voluntary annexation. It has been reviewed by staff and is in compliance with the comprehensive plan. Staff recommends approval.

Mayor Morales opened the public hearing at 12:11 p.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. 9872 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.

38. Hold a public hearing and consider an ordinance on a request for annexation of a 28.84-acre tract generally located at the southeast corner of the intersection of South Farm-to-Market Road 1788 and Loop 40. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9873

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 28.84-ACRE TRACT OF LAND OUT OF SECTION 8, BLOCK 40, T-2-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF SOUTH FARM-TO-MARKET ROAD 1788 AND LOOP 40); APPROVING A PUBLIC SERVICE PLAN; ORDERING PUBLICATION; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Misty Cryer read the caption of Ordinance No. 9873.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is for the voluntary annexation of 28.84 acres to gain utility services. The item is in compliance with the comprehensive plan and staff recommends approval.

Mayor Morales opened the public hearing at 11:12 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. 9873 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

39. Hold a public hearing and consider an ordinance on a request by Knights of Columbus for a zone change from 1F-1, One Family Dwelling District, to O-1, Office District generally located on the northeast corner of the intersection of Bates Street and Andrews Highway. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9874

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1, TRACT 4, WALLACE HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 1F-1, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS AN O-1, OFFICE DISTRICT (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF BATES STREET AND ANDREWS HIGHWAY); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Mayor Morales noted that this item was removed at the request of the applicant.

40. Hold a public hearing and consider an ordinance on a request by Blue Beacon International, Inc. for a vacation of the 0.907-acre portion of East Taylor Avenue

generally located approximately 711 feet east of King Street and approximately 312 feet west of South Fairgrounds Road. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9875

AN ORDINANCE VACATING AND ABANDONING A 0.907-ACRE PORTION OF EAST TAYLOR AVENUE RIGHT-OF-WAY OUT OF SECTION 1, BLOCK 39, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED APPROXIMATELY 732 FEET SOUTH OF GARDEN CITY HIGHWAY, APPROXIMATELY 711 FEET EAST OF KING STREET, AND APPROXIMATELY 312 FEET WEST OF SOUTH FAIRGROUNDS ROAD); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$27,210.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Misty Cryer read the caption of Ordinance No. 9875.

Development Services Director Chuck Harrington gave a brief overview of the item noting the applicant would like to vacate a portion of Taylor Street for future development on the site. In order to fully access the site, they are proposing to dedicate additional right-of-way along the west property line in trade for this vacation. Staff reviewed the item and considers it an even trade as the applicant will be building the street.

Traffic Engineer Mike Pacelli reported this item was initiated by staff to move the street further from the intersection of I-20 and provide better access for this project.

Mayor Morales opened the public hearing at 12:18 p.m.

Dana Morse, Salina KS, reported he is representing Blue Beacon. He asked Council to support the item because they will dedicate more land a little to the east and they do not want to encroach on the neighbors. This will be their 121<sup>st</sup> truck wash and they know they will be dedicating more land for the trucks to access the property.

Cory Hardy, 9914 W. County Road 77, owns 10 acres to the north and is in favor of the project.

There being no one else present wishing to speak the public hearing was closed at 12:20 p.m.

Council Member Love moved approval of the first of two readings of Ordinance No. 9875 in accordance with the Charter of the City of Midland with the amendment for the owner to dedicate land equal to or greater in value of the right-of-way; 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 VCZ Development for a Zone Change from O-1, Office District to MF-2, Multiple-Family Dwelling District generally located on the northwest corner of the intersection of North Carver Street and East Dormard Avenue. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9876

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 1, BLOCK 5, HOLLANDALE HEIGHTS ADDITION, RESUBDIVISION OF BLOCKS 3-9, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED O-1, OFFICE DISTRICT, TO BE USED AS AN MF-2, MULTIPLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH CARVER STREET AND EAST DORMARD 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 Misty Cryer read the caption of Ordinance No. 9876.

Development Services Director Chuck Harrington gave a brief overview of the item noting 41 and 42 are related. This item is for rezoning. The applicant is proposing construction of moderate-income housing that will eventually go through the state process. The property they have for the next item is for 60 units with some problems due to flood plain issues. They have managed to make out a site and now are asking for MF-2 zoning to proceed forward. Two letters of objection have been received. The item complies with the comprehensive plan and staff recommends approval.

Mayor Morales opened the public hearing at 12:26 p.m.

Michael Osborne, Lenexa KS, reported they have done multi-family developments in 14 states including one in Midland at Gateway Plaza behind the Four Points Hotel. They found this parcel that meets their needs. The current site shows a detention pond but, in some cases, it is better to get your water out before more water comes through the detention structure. When asked if they could add more units in the corner of the development, Mr. Osborne noted they did look at having an additional 12 units in that area, but the cost ratio did not work out, so they scaled the project back to 60 units.

Jeff Beckler, Springfield MO, VCZ Development, was open for questions. When asked how competitive they thought their application was for tax credits, he responded he felt it was very competitive.

There being no one else present wishing to speak, the public hearing was closed at 12:31 p.m.

Council Member Love moved approval of the first of two readings of Ordinance No. 9876 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.

42. Hold a public hearing and consider an ordinance on a request by VCZ Development for the approval of a Site Plan generally located on the northwest corner of the intersection of North Carver Street and East Dormard Avenue. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9877

AN ORDINANCE ADOPTING A SITE PLAN FOR LOT 1, BLOCK 5, HOLLANDALE HEIGHTS ADDITION, RESUBDIVISION OF BLOCKS 3-9, CITY AND COUNTY OF

MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH CARVER STREET AND EAST DORMARD AVENUE); SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Misty Cryer read the caption of Ordinance No. 9877.

Development Services Director Chuck Harrington gave a brief overview of the item noting this is for the site plan. The density is 8.74 units per acre. Staff reviewed the item and recommends approval. Two letters of objection have been received.

Mayor Morales opened the public hearing at 12:33 p.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. 9877 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.

## MISCELLANEOUS

43. Consider a motion directing staff to begin the annexation of a 126.162-acre tract located in Section 13, Block 40, T-1-S, T&P RR Co. Survey, and a 13.537-acre tract located in Section 13, Block 40, T-1-S, T&P, RR Co. Survey, Midland County, Texas, (generally located approximately 2,630 feet east of the intersection of Mockingbird Lane and Holiday Hill Road). (DEVELOPMENT SERVICES)

Development Services Director Chuck Harrington gave a brief overview of the item noting this is the next phase of the development of the Vineyards. This would be a voluntary annexation and staff is looking for direction.

Council Member Love moved to direct staff to begin the annexation of a 126.162-acre tract located in Section 13, Block 40, T-1-S, T&P RR Co. Survey, and a 13.537-acre tract located in Section 13, Block 40, T-1-S, T&P, RR Co. Survey, Midland County, Texas, (generally located approximately 2,630 feet east of the intersection of Mockingbird Lane and Holiday Hill Road); seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Dufford.

44. Consider a resolution of No Objection of the City Council of the City of Midland for VCZ Development, LLC 2019 application to the Texas Department of Housing and Community Affairs for 9% Competitive Housing Tax Credits, generally located near 1301 E. Dormard Avenue, Midland Texas in Midland County, Texas. (DEVELOPMENT SERVICES)

### RESOLUTION NO. 2019 - 014

RESOLUTION OF NO OBJECTION TO VCZ DEVELOPMENT, LLC'S APPLICATION TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS FOR 9% COMPETITIVE HOUSING TAX CREDITS FOR THE CONSTRUCTION OF

APPROXIMATELY SEVENTY-TWO UNITS GENERALLY LOCATED NEAR 1301 EAST DORMARD AVENUE IN MIDLAND, TEXAS

Development Services Director Chuck Harrington reported that staff requests this meeting be deferred until January 22, 2019.

Council Member Lacy moved to defer this item to January 22, 2019; 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.

45. Consider a resolution supporting the proposed rehabilitation of Chaparral Apartments and confirming that the City shall provide a loan, grant, reduced fee or contribution of other value in the amount of \$500.00 for such development; the applicant is MJL Acquisitions IX, LLC, an affiliate of the Michaels Organization; the proposed development is located at 4201 North Garfield Street, Midland Texas 79705. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2019 - 015

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, SUPPORTING THE PROPOSED REHABILITATION OF CHAPARRAL APARTMENTS AND CONFIRMING THAT THE CITY SHALL PROVIDE A LOAN, GRANT, REDUCED FEE OR CONTRIBUTION OF \$500.00 FOR SUCH DEVELOPMENT; THE APPLICANT IS MJL ACQUISITIONS IX, LLC, AN AFFILIATE OF THE MICHAELS ORGANIZATION; THE PROPOSED DEVELOPMENT IS LOCATED AT 4201 NORTH GARFIELD STREET, MIDLAND, TEXAS 79705; PROVIDING AN EFFECTIVE DATE; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO CERTIFY THE RESOLUTION TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Development Services Director Chuck Harrington gave a brief overview of the item noting the request is referring to their application to the Texas Department of Housing and Community Affairs. The original resolution says MJL, but it should be as Midland Chaparral Apartments.

Joseph Weatherly, Falls Church, VA, reported he is the regional vice president for the Michaels Organization and is here to ask for support of the resolution to rehab the Chaparral Apartments that were built in the 70s. It has not undergone significant rehab before and they are asking for Council's continued support. He noted the correct name should be Midland Chaparral Associates.

Tracy Macias, 4201 N. Garfield, has been a resident of Chaparral Apartments for three years. She asked Council to support this item for renovation of the property noting it was in need of major upgrades. She noted that the City supporting the application would give them the highest points possible.

Council Member Dufford moved to adopt Resolution No. 2019 - 015; 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.

46. Consider a motion appointing a Mayor Pro Tempore.

Council Member Robnett moved to appoint Council Member John Love as Mayor Pro Tempore; 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.

47. Consider a motion authorizing the City Manager to take all action necessary for the design and construction of improvements and enhancements to the intersection of West Cuthbert Avenue and North Garfield Street, including (1) acquiring necessary real property interests, (2) issuing necessary requests for qualifications, proposals or bids, and (3) authorizing payment of necessary costs in connection with the foregoing; provided, however, that the award of any contract for design or construction work must be approved by the City Council. (Legal )

Mayor Morales noted this item would be heard following Executive Session.

### **PUBLIC COMMENT**

48. 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.)

Cheryl Goin, 3219 Preston Drive, said she doesn't disagree that animals are considered property. One problem is they keep breeding dogs and even though it is not your responsibility it is hard to see other people who are irresponsible with their animals. She wished the City would do mandatory spay and neuter. She asked Council if they could come up with a solution.

Shirley Howard, 405 Magnolia, congratulated the newly elected Council Members on their election and re-election. She represented the Negro Professional Business Women and invited everyone to their event on January 21<sup>st</sup> at the MLK Center.

Sedat Eren, 400 W. Texas, reported he is building downtown and is in support of the tax abatement for the Vaughn Building. He appreciates the efforts for improving downtown.

### **EXECUTIVE SESSION**

49. 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 purchase, exchange, lease, or value of real property described as Lot 1, Block A1, Johnson and Moran Addition, and Lots 5 and 6, Block 2, University Park Addition, City and County of Midland, Texas.

Mayor Morales recessed the meeting to go to Executive Session at 12:48 p.m. He reported that item #47 would be heard downstairs in the basement conference room.

Mayor Morales reconvened the meeting in open session at 12:48 p.m. with all Council Members present.

47. Consider a motion authorizing the City Manager to take all action necessary for the design and construction of improvements and enhancements to the intersection of West Cuthbert Avenue and North Garfield Street, including (1) acquiring necessary real property interests, (2) issuing necessary requests for qualifications, proposals or bids, and (3) authorizing payment of necessary costs in connection with the foregoing; provided, however, that the award of any contract for design or construction work must be approved by the City Council. (Legal )

Council Member Robnett moved to authorize the City Manager to take all action necessary for the design and construction of improvements and enhancements to the intersection of West Cuthbert Avenue and North Garfield Street, including (1) acquiring necessary real property interests, (2) issuing necessary requests for qualifications, proposals or bids, and (3) authorizing payment of necessary costs in connection with the foregoing; provided, however, that the award of any contract for design or construction work must be approved by the City Council; 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.

Mayor Morales recessed the meeting at 1:26 p.m. to reconvene back into Executive Session.

All the business at hand having been completed, the meeting adjourned at 1:57 p.m.

PASSED AND APPROVED the 22nd day of January 2018.

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Jerry F. Morales, Mayor

ATTEST:

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Amy M. Turner, City Secretary