

**MIDLAND CITY COUNCIL  
MINUTES  
May 12, 2020**

**BRIEFING SESSION**

The City Council convened in a Briefing Session in the Council Chamber, City Hall, Midland, Texas, at 9:30 a.m. on May 12, 2020.

Council Members present: Mayor Patrick Payton, Mayor Pro Tem Spencer Robnett (At-Large), Council Member Michael Trost (At-Large), Council Member Scott Dufford (District 1), Council Member John Norman (District 2), Council Member Jack Ladd (District 3), and Council Member Lori Blong (District 4).

Staff members present: City Manager Courtney Sharp (via Zoom), City Attorney John Ohnemiller, Assistant City Manager Robert Patrick, Assistant City Manager Morris Williams, Assistant to the City Manager Marcia Bentley-German, City Secretary Amy Turner, Utilities Director Carl Craig, General Services Director Regina Stephenson, Assistant Utilities Director Cory Moose, Purchasing Manager Erika Martinez, Customer Service Manager Tony Goyang, Software Systems Supervisor Hugo Rodriguez, and Programmer Analyst Titus Stephens.

Mayor Payton called the meeting to order at 9:32 a.m.

1. Receive and discuss with the Mayor and Council the 2020 rate study for water and wastewater.

Utilities Director Carl Craig provided a PowerPoint presentation reviewing the Water and Wastewater Financial Plan put together by Raftelis. Currently there are three different rates: commercial, residential and apartments. The highest tier rate is \$54. Staff would like to change the highest tier from \$54 to \$19 and remove exemptions. There are over 1,000 exemptions in place that prevent people from getting to that highest tier. Reasons for exemptions include water leaks, large families, homeowners' associations, etc. The remaining recommendations would be pushed out for one year. City Manager Courtney Sharp explained that the high tier was put in place to encourage water conservation.

Mr. Craig explained the goal is to get water revenue back into the black. They are currently spending their cash on projects and have gone through their reserves and they need to build up their reserves to have cash for future repairs when needed. The City is changing out all meters and it has been discovered that the old meters were way less efficient than expected and staff is seeing an increase on readings and customers' bills are going up a little. Since Raftelis didn't know we would find an increase with new meters, they suggested a rate increase, but that is already being realized with the new meters. Staff recommends waiting for a full year and then reevaluating. It will take three years to replace all water meters throughout the City. Apartments will keep their lower base rate. Staff will come back in June with the suggested code changes.

Mayor Payton summarized that staff is asking to lower water rates to increase usage.

Discussion ensued about changing the current watering restrictions from two days a week to three or four days. Mayor Payton noted he would like to see watering allowed four days a week. Mr. Craigo noted he would make changes and bring them back in June for City Council approval.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:52 a.m.

## **REGULAR SESSION**

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., May 12, 2020.

Council Members present: Mayor Patrick Payton, Mayor Pro Tem Spencer Robnett (At-Large), Council Member Michael Trost (At-Large), Council Member Scott Dufford (District 1), Council Member John Norman (District 2), Council Member Jack Ladd (District 3), and Council Member Lori Blong (District 4).

Staff members present at the annex table: City Manager Courtney Sharp (via Zoom), City Attorney John Ohnemiller, Assistant City Manager Robert Patrick and Assistant City Manager Morris Williams.

The Agenda Items were heard in the following order: 1-3, 7, 9-10, 4-6, 8, 11-20, 23, 21-22, 26, 24-25.

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

## **OPENING ITEMS**

1. Invocation – Mayor Payton
2. Pledge of Allegiance

## **CONSENT AGENDA**

Council Member Robnett moved to approve Consent Agenda items 3 - 10 excluding 4, 5, 6, 8; seconded by Council Member Blong. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

3. Approved a motion approving the following minutes:
  - a. Regular City Council Meeting of April 28, 2020
7. Approved a resolution authorizing the Mayor, City Manager, and City Attorney to accept and execute the Coronavirus Aid, Relief, and Economic Security (CARES) Act grant for the Community Development Block Grant in the amount of \$570,875.00. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2020 - 083

RESOLUTION AUTHORIZING THE MAYOR, CITY MANAGER, AND CITY ATTORNEY TO ACCEPT AND EXECUTE THE CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT IN THE AMOUNT OF \$570,875.00

9. Approved a motion authorizing the execution of a right-of-way license between the City of Midland and Targa Pipeline Mid-Continent Westex LLC, regarding City-owned property described as Sections 4 and 9, Block 39, Township 2 South, T&P RR Co. Survey, Midland County, Texas. (UTILITIES) (053-2020)
10. Approved a resolution of the City Council of the City of Midland, Texas, nominating Plains All American Pipeline, L.P., to the Office of the Governor, Economic Development and Tourism, through the Economic Development Bank as an Enterprise. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2020 - 085

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS, NOMINATING PLAINS ALL AMERICAN PIPELINE, L.P., TO THE OFFICE OF THE GOVERNOR, ECONOMIC DEVELOPMENT AND TOURISM, THROUGH THE ECONOMIC DEVELOPMENT BANK AS AN ENTERPRISE PROJECT PURSUANT TO THE TEXAS ENTERPRISE ZONE ACT, CHAPTER 2303, TEXAS GOVERNMENT CODE; PROVIDING AN EFFECTIVE DATE; AND DESIGNATING A LIAISON FOR THE COMMUNICATION WITH INTERESTED PARTIES

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

4. Consider a resolution awarding a contract for the Thomason Drive Water Main Replacement Utility Bond Project for the Engineering Services Department. (PURCHASING)

RESOLUTION NO. 2020 - 081

RESOLUTION AWARDING A CONTRACT FOR THE THOMASON DRIVE WATER MAIN REPLACEMENT UTILITY BOND PROJECT TO EDGARDO MADRID & ASSOCIATES, LLC OF MIDLAND, TEXAS, AT A TOTAL COST OF \$2,154,636.46; ALLOCATING FUNDS; AND AUTHORIZING PAYMENT

Council Member Ladd asked who is responsible for testing and who is responsible for paying for the testing. Engineering Services Director Jose Ortiz reported that typically the contractors pay for and provide the testing. Council Member Ladd had concern that when staff found there was no subbase on Louisiana, that contractors doing their own testing might not be appropriate. Assistant City Manager Robert Patrick noted that inspectors are on site and get core samples. Mr. Ortiz added that inspectors are on site throughout the process and samples are pulled and distributed to the agencies that provide final testing which allows us to assure things are being handled appropriately.

Council Member Ladd moved to adopt Resolution No. 2020 - 081; seconded by Council Member Blong. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

5. Consider a motion authorizing the execution of a memorandum of understanding between the Midland Development Corporation and the City of Midland. (CITY MANAGER'S OFFICE) (052-2020)

Council Member Trost moved to authorize the execution of a memorandum of understanding between the Midland Development Corporation and the City of Midland; said memorandum of understanding to provide for the marketing of certain City-owned real property located at the Midland International Air & Space Port; seconded by Council Member Blong. The motion carried by the following vote: AYE: Blong, Trost, Payton, Dufford, Ladd, Norman. NAY: Robnett. ABSTAIN: None. ABSENT: None.

6. Consider a resolution implementing a Voluntary Early Retirement Incentive Program (VERIP) for eligible City of Midland employees. The maximum number of employee participants shall be twenty (20). (ADMINISTRATIVE SERVICES)

RESOLUTION NO. 2020 - 082

RESOLUTION AUTHORIZING THE ADOPTION OF THE 2020 VOLUNTARY EMPLOYEE RETIREMENT INCENTIVE PROGRAM; AUTHORIZING THE CITY MANAGER TO TAKE ALL ACTION NECESSARY FOR THE IMPLEMENTATION OF THE PROGRAM; AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL ASSOCIATED DOCUMENTS AND AGREEMENTS

Council Member Ladd was curious to know if we knew which people were participating. Administrative Services Director Mark Widmann noted that if Council approves this today, the application will go online to all eligible employees and will remain open until May 27<sup>th</sup> for eligible participants to apply. Council Member Ladd had concern that any division could be cleaned out. Mr. Widmann noted there were three levels of approval and that just because someone applies does not mean it would be approved. The hope is that this would prevent layoffs and furloughs. This is only to accelerate a person's interest in retiring. Council Member Dufford noted this has been offered in the past and no one has taken Council up on their offer. Mr. Widmann noted there is interest from about five people at this time.

Council Member Robnett moved to adopt Resolution No. 2020 - 082; seconded by Council Member Ladd. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

8. Consider a resolution authorizing the execution of a capital improvements development agreement with THF Midland Leased Housing Associates II, Limited Partnership for the construction of certain capital improvements related to the development of Riverbend Addition. (ENGINEERING SERVICES)

RESOLUTION NO. 2020 - 084

RESOLUTION AUTHORIZING THE EXECUTION OF A CAPITAL IMPROVEMENTS DEVELOPMENT AGREEMENT WITH THF MIDLAND LEASED HOUSING ASSOCIATES II, LIMITED PARTNERSHIP FOR THE CONSTRUCTION OF CERTAIN CAPITAL IMPROVEMENTS RELATED TO THE DEVELOPMENT OF RIVERBEND ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS; AND AUTHORIZING PAYMENT IN THE AMOUNT OF \$177,444.90; SAID AGREEMENT BEING AUTHORIZED BY CHAPTER 212, SUBCHAPTER C, AND CHAPTER 395, SUBCHAPTER B OF THE TEXAS LOCAL GOVERNMENT CODE

Council Member Trost asked for clarification on what this means. Engineering Services Director Jose Ortiz reported there is a need to increase the size of infrastructure at this project noting it is a win/win situation.

Council Member Robnett moved to adopt Resolution No. 2020 - 084; seconded by Council Member Trost. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

## SECOND READINGS

11. Consider an ordinance on second reading on a request by Cork & Pig Tavern – Ally Village, LLC, for a Specific Use Designation with Term for the sale of all alcoholic beverages, for on premises consumption in a restaurant generally located on the south side of Spring Park Drive, approximately 685 feet east of North Big Spring Street. (DEVELOPMENT SERVICES) (First reading April 28, 2020)

### ORDINANCE NO. 10074

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 5,460-SQUARE FOOT PORTION OF LOT 2, BLOCK 1, CORPORATE PLAZA, SECTION 21, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF SPRING PARK DRIVE, APPROXIMATELY 685 FEET EAST OF NORTH BIG SPRING STREET), WHICH IS PRESENTLY ZONED RR, REGIONAL RETAIL DISTRICT, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10074.

Council Member Robnett moved to approve the second and final reading of Ordinance No. 10074 in accordance with the Charter of the City of Midland; seconded by Council Member Ladd. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

12. Consider an ordinance on second reading request by Alexandra Brinker for a Specific Use Designation with Term for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant, generally located on the southeast corner of the intersection of North Garfield Street and Castleford Road. (DEVELOPMENT SERVICES) (First reading April 28, 2020)

### ORDINANCE NO. 10075

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR A 4,472-SQUARE FOOT PORTION OF LOT 1, BLOCK 8, POLO PARK, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHEAST OF THE INTERSECTION OF NORTH GARFIELD STREET AND CASTLEFORD ROAD), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT FOR A

SHOPPING CENTER, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10075.

Council Member Robnett moved to approve the second and final reading of Ordinance No. 10075 in accordance with the Charter of the City of Midland; seconded by Council Member Blong. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

13. Consider an ordinance on second reading on a request by Jorge Chavez for a zone change from MF-22, Multiple-Family Dwelling District, to SF-3, Single Family Dwelling District, generally located on the east side of North Adams Street, approximately 80 feet south of East Illinois Avenue. (DEVELOPMENT SERVICES) (First reading April 28, 2020)

ORDINANCE NO. 10076

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 14, BLOCK 1, EASTOVER ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF NORTH ADAMS STREET, APPROXIMATELY 80 FEET SOUTH OF EAST ILLINOIS AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10076.

Council Member Blong moved to approve the second and final reading of Ordinance No. 10076 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

14. Consider an ordinance on second reading on a request by Midland Platinum II, LLC., for a Specific Use Designation with Term for the sale of all alcoholic beverages for on-premises consumption, in a bar, generally located on the west side of Tradewinds Boulevard, approximately 300 feet south of Andrews Highway. (DEVELOPMENT SERVICES) (First reading April 28, 2020)

ORDINANCE NO. 10078

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO GRANT A SPECIFIC USE DESIGNATION WITH TERM FOR LOT 2A, BLOCK 3, WESTRIDGE PARK ADDITION, SECTION 10, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF TRADEWINDS BOULEVARD, APPROXIMATELY 300 FEET SOUTH OF ANDREWS HIGHWAY), WHICH IS PRESENTLY ZONED PD, PLANNED DEVELOPMENT DISTRICT FOR A

SHOPPING CENTER, ALLOWING SAID PROPERTY TO BE USED FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A BAR FOR ON-PREMISES CONSUMPTION; MAKING SAID DESIGNATION SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10078.

Council Member Ladd moved to approve the second and final reading of Ordinance No. 10078 in accordance with the Charter of the City of Midland; seconded by Council Member Norman. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

15. Consider an ordinance on a second reading on a request by Elvira Garcia for a zone change from RR, Regional Retail District, to SF-3, Single-Family Dwelling District, generally located on the east side of South Baird Street, approximately 110 feet north of East Pennsylvania Avenue. (DEVELOPMENT SERVICES) (First reading April 28, 2020)

ORDINANCE NO. 10079

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 13 AND 14, BLOCK 145, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM RR, REGIONAL RETAIL DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF SOUTH BAIRD STREET, APPROXIMATELY 110 FEET NORTH OF EAST PENNSYLVANIA AVENUE); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10079.

Council Member Norman moved to approve the second and final reading of Ordinance No. 10079 in accordance with the Charter of the City of Midland; seconded by Council Member Ladd. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

16. Consider an ordinance on a second reading on a request by Maverick Engineering for a zone change from PD, Planned District for a Housing Development to an amended PD, Planned Development District for a Housing Development generally located on the northwest corner of the intersection of Chukar Lane and Beachwood Street. (DEVELOPMENT SERVICES) (First reading April 28, 2020)

ORDINANCE NO. 10080

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 19 THROUGH 31, BLOCK 5, LOTS 1 THROUGH 16, BLOCK 8, LOTS 1 THROUGH 9, BLOCK 9, AND LOTS 1 THROUGH 4, BLOCK 10, QUAIL RIDGE ADDITION, SECTION 6, LOTS 10 THROUGH 20, BLOCK 9, LOTS 5 THROUGH 18, BLOCK 10, AND LOTS 1 THROUGH 14, BLOCK 11, QUAIL RIDGE ADDITION, SECTION 7, A 7.432-ACRE TRACT OF LAND OUT OF LOT 1, BLOCK 1,

QUAIL RIDGE ADDITION, AND A 0.004-ACRE TRACT OF LAND OUT OF QUAIL RIDGE ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT TO AN AMENDED PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF CHUKAR LANE AND BEACHWOOD STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10080.

Council Member Blong moved to approve the second and final reading of Ordinance No. 10080 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

17. Consider an ordinance on second reading establishing intersection stops at various locations within the City of Midland. (ENGINEERING SERVICES) (First reading April 28, 2020)

**ORDINANCE NO. 10081**

AN ORDINANCE ESTABLISHING INTERSECTION STOPS AT VARIOUS LOCATIONS WITHIN THE CITY OF MIDLAND, TEXAS; AUTHORIZING AND DIRECTING THE TRAFFIC ENGINEER TO INSTALL APPROPRIATE SIGNS AND MARKINGS AT THE DESIGNATED LOCATIONS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS (\$200.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10081.

Council Member Blong moved to approve the second and final reading of Ordinance No. 10081 in accordance with the Charter of the City of Midland; seconded by Council Member Ladd. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

**PUBLIC HEARINGS**

18. Hold a public hearing and consider an ordinance on a request by Patrick Brown, for a zone change from AE, Agricultural Estate District, to PD, Planned Development District for a Housing Development generally located on northwest corner of the intersection of North Elkins Road and Arapahoe Road. (DEVELOPMENT SERVICES)

**ORDINANCE NO. 10082**

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 2 AND 3, BLOCK 1, JADEN KATE ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM AE, AGRICULTURAL ESTATE DISTRICT TO PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH ELKINS ROAD AND ARAPAHOE ROAD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS

(\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10082.

Mayor Payton opened the public hearing at 10:20 a.m.

Patrick Brown, 212 Bayberry Parkway, reported this ministry is already functioning they have a recovery house on Robin Lane across from the Courthouse. When asked about the animals he reported they have a couple of alpacas, geese and a goat. Council Member Dufford added this is a great ministry.

There being no one else present wishing to speak, the public hearing was closed at 10:21 a.m.

Council Member Ladd moved approval of the first of two readings of Ordinance No. 10082 in accordance with the Charter of the City of Midland; seconded by Council Member Blong. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

19. Hold a public hearing and consider an ordinance on a request by Maverick Engineering for a zone change from a PD, Planned District for an Office Center to PD, Planned Development District for a Housing Development generally located on the north side of Corporate Drive, approximately 550 feet east of North Big Spring. (DEVELOPMENT SERVICES)

ORDINANCE NO. 10083

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 2A, BLOCK 1, CORPORATE PLAZA, SECTION 20, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR AN OFFICE CENTER TO PD, PLANNED DEVELOPMENT DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE NORTH SIDE OF CORPORATE DRIVE, APPROXIMATELY 550 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

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10083.

Mayor Payton opened the public hearing at 10:23 a.m.

Colby Denison, Maverick Engineering, via ZOOM, could not be heard. Andrew Mellen also of Maverick Engineering, via Zoom, reported this is a senior family housing residence that has been discussed a couple of times. Staff has agreed on the parking situation. It does not meet code parameters for parking, but noted it is a community for 62 and older. He was hoping Colby could add more. Staff again tried to reach Mr. Denison with no success.

There being no one else wishing to speak, the public hearing was closed at 10:25 a.m.

Council Member Robnett moved approval of the first of two readings of Ordinance No. 10083 in accordance with the Charter of the City of Midland; seconded by Council Member Ladd. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

20. Hold a public hearing and consider an ordinance on a request by Jose Ramos for a Zone Change from MF-22, Multiple-Family Dwelling District, to SF-3, Single Family Dwelling District, generally located on the southeast corner of the intersection of South Carver Street and East Wall Street. (DEVELOPMENT SERVICES)

ORDINANCE NO. 10084

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 12, BLOCK 30, MOODY ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF SOUTH CARVER STREET AND EAST WALL STREET); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10084.

Mayor Payton opened the public hearing at 10:26 a.m.

Beverly Harrington, 478 East Golf Course Road, reported that the property in question belongs to her grandparents. They owned two vacant lots and passed away in the 70s with no will. Her and her brother are caring for the property and are not sure what is going on. It was noted the subject property is 101 South Carver. Ms. Harrington reported her grandparents owned 101 and 103 South Carver. Development Services Director Chuck Harrington reported they will have to check the file. The applicant indicated they were the owners. He recommended deferring this item so staff can review ownership of the property.

There being no one else wishing to speak, the public hearing was closed at 10:28 a.m.

Council Member Dufford moved to defer this item to a future meeting; seconded by Council Member Trost. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

**MISCELLANEOUS**

21. Consider a resolution authorizing the City Manager to execute an Untreated Groundwater Supply Contract with Fort Stockton Holdings. (UTILITIES)

RESOLUTION NO. 2020 - 086

RESOLUTION AUTHORIZING THE EXECUTION OF AN UNTREATED GROUNDWATER SUPPLY CONTRACT BETWEEN THE CITY OF MIDLAND AND FORT STOCKTON HOLDINGS, L.P.

City Manager Courtney Sharp reported that back when the drought first started the three cities came together to figure out what resources could be combined to address the drought. It was quickly determined we would have to depend on ourselves to fight the drought. The issue is water resources for the next 50-100 years. Scott Hibbs and his

company were hired to help find potential water resources that were in proximity to the three cities and this is the source they found, and it is renewable. It is a resource that can be used by our kids and grandkids.

Scott Hibbs reported that today is the culmination of an effort that puts a long-term water supply in place to position the three cities to be well covered into future droughts. He clarified that there are several protections within the contract for all three cities. He explained the permit, production and transportation process noting the production and transportation permits have automatic renewals unless the permit holder has a change. Production renews every 3-5 years and the transportation agreement is for about 30 years. They worked through legal and feel that this is a viable contract for the next 90 plus years. He answered questions about challenges to the permit noting there is a protection in the agreement that if the current permit is not renewed this contract will become null and void.

Council Member Robnett moved to adopt Resolution No. 2020 - 086; seconded by Council Member Ladd. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

22. Consider a resolution authorizing the City Manager to enter into an Interlocal Agreement between City of Midland, City of San Angelo and City of Abilene for the supply of Untreated Groundwater. (UTILITIES)

RESOLUTION NO. 2020 - 087

RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF MIDLAND, THE CITY OF ABILENE, AND THE CITY OF SAN ANGELO

Council Member Robnett moved to adopt Resolution No. 2020 - 087; seconded by Council Member Trost.

City Attorney John Ohnemiller report this is an interlocal agreement that is straight forward. It has partial assignment of water rights just secured in the previous item and provides that the three parties will split infrastructure cost to develop based on the amount of water allocated to each part. Discussion ensued about the timing of the development of infrastructure and the need for us to move forward even if the other two parties do not.

The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Norman. NAY: Ladd. ABSTAIN: None. ABSENT: None.

23. Consider a motion authorizing the City Manager to develop and implement temporary hotel occupancy tax collection payment rules and regulations so as to permit hotels (as defined in the Midland City Code) to make such collection payments to the City of Midland in an untimely manner without incurring penalties or interest. (CITY MANAGER'S OFFICE)

Council Member Trost noted he would like this only to apply to those who are current on their Hotel Occupancy Tax, noting that many hotels are experiencing an occupancy rate below 10%. This would provide them an opportunity to pay out over a period of time

without penalty and interest. For those who are eligible they would be required to put down 25%.

Shafik Tejani, 4113 Radcliff Court, reported his business has gone from \$800,000-\$900,000 to less than \$90,000. Their cash flow has dried up and all they are able to do is pay staff. Normally their tax for one quarter is over \$150,000. In March and April their business dried up and they ate through their cash reserves. They have always paid on time and do not want to incur the 15% penalty. They have paid some and are asking for forgiveness during this difficult time.

City Manager Courtney Sharp reported the Hotel Occupancy Tax is collected by the hotel and the State and City is limited in what they can use those funds for. It is not supposed to be used by hotels to supplement their costs. Although he is very sympathetic during these strange times, they should not be using the funds they collect for their own purposes. It is just a passthrough and should not be used for their O&M.

Mr. Tejani noted the reality is the money all goes into the same account as all their other revenues and they have never had a problem paying them in the past. He chose to pay his workers. He pointed out that the State has deferred payment of these taxes if you put down 25%, you are allowed to pay the remainder by July.

Council Member Robnett asked if any other hoteliers have made this same request. Mr. Tejani noted he is asking on behalf of all hotels.

It was suggested to defer this item to determine what the state is doing with this tax and to determine if they are waiving their penalty as stated by Mr. Tejani.

Council Member Blong moved to defer this item to the next meeting; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Blong, Robnett, Payton, Dufford, Norman. NAY: Trost, Ladd. ABSTAIN: None. ABSENT: None.

Mayor Payton clarified that this matter has not been dropped but will be picked back up again in two more weeks.

Mayor Payton recessed the meeting at 11:19 a.m. to go to Executive Session noting they would reconvene open session to hear the final items.

## **EXECUTIVE SESSION**

26. 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 551.072, Deliberation Regarding Real Property
    - a.1. Discuss the purchase, exchange, lease, or value of real property

described as an 11.72-acre tract located in Section 13, Block 39, T1-S, T&P RR Co. Survey, City and County of Midland, Texas.

b. Section 551.074, Personnel Matters

- b.1. Deliberate the appointment and duties of the Municipal Court Associate Judge and interview candidates for said position.

Mayor Payton adjourned Executive Session at 12:19 p.m.

Mayor Payton reconvened the Regular Session meeting at 12:23 p.m. with all Council Members present.

**REGULAR SESSION (Continued)**

24. Consider an ordinance appointing a new City of Midland Municipal Court Associate Judge effective May 26, 2020; and authorizing the Mayor to execute an employment agreement with the new Associate Judge. (CITY MANAGER'S OFFICE)

ORDINANCE NO. 10085

AN ORDINANCE APPOINTING A NEW CITY OF MIDLAND MUNICIPAL COURT ASSOCIATE JUDGE EFFECTIVE MAY 26, 2020; AND AUTHORIZING THE MAYOR TO EXECUTE AN EMPLOYMENT AGREEMENT WITH THE NEW ASSOCIATE JUDGE

Council Member Trost moved approval of the first of two readings of Ordinance No. 10085 in accordance with the Charter of the City of Midland appointing Wayne Frost as Associate Judge; seconded by Council Member Ladd. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

25. Consider a resolution authorizing the conveyance of certain City-owned real property. (PURCHASING)

RESOLUTION NO. 2020 - 088

RESOLUTION AUTHORIZING THE CONVEYANCE OF CERTAIN CITY-OWNED REAL PROPERTY DESCRIBED AS AN 11.72-ACRE TRACT LOCATED IN SECTION THIRTEEN (13), BLOCK THIRTY-NINE (39), TOWNSHIP 1 SOUTH, T&P RR CO. SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS; AUTHORIZING THE CITY MANAGER TO NEGOTIATE, EXECUTE, AND FILE ALL AGREEMENTS AND DOCUMENTS NECESSARY FOR THE CONVEYANCE OF SAID PROPERTY; AND ORDERING THE CITY SECRETARY TO RECORD, OR ENSURE THAT THE TITLE COMPANY RECORDS, ALL INSTRUMENTS OF CONVEYANCE

Council Member Robnett moved to adopt Resolution No. 2020 - 088 with the amendment to award the project to SOLR and to retain the 2.5 acres of Loop 250 frontage; seconded by Council Member Norman. The motion carried by the following vote: AYE: Trost, Robnett, Payton, Dufford, Norman. NAY: Ladd. ABSTAIN: Blong. ABSENT: None.

All the business at hand having been completed, the meeting adjourned at 12:29 p.m.

PASSED AND APPROVED the 26th day of May 2020.

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Patrick Payton, Mayor

ATTEST:

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Amy M. Turner, City Secretary