

**MIDLAND CITY COUNCIL
MINUTES
July 23, 2019**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:15 a.m. on July 23, 2019.

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

Staff members present: City Manager Courtney Sharp, City Attorney John Ohnemiller, Assistant City Manager Robert Patrick, Assistant City Manager Morris Williams, Assistant to the City Manager Marcia Bentley-German, City Secretary Amy Turner, Administrative Services Director Mark Widmann, Development Services Director Charles Harrington, Engineering Services Director Jose Ortiz, General Services Director Regina Stephenson, and Public Information Officer Erin Bailey.

Mayor Morales called the meeting to order at 9:18 a.m.

1. Receive a presentation from Shawn Adams, Dasher Lawless, Inc. regarding automated parking garages.

Development Services Director Chuck Harrington reported that with parking issues downtown, they recently visited with the people from Dasher Lawless, Inc. They have a different concept that allows for the better use of land for parking garages. He introduced Shawn Adams, Vice President of Sales and Marketing and Christopher Alan President and Founder of Dasher Lawless, Inc.

Shawn Adams shared a 60-second commercial for their product "AutoParkIt" as well as a short video explaining the concept that began in California when they needed a way to park more cars in less space. Their first structure was built in 2012 and is the oldest fully automated parking garage in the country. This is a fully automated parking system with no operators. It is like a giant vending machine. This concept can be used in current structures or start from scratch on small lots and can park twice the number of cars in the same space. They build the structures in Ohio and ship them to the location with minimal site impact. The cost is comparative to building a normal parking garage. This also increases safety noting that 42% of all assaults from non-family members happen in parking garages.

Christopher Allen emphasized that their parking structure can be built in much smaller areas. Instead of building one massive garage downtown he suggested building 3 smaller garages taking advantage of smaller spaces which helps to create a more walkable city and allows customers to park closer to venues. Their structures can bring in more retail and restaurants and gets cars off the street.

Council Member Dufford asked how that works in an office where you might have 100 people all looking to get to their car at the same time. Mr. Allen reported it takes advantage of an app on your phone where you would call for your car and the app will tell you what time it would be ready. It takes 40 to 180 seconds to retrieve a car. The app will also learn your behavior and park your vehicle accordingly and can have it waiting in the queue when you normally call your car. They are working on a system at LAX that will take advantage of security measures such as bomb sniffing and iris scanning noting if an undesirable is found they have the ability to lock them in the bay. He also noted that operating their garages is more economical saving 60-80% on operating fees because it uses less electricity and doesn't require blowers to send fumes outside of the garage as cars are not running inside the garage.

They continue to work with smart technology and are working in Detroit with self-driving cars that can be sent to a parking garage like this. This technology is planning a city for the future. The garages can be built to each customer's specs to park a variety of vehicles including very large pickup trucks. They have even built them to park semi-trucks. He explained the garage knows where to park your vehicle because it takes a measurement of height and width and puts it in the proper location. Nothing can be left in the bay and the system will know if there are still people or animals in a vehicle and will not park it until everyone is cleared out.

No system is perfect so if a problem were to occur, there is redundancy built into the system. Typical issues in the system are user error such as an item left in the bay or leaving a trunk open. Typically, there is a building engineer or maintenance person in the vicinity and those issues can be cleared up quickly.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 10:00 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., July 23, 2019.

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

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

Mayor Morales called the meeting to order at 10:06 a.m.

Mayor recognized members present from Boy Scout Troop 152 of United Methodist Church.

OPENING ITEMS

1. Invocation - Minister Ryan Chivington, Golf Course Road Church of Christ

2. The Pledge of Allegiance was led by Boy Scout Troop 152.

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to: None.

CONSENT AGENDA

Council Member Lacy moved to approve Consent Agenda items 4 - 17; 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.

4. Approved a motion approving the following minutes:
 - a. Special City Council meeting of July 8, 2019
 - b. Regular City Council meeting of July 9, 2019
5. Approved a resolution approving the purchase of flexible base caliche from CSA Materials, Inc. through TxSmartBuy Contract 748-W1 for total cost of \$66,408.80 for the Transportation Division. (PURCHASING)

RESOLUTION NO. 2019 - 207

RESOLUTION APPROVING THE PURCHASE AND DELIVERY OF 5,000 TONS OF FLEXIBLE BASE CALICHE FOR THE TRANSPORTATION DIVISION FROM CSA MATERIALS, INC. THROUGH TXSMARTBUY AT A TOTAL COST OF \$66,408.80

6. Approved a resolution approving the purchase of ASPPM Pothole Base Patching Material from CSA Materials, Inc. through TxSmartBuy Contract 748-W1 for total cost of \$60,400.52 for the Transportation Division. (PURCHASING)

RESOLUTION NO. 2019 - 208

RESOLUTION APPROVING THE PURCHASE AND DELIVERY OF 500 TONS OF ALL SEASON PRE-COATED PATCHING MIXTURE FOR THE TRANSPORTATION DIVISION FROM CSA MATERIALS, INC. THROUGH TXSMARTBUY AT A TOTAL COST OF \$60,400.52

7. Approved a resolution approving the issuance of a request for qualifications for Hogan Park Golf Course Cart Path Renovations. (PURCHASING)

RESOLUTION NO. 2019 - 209

RESOLUTION AUTHORIZING THE ISSUANCE OF A REQUEST FOR QUALIFICATIONS FOR RENOVATIONS TO THE HOGAN PARK GOLF COURSE CART PATHS FOR THE COMMUNITY SERVICES DEPARTMENT

8. Approved a resolution approving the purchase of two thousand one hundred six (2,106) ninety-six (96) gallon roll out carts for the Solid Waste Department. (PURCHASING)

RESOLUTION NO. 2019 - 210

RESOLUTION APPROVING THE PURCHASE OF TWO THOUSAND ONE HUNDRED SIX (2,106) NINETY-SIX (96) GALLON ROLL OUT CARTS FROM REHRIG PACIFIC

COMPANY AT A TOTAL COST OF \$95,233.32 FOR THE SOLID WASTE DEPARTMENT

9. Approved a resolution approving the purchase of four (4) 30 cubic yard open top roll-off containers and three (3) 35-40 cubic yard self-contained compactors for the Solid Waste Department. (PURCHASING)

RESOLUTION NO. 2019 - 211

RESOLUTION APPROVING THE PURCHASE OF FOUR (4) 30 CUBIC YARD OPEN TOP ROLL-OFF CONTAINERS AND THREE (3) 35-40 CUBIC YARD SELF-CONTAINED COMPACTORS FROM ROLL OFFS USA AT A TOTAL COST OF \$72,380.00 FOR THE SOLID WASTE DEPARTMENT

10. Consider a resolution awarding an emergency contract to repair the storm drain at the 4100 block of Mockingbird Lane for the Engineering Services Department. (PURCHASING)

RESOLUTION NO. 2019 - 212

RESOLUTION AUTHORIZING THE PROCUREMENT OF CONSTRUCTION SERVICES FROM BOLER EQUIPMENT SERVICE, INC. OF MIDLAND, TEXAS, FOR THE EMERGENCY REPAIR OF A DAMAGED PORTION OF THE 4100 BLOCK OF MOCKINGBIRD LANE BETWEEN MIDLAND DRIVE AND MIDKIFF ROAD AND A DAMAGED STORM DRAIN LOCATED THEREIN; APPROPRIATING FUNDS; AND AUTHORIZING PAYMENT FOR SAID SERVICES IN AN AMOUNT NOT TO EXCEED \$475,000.00

11. Consider a resolution approving the budget for the Midland Development Corporation's 2019-20 fiscal year. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2019 - 213

RESOLUTION APPROVING THE FISCAL YEAR 2019-2020 BUDGET OF THE MIDLAND DEVELOPMENT CORPORATION, A TYPE A CORPORATION AS AUTHORIZED BY CHAPTER 504 OF THE TEXAS LOCAL GOVERNMENT CODE

12. Approved a resolution calling an election on November 5, 2019 for three City Officials. (CITY SECRETARY'S OFFICE)

RESOLUTION NO. 2019 - 214

RESOLUTION CALLING AN ELECTION FOR THREE CITY OFFICIALS; AMENDING THE BOUNDARY OF THE CITY AND CITY COUNCIL DISTRICTS; PROVIDING FOR USE OF ACCESSIBLE VOTING SYSTEMS; ESTABLISHING ELECTION PRECINCTS FOR SAID ELECTION; AND ESTABLISHING VOTE CENTERS FOR SAID ELECTION

13. Approved a resolution authorizing the City Secretary to negotiate and execute a contract with Martin County for the purpose of conducting the November 5, 2019 election for City of Midland residents that reside within the boundaries of Martin County. (CITY SECRETARY'S OFFICE)

RESOLUTION NO. 2019 - 215

RESOLUTION AUTHORIZING THE CITY SECRETARY TO NEGOTIATE AND EXECUTE A CONTRACT WITH MARTIN COUNTY FOR THE PURPOSE OF PROVIDING ELECTION SERVICES TO THE CITY OF MIDLAND FOR CERTAIN CITIZENS THAT RESIDE WITHIN THE BOUNDARIES OF MARTIN COUNTY; AND

AUTHORIZING THE NEGOTIATION AND EXECUTION OF ALL DOCUMENTS NECESSARY AND APPROPRIATE FOR THE EFFECTUATION OF SAID ELECTION SERVICES

14. Approved a motion approving a proposed Preliminary Plat of Southwest Crossing, Section 5, being a plat of a 10.67-acre tract of land and a 95.22-acre tract of land generally located south of Interstate Highway 20, approximately 947 feet west of Antelope Trail, Extraterritorial Jurisdiction. (DEVELOPMENT SERVICES)
15. Approved a resolution authorizing the City of Midland to apply for grant funds from the Texas Department of Transportation Safe Routes to School Program for sidewalk improvements near De Zavala Elementary School. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2019 - 216

A RESOLUTION AUTHORIZING THE SUBMISSION OF THE CITY OF MIDLAND'S APPLICATION TO THE TEXAS DEPARTMENT OF TRANSPORTATION'S 2019 SAFE ROUTES TO SCHOOL-INFRASTRUCTURE CALL FOR PROJECTS; AND SUPPORTING SAID APPLICATION

16. Approved a resolution approving the City of Midland's 2019-2020 Community Development Block Grant Fund application requests and authorizing the execution of the Community Development Block Grant funds for Fiscal Years 2019-2020. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2019 - 217

RESOLUTION AUTHORIZING THE ADOPTION OF THE CITY OF MIDLAND'S 2019-2020 ACTION PLAN TO THE CONSOLIDATED PLAN FOR COMMUNITY DEVELOPMENT AND HOUSING FUNDS FOR THE CITY'S FISCAL YEARS 2016-2020; THE CONSOLIDATED PLAN HAVING BEEN APPROVED BY RESOLUTION NUMBER 2015-223; AND AUTHORIZING THE EXECUTION OF AN APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

17. Approved a resolution authorizing and executing a Right-of-Way License between the City of Midland and David H. Arrington. (UTILITIES)

RESOLUTION NO. 2019 - 218

RESOLUTION AUTHORIZING THE EXECUTION OF A RIGHT-OF-WAY LICENSE BETWEEN THE CITY OF MIDLAND AND DAVID H. ARRINGTON REGARDING CITY-OWNED PROPERTY DESCRIBED AS SECTIONS 22 AND 27 OF SURVEY SECTION 2 OF THE HH LAWSON SUBDIVISION, BLOCK 39, TOWNSHIP 1 SOUTH, T&P RR. CO. SURVEY, MIDLAND COUNTY, TEXAS

SECOND READINGS

18. Consider an ordinance on second reading on a request by Patrick Carrasco for a specific use permit with term for the sale of all alcoholic beverages for on-premises consumption in a restaurant generally located on the south side of West Wall Street, approximately 188 feet east of South Colorado Street. (DEVELOPMENT SERVICES) (First reading held on July 09, 2019.)

ORDINANCE NO. 9947

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 4,175-SQUARE FOOT PORTION OF THE WEST 1.5

FEET OF LOT 3, LOTS 4 THROUGH 6, AND THE EAST 24.25 FEET OF LOT 7, BLOCK 65, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST WALL STREET, APPROXIMATELY 188 FEET EAST OF SOUTH COLORADO STREET), WHICH IS PRESENTLY ZONED C-1, CENTRAL AREA DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Mayor Morales read the caption of Ordinance No. 9947.

Council Member Robnett moved to approve the second and final reading of Ordinance No. 9947 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.

19. Consider an ordinance on second reading on a request by Pontikes Development, LLC, for the initial zoning of a 46.38-acre tract of land generally located on the southeast corner of the intersection of Tradewinds Boulevard and Thomason Drive. (DEVELOPMENT SERVICES) (First reading held on July 09, 2019)

ORDINANCE NO. 9949

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 46.38-ACRE TRACT OF LAND OUT OF SECTION 48, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AS A PD, PLANNED DISTRICT; SAID TRACT BEING GENERALLY LOCATED AT THE SOUTHEAST CORNER 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 Jan Hamilton read the caption of Ordinance No. 9949.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9949 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 Carrillo Realty Partners, LLC for a zone change from 1F-2, One Family-Dwelling District to an LR-2, Local Retail District generally located on the southeast corner of the intersection of West Estes Avenue and North Marienfeld Street. (DEVELOPMENT SERVICES) (First Reading held on July 09, 2019)

ORDINANCE NO. 9950

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY

PERMITTING LOT 6, BLOCK 34, COWDEN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 1F-2, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF WEST ESTES AVENUE AND NORTH MARIENFELD 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 Jan Hamilton read the caption of Ordinance No. 9950.

Council Member Hotchkiss moved to approve the second and final reading of Ordinance No. 9950 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.

21. Consider an ordinance on second reading on a request by JMR Dental SVC for Site Plan approval generally located on the northeast corner of the intersection of West Loop 250 North and Northbrook Lane. (DEVELOPMENT SERVICES) (First reading held on July 09, 2019.)

ORDINANCE NO. 9951

AN ORDINANCE ADOPTING A SITE PLAN FOR LOT 5, BLOCK 35, NORTHGATE ADDITION, SECTION 19, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF WEST LOOP 250 NORTH AND NORTHBROOK LANE); 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 Jan Hamilton read the caption of Ordinance No. 9951.

Council Member Robnett moved to approve the second and final reading of Ordinance No. 9951 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.

22. Consider an ordinance on second reading on a request by Newton Engineering, for a zone change from PD, Planned District for a Housing Development to an amended PD, Planned District for a Housing Development generally located on the east side of North Fairgrounds Road, approximately 715 feet south of East Pecan Avenue. (DEVELOPMENT SERVICES) (First reading on July 09, 2019.)

ORDINANCE NO. 9952

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 26.15-ACRE TRACT OF LAND OUT OF THE SOUTHWEST QUARTER OF SECTION 31, BLOCK 38, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS AN AMENDED

PLANNED DISTRICT (GENERALLY LOCATED ON THE EAST SIDE OF NORTH FAIRGROUNDS ROAD, APPROXIMATELY 715 FEET SOUTH OF EAST PECAN 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 Jan Hamilton read the caption of Ordinance No. 9952.

Council Member Robnett moved to approve the second and final reading of Ordinance No. 9952 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

23. Consider an ordinance on second reading on a request by Chase Gardaphe for a Specific Use Permit without Term for a Mobile Home Park on a 49.85-acre tract of land generally located on the west side of North Fairgrounds Road, approximately 617 feet north of East Cuthbert Avenue. (DEVELOPMENT SERVICES) (First reading held on July 09, 2019.)

ORDINANCE NO. 9953

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS A 49.85-ACRE TRACT OF LAND OUT OF BLOCKS 83, 84, 85, AND 86, EAST MIDLAND ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF NORTH FAIRGROUNDS ROAD, APPROXIMATELY 617 FEET NORTH OF EAST CUTHBERT AVENUE), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR A MOBILE HOME PARK; 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 Jan Hamilton read the caption of Ordinance No. 9953.

Council Member Robnett moved to approve the second and final reading of Ordinance No. 9953 in accordance with the Charter of the City of Midland; seconded by Council Member Lacy.

Council Member Trost noted that the property across the street has not been completed and he had concern that this property would not be completed either. He suggested getting a surety bond to ensure that this project and the prior project are both completed prior to the issuance of a certificate of occupancy. City Attorney John Ohnemiller noted that Council can only discuss and make motions for the current project only. City Manager Courtney Sharp noted that the City does not issue certificates of occupancy for manufactured housing as they come pre-inspected.

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

PUBLIC HEARINGS

24. Hold a public hearing and consider an ordinance on a request by Daybreak Development, LLC, for a Zone Change from AE, Agriculture Estate District, to PD, Planned District for a Housing Development, generally located east of the intersection of Overshine Lane and Sunrise Way. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9954

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 40.36-ACRE TRACT OF LAND OUT OF THE SOUTH HALF OF SECTION 12, BLOCK X, H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED AE, AGRICULTURE ESTATE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED EAST OF THE INTERSECTION OF OVERSHINE LANE AND SUNRISE WAY); 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 Jan Hamilton read the caption of Ordinance No. 9954.

Development Services Director Chuck Harrington gave a brief overview of the item noting this is for the final phase of Daybreak Estates. They are adding another 165 single family homes. The applicant will be required to adhere to all design requirements. It has been reviewed by Planning and Zoning. Staff recommends approval subject to conditions A-B. No letters of objection have been received.

Mayor Morales opened the public hearing at 10:24 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. 9954 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.

25. Hold a public hearing and consider an ordinance on a request by Maverick Engineering for a Zone Change from a LR-2, Local Retail District, to a PD, Planned District for a Housing Development generally located on the north side of Starboard Drive, approximately 570 feet east of South Tradewinds Boulevard. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9955

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 5 AND 6, BLOCK 3, GATEWAY PLAZA ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE NORTH SIDE OF STARBOARD DRIVE, APPROXIMATELY 570 FEET EAST OF SOUTH TRADEWINDS BOULEVARD); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 9955.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is for a housing development for senior housing. The item complies with the comprehensive plan. Staff recommends approval subject to conditions A-D. No letters of objection have been received.

Mayor Morales opened the public hearing at 10:27 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Love moved approval of the first of two readings of Ordinance No. 9955 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. Hold a public hearing and consider an ordinance on a request by Midland TPS Development, LP, for a Specific Use Permit with Term for the sale of all alcoholic beverages for on-premises consumption, in a bar, generally located on the northeast corner of the intersection of Camp Street and Crump Street. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9956

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 9, BLOCK 2, AMARON ADDITION, SECTION 8, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF CAMP STREET AND CRUMP STREET), WHICH IS PRESENTLY ZONED O-2, OFFICE DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A BAR FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 9956.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is for the sale of alcoholic beverages for on-premises in a bar located inside the Marriot on Front Street. Their alcohol service hours will be Monday through Saturday from 4:00 p.m. to 11:00 p.m. There are no churches or schools within 300 feet. The item is in compliance with the comprehensive plan. It was reviewed and recommended for approval by Planning & Zoning. Staff recommends approval subject to conditions A-F. No letters of objection have been received. When asked about flooding, Mr. Harrington deferred to Engineering. When asked how this item was classified, City Attorney John Ohnemiller reported it was listed as a bar.

Mayor Morales opened the public hearing at 10:31 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Robnett moved approval of the first of two readings of Ordinance No. 9956 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.

27. Hold a public hearing and consider an ordinance on a request by Maverick Engineering for a vacation of a 0.339-acre portion of Bedford Avenue right-of-way generally located on the west side of Midland Drive, approximately 598 feet south of Princeton Avenue and approximately 607 feet north of Cuthbert Avenue. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9957

AN ORDINANCE VACATING AND ABANDONING A 0.339-ACRE PORTION OF BEDFORD AVENUE RIGHT-OF-WAY LOCATED IN SECTION 30, BLOCK 39, T-1-S, T&P RR. CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE MIDLAND DRIVE, APPROXIMATELY 598 FEET SOUTH OF PRINCETON AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$5,085.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 9957.

Development Services Director Chuck Harrington gave a brief overview of the item noting it is a request to vacate a portion of Bedford Avenue that was never developed. Staff reviewed the item and recommends approval subject to payment of \$5,085.00. No letters of objection have been received. Council Member Love wanted to ensure that the entire parcel is being vacated. Mr. Harrington confirmed it was.

Mayor Morales opened the public hearing at 10:34 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Love moved approval of the first of two readings of Ordinance No. 9957 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.

28. Hold a public hearing and consider an ordinance on a request by Maverick Engineering for a Zone Change from a PD, Planned District for a Shopping Center to a PD, Planned District for a Housing Development on a 2.254-acre portion generally located on the southwest corner of the intersection of Beal Parkway and Thomason Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9958

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 2.254-ACRE TRACT OF LAND OUT OF LOT 1, BLOCK 163, WILSHIRE PARK ADDITION, SECTION 9, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF BEAL PARKWAY 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 Jan Hamilton read the caption of Ordinance No. 9958.

Development Services Director Chuck Harrington gave a brief overview of the item noting this item is to rezone for a multi-family housing development project. They will be required to adhere to development standards. It will be a four-story building with a density of 31.49 units per acre. It is in compliance with the comprehensive plan. Planning & Zoning recommended approval. Staff recommends approval subject to conditions A-E. No letters of objection have been received.

Mayor Morales opened the public hearing at 10:37 a.m.

Colby Denison, Austin, was asked about parking. Mr. Denison confirmed that they are in compliance with the new code. They will have one, two and three-bedroom apartments. Council Member Lacy noted their prior development was a great addition to the City.

Andrew Mellen, 1909 W. Wall, reported that a roundabout is planned at the intersection and the developer dedicated land for that purpose. This is a good project for this location. Mayor Morales noted this a great location for the height of the building.

There being no one else wishing to speak, the public hearing was closed at 10:39 a.m.

Council Member Love moved approval of the first of two readings of Ordinance No. 9958 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.

29. Hold a public hearing and consider an ordinance on a request by Maverick Engineering for a Zone Change from a PD, Planned District for a Shopping Center to a PD, Planned District for a Housing Development generally located on the southeast corner of the intersection of Beal Parkway and Thomason Drive. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9959

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 2.607-ACRE TRACT OF LAND OUT OF LOT 1, LESS THE SOUTH 20 FEET OF SAID LOT, BLOCK 104A, WILSHIRE PARK ADDITION, SECTION 9, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF BEAL PARKWAY 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 Jan Hamilton read the caption of Ordinance No. 9959.

Development Services Director Chuck Harrington gave a brief overview of the item noting this property is difficult to develop due to its size. This is an opportunity to do something different that meets all the parking and height restrictions. Between this item and the last item all the amenities will be on this property. It has been reviewed by all departments and complies with the comprehensive plan. Planning & Zoning recommended approval and staff recommends approval subject to conditions A-E. One letter of objection has been received but staff believes the objection has been dealt with.

Mayor Morales opened the public hearing at 10:43 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Love moved approval of the first of two readings of Ordinance No. 9959 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.

30. Hold a public hearing to discuss and consider an ordinance for the implementation of water, wastewater, and roadway impact fees. (ENGINEERING SERVICES)

ORDINANCE NO. 9960

AN ORDINANCE AMENDING TITLE XI, "PLANNING AND DEVELOPMENT", OF THE CITY CODE OF MIDLAND, TEXAS, BY ESTABLISHING CHAPTER 14, "IMPACT FEES"; ESTABLISHING WATER, WASTEWATER, AND ROADWAY IMPACT FEES; ESTABLISHING PROCEDURES FOR THE ASSESSMENT, COMPUTATION, COLLECTION, DEPOSIT, REFUND, EXPENDITURE AND GENERAL ADMINISTRATION OF SAID IMPACT FEES; ESTABLISHING AN APPEAL PROCEDURE; ESTABLISHING AN EFFECTIVE DATE OF OCTOBER 1, 2019; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

Deputy City Secretary Jan Hamilton read the caption of Ordinance No. 9960.

Engineering Services Director Jose Ortiz gave a brief overview of the item noting this is the continuation of proposed impact fees presented to Council. He extended his gratitude to the advisory committee who put in a lot of hours to help determine the best approach or appropriate plan for Midland. They tried to address the need for additional housing without passing on too many fees to potential home buyers.

Mayor Morales noted the goal is not to implement more fees, but instead to develop a tool that can help grow the community which is already one of the fastest growing communities in the nation.

Assistant City Manager Robert Patrick noted that when the City adds amenities somebody must pay for those services. Every home has water, sewer and roads. New growth requires those services. In order to cause less impact on future homebuyers a few concessions were made including a 50% reduction in impact fees for residential and another 25% for single family homes, townhomes or duplexes. There is a grace period of 12 months for the State statute and the committee added another 12 months for single family homes, townhomes or duplexes. Another concession was to provide credit towards future impact fees if roads are built and credits for preliminary plats. If infrastructure is put in that exceeds the requirement a credit will carry over to the next development in the same plat.

Mayor Morales opened the public hearing at 10:52 a.m.

Mark Payne, 1603 Idylewilde, started out thinking this could remain revenue neutral but doesn't think it can be done. He wished he had the opportunity to visit more with Council. He felt water and sewer impact fees are justified. He would like to see the City put the money towards projects that create more development opportunities rather than just fixing existing problems. He noted that in the past the City would pay to upsize water or sewer projects the developer was doing. He also noticed that when the City does a project it seems to cost twice as much as what a developer can do a project for. He would rather not prepay impacts fees.

Robert Anderson, 10716 Highway 191, reported he is the president of the Permian Basin Builder Association. He read a letter previously provided to the City noting their purpose is to keep housing affordable and felt that housing should be exempt from the impact fees. Assistant City Manager Robert Patrick reported that the initial letter received from the association did not ask for the exemption of single family homes.

Brian Sales, 2004 Country Club Drive, representing the Permian Basin Board of Realtors, noted they defend private property rights for all. He noted that in the meetings they distinctly talked about exemption of single family, duplex and quadraplex homes from impact fees. Commercial revenue generating properties should be imposed impact fees, but 1-4 family homes do not generate revenue and should be excluded. This would help to keep the price down and make housing more affordable. He was in complete agreement with the position letter of the builder's association and encouraged exempting 1-4 family homes.

Lance Friday, 5307 Ellen Jayne Way, asked to have the vote deferred. He reported that on the National Home Builders website there is an impact fee study that was published noting that in four years of new construction the City will recover enough revenue to pay for improvements. He stated that another 10,000 homes will bring in \$68 million in tax revenue that can be used for improvements. He also noted that when improvements are made by other developers it increases the value of existing homes by \$5,000.00. If there are 26,000 households that are all increased \$5,000.00 that brings in another \$130 million in tax revenue without doing anything. He emphasized that Council should increase the value of homes instead of the revenue. Homebuilders risk their money to develop raw land and single family homes, duplex and quadraplex and multi-family developments should all be exempt. Every increase of \$1,000 of a home eliminates 30,000 home buyers. He asked Council to do more research before implementing impact fees.

Council noted that with more homes there is a need for more police and fire and that property taxes do not cover the cost of police and fire budgets.

Assistant City Manager Robert Patrick reported that water, sewer and roadways must be paid for one way or another. The choice is, they are paid for by all existing homeowners in the City or they are paid for by the people who will live in the new neighborhood. When it comes to property taxes, the amount received by the City is very small compared to the overall amount of taxes being paid. A lot of concessions have already been made and the product being presented to Council is a balanced product. City Attorney John Ohnemiller added that once the public hearing is held the ordinance must be adopted within 30 days.

Brandon McMorries, 3211 Chelsea Place, reported he was a real estate appraiser and now works on the sales side. In philosophy, the problem with impact fees is that the developer is paying for the cost of the new development with the City contributing very little and the City gets the windfall as much as 40 times what they were initially getting for the property and will perpetually receive that windfall. There is not enough stock for lower income buyers. Council Member Lacy said he keeps hearing “windfall” and emphasized the fact that property taxes do not cover the cost of police and fire. Council Member Dufford added that it’s not fair when the current homeowners in Midland have to pay for a new water tower because the water pressure is now too low due to the new homes that have come in. Current property owners should not have to pay for growth in Midland, it should be paid for by the new development.

There being no one else wishing to speak, the public hearing was closed at 11:39 a.m.

Council Member Love asked if there are unintentional consequences created by the ordinances can those be mitigated by revisiting the ordinance. City Attorney John Ohnemiller reported it must be revisited in five years.

Mayor Morales noted that the committee has been working on this topic for a year. He will sit down with the committee to see if any additional agreement could be reached before the next meeting.

Council Member Love moved approval of the first of two readings of Ordinance No. 9960 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss.

Council Member Love noted that as President of TML he needed to emphasize that the rollback rate is going even lower and, in the future, it will be harder for the City to do development and pay for infrastructure.

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

MISCELLANEOUS

31. Consider an ordinance amending Title X, “Traffic Regulations”, Chapter Four, “Traffic Control Devices”, Section 11, “School Zones and Crossings”, of the Midland City Code, so as to designate each school zone and school crossing within the City and regulate the speed and movement of traffic. (ENGINEERING SERVICES)

ORDINANCE NO. 9961

AN ORDINANCE AMENDING TITLE X, “TRAFFIC REGULATIONS”, CHAPTER FOUR, “TRAFFIC CONTROL DEVICES”, SECTION 11, “SCHOOL ZONES”, OF THE MIDLAND CITY CODE, SO AS TO DESIGNATE EACH SCHOOL ZONE WITHIN THE CITY AND REGULATE THE SPEED AND MOVEMENT OF TRAFFIC THEREIN; AUTHORIZING AND DIRECTING THE TRAFFIC ENGINEER TO INSTALL APPROPRIATE SIGNS AND MARKINGS; REPEALING ORDINANCE NO. 9787; 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 Jan Hamilton read the caption of Ordinance No. 9961.

Engineering Services Director Jose Ortiz gave a brief overview of the item noting this item is a result of working with the school district to revise school zones for the new school year.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9961 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Trost, Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

PUBLIC COMMENT

32. 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.)

Kimberly Crisp, 3304 Douglas Avenue, speaking on behalf of the skate park association, reported the skate park was dedicated in memory of Will and Sam who were killed while rollerblading in the street. If you visit the park there is no sign or plaque commemorating that fact. Despite the overwhelming popularity of this park it is overlooked and forgotten. This is a place where children can develop skills that can be fostered. The surface is cracking and unlevel, has burnt out light bulbs and drainage issues. She shared pictures noting some of the railings were too tall and there was no shade or seating. She pointed out there is shaded seating at the nearby dog park and soccer fields. She asked Council to thoughtfully evaluate the situation noting it has the potential of being a viable tourist attraction.

Gage Taylor, 1603 Midkiff, reported the skate park is their second home. It was a place created out of necessity in mourning and has turned into a blemish. This park could be turned into a beauty mark for Midland that could add revenue to the City.

Dustin Johnson, 700 McDonald, reported he was the president and founder of the skatepark association. He spoke about events that have been hosted there noting it is a shame it has gone into disarray. He helped to raise money for the park that was supposed to be way bigger, but the City did not put in their matching funds, so the park was scaled down. He paints over graffiti himself when any of it appears and uses buckets to drain the water when it rains.

Council Member Dufford noted that the City was one of the largest contributors to the park and believed that the City did exceed the matching funds. Mr. Johnson noted that it is all dirt around the area with no place for parents to sit and watch. Mr. Taylor reported this park is now more relevant with skateboarding being in the Olympics.

All the business at hand having been completed, the meeting adjourned at 12:01 p.m.

PASSED AND APPROVED the 13th day of August 2019.

Jerry F. Morales, Mayor

ATTEST:

Amy M. Turner, City Secretary