

**MIDLAND CITY COUNCIL
MINUTES
JULY 27, 2010**

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:02 a.m. on July 27, 2010.

Council Members present: Mayor W. Wesley Perry, Mayor Pro Tem John James (District 3), Council Member Scott Dufford (At-Large), Council Member Jeff Sparks (District 1), and Council Member Michael Trost (District 4).

Council Members absent: Council Member Jerry Morales (At-Large), and Council Member Vicky Hailey (District 2). (Hailey arrived at 9:08 a.m.)

Staff members present: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, Assistant City Manager Marcus Johnston, Interim City Secretary Amy Turner, Development Services Director Rick Crownover, Building Official Steve Thorpe, GIS Manager Bill Hodge, Oil & Gas Compliance Officer Ron Jenkins, and Public Information Officer Tasa Watts.

BRIEFING SESSION

Mayor Perry introduced the new Public Information Officer, Tasa Watts.

Charlene Romero McBride provided an update from the Census Complete Count Committee and presented the City with a plaque for being a top 10 participant in the census.

Oil & Gas Compliance Officer Jenkins gave an update on oil well sites located within the city and answered questions.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:48 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:04 a.m., July 27, 2010.

Council Members present: Mayor W. Wesley Perry, Mayor Pro Tem John James (District 3), Council Member Scott Dufford (At-Large), Council Member Jeff Sparks (District 1), Council Member Vicky Hailey (District 2), and Council Member Michael Trost (District 4)

Council Members absent: Council Member Jerry Morales (At-Large).

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

MISCELLANEOUS

1. The invocation was voiced by Reverend Michael Jackson, Inner City Tabernacle of Life.
2. The Pledge of Allegiance to the Flag was stated.
3. Presentation of special events, organizations, individuals, or periods of time.

Mayor Perry recognized Micah Peterson from Boy Scout Troop 160.

PUBLIC COMMENT

4. Mayor Perry opened the floor for public comments to allow individuals to address the City Council on city-related issues and projects.

Ronnie Parrish, 715 S. Jackson, spoke about a vehicle that was impounded.

Louvina Black, 705 S. Jackson, expressed desire to speak during the public hearing for dilapidated structures.

There were no other requests by citizens to speak.

CONSENT AGENDA

Mayor Pro Tem James moved to approve Consent Agenda items 5a-13, 15-17, and 19; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

- 5a. Approved the minutes of the regular City Council meeting of July 13, 2010.
- 5b. Approved the minutes of the special City Council meeting of July 21, 2010.
- 6. Adopted Resolution No. 2010-178. Caption of said resolution is as follows:

RESOLUTION NO. 2010-178

A RESOLUTION ADDING ONE (1) SPECIAL MEETING, ON AUGUST 3, 2010, AND TWO (2) REGULAR MEETINGS, ONE ON AUGUST 17, 2010, AND THE SECOND ON AUGUST 23, 2010, TO THE CITY COUNCIL MEETINGS SCHEDULED FOR THE 2010 CALENDAR YEAR.

- 7. Adopted Resolution No. 2010-179. Caption of said resolution is as follows:

RESOLUTION NO. 2010-179

A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH FIRST SERVICE A/C CONTRACTORS, INCORPORATED, FOR HEATING, VENTILATION AND AIR CONDITIONING SYSTEM RETROFIT UPGRADES AT THE MIDLAND INTERNATIONAL AIRPORT, THE CITY OF MIDLAND MUNICIPAL COURT, AND HOGAN PARK GOLF COURSE, AT A COST OF \$319,831.00; AND APPROPRIATING FUNDS.

- 8. Adopted Resolution No. 2010-180. Caption of said resolution is as follows:

RESOLUTION NO. 2010-180

A RESOLUTION AUTHORIZING THE EXECUTION OF AN AIR CARGO LEASE AGREEMENT BETWEEN THE CITY OF MIDLAND, TEXAS AND SOUTHWEST AIRLINES CO., THE LEASE WILL ALLOW SOUTHWEST AIRLINES TO CONTINUE TO OCCUPY A TOTAL OF 3,614.80 SQUARE FEET IN THE AIR CARGO FACILITY AT THE MIDLAND INTERNATIONAL AIRPORT.

- 9. Adopted Resolution No. 2010-181. Caption of said resolution is as follows:

RESOLUTION NO. 2010-181

A RESOLUTION APPROPRIATING FUNDS FROM THE GENERAL LIABILITY SELF-INSURANCE FUND UNAPPROPRIATED FUND BALANCE TO THE ATMOS RATE REVIEW MECHANISM PROJECT (8923) IN THE AMOUNT OF \$27,374.00.

- 10. Adopted Resolution No. 2010-182. Caption of said resolution is as follows:

RESOLUTION NO. 2010-182

A RESOLUTION CALLING AN ELECTION FOR THREE CITY OFFICIALS; PROVIDING FOR USE OF ACCESSIBLE VOTING SYSTEMS; ESTABLISHING ELECTION PRECINCTS FOR SAID ELECTION; AND ESTABLISHING POLLING PLACES FOR SAID ELECTION.

- 11. Adopted Resolution No. 2010-183. Caption of said resolution is as follows:

RESOLUTION NO. 2010-183

A RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE LAMESA ROAD WATER AND SEWER RECONSTRUCTION PROJECT; SAID PROJECT WILL BE FOR THERE PLACEMENT OF WATER LINES AND REPAIR OR REPLACEMENT OF SEWER MANHOLES AND RELATED UTILITY LINES.

- 12. Adopted Resolution No. 2010-184. Caption of said resolution is as follows:

RESOLUTION NO. 2010-184

A RESOLUTION AUTHORIZING THE EXECUTION OF A PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH LEECO PROPERTIES, INC. FOR DEVELOPMENT OF GARDEN TWENTY ADDITION, CITY AND COUNTY OF

MIDLAND, TEXAS (GENERALLY LOCATED AT INTERSTATE 20 AND GARDEN CITY HIGHWAY); AND AUTHORIZING PAYMENT IN THE AMOUNT OF \$26,097.46 THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE.

13. Approved the preliminary plat application of Legends Park, being a 71.085-acre tract of land out of Section 37, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located northwest of the intersection of Tradewinds Boulevard and Champions Drive.)

15. Adopted Resolution No. 2010-185. Caption of said resolution is as follows:

RESOLUTION NO. 2010-185

A RESOLUTION AUTHORIZING THE ADOPTION OF THE CITY OF MIDLAND'S 2010-2011 ACTION PLAN TO THE CONSOLIDATED PLAN FOR COMMUNITY DEVELOPMENT AND HOUSING FUNDS FOR FISCAL YEARS 2010-2014, (OCTOBER 2010-SEPTEMBER 2015); THE CONSOLIDATED PLAN WAS APPROVED BY RESOLUTION NUMBER 2007-191; AND AUTHORIZING THE EXECUTION OF AN APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS.

16. Adopted Resolution No. 2010-186. Caption of said resolution is as follows:

RESOLUTION NO. 2010-186

A RESOLUTION ACCEPTING A GRANT AWARD IN THE AMOUNT OF \$15,000 FROM THE TEXAS ALCOHOLIC BEVERAGE COMMISSION TO BE USED BY THE MIDLAND POLICE DEPARTMENT TO ENFORCE UNDERAGE DRINKING LAWS; AUTHORIZING THE EXECUTION OF ACCEPTANCE DOCUMENTS; AND ALLOCATING GRANT FUNDS; NO CASH MATCH IS REQUIRED.

17. Adopted Resolution No. 2010-187. Caption of said resolution is as follows:

RESOLUTION NO. 2010-187

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE EXISTING PROFESSIONAL SERVICES AGREEMENT WITH THE MCCLUSKEY GROUP, L.L.C.; THIS AMENDMENT WILL EXTEND THE TERM OF SAID PROFESSIONAL SERVICES AGREEMENT TO DECEMBER 31, 2010; AND RATIFYING ALL PAYMENTS TO THE MCCLUSKEY GROUP, L.L.C.

19. Adopted Resolution No. 2010-188. Caption of said resolution is as follows:

RESOLUTION NO. 2010-188

A RESOLUTION APPROVING THE PURCHASE OF STRUCTURAL AND PROXIMITY FIRE PROTECTIVE CLOTHING FOR USE BY THE MIDLAND FIRE DEPARTMENT, FROM DOOLEY TACKABERRY, OF DEER PARK, TEXAS, AT A TOTAL COST OF \$65,146.90; AND DOOLEY TACKABERRY WAS NOT THE LOW BIDDER.

14. Community Development Manager Cantu refreshed Council on how CDBG money can be used.

Council Member Hailey moved to adopt Resolution No. 2010-189; seconded by Council Member Dufford. The motion carried by the following roll call vote: AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales. Caption of said resolution is as follows:

RESOLUTION NO. 2010-189

A RESOLUTION AUTHORIZING A REALLOCATION OF CERTAIN COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FROM PREVIOUS PROGRAM YEARS, TARGET AREA STREET IMPROVEMENTS, TO THE COMMUNITY DEVELOPMENT BLOCK GRANT FUND 2010-2011 PROGRAM YEAR; THE GRANT FUNDS FROM PREVIOUS PROGRAM YEARS TO BE REALLOCATED TOTAL \$220,000.00.

18. Utilities Director Purvis answered questions about the bidding of professional services projects.

Council Member Trost moved to adopt Resolution No. 2010-190; seconded by Council Member Dufford. The motion carried by the following roll call vote: AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales. Caption of said resolution is as follows:

RESOLUTION NO. 2010-190

A RESOLUTION AUTHORIZING AN EIGHTH AMENDMENT TO THE EXISTING PROFESSIONAL SERVICES AGREEMENT WITH HDR ENGINEERING, INCORPORATED; AND APPROPRIATING \$108,900.00 THEREFOR; THE ORIGINAL AGREEMENT WAS FOR \$293,200.00; THIS EIGHTH AMENDMENT WILL BRING THE TOTAL AGREEMENT PRICE TO \$1,790,513.00.

SECOND READINGS

20. Interim City Secretary Turner read the caption of Ordinance No. 8814.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8814 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales. Caption of said ordinance is as follows:

ORDINANCE NO. 8814

AN ORDINANCE ON SECOND READING ADOPTING A SITE PLAN FOR LOT 5, BLOCK 1, HILLCREST ACRES, SECTION 5, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH MIDLAND DRIVE AND PRINCETON AVENUE); SUBJECT TO THE FOLLOWING 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.

21. Interim City Secretary Turner read the caption of Ordinance No. 8815.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 8815 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales. Caption of said ordinance is as follows:

ORDINANCE NO. 8815

AN ORDINANCE ON SECOND READING CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 3, BLOCK 7, WESTRIDGE PARK ADDITION, SECTION 16, 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 STATE HIGHWAY 191, APPROXIMATELY 800 FEET WEST OF TRADEWINDS BOULEVARD); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SET OUT 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.

22. Interim City Secretary Turner read the caption of Ordinance No. 8816.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 8816 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales. Caption of said ordinance is as follows:

ORDINANCE NO. 8816

AN ORDINANCE ON SECOND READING VACATING AND ABANDONING A 0.14-ACRE NORTH/SOUTH ALLEY ADJACENT TO LOTS 1, 2, 9, 10, THE REMAINDERS OF LOTS 3 AND 8, AND LOTS 5A AND 6A, BLOCK 13, KELVIEW HEIGHTS, SECTION 5, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND NEELY AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$6,160.00; RETAINING A TWENTY (20) FOOT GENERAL UTILITY AND DRAINAGE EASEMENT; AND ORDERING RECORDATION BY THE INTERIM CITY SECRETARY.

23. Interim City Secretary Turner read the caption of Ordinance No. 8817.

Council Member Trost moved to approve the second and final reading of Ordinance No. 8817 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales. Caption of said ordinance is as follows:

ORDINANCE NO. 8817

AN ORDINANCE TEMPORARILY CLOSING A PORTION OF COUNTY ROAD 77 IN THE CITY OF MIDLAND, TEXAS; 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.

24. Interim City Secretary Turner read the caption of Ordinance No. 8818.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8818 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales. Caption of said ordinance is as follows:

ORDINANCE NO. 8818

AN ORDINANCE ON SECOND READING ADOPTING A PERMIT FEE SCHEDULE INCREASE AS THE FEE SCHEDULE ORDINANCE OF THE CITY OF MIDLAND, TEXAS; SO AS TO INCREASE PERMIT FEES IN CONJUNCTION WITH THE ADOPTION OF THE 2009 INTERNATIONAL CODES; ADOPTING FEES FOR BUILDING PERMITS, SIDEWALK PERMITS, STREET REPAIRS, ELECTRICAL PERMITS, WATER WELL PERMITS, PLUMBING PERMITS, GAS FEE SCHEDULE, AND MECHANICAL FEE SCHEDULE; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; ESTABLISHING AN EFFECTIVE DATE OF SEPTEMBER 1, 2010; PROVIDING AN APPEAL PROCESS; AND ORDERING PUBLICATION.

25. Interim City Secretary Turner read the caption of Ordinance No. 8819.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 8819 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales. Caption of said ordinance is as follows:

ORDINANCE NO. 8819

AN ORDINANCE ON SECOND READING AMENDING TITLE IV, "BUILDING REGULATIONS", CHAPTER 12, "ENERGY CODE", OF THE CITY CODE OF THE CITY OF MIDLAND, TEXAS, AND ADOPTING THE 2009 INTERNATIONAL ENERGY CONSERVATION CODE AS THE ENERGY CODE FOR THE CITY OF MIDLAND, TEXAS, FOR THE PURPOSE OF REGULATING AND CONTROLLING THE DESIGN, CONSTRUCTION, QUALITY OF MATERIALS, ERECTION, INSTALLATION, ALTERATION, REPAIR, LOCATION, RELOCATION, REPLACEMENT, ADDITION TO, USE OR MAINTENANCE OF THE BUILDING ENVELOPE, MECHANICAL, LIGHTING AND POWER SYSTEMS; ADOPTING LOCAL AMENDMENTS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM FINE OR PENALTY OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE OF SEPTEMBER 1, 2010.

26. Interim City Secretary Turner read the caption of Ordinance No. 8820.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 8820 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales. Caption of said ordinance is as follows:

ORDINANCE NO. 8820

AN ORDINANCE ON SECOND READING AMENDING TITLE IV, "BUILDING REGULATIONS", CHAPTER 2, "ELECTRICAL CODE" SECTION 17, "NATIONAL ELECTRICAL CODE", SECTION 21, "CLEARANCE REQUIRED TO CONNECT OR DISCONNECT SERVICES", SECTION 22, "WIRING METHODS", SECTION 31, "RE-INSPECTIONS", AND SECTION 33, "SCHEDULE OF PERMIT FEES", OF THE CITY CODE OF THE CITY OF MIDLAND, TEXAS, SO AS TO MAKE A REVISION TO SECTIONS OF THE ELECTRICAL CODE OF THE CITY OF MIDLAND, TEXAS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM FINE OR PENALTY OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING PUBLICATION; AND ESTABLISHING AN EFFECTIVE DATE OF SEPTEMBER 1, 2010.

PUBLIC HEARINGS

27. Planner, Brandon Melland, gave an overview of the item noting that staff recommended approval.

Mayor Perry opened the public hearing at 10:35 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Interim City Secretary Turner read the caption of Ordinance No. 8821.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 8821 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales. Caption of said ordinance is as follows:

ORDINANCE NO. 8821

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF TRACT 68, LLANO ESTACADO, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF DAHLIA AVENUE AND AVALON DRIVE), WHICH IS PRESENTLY ZONED CE, COUNTRY ESTATE DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR AN ACCESSORY BUILDING TO BE USED FOR LIVING OR SLEEPING QUARTERS; 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.

28. Planner Melland gave an overview of the item noting that staff recommended approval.

Mayor Perry opened the public hearing at 10:38 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Interim City Secretary Turner read the caption of Ordinance No. 8822.

Mayor Pro Tem James left the dais at 10:45 a.m.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 8822 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales and James. Caption of said ordinance is as follows:

ORDINANCE NO. 8822

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS THE SOUTH 100 FEET OF LOT 4, BLOCK 17, HALEY HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF RANKIN HIGHWAY AND WEST TAYLOR AVENUE), WHICH IS PRESENTLY ZONED LR-3, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A RESTAURANT FOR ON-PREMISES CONSUMPTION; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY

OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION.

Mayor Pro Tem James returned to the dais at 10:43 a.m.

29. Planner Melland gave an overview of the item noting that staff recommended approval.

Mayor Perry noted that he would not be voting due to his interest in the property to the north of the subject property and left the dais.

Mayor Pro Tem James opened the public hearing at 10:46 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Interim City Secretary Turner read the caption of Ordinance No. 8823.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 8823 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. Following brief discussion, the motion carried by the following vote: AYE: Trost, Hailey, Dufford, James, and Sparks. NAY: None. ABSTAIN: Perry. ABSENT: Morales. Caption of said ordinance is as follows:

ORDINANCE NO. 8823

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS THE WEST 90 FEET OF LOTS 10-12, BLOCK 61, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF WEST WALL STREET AND SOUTH CARRIZO 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 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.

Mayor Perry returned to the dais at 10:50 a.m.

30. Senior Planner, Jim Compton, gave an overview of the item noting that Planning & Zoning voted 4-2 for approval and that two letters of protest had been received. He further clarified that this item would need unanimous approval.

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

Wes Strain, representing the applicant, asked to have the vote deferred to a future meeting.

Midge Erskine, 3306 West Golf Course Road, conceded the need for this type of facility, but expressed concern regarding the amount of traffic that would be generated.

Woody Erskine, 3306 West Golf Course Road, expressed concern with the increased traffic and explained that it was currently difficult for him to leave his driveway.

Jerry Huffman, of Physicians Capital, Plano TX, noted that the applicant made modifications to their site plan to help address traffic issues in response to complaints.

There being no one else present wishing to speak, the public hearing was closed at 11:04 a.m.

Transportation Manager, Gary Saunders, answered questions concerning traffic flow.

Interim City Secretary Turner read the caption of the following Ordinance.

AN ORDINANCE ADOPTING A SITE PLAN FOR A 1.635-ACRE TRACT OF LAND OUT OF THE EAST ½ OF THE SOUTH ½ OF TRACT 2, SUNSET ACRES, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF GOLF COURSE ROAD AND MIDKIFF ROAD); SUBJECT TO THE FOLLOWING 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.

Following discussion, Council Member Dufford moved to defer this item to the next meeting; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales.

31. Planner Melland gave an overview of the item, noting that adjacent residents expressed concern about debris and that the applicant would be installing a dense hedge at the rear of the property to prevent debris from blowing into the adjacent neighborhoods.

Mayor Perry opened the public hearing at 11:31 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Interim City Secretary Turner read the caption of Ordinance No. 8824.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 8824 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales. Caption of said ordinance is as follows:

ORDINANCE NO. 8824

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 1, 2, 9, 10, THE REMAINDERS OF LOTS 3 AND 8, AND LOTS 5A AND 6A, BLOCK 13, KELVIEW HEIGHTS, SECTION 5, AND THE ADJACENT VACATED 20-FOOT NORTH/SOUTH ALLEY RIGHT-OF-WAY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A TRANSITION DISTRICT, TO BE USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND NEELY AVENUE); PROVIDING FOR SUCH USE TO BE SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS AS SETOUT 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.

32. Building Official Thorpe gave an overview of the item noting that to the best of his knowledge all properties were vacant, had no water service, and were in arrearage of taxes. He further clarified that all properties that came before the Council the previous year have been demolished, were repaired, or were in the process of being repaired and that the City would work with any property owners who wished to save their structures.

Mayor Perry opened the public hearing at 11:39 a.m.

Levina May Black, regarding 705 S. Jackson Street, asked for the Council's assistance in saving her mother's house. Council directed her to speak with Building Official Thorpe.

Freddy Jones, regarding 211 N. Madison, noted that he is currently living in the house and asked for Council's assistance to save the home. Council directed him to speak with Building Official Thorpe.

Russell Wortham, regarding 1120 E. Jax Street, requested the Council's assistance to help save his house. Council directed him to speak with Building Official Thorpe.

Shirley Hall, regarding 1711 Willeys Avenue, agreed that the structure is unlivable and agreed to have it demolished. Building Official Thorpe noted that the structure would be demolished using federal grant money and that if the taxes were brought current, she could retain the property. Council directed her to work with Building Official Thorpe.

Building Official Thorpe clarified that an owner who wished to save his structure would need to pull a building permit and an inspection would be completed to prepare a list of items to be corrected. The owner would then have 180 days to begin construction and make significant progress towards completion.

There being no one else present wishing to speak, the public hearing was closed at 11:55 a.m.

Interim City Secretary Turner read the caption of Ordinance No. 8825.

Council Member Hailey authorized the City Manager to work with the property owners and moved approval of the first of two readings of Ordinance No. 8825 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales. Caption of said ordinance is as follows:

ORDINANCE NO. 8825

AN ORDINANCE DECLARING CERTAIN STRUCTURES LOCATED AT 305 NORTH ADAMS STREET, 2306 EAST CALIFORNIA AVENUE, 412 ELM STREET, 705 SOUTH JACKSON STREET, 1120 EAST JAX STREET, 505 EAST LONGVIEW AVENUE, 210 NORTH MADISON STREET, 601 SOUTH MINEOLA STREET, 211 EAST PECK AVENUE, 1206 EAST PENNSYLVANIA AVENUE, 1502 WILLEYS AVENUE, 1711 WILLEYS AVENUE, 508 SOUTH CALHOUN STREET, 709 SOUTH LINCOLN STREET, 211 NORTH MADISON STREET, 805 SOUTH ATLANTA STREET, 200 EAST GIST AVENUE, 202 EAST GIST AVENUE, 604 SOUTH MINEOLA STREET, 1103 MORAN STREET, 1215 MORAN STREET, 1105 SOUTH PRATT STREET, 1207 PRATT STREET, 702 SOUTH CALHOUN STREET, 1207 EAST CALIFORNIA STREET, 1410 CAMP STREET, 1408 SOUTH FORT WORTH STREET, 108 SOUTH MADISON STREET, 609 STOREY AVENUE, 418/508 EAST SUMMIT AVENUE, 2104 SOUTH TERRELL STREET, 301 NORTH TILDEN STREET, 1004 WAVERLY DRIVE, 505 SOUTH WEBSTER STREET, AND 504 EAST WOLCOTT AVENUE TO BE DILAPIDATED, SUBSTANDARD OR UNFIT FOR HUMAN HABITATION AND A HAZARD TO THE PUBLIC HEALTH, SAFETY AND WELFARE; ORDERING THEIR DESTRUCTION OR REMOVAL; AND DIRECTING THE INTERIM CITY SECRETARY TO PUBLISH NOTICE; SAID ORDINANCE BEING AUTHORIZED BY CHAPTER 214 OF THE TEXAS LOCAL GOVERNMENT CODE.

33. Police Chief Robinson gave an overview of the item and recommended approval.

Mayor Perry opened the public hearing at 12:03 p.m.

Midge Erskine noted that she recently discovered that juvenile crimes had decreased nationwide.

There being no one else present wishing to speak, the public hearing was closed at 12:03 p.m.

Council Member Dufford moved to adopt Resolution No. 2010-191; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales. Caption of said resolution is as follows:

RESOLUTION NO. 2010-191

A RESOLUTION EXPRESSING THE INTENT OF THE MIDLAND CITY COUNCIL TO CONTINUE IN EFFECT TITLE VI, "POLICE REGULATIONS", CHAPTER 9, "CURFEW HOURS FOR MINORS", OF THE MIDLAND CITY CODE PURSUANT TO TEXAS LOCAL GOVERNMENT CODE SECTION 370.002.

34. Mayor Perry noted that the public hearing to discuss front yard parking would be held at 7:00 p.m. at the Hispanic Cultural Center located at 1301 East Wadley Avenue.

DEVELOPMENT SERVICES

35. Building Official Thorpe gave an overview of the item noting that the code change committee recommended adoption.

Interim City Secretary Turner read the caption of Ordinance No. 8826.

Council Member Trost moved approval of the first of two readings of Ordinance No. 8826 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales. Caption of said ordinance is as follows:

ORDINANCE NO. 8826

AN ORDINANCE AMENDING TITLE IV, "BUILDING REGULATIONS", CHAPTER 4, "GAS CODE", OF THE CITY CODE OF THE CITY OF MIDLAND, TEXAS, AND ADOPTING THE 2009 INTERNATIONAL FUEL GAS CODE AS THE GAS CODE OF THE CITY OF MIDLAND; PROVIDING MINIMUM STANDARDS, PROVISIONS AND REQUIREMENTS FOR GAS PIPING AND APPLIANCES; PROVIDING FOR THE ISSUANCE OF PERMITS FOR THE INSTALLATION OF SAID PIPING AND APPLIANCES AND THE COLLECTION OF INSPECTION FEES THEREFOR; PROVIDING FOR BONDING OF PERSONS ENGAGED IN THE BUSINESS OF INSTALLING, REPAIRING AND MAINTAINING SAID PIPING AND APPLIANCES; REGULATING USE OF EXISTING PIPING AND APPLIANCES; PROVIDING FOR CERTIFICATES OF APPROVAL FOR PIPING WORK; PROVIDING FOR APPEALS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ESTABLISHING AN EFFECTIVE DATE OF SEPTEMBER 1, 2010; AND ORDERING PUBLICATION.

36. Building Official Thorpe gave an overview of the item noting that the code change committee recommended approval.

Interim City Secretary Turner read the caption of Ordinance No. 8827.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 8827 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales. Caption of said ordinance is as follows:

ORDINANCE NO. 8827

AN ORDINANCE AMENDING TITLE IV, "BUILDING REGULATIONS", CHAPTER 3, "PLUMBING CODE", OF THE CITY CODE OF THE CITY OF MIDLAND, TEXAS, AND ADOPTING THE 2009 INTERNATIONAL PLUMBING CODE AS THE PLUMBING CODE OF THE CITY OF MIDLAND FOR THE PURPOSE OF REGULATING THE INSTALLATION, ALTERATION, AND MAINTENANCE OF ALL PIPING AND PLUMBING WITHIN THE CORPORATE LIMITS OF THE CITY OF MIDLAND; PROVIDING FOR THE INSPECTION OF SAID PIPING AND PLUMBING; PROVIDING FOR THE ISSUANCE OF PERMITS FOR THE INSTALLATION OF SAID PIPING AND THE COLLECTION OF INSPECTION FEES THEREFOR; PROVIDING FOR THE BONDING OF PERSONS ENGAGED IN THE BUSINESS OF INSTALLING, REPAIRING AND MAINTAINING SAID PIPING OR PLUMBING; PROVIDING FOR APPEALS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2000.00); ESTABLISHING AN EFFECTIVE DATE OF SEPTEMBER 1, 2010; AND ORDERING PUBLICATION.

37. Building Official Thorpe gave an overview of the item.

Interim City Secretary Turner read the caption of Ordinance No. 8828.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 8828 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales. Caption of said ordinance is as follows:

ORDINANCE NO. 8828

AN ORDINANCE AMENDING TITLE IV, "BUILDING REGULATIONS", CHAPTER 6, "PRIVATE WATER WELLS", SECTION 1, "PERMIT FEE", OF THE CITY CODE OF THE CITY OF MIDLAND, TEXAS, SO AS TO MAKE A FEE REVISION OF THE PRIVATE WATER WELLS CODE OF THE CITY OF MIDLAND, TEXAS; 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; ESTABLISHING AN EFFECTIVE DATE OF SEPTEMBER 1, 2010.

38. Building Official Thorpe gave an overview of the item noting this Ordinance was at the request of the property owner and that the Fire Marshall had no objections.

Interim City Secretary Turner read the caption of Ordinance No. 8829.

Council Member Trost moved approval of the first of two readings of Ordinance No. 8829 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Morales. Caption of said ordinance is as follows:

ORDINANCE NO. 8829

AN ORDINANCE AMENDING THE FIRE DISTRICT SO AS TO DELETE THEREFROM LOT 6, BLOCK 50, EAST MIDLAND ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY DESCRIBED AS 601 NORTH MADISON STREET); DIRECTING THE BUILDING OFFICIAL TO AMEND THE FIRE DISTRICT MAP; CONTAINING A CUMULATIVE CLAUSE; AND CONTAINING A SAVINGS AND SEVERABILITY CLAUSE.

MISCELLANEOUS

39. Consideration of appointments to various Boards and Commissions.

No appointments were made.

RECESS/EXECUTIVE SESSION

40. Mayor Perry announced that the meeting would be recessed to the conference room for lunch.
41. Mayor Perry announced that pursuant to Texas Government Code Section 551.101, the Council would now hold an Executive Session, closed to the public, to discuss the following matters as permitted under the following Texas Government Code Sections:

It was noted that no items would be discussed during lunch. The meeting was recessed to lunch at 12:12 p.m. The Council met for lunch until 1:12 p.m.

Mayor Perry reconvened the meeting at the Hispanic Cultural Center, located at 1301 East Wadley Avenue, at 7:07 p.m., with the same members present.

PUBLIC HEARING

34. Public Hearing at the Hispanic Cultural Center to discuss front yard parking.

The City Council made their opening remarks and noted that no vote would be taken this evening but that everyone's suggestions and comments would be taken into consideration.

Mayor Perry gave an overview of the current Ordinance, noting that currently residents can park as many cars as desired on a paved surface but only one automobile may be parked on the grass.

Mayor Perry opened the public hearing at 7:13 p.m.

Nancy Jones, 706 E. Broadway, stated that a neighbor has a family living in a travel trailer parked on the lawn with a generator that runs nonstop. She supports the banning of vehicles parked on the yard.

Willie Walburn, 1305 Chestnut, did not support government telling him where he could park.

Thomas Flournoy stated that the Council was not following their oath of office.

David Rosen, 5002 Thames Court, felt that those who do not have driveways should be allowed to park on their yard as long as they are drivable and appropriately licensed.

Richard Sowle noted that the City should focus on enforcing the current ordinances, felt the cost of installing a paved driveway could be cost prohibitive, and felt that if all cars were to park on the streets it would leave only one lane in which to drive.

Patrick Dearing, 5115 W. Illinois, complained that when cars park on the street it leaves less driving room and cited accident statistics involving parked cars.

Daniel Hernandez, 1116 E. Hampton, stated his opposition to the ordinance.

Manny Rivera, 800 Boyd, noted that we should be like Christ and that Jesus associated with the poor and needy.

Ron Parish, 715 S. Jackson, spoke about his truck being impounded.

Lydia Rodriguez, 1309 E. Jax, asked the Council to do something about oversize trucks parking on both sides of the streets and unlicensed vehicles.

Skeet Doss, 5451 Juniper Court, spoke of his inability to secure a reasonable price for the sale of his home because of the unkempt home next door. He supported the ordinance and felt exemptions should be made for narrow streets or streets without curbs.

Arlen Stephens, 1743 Cedar Stream, noted that he bought his house and should be able to park in his yard if he chooses.

Leonard Dumire, 708 Raymond, supports ordinance but is concerned with the number of exemptions.

Beverly King, 418 Dengar, told the Council they should be concerned about repairing the streets and not worry about cars parked on lawns.

Gina Warren, 404 W. Nobles, supports the ordinance and explained she has a neighbor with cars parked everywhere.

Building Official, Steve Thorpe, addressed that it is okay to park a vehicle in the back yard as long as it is licensed. Lt. Bogart noted that residents can park in the right of way as long as it does not obstruct sidewalks.

Eleanor Hill noted that the city should not tell residents where to park on their own property.

Brenda Hamilton, 1900 E. Golf Course Rd, noted that her mother's caregivers often park in the yard and does not want them to be fined.

Tracy Vaughn, 1105 Mogford, asked Council to support the ban of parking of vehicles in front yards and side yards to protect property values.

Jose Smith, 440 E. Wadley, spoke about problems he had parking a motor home and commercial trailers on his property.

Bill Ashley, 1306 Humble Avenue, felt the City should not regulate what property owners do on their own personal property.

Michael Morse, 1002 W. Cuthbert, expressed concern regarding the number of exemptions.

Bob Tremble, 1419 Sparks, stated he has spent many years trying to help the City look better and before his organization does work, they make the homeowner remove any junk vehicles.

Luis Sanchez, 1215 S. Dallas, asked that all comments be taken into consideration and agrees that junk vehicles should not be in front yards. He asked that a task force be implemented and that people's economic condition be taken into consideration.

Jonathon Dumire, 708 Raymond, respects the property rights of the people who own property and noted that everyone should think about drawing a line regarding government intervention.

Michael Wallace, 1210 Cuthbert, spoke in support of the ordinance but felt that any fees or fines collected should be used in the areas from where they were collected and that older properties should be grandfathered.

Dwayne Washington, 1044 Crenshaw, noted that those who are concerned about parking should form a homeowner's association and that each person should address their own neighbors.

Ronald Van Dyke, 108 N. Madison, felt that current ordinances were not being enforced.

Midge Erskine, 3306 W. Golf Course, suggested forming a committee to study the issues.

Fred Westmoreland, 200 Club Drive, is against taking more time to decide the issue and asked the Council to make a decision. He also felt he had property value rights and people should limit where they park.

Felipa Lara, 1103 S. Marshall, noted she does not like anyone telling her where she can park and asked for a task force to study the issue.

Retha Hunnicutt, 1302 W. Ohio, supported the ordinance, asked the Council to not implement a task force and clarified that the current ordinance would not go into effect until next spring.

Roger West, 4514 Anetta Drive, spoke about an ongoing code enforcement issue with a neighbor and his junk vehicles.

Rachel Stone, 1902 N. Pecos, supported the ordinance but asked Council to take into consideration the economics of those who might not be able to afford paving their driveways. She also felt that exceptions could be removed once every street was paved.

Peggy Rogers, 3525 Stanolind, noted that a few people can ruin an entire neighborhood by their unkempt vehicles and junk in general.

Gary Long, 321 Thornridge, asked that the current codes be enforced before new issues are introduced.

Theresa Munoz, 408 E. Stokes, noted that she could not afford to pave her driveway and asked that front yard parking not be taken away.

Theresa Cole, 707 W. Pioneer Avenue, asked Council to reconsider the ordinance as many people cannot afford to pave their driveways.

Leah Ashley, 4504 Anetta Drive, noted that she owns her home and would like to park a vehicle on the lawn if she chooses for safety reasons as long as vehicles are licensed and registered.

There being no one else present wishing to speak, the public hearing was closed at 8:58 p.m.

The Mayor and City Council thanked everyone for their input.

All of the business at hand having been completed, the meeting adjourned at 9:03 p.m.

PASSED AND APPROVED the 10th day of August, 2010.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, Interim City Secretary