

**MIDLAND CITY COUNCIL  
MINUTES  
AUGUST 10, 2010**

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:15 a.m. on August 10, 2010.

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

Council Members absent: Council Member Scott Dufford (At-Large), Council Member Vicky Hailey (District 2) (Hailey arrived at 9:19 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, Director of Finance Bob McNaughton, Director of Airports Marv Esterly, Administrative Services Director Beth Mosley, Community Services Director Monette Burke, Assistant Community Services Director Tina Jauz, Assistant City Attorney Natasha Brooks, Deputy City Secretary Lyn Miller, Assistant Director of Airports Justine Ruff, and Airport Operations Supervisor Aaron Easton.

**BRIEFING SESSION**

Discuss Update on the City of Midland's Leadership Development Programs and Culture Committee initiatives.

Deputy City Manager Hudson gave a background of the Leadership Development Program. Administrative Services Director Mosley shared the leadership vision that was adopted at retreat two years ago, reviewed succession planning goals, updated Council on the Rising Star and GenNXT Programs, reviewed the management training program, and shared the vision statement created by the Culture Committee.

Airport Operations Supervisor Easton spoke about how the culture committee developed the vision statement and guiding principles.

The foregoing agenda item was discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:45 a.m.

**REGULAR SESSION**

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:02 a.m., August 10, 2010.

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

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

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

**MISCELLANEOUS**

1. The invocation was voiced by Chaplain Bill Billett of Manor Park Retirement Home.
2. The Pledge of Allegiance to the Flag was stated.
3. Presentation of special events, organizations, individuals, or periods of time.

Mayor Perry recognized Ralph Castille and Alynda Best of Habitat for Humanity in recognition of their 100<sup>th</sup> house in Midland.

**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.

Midge Erskine, 3306 W Golf Course, complimented the City Council for their conduct at the front yard parking public hearing.

Todd Brown, representing Brown's Bar BQ of Midland, thanked the Council for allowing food vendors in the downtown area and requested that unpermitted vendors be removed.

Mayor Pro Tem James moved to place an evaluation of the downtown food vendor program on a future briefing session; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

There were no other requests by citizens to speak.

#### **CONSENT AGENDA**

Mayor Pro Tem James moved to approve Consent Agenda items 7, 10-12, 14-15, and 17-18; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

7. Received third quarter Fiscal Year 2009-2010 Investment Report.

10. Adopted Resolution No. 2010-193. Caption of said resolution is as follows:

##### **RESOLUTION NO. 2010-193**

A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR THE PURCHASE OF ONE HUNDRED AND FIFTY (150) BODY ARMOR VESTS TO BE USED BY MIDLAND POLICE OFFICERS, FROM GT DISTRIBUTORS, INCORPORATED, OF AUSTIN, TEXAS; SAID PURCHASE WAS NOT BID BUT PURCHASED AS A SOLE SOURCE; AND THE COSTS FOR THE BODY ARMOR VESTS SHALL BE APPROXIMATELY \$99,141.00.

11. Adopted Resolution No. 2010-194. Caption of said resolution is as follows:

##### **RESOLUTION NO. 2010-194**

A RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS FOR THE DESIGN PHASE AND BIDDING OF PHASE II OF THE PROJECT DESCRIBED AS NORTHWEST TAXIWAY EXTENSION PROJECT AT MIDLAND INTERNATIONAL AIRPORT IN THE AMOUNT OF \$80,000.00.

12. Adopted Resolution No. 2010-195. Caption of said resolution is as follows:

##### **RESOLUTION NO. 2010-195**

A RESOLUTION ACCEPTING \$500,000.00 IN GRANT FUNDS FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ECONOMIC DEVELOPMENT INITIATIVE GRANT PROGRAM FOR RENOVATIONS TO THE MARTIN LUTHER KING, JR. COMMUNITY CENTER; AND APPROPRIATING SAID FUNDS TO PROJECT NO. 8906.

14. Adopted Resolution No. 2010-196. Caption of said resolution is as follows:

##### **RESOLUTION NO. 2010-196**

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE EXISTING PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL SMITH & COOPER, INCORPORATED; SAID AMENDMENT INCREASES PAYMENT TO PARKHILL SMITH & COOPER, INCORPORATED, FROM \$175,000.00 TO \$225,000.00 FOR SERVICES PERFORMED.

15. Adopted Resolution No. 2010-197. Caption of said resolution is as follows:

##### **RESOLUTION NO. 2010-197**

A RESOLUTION ADOPTING THE CITY OF MIDLAND CONSOLIDATED PLAN FOR COMMUNITY DEVELOPMENT AND HOUSING FUNDS FOR FISCAL YEARS 2011 THROUGH 2015 AND THE 2010/2011 ACTION PLAN TO SAID CONSOLIDATED PLAN; AND AUTHORIZING THE EXECUTION OF AN APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS.

17. Adopted Resolution No. 2010-198. Caption of said resolution is as follows:

RESOLUTION NO. 2010-198

A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH AUSTIN LAND SERVICE, OF CEDAR PARK, TEXAS, FOR MULCHING OF YARD WASTE AND WOOD AT A COST OF \$76,212.00.

18. Adopted Resolution No. 2010-199. Caption of said resolution is as follows:

RESOLUTION NO. 2010-199

A RESOLUTION AUTHORIZING EMERGENCY REPAIRS FROM UNFORESEEN FIRE DAMAGE TO A 2005 SEWER JET COMBO TRUCK; SAID REPAIRS TO BE MADE BY KINLOCK EQUIPMENT & SUPPLY, INCORPORATED, AT A COST OF \$63,111.73; AND WAIVING ANY BIDDING REQUIREMENTS BECAUSE THE COUNCIL FINDS THAT THE TRUCK NEEDS TO BE PLACED IN SERVICE IMMEDIATELY.

- 5a. Council Member Trost moved to approve the minutes of the regular City Council meeting of July 27, 2010; seconded by Mayor Pro Tem James. The motion carried by the following vote: AYE: Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: Morales. ABSENT: Dufford.
- 5b. Council Member Trost moved to approve the minutes of the special City Council meeting of August 3, 2010; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, James, and Sparks. NAY: None. ABSTAIN: Perry. ABSENT: Dufford.
6. Mayor Perry noted that agenda item number 6 would be deferred until after the Public Hearings.
8. Utilities Director Stuart Purvis and Facilities & Fleet Management Director Mark Phillips explained that the City attempts to change out about 10% of their containers each year, that orders are placed about twice a year due to storage restrictions, and that the price obtained probably would not be lower if more containers were ordered.

Mayor Pro Tem James moved to adopt Resolution No. 2010-200; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said resolution is as follows:

RESOLUTION NO. 2010-200

A RESOLUTION APPROVING THE PURCHASE OF SIX HUNDRED (600) THREE CUBIC YARD REFUSE CONTAINERS WITH LIDS AND TWO HUNDRED (200) FOUR CUBIC YARD REFUSE CONTAINERS WITH LIDS FROM PERFORMANCE METAL WORKS DBA PROFORM, INCORPORATED, OF WINNSBORO, TEXAS; AND THREE HUNDRED (300) THREE-AND-A HALF CUBIC YARD REFUSE CONTAINERS WITH LIDS FROM ROLL-OFFS USA, INCORPORATED, OF DURANT, OKLAHOMA, AT A TOTAL COST OF \$400,100.00.

9. Facilities & Fleet Management Director Phillips noted that this contract would cover approximately 250 employees and that the contract is approximately \$70,000 less than the previous contract.

Council Member Morales moved to adopt Resolution No. 2010-201; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said resolution is as follows:

RESOLUTION NO. 2010-201

A RESOLUTION AUTHORIZING THE EXECUTION OF A TWO-YEAR SERVICE CONTRACT FOR LAUNDRY, DRY CLEANING AND MINOR REPAIR SERVICES FOR THE CITY'S POLICE DEPARTMENT, UTILITIES DIVISION, FIRE DEPARTMENT, GARAGE DIVISION AND MUNICIPAL COURT UNIFORMS, WITH F&D, INCORPORATED, DBA COMET CLEANERS, OF MIDLAND, TEXAS, AT TOTAL COST OF \$278,668.00.

13. Following brief discussion, Council Member Trost moved to adopt Resolution No. 2010-202; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said resolution is as follows:

RESOLUTION NO. 2010-202

A RESOLUTION APPROVING A CONTRACT WITH MID-TEX OF MIDLAND, INCORPORATED, OF MIDLAND, TEXAS, FOR RENOVATIONS TO THE MARTIN LUTHER KING, JR. COMMUNITY CENTER AT A TOTAL COST OF \$1,884,914.00.

16. Planning Division Manager Cameron Walker noted that the request received to change bonds meets the requirements of the new ordinance.

Council Member Hailey moved to amend the conditions contained in Resolutions 2008-348 and 2009-142, 2009-348 regarding three Patriot Resources, Inc. oil and gas drill sites located in Section 11, Block "X", H.P. Hilliard Survey, Midland County, Texas (Generally located on the Midland Country Club property.); seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

**SECOND READINGS**

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

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8821 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford. 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.

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

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8822 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford. 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.

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

Mayor Perry noted that he would abstain from voting on this item due to financial interest in the surrounding area. Following brief discussion, Council Member Trost moved to approve the second and final reading of Ordinance No. 8823 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, James, and Sparks. NAY: None. ABSTAIN: Perry. ABSENT: Dufford. 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.

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

Council Member Sparks moved to approve the second and final reading of Ordinance No. 8824 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford. 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.

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

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8825 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford. 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; DIRECTING THE INTERIM CITY SECRETARY TO PUBLISH NOTICE; AND DIRECTING THE BUILDING OFFICIAL TO DELIVER A COPY OF THIS ORDINANCE TO AFFECTED OWNERS, LIENHOLDERS AND MORTGAGEES; SAID ORDINANCE BEING AUTHORIZED BY CHAPTER 214 OF THE TEXAS LOCAL GOVERNMENT CODE.

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

Council Member Morales moved to approve the second and final reading of Ordinance No. 8826 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford. 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.

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

Council Member Trost moved to approve the second and final reading of Ordinance No. 8827 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford. 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.

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

Council Member Morales moved to approve the second and final reading of Ordinance No. 8828 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: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford. 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.

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

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8829 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. Following brief discussion, the motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford. 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.

Mayor Perry noted that Item 30 would be heard next.

**PUBLIC HEARINGS**

30. Planning Division Manager Walker gave an overview of the item noting that no letters of objection had been received and that staff recommended approval.

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

Council Member Sparks moved approval of Resolution No. 2010-203; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said resolution is as follows:

RESOLUTION NO. 2010-203

A RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A PHILANTHROPIC EVENT ON THE WEST 51.5 FEET OF LOT 5, ALL OF LOTS 6-10, AND THE EAST 22 FEET OF LOT 11, BLOCK 8, LOMA LINDA REPLAT, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF SCHARBAUER DRIVE, APPROXIMATELY 250 FEET WEST OF LAMESA ROAD); MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; AND PROVIDING THE DAYS OF OPERATION FOR THE EVENT SHALL BE FROM OCTOBER 15, 2010 THROUGH OCTOBER 17, 2010.

Mayor Perry noted that item 35 would be heard next.

35. Second public hearing establishing the ad valorem tax rate of \$.47285 per \$100 taxable assessed valuation for Fiscal Year 2010-2011.

Director of Finance McNaughton gave an overview of the item noting that no action would be taken and this was a public hearing only.

Mayor Perry opened the public hearing at 10:48 a.m.

Jose Luis Chavez, 1307 Camp, spoke about his increasing property values and asked the Council to trim the workforce and not raise taxes.

Thomas Flournoy, 3302 W. Kansas Avenue, read a statement noting that some facilities that were once owned and operated by private citizens or enterprises are now run by the City, and asked that all non-essential government programs be eliminated and property taxes lowered.

Judy Collins, 2717 WCR 130, noted that the City foots the bill for too many projects and asked that the City not raise taxes.

Sue Brannon, 4501 Cardinal Lane, respectfully asked to hold tax rate at current level and suggested that the public relations position be eliminated.

Jason Moore, 2716 Bainbridge, Odessa, noted that the burden should not be put on the taxpayers to lower taxes, felt it was wrong for Council to double the tax increase this year, suggested that one public hearing be held during the evening hours, and noted it took a long time to download the online proposed budget. The City Council clarified that

the tax rate has not been doubled, explained the budget process, and noted the need for over \$80 million dollars in projects and facilities.

Joyce Petrich, 5304 Mathis Street, noted that taxes should be used for basic services only such as utilities, asked the Council to invite members of the public to share in the budget process, asked that all unnecessary items in the budget be cut, and requested a public hearing to be held during the evening hours.

Thomas Schneider, 5401 Oak Valley Drive, noted that he represented 50 other people who have signed a petition, spoke in opposition to a tax increase, requested budget hearing be held during the evening, and encouraged all Council Members to speak with their constituents.

Carol Warrenton, noted that a tax increase would be a detriment to older citizens who are on a fixed income and requested that tax money not be used for the sports complex.

There being no one else present wishing to speak, the public hearing was closed at 11:26 a.m.

## **SECOND READINGS (CONTINUED)**

28. Interim City Secretary Turner read the caption of Ordinance No. 8808.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8808 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said ordinance is as follows:

### **ORDINANCE NO. 8808**

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 79.808-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS, AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF (GENERALLY LOCATED ON THE WEST SIDE OF TRADEWINDS BOULEVARD, WEST OF THE SCHARBAUER SPORTS COMPLEX); AND APPROVING A PUBLIC SERVICE PLAN.

29. Interim City Secretary Turner read the caption of Ordinance No. 8810.

Planning Division Manager Walker noted that the applicant has submitted a plat and that the Council should adopt Exhibit D and make the larger tract subject to 1F3 housing standards. He further noted that the plat had received Planning Commission approval.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 8810 in accordance with the Charter of the City of Midland and to adopt Exhibit D making the larger tract subject to 1F3 housing standards; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said ordinance is as follows:

### **ORDINANCE NO. 8810**

AN ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 71.44-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS ("TRACT 1A"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION ONE HEREOF, AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 3.325-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS ("TRACT 1B"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION TWO HEREOF, AS AN O-1, OFFICE DISTRICT; ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 5.139-ACRE TRACT OF LAND OUT OF SECTION 37, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS ("TRACT 1C"), AND BEING MORE SPECIFICALLY DESCRIBED BY METES AND BOUNDS IN SECTION THREE HEREOF, AS AN O-1, OFFICE DISTRICT; SAID TRACTS ARE GENERALLY LOCATED ON THE WEST SIDE OF TRADEWINDS BOULEVARD, WEST OF THE SCHARBAUER SPORTS

COMPLEX; 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.

**CONSENT CALENDAR (CONTINUED)**

6. Council Member Sparks moved to establish August 17, 2010 at 8:30 a.m. in the Council Chamber at City Hall and August 23, 2010 at 8:30 a.m. in the Council Chamber at City Hall as the dates, times and places for consideration of an ordinance establishing the ad valorem tax rate for Fiscal Year 2010-2011; seconded by Council Member Morales.

A discussion ensued about holding the meetings in the evening. It was determined that a motion could be made at the meeting to recess the meeting until the evening.

The motion carried by the following vote: AYE: Morales, Trost, Perry, James, and Sparks. NAY: Hailey. ABSTAIN: None. ABSENT: Dufford.

**PUBLIC HEARINGS (CONTINUED)**

31. Planning Division Manager Walker gave an overview of the item noting that one letter of objection had been received and that the Planning & Zoning Commission recommended approval.

Mayor Perry opened the public hearing at 11:53 a.m.

Pat Cook, 2700 Midland, and Michelle McDermitt, 3502 Bluebird, presented themselves as the owners of the business noting that this is an existing business moving to a new location where they will now offer overnight care for pets and that they are a cageless facility.

John Helsick, 4002 Lugmore Court, noted the need for this type of business in the community, shared that he has a pending lease for a restaurant next door, and has no objections to the business.

There being no one else present wishing to speak, the public hearing was closed at 12:01 p.m.

Interim City Secretary Turner read the caption of Ordinance No. 8830.

Council Member Morales moved approval of the first of two readings of Ordinance No. 8830 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said ordinance is as follows:

**ORDINANCE NO. 8830**

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF LOTS 20 AND 21, BLOCK 2, PERMIAN SHOPPING CENTER, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NEAR THE SOUTHWEST CORNER OF ANDREWS HIGHWAY AND DODSON STREET), WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR A KENNEL; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION.

32. Planning Division Manager Walker gave an overview of the item noting no letters of objection had been received and that staff recommended approval.

Mayor Perry opened the public hearing at 12:07 p.m.

Kevin Church, of Simon Property Group, requested approval of the project.

There being no one else present wishing to speak, the public hearing was closed at 12:08 p.m.

Mayor Pro Tem James moved approval of Resolution No. 2010-192; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost,

Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said resolution is as follows:

RESOLUTION NO. 2010-192

A RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A CARNIVAL ON LOT 1, BLOCK 17, SKYLINE TERRACE, UNIT 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF WEST LOOP 250 NORTH AND NORTH MIDKIFF ROAD); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN.

33. Planning Division Manager Walker gave an overview of the item noting that no letters of objection had been received.

Mayor Perry opened the public hearing at 12:13 p.m.

Brian Delack, engineer for the project, highlighted features of the development and requested that a 6 foot fence be required instead of a 7 foot fence.

There being no one else present wishing to speak, the public hearing was closed at 12:19 p.m.

Interim City Secretary Turner read the caption of Ordinance No. 8831.

Council Member Morales moved approval of the first of two readings of Ordinance No. 8831 in accordance with the Charter of the City of Midland and to amend Exhibit A to reduce the fence requirement to 6 feet; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said ordinance is as follows:

ORDINANCE NO. 8831

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 18, BLOCK 14, BRIARWOOD ADDITION, SECTION 17, 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 NORTHEAST CORNER OF BRIARWOOD AVENUE AND ORIOLE DRIVE); 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.

34. City Manager Sharp noted that this item came before Council and was approved in April. However, the governor's office has requested that the term be five years instead of seven. He further noted that the new Ordinance changes the term to five years.

Mayor Perry opened the public hearing at 12:24 p.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. 8832.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 8832 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said ordinance is as follows:

ORDINANCE NO. 8832

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS, ORDAINING THE CITY'S PARTICIPATION IN THE TEXAS ENTERPRISE ZONE PROGRAM PURSUANT TO THE TEXAS ENTERPRISE ZONE ACT, CHAPTER 2303, TEXAS GOVERNMENT CODE (THE "ACT"); PROVIDING TAX INCENTIVES; DESIGNATING A LIAISON FOR THE COMMUNICATION WITH INTERESTED PARTIES; NOMINATING PLAINS ALL AMERICAN PIPELINE, L.P., TO THE OFFICE OF THE GOVERNOR, ECONOMIC DEVELOPMENT AND TOURISM ("EDT") THROUGH THE ECONOMIC DEVELOPMENT BANK (THE "BANK") AS AN ENTERPRISE PROJECT; PROVIDING AN EFFECTIVE DATE; AND RESCINDING ORDINANCE NO. 8795.

**DEVELOPMENT SERVICES**

- 36. Planning Division Manager Walker gave an overview of the item noting that 33 percent opposition had been received and that the item would require a supermajority approval. He further noted that a new site plan had been received from the applicant changing the driveway on Golf Course Road to an entrance only.

Interim City Secretary Turner read the caption of Ordinance No. 8833.

Council Member James moved approval of the first of two readings of Ordinance No. 8833 in accordance with the Charter of the City of Midland with the amendment to adopt the new site plan; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said ordinance is as follows:

**ORDINANCE NO. 8833**

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.

**MISCELLANEOUS**

- 37. Consideration of appointments to various Boards and Commissions.

No appointments were made.

**RECESS/EXECUTIVE SESSION**

- 38. Mayor Perry announced that the meeting would be recessed to the conference room for lunch.
- 39. Mayor Perry announced that pursuant to Texas Government Code Section 551.101, the Council would now hold a joint Executive Session with the Board of Directors of the Midland Development Corporation which is closed to the public to discuss the following matters as permitted under the following Texas Government Code Sections:

**Section 551.087 Deliberation Regarding Economic Development Negotiations**

Discuss business prospects and projects that the City seeks to have locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives

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

All of the business at hand having been completed, the meeting adjourned at 2:30 p.m.

PASSED AND APPROVED the 24<sup>th</sup> day of August, 2010.

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W. Wesley Perry, Mayor

ATTEST:

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Amy M. Turner, Interim City Secretary