

**MIDLAND CITY COUNCIL
MINUTES
April 12, 2011**

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:02 a.m. on April 12, 2011.

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

Staff members present: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, Assistant City Manager Jim Nichols, Interim City Secretary Amy Turner, Development Services Director Rick Crownover, Building Official Steve Thorpe, Multimedia Developer LeaAnn Dearman, Airport Director Marv Esterly, Assistant City Attorney Natasha Brooks, and Assistant Code Administration Manager Ron Jenkins

BRIEFING SESSION

1. Discuss authorizing advertisement for proposals to lease certain mineral rights on property located in and around Midland Airpark Airport.

Airport Director Esterly noted that the City Council previously gave direction to pursue leasing mineral rights at the Airpark and stated that a mineral rights attorney had been retained. He introduced Mike Curry of Cotton Bledsoe and noted that Mr. Curry had drafted a lease agreement and that the ad hoc committee had met to review the lease. They made a few minor recommendations or changes and those have been incorporated into the lease agreement. He noted the RFP will be finalized and presented on April 26th. A map of the Airpark and the proposed lease agreement was distributed.

Discussion ensued about what the different colors on the map symbolized, the potential number of locations, whether height restrictions should be overlaid on the map for the RFP, who owns what tracts, that the lease does not allow access to the property but access would be negotiated, that aesthetics should be a part of the agreement, and that royalties would need to stay within the airport system.

Mike Curry went through the agreement paragraph by paragraph and answered questions. It was determined that the RFP should ask how many times their company has been fined by the Railroad Commission and that overlaying the map with height hazards could be too restrictive as the FAA could temporarily approve a rig.

City Manager Sharp stated that the RFP would be on the April 26 agenda and that staff would check other communities to determine the best way to qualify sources.

A discussion ensued about including in the contract the option to pay fair market value for a well.

The foregoing agenda item was discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:59 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:10 a.m., April 12, 2011.

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

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

MISCELLANEOUS

1. The invocation was voiced by Reverend Curtis Benninghoff of First United Pentecostal Church.
2. The Pledge of Allegiance to the Flag was stated.
3. Presentation of special events, organizations, individuals, or periods of time.
 - a. Council Member Sparks presented a proclamation for Parkinson's disease Awareness Month to Israel Robledo.
 - b. Council Member Hailey presented a proclamation to Michael Dutchover, National Silver Gloves Champion.
 - c. Council Member James presented a proclamation for Public Health Month to Health and Senior Services Administrator Sal Garcia and his staff.
 - d. Mayor Pro Tem Trost presented a proclamation for Fair Housing Month to Community Development Manager Sylvester Cantu and the Fair Housing group.
 - e. Council Member Dufford presented a proclamation for Public Safety Telecommunicators Week to Communications Manager Eva Luna, Public Safety Dispatcher Joshua Moreno, Communications Supervisors Sheri Van der Zanden, Yolanda Meek, and Toni Granat.

PUBLIC COMMENT

4. Mayor Perry introduced new Assistant City Manager Jim Nichols and welcomed him to the community.

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

Nancy Swallow, 1602 McClintock, spoke regarding the Commemorative Air Force event Props and Hops to be held Saturday, April 16th at 6:30 p.m.

Gloria Robinson, 710 S. Tilden, spoke about the increase in dogs, especially pit bulls, on the south side of town and people racing up and down the street.

There were no other requests by citizens to speak.

CONSENT AGENDA

Mayor Pro Tem Trost moved to approve Consent Agenda items 5a, 5c-6, 8-10, 14, 16-19, 24-29, and 31-34; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

- 5a. Approved the minutes of the special City Council meeting of March 7, 2011 (State of the City).
- 5c. Approved the minutes of the regular City Council meeting of March 8, 2011.
6. Adopted Resolution No. 2011-063. Caption of said resolution is as follows:

RESOLUTION NO. 2011-063

A RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 BUDGET OF THE MIDLAND DEVELOPMENT CORPORATION ("MDC"), A TYPE A CORPORATION AS AUTHORIZED BY CHAPTER 504 OF THE TEXAS LOCAL GOVERNMENT CODE; SAID AMENDMENT TO ALLOW FOR THE MDC'S PAYMENT OF \$6,000,000 TO THE CITY OF MIDLAND PURSUANT TO THE ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE PARTIES FOR CONSTRUCTION OF A WATER LINE ALONG STATE HIGHWAY 191

8. Adopted Resolution No. 2011-064. Caption of said resolution is as follows:

RESOLUTION NO. 2011-064

A RESOLUTION APPROVING THE PURCHASE OF SEVEN THOUSAND (7,000) TONS OF FLEXIBLE BASE CALICHE FROM THE SOLE BIDDER, JONES BROTHERS

DIRT & PAVING CONTRACTORS, INCORPORATED, OF ODESSA, TEXAS, FOR A TOTAL COST OF \$78,750.00

9. Adopted Resolution No. 2011-065. Caption of said resolution is as follows:

RESOLUTION NO. 2011-065

A RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH ONYX CONTRACTORS, L.P., FOR CONSTRUCTION OF THE CITIZEN'S COLLECTION AND RECYCLING STATION AT THE SMITH ROAD YARD WASTE SITE AT A COST OF \$591,337.00; AND APPROPRIATING FUNDS

10. Adopted Resolution No. 2011-066. Caption of said resolution is as follows:

RESOLUTION NO. 2011-066

A RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR THE PURCHASE OF 27,600 GALLONS OF AC-15XP ASPHALTIC CEMENT FOR USE BY THE TRANSPORTATION DIVISION, FROM HOLLY REFINING AND MARKETING COMPANY, OF LUBBOCK, TEXAS, AT AN ESTIMATED TOTAL COST OF \$421,664.40

14. Adopted Resolution No. 2011-067. Caption of said resolution is as follows:

RESOLUTION NO. 2011-067

A RESOLUTION AMENDING CHAPTER IV, "APPLICATIONS, APPLICANTS, AND CONDITIONS OF EMPLOYMENT", SECTION 14, "PROBATION PERIODS", OF THE CITY OF MIDLAND PERSONNEL POLICIES; AUTHORIZING THE MAYOR TO EXECUTE A CERTIFICATE PLACING THIS RESOLUTION IN THE CITY OF MIDLAND PERSONNEL POLICIES AS AUTHORIZED BY SECTIONS 271.151-.160 OF THE TEXAS LOCAL GOVERNMENT CODE; AND SETTING AN EFFECTIVE DATE OF SEPTEMBER 1, 2011

16. Adopted Resolution No. 2011-068. Caption of said resolution is as follows:

RESOLUTION NO. 2011-068

A RESOLUTION AUTHORIZING THE CITY ATTORNEY TO EXECUTE AND ATTEST TO THE OWNERSHIP OF CERTAIN TRACTS OF LAND COMMONLY REFERRED TO AS MIDLAND AIRPARK AIRPORT AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE ON BEHALF OF THE CITY OF MIDLAND, ALL CONTRACTS AND AGREEMENTS WITH THE STATE OF TEXAS, REPRESENTED BY THE TEXAS DEPARTMENT OF TRANSPORTATION, AND SUCH OTHER PARTIES AS SHALL BE NECESSARY AND APPROPRIATE FOR THE IMPLEMENTATION OF THE PROJECT DESCRIBED AS IMPROVEMENTS TO THE MIDLAND AIRPARK

17. Adopted Resolution No. 2011-069. Caption of said resolution is as follows:

RESOLUTION NO. 2011-069

A RESOLUTION APPROVING THE ACCEPTANCE OF A BID MADE FOR THE PURCHASE OF REAL PROPERTY DESCRIBED AS LOT 4, BLOCK 35, GREENWOOD ADDITION, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

18. Adopted Resolution No. 2011-070. Caption of said resolution is as follows:

RESOLUTION NO. 2011-070

A RESOLUTION APPROVING THE ACCEPTANCE OF A BID MADE FOR THE PURCHASE OF REAL PROPERTY DESCRIBED AS LOT 11, BLOCK 34, GREENWOOD ADDITION, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS

19. Adopted Resolution No. 2011-071. Caption of said resolution is as follows:

RESOLUTION NO. 2011-071

A RESOLUTION RESCINDING RESOLUTION NO. 2011-012 WITH MIDLAND RECREATIONAL SOCCER LEAGUE DUE TO A NAME CHANGE AND APPROVING A NEW RESOLUTION REFLECTING THE NEW NAME CHANGE TO MIDLAND ADULT SOCCER LEAGUE; AUTHORIZING THE EXECUTION OF A NEW SPORTS AGREEMENT WITH THE MIDLAND ADULT SOCCER LEAGUE TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO SOCCER FOR ADULTS AGES NINETEEN (19) AND OLDER

24. Adopted Resolution No. 2011-072. Caption of said resolution is as follows:

RESOLUTION NO. 2011-072
A RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS FOR THE HOME INVESTMENT PARTNERSHIP PROGRAM RESERVATION SYSTEM PARTICIPANT PROGRAM

25. Adopted Resolution No. 2011-073. Caption of said resolution is as follows:

RESOLUTION NO. 2011-073
A RESOLUTION ACCEPTING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$12,962.00 FOR THE MIDLAND COLLEGE FIRE TRAINING PROJECT IN ORDER TO RECOGNIZE AND PROMOTE THE CITY OF MIDLAND FIRE DEPARTMENT AS THE REGIONAL CENTER FOR FIREFIGHTER AND EMS TRAINING

26. Adopted Resolution No. 2011-074. Caption of said resolution is as follows:

RESOLUTION NO. 2011-074
A RESOLUTION AUTHORIZING AN AMENDMENT TO THE EXISTING SOFTWARE MAINTENANCE AGREEMENT WITH CGI TECHNOLOGIES AND SOLUTIONS, INCORPORATED

27. Adopted Resolution No. 2011-075. Caption of said resolution is as follows:

RESOLUTION NO. 2011-075
A RESOLUTION ACCEPTING A GRANT FROM THE SOUTHWEST BORDER HIGH INTENSITY DRUG TRAFFICKING AREAS PROGRAM IN THE AMOUNT OF \$159,400.00; THIS GRANT WILL BE UTILIZED FOR THE PURPOSE OF ENHANCING AND COORDINATING DRUG CONTROL EFFORTS AMONG FEDERAL, STATE, AND LOCAL LAW ENFORCEMENT AGENCIES TO BETTER COMBAT DRUG TRAFFICKING; AND APPROPRIATING FUNDS

28. Approved Resolution No. 2011-076. Caption of said resolution is as follows.

RESOLUTION NO. 2011-076
A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE OFFICE OF THE TEXAS ATTORNEY GENERAL FOR FISCAL YEAR 2012 – 2013 VICTIM COORDINATOR AND LIAISON GRANT PROGRAM FUNDING; THIS GRANT WILL DESIGNATE AN INDIVIDUAL TO SERVE AS A REPRESENTATIVE TO CONSULT WITH THE TEXAS ATTORNEY GENERAL IN ORDER TO ENSURE THAT VICTIMS, GUARDIANS OF VICTIMS, OR RELATIVES OF DECEASED VICTIMS ARE AFFORDED THE RIGHTS GRANTED TO THEM.

29. Adopted Resolution No. 2011-077. Caption of said resolution is as follows:

RESOLUTION NO. 2011-077
A RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER ONE WITH RED RIVER CONSTRUCTION COMPANY, INCORPORATED, ADDING \$386,412.00 FOR ADDITIONAL WORK TO THE EXISTING CONTRACTS FOR IMPROVEMENTS AT THE MIDLAND INTERNATIONAL AIRPORT AND FOR THE PAUL DAVIS WELL SITES IMPROVEMENTS PROJECT; AND APPROPRIATING \$386,412.00; THE ORIGINAL CONTRACT WAS FOR \$3,877,740.00; THIS CHANGE ORDER BRINGS THE TOTAL CONTRACT PRICE TO \$4,264,152.00

31. Adopted Resolution No. 2011-078. Caption of said resolution is as follows:

RESOLUTION NO. 2011-078
A RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH CAMP DRESSER & MCKEE, INCORPORATED, FOR WATER SYSTEM DISTRIBUTION MODELING SERVICES, AT AN ESTIMATED TOTAL COST OF \$90,000.00; AND APPROPRIATING FUNDS

32. Approved a motion authorizing the appointment of Amy Turner to the position of City Secretary of the City of Midland, and authorizing the execution of an employment agreement with the selected individual.

33. Adopted Resolution No. 2011-079. Caption of said resolution is as follows:

RESOLUTION NO. 2011-079

A RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO FILE ALL DOCUMENTS, EMPLOY ALL NECESSARY EXPERTS AND MAKE ALL NECESSARY APPEARANCES TO REPRESENT THE CITY OF MIDLAND IN A LAWSUIT STYLED MIDLAND COUNTY V. CORINA LUJAN ET AL, IN THE JUDICIAL DISTRICT COURT, MIDLAND COUNTY, TEXAS, CAUSE NO. TX 12535

34. Adopted Resolution No. 2011-080. Caption of said resolution is as follows:

RESOLUTION NO. 2011-080

A RESOLUTION AUTHORIZING THE EXECUTION OF A PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH FASKEN LAND AND MINERALS, LTD. FOR THE EXPANSION OF HOLIDAY HILL ROAD FROM MOCKINGBIRD LANE TO THE STATE HIGHWAY KNOWN AS THE "NADINE AND TOM CRADDICK HIGHWAY"; AND APPROPRIATING FUNDS THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE

The following items were pulled from consent calendar and considered individually.

- 5b. Council Member James noted that he pulled the item so he could abstain from voting as he was not present at the meeting. Council Members Dufford and Sparks echoed his comments.

Mayor Pro Tem Trost moved to approve the minutes of the special City Council meeting of March 7, 2011 (Hogan Park Re-Dedication); seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry. NAY: None. ABSTAIN: Dufford, James and Sparks. ABSENT: None.

7. Council Member Morales moved to adopt Resolution No. 2011-081; seconded by Council Member Hailey.

Council Member Morales stated that he received several phone calls about recycling and asked how the money was to be used. Solid Waste Director Morris Williams explained that the citizen's collection recycling station will be accepting recyclables (paper, plastic, cardboard and aluminum), tree waste and yard waste from the public. He clarified that this is just a collection station and that the items would be hauled to a recycler. He stated that that the money for mulching was an annual expense, but a smaller chipper was being acquired that would curb future expenses. He stated that the target opening date of the center is July 1.

The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said resolution is as follows:

RESOLUTION NO. 2011-081

A RESOLUTION AMENDING THE FISCAL YEAR 2010-2011 BUDGET OF THE MIDLAND DEVELOPMENT CORPORATION ("MDC"), A TYPE A CORPORATION AS AUTHORIZED BY CHAPTER 504 OF THE TEXAS LOCAL GOVERNMENT CODE; SAID AMENDMENT TO ALLOW FOR THE MDC'S PAYMENT OF \$6,000,000 TO THE CITY OF MIDLAND PURSUANT TO THE ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE PARTIES FOR CONSTRUCTION OF A WATER LINE ALONG STATE HIGHWAY 191

11. Council Member Hailey moved to adopt Resolution No. 2011-082; seconded by Council Member Sparks.

Council Member Trost asked for clarification on exactly what was being purchased and what it would be used for. Purchasing Agent Eddie Price noted that this item is for the purchase of truck parts to mount bodies on for Solid Waste and Transportation including a dump truck, a water truck, four garbage trucks and one roll off truck.

The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said resolution is as follows:

RESOLUTION NO. 2011-082

A RESOLUTION APPROVING THE PURCHASE OF SEVEN (7) TANDEM AXLE CAB AND CHASSIS TRUCKS AND ONE (1) SINGLE AXLE CAB AND CHASSIS TRUCK, FOR USE BY THE SOLID WASTE AND TRANSPORTATION DIVISIONS, FROM ROBERTS TRUCK CENTER, L.L.C., OF MIDLAND, TEXAS, AT A TOTAL COST OF \$647,145.00

12. Council Member Sparks moved to adopt Resolution No. 2011-083; seconded by Council Member Trost.

Council Member Trost asked staff to address the issue about the two different types of ambulances and the type that doesn't hold up as well. Fire Chief Isbell noted that the generators in ambulances have been modified and upgraded over the years in order to last longer. He noted that this ambulance has the new generator and it is the best that the City can buy.

The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said resolution is as follows:

RESOLUTION NO. 2011-083

A RESOLUTION APPROVING THE PURCHASE OF A CAB, CHASSIS AND AMBULANCE BODY THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (HGAC) AT A TOTAL COST OF \$160,750.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COUNCIL OF GOVERNMENTS

13. Council Member Sparks moved to adopt Resolution No. 2011-084; seconded by Council Member Hailey.

Purchasing Agent Price noted that the only bids they received were from a source that had materials that failed about four years ago along Midland Drive and that they did meet TXDOT standards but not Midland's. He noted that the new specs would eliminate the undesirable material.

The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said resolution is as follows:

RESOLUTION NO. 2011-084

A RESOLUTION REJECTING ALL OF THE BIDS RECEIVED FOR BID NUMBER 3281-11 FOR TYPE-D AGGREGATE USED FOR CHIP SEAL OF CITY STREETS; AND APPROVING SPECIFICATIONS AND AUTHORIZING RE-ADVERTISEMENT FOR BIDS FOR TYPE-D AGGREGATE

15. Council Member Dufford moved to adopt Resolution No. 2011-085; seconded by Council Member Morales.

Airport Director Marv Esterly reported that the airport had paid WIFI that created a revenue stream, but with more cell phone and smart phones, the usage has dropped off. He noted that the expense would increase from \$500/month to \$1000/month and approximately \$5,000 was needed for equipment changes.

The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said resolution is as follows:

RESOLUTION NO. 2011-085

A RESOLUTION APPROVING THE PROPOSED DISCLAIMER LANGUAGE ASSOCIATED WITH OFFERING FREE WIFI SERVICE AT THE MIDLAND INTERNATIONAL AIRPORT

20. Council Member Dufford moved to adopt a resolution authorizing the Midland Hispanic Chamber of Commerce to extend the hours of the Mex-Tex Family Fiesta to operate a concert until 1:00 a.m. on Sunday, June 5, 2011; seconded by Council Member Hailey.

Council Member Hailey noted that she pulled the item to look at what would be required to set precedence for renting the common area. She noted that she supports the event and would like to allow the event to go until 1:00 a.m. this year and then set precedence for future years.

Community Development Director Tina Jauz noted that the current rules state that an event must end at 12:00 midnight in the commons area and that the Chamber is requesting that the Mex-Tex event be allowed to end at 1:00 a.m.

Discussion ensued about the various complaints Council Members and staff have received regarding this event and how noise travels in the area.

Rachel Stone, 208 S. Marienfeld, stated that one hour can make a big difference in the amount of revenue they generate noting that this is their main fundraiser. She said it was a family event and many people come into Midland and take family vacations in order to attend the event.

Discussion ensued about potential ways to reduce noise including changing the layout of the event to allow the stadium to buffer the noise.

Council Member Dufford moved to rescind his motion. Council Member Hailey agreed to rescind the motion and the motion was rescinded.

Council Member Dufford moved to defer the item until April 26, 2011; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

21. Council Member Trost moved to adopt a motion on a request by Schumann Engineering Co, Inc. for Warfield Industrial Park – Section 2, to approve and deny items requested for deferral, and to waive the associated public improvement guarantee. This subdivision is generally located on the northwest side of the intersection of I-20 and FM 1788. The staff recommends approval for deferral of 597 linear feet at a value of \$17,910.00 and does not recommend deferral of a waterline extension of 115 linear feet at a value of \$6,900.00; seconded by Council Member Hailey

Council Member Trost clarified that it is for approval of deferring curb and gutter and denial of the 8" water line extension.

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

22. Council Member Morales moved to adopt Resolution No. 2011-186; seconded by Council Member Dufford.

City Manager Sharp noted that when a grant is received, funds have to be set aside for the project. Discussion ensued about the second phase of the project. It was determined that Architect Gary Vandergriff would give a presentation to the Council during the briefing session of the April 26, 2011, meeting.

The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said resolution is as follows:

RESOLUTION NO. 2011-086

A RESOLUTION ACCEPTING \$190,000.00 IN GRANT FUNDS FROM THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR THE CENTENNIAL PLAZA PHASE 2 PROJECT; AND APPROPRIATING SAID FUNDS

23. Council Member Morales moved to adopt Resolution No. 2011-087 seconded by Council Member Sparks.

Council Member Morales expressed concern over the land near Furniture Row that is overgrown with weeds. Building Official Steve Thorpe responded that they would make contact with the owners and ask them to mow the entire property.

The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said resolution is as follows:

RESOLUTION NO. 2011-087

A RESOLUTION TERMINATING THE PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH FURNITURE ROW USA, LLC FOR DRAINAGE IMPROVEMENTS IN NORTH PARK, SECTION 10

30. Council Member Morales moved to adopt Resolution No. 2011-088; seconded by Council Member Dufford.

Council Member Morales asked if this item was going to wait until the fall. Utilities Director Stuart Purvis responded that the item covers two separate projects. The purification plant will soon wrap-up and Item 3 is a new project.

The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said resolution is as follows:

RESOLUTION NO. 2011-088

A RESOLUTION AUTHORIZING A NINTH AMENDMENT TO THE EXISTING PROFESSIONAL SERVICES AGREEMENT WITH CAMP DRESSER & MCKEE, INCORPORATED; AND APPROPRIATING \$391,190.00 THEREFOR; THE ORIGINAL AGREEMENT WAS FOR \$980,019.00; THIS NINTH AMENDMENT WILL BRING THE TOTAL AGREEMENT PRICE TO \$7,295,322.00

SECOND READINGS

35. City Secretary Turner read the caption of Ordinance No. 8882.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 8882 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, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

ORDINANCE NO. 8882

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 4F, BLOCK 7, CORRECTION PLAT BARKMAN SQUARE, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED O-1, OFFICE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A TRANSITION DISTRICT (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST WADLEY AVENUE, APPROXIMATELY 450 FEET EAST OF NORTH "A" STREET); 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

36. City Secretary Turner read the caption of Ordinance No. 8883.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8883 in accordance with the Charter of the City of Midland as amended; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

ORDINANCE NO. 8883

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOTS 3-6, BLOCK 71, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF SOUTH TERRELL STREET AND EAST MISSOURI AVENUE), WHICH IS PRESENTLY ZONED C-3, COMMERCIAL 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

37. City Secretary Turner read the caption of Ordinance No. 8884.

Council Member Dufford moved to approve the second and final reading of Ordinance No. 8884 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, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

ORDINANCE NO. 8884

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 2, ALL OF LOTS 3-6, BLOCK 24, PLAT OF BLOCKS 15, 16, 27-29 AND 42, AND REPLAT OF BLOCKS 14, 17-25 AND 36-39, COWDEN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH BIG SPRING STREET AND WEST PARKER AVENUE), WHICH IS PRESENTLY ZONED LR-2, 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

38. City Secretary Turner read the caption of Ordinance No. 8885

Council Member James moved to approve the second and final reading of Ordinance No. 8885 in accordance with the Charter of the City of Midland; seconded by Mayor Pro Tem Trost.

Council Member James moved to amend the motion to allow use of the cell tower by the city. Mayor Pro Tem Trost seconded the amendment.

Mayor Perry invited Matt Faudree of Sprint forward to comment.

Matt Faudree, 3511 Cardinal, noted that most carriers would be amenable to that request and did not see any issues.

City Attorney Stretcher clarified that in all of the agreements the City reserves the right to use the cell tower for emergency services but the amendment would reserve the use for all city services.

The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

ORDINANCE NO. 8885

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 1, BLOCK 2, GRANDRIDGE PARK ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF HOLIDAY HILL ROAD AND LOOP 250), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR A WIRELESS COMMUNICATION TOWER; 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

39. City Secretary Turner read the caption of Ordinance No. 8886.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8886 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, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

ORDINANCE NO. 8886

AN ORDINANCE AMENDING THE OFFICIAL MUNICIPAL BUDGET FOR FISCAL YEAR 2010-2011 IN ORDER TO [1] COMPLETE HEATING, VENTILATING AND AIR

CONDITIONING WORK AT GRANDE COMMUNICATIONS STADIUM AND CITIBANK BALLPARK, [2] REPLACE AND MAINTAIN LIGHTING AT GRANDE COMMUNICATIONS STADIUM AND CITIBANK BALLPARK, AND [3] CONSTRUCT A FENCE AROUND THE COMMONS AREA AT THE SCHARBAUER SPORTS COMPLEX, WHICH COULD NOT BY REASONABLY DILIGENT THOUGHT AND ATTENTION HAVE BEEN INCLUDED IN THE ORIGINAL BUDGET FOR THE 2010-2011 FISCAL YEAR; AND APPROPRIATING \$1,210,000.00

PUBLIC HEARINGS

40. Sylvester Cantu gave an overview of the item noting that the number of public hearings was changing from two to one.

Mayor Perry opened the public hearing at 11:54 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Hailey moved approval of Resolution No. 2011-089; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said resolution is as follows:

RESOLUTION NO. 2011-089

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE CITY OF MIDLAND CITIZEN PARTICIPATION PLAN FOR COMMUNITY DEVELOPMENT AND HOUSING FUNDS

41. Sylvester Cantu gave an overview of the item. A discussion ensued about Sparks Park.

Mayor Perry opened the public hearing at 11:59 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Hailey moved approval of Resolution No. 2011-090; seconded by Mayor Pro Tem Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said resolution is as follows:

RESOLUTION NO. 2011-090

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE 2010/2011 ACTION PLAN TO THE CITY OF MIDLAND CONSOLIDATED PLAN FOR COMMUNITY DEVELOPMENT AND HOUSING FUNDS PER AMENDMENT DOCUMENTS ON FILE WITH THE INTERIM CITY SECRETARY; SAID AMENDMENT TO INCLUDE THE REALLOCATION OF \$69,939.00 AND RELATED BUDGET TRANSFERS; AUTHORIZING THE CONSOLIDATION OF EXISTING ALLOCATIONS OF THE DEMOLITION, AND OWNER OCCUPIED HOUSING ASSISTANCE PROGRAMS; THAT A COPY OF SAID AMENDMENT DOCUMENTS SHALL BE ON FILE IN THE CITY SECRETARY'S OFFICE

42. Senior Planner Jim Compton gave an overview of the item noting that one letter of opposition was received and that the Planning and Zoning Commission recommended approval.

Mayor Perry opened the public hearing at 12:02 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

City Secretary Turner read the caption of Ordinance No. 8887.

Council Member Dufford moved approval of the first of two readings of Ordinance No. 8887 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, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

ORDINANCE NO. 8887

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 15, BLOCK 26, WYDEWOOD ESTATES, SECTION 5, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR MIXED USE, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT

(GENERALLY LOCATED ON THE SOUTHEAST CORNER OF PRESTON ROAD AND LOOP 250); 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

43. Senior Planner Jim Compton gave an overview of the item noting that Planning & Zoning recommended approval, that no opposition had been received, and that staff concurred with Planning and Zoning and recommended approval.

Mayor Perry opened the public hearing at 12:05 p.m.

Cherie Holtzclaw, 4714 Thomason Drive, noted she lived at her location for 40 years. She noted that many students traveled through the alley and that traffic in the alleys is heavy. She objected to eight parking spaces that would be added and felt that with 30 students, traffic would be increased. She asked Council to maintain the building as a single family dwelling and to move the daycare to another location.

Marilyn Harmon, 4700 Thomason Drive, identified herself as the owner of the daycare and noted that she is licensed by the State. She stated that there is a great demand for daycare in the area and clarified that even though she would have 30 kids, not all parents would be picking up and dropping off at the same time. She felt that it would not increase traffic and clarified that the children would be dropped off and picked up on Eisenhower. She also noted that she would like to expand to a larger location in the future.

A discussion ensued about whether to make this zoning for a term of two years. City Attorney Stretcher clarified that zoning goes with the property and not with the person.

Cherie Holtzclaw, 4714 Thomason Drive, noted that once it is zoned for daycare it will be sold as a daycare and felt the landscape alone would ruin the neighborhood.

There being no one else present wishing to speak, the public hearing was closed at 12:18 p.m.

City Secretary Turner read the caption of Ordinance No. 8888.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 8888 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, Dufford, and James. NAY: Perry and Sparks. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

ORDINANCE NO. 8888

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 1, BLOCK 127, WILSHIRE PARK, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THOMASON DRIVE AND EISENHOWER DRIVE), WHICH IS PRESENTLY ZONED 1F-3, ONE-FAMILY DWELLING DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR A DAY CARE CENTER; 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

DEVELOPMENT SERVICES

44. Presentation of the 2010 Traffic Accident Report.

Transportation Manager Gary Saunders presented the 2010 Traffic Accident Report noting that traffic volumes increased 8.1 percent and 10-12 percent citywide. He also commented on the population increase but noted that there was a five percent decrease in accidents and stated that there are less than two accidents per million vehicles entering each intersection.

Discussion ensued about traffic and crime perceptions, alcohol or drug related accidents, red light running, and the need for a traffic signal at Garfield and Florida.

45. Senior Planner Compton gave an overview of the item noting that staff was looking for direction to include the land in the annexation.

Council Member Trost moved to direct staff to add additional land parcels to the proposed annexation as authorized on February 8, 2011. Said land to include approximately 250 additional acres out of Section 37, Block 41, and a 2.89 acre tract of land out of Section 26, Block 40, all out of T-1-S T&P RR Co. Survey, Midland County, Texas; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

46. Council Member Trost moved that the proposal related to an approved Planned District ordinance and site plan for Crestview Baptist Church meets the intent of the governing ordinance, which is Ordinance No. 8559. Said request involves the addition of a small storage building; seconded by Council Member Sparks.

Senior Planner Compton gave a brief overview of the item asking for Council direction.

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

MISCELLANEOUS

47. Consideration of appointments to various Boards and Commissions.
Council Member Hailey nominated Alice Church and Tyler Wolfe to the Hotel Motel Advisor Board with terms expiring 2011 and 2012 respectively; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, Dufford, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: None.

RECESS/EXECUTIVE SESSION

48. Mayor Perry announced that the meeting would be recessed to the conference room for lunch.
49. 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 executive session items would be discussed.

All of the business at hand having been completed, the meeting adjourned at 12:42 p.m.

PASSED AND APPROVED the 26th day of April, 2011.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary