

**MIDLAND CITY COUNCIL
MINUTES
June 14, 2011**

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 8:31 a.m. on June 14, 2011.

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

Council Members absent: Council Member Scott Dufford (At-Large), Council Member Vicky Hailey (District 2) (Hailey arrived at 8:40 a.m.), and Council Member John James (District 3) (James arrived at 8:35 a.m.).

Staff members present: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, Assistant City Manager Jim Nichols, City Secretary Amy Turner, Development Services Director Rick Crownover, Finance Director Bob McNaughton, Utilities Director Stuart Purvis, Building Official Steve Thorpe, Planning Division Manager Cameron Walker, Assistant Attorney Don Fletcher, GIS Manager Bill Hodge, Public Information Officer Tasa Watts, Superintendent Johnny Womack, and Customer Service Division Manager Tony Goyang.

BRIEFING SESSION

1. Presentation and update regarding current available water supplies, reduced deliveries by the Colorado River Municipal Water District, and discuss Ordinance No. 8892 which adopted the Drought Contingency Plan on first reading on April 26, 2011. (Utilities)

Utilities Director Purvis gave an update on the current water supply noting that CRMWD is further reducing water deliveries by an additional 10%. He reviewed the stage two restrictions noting watering would be limited to two days per week and that water rates are expected to increase significantly.

Discussion ensued about advertising, water times, enforcement, and water delivery costs.

2. Discussion on proposed Regional Corridor Zoning District, State Highway 191/Farm to Market Road 1788 Corridor. (Development Services)

Planning Division Manager Walker noted that Council direction in late April was to change SH 191 zoning to a future retail corridor. He reviewed the current usage of businesses along 1788 and 191 noting that staff recommends changing the zoning along FM 1788 to LI – Light Industrial District and then amend the code for building material requirements. Staff proposes to rezone SH 191 and a portion of FM 1788 to LR-2 Local Retail District.

Council consensus was to move forward with staff recommendations.

3. Discuss City's sustainability efforts which may include but may not be limited to Vision 2020, and water, solid waste, renewable energy, future growth and related issues. (Councilman Trost)

City Manager Sharp noted that Council Member Trost requested this item be placed on the next meeting agenda.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:29 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:02 a.m., June 14, 2011.

Council Members present: Mayor W. Wesley Perry, Mayor Pro Tem Michael Trost (District 4), 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).

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 Jim Nichols.

MISCELLANEOUS

1. The invocation was voiced by Reverend Tony Conner of Cowboy Church of the American West.
2. The Pledge of Allegiance to the Flag was stated.
3. Presentation of special events, organizations, individuals, or periods of time.
 - a. Mayor Perry presented a Resolution of Commendation to retiring City employee James McGowan.
 - b. Council Member Morales presented a Proclamation for Midland Christian Track & Field Team for becoming 4A State Champions.

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.

Dr. Ryder Warren noted that MISD had ended the school year in extraordinary fashion, reported on the school's budget, and requested members of the Council to sit on their Community Strategic Planning Committee. Council Members James, Trost and Hailey volunteered their time.

Luther Steele, 1505 Blue Haven Drive, thanked the Council for what they have done for the Senior Center but noted their facility is too small. He requested the Council provide them a facility that could accommodate between 125-150 people.

Jean Wadsworth, 3500 Pinemont Drive, requested help to obtain a larger senior center with a kitchen so hot meals could be served. She suggested the Council look to other cities such as Big Spring or Odessa to see their Senior Centers. She also noted that there are buildings to the east and west of the Senior Center that could be used. A petition was presented from people requesting the change to the Senior Center.

Blake Mendez, 110 Ridglea Drive, spoke about water being a valuable resource and suggested bringing all parties to the table to talk about conservation.

Bruce Pridgen, 1206 Whitney, noted he is a landscaper and has no objection to watering twice a week. He expressed concern that a provision be included that new landscape can be watered until it is established and offered to help create a policy.

Monica Bates, 4609 Gulf, and Amy Avampato, 5511 Hathaway Court, stated they enjoyed the boot camp provided by Parks and Recreation Department and thanked the city for having an outstanding program. They also commended the instructor, Ben Telesca.

Lee Petty, 4506 Fannin, noted that he is in the landscape construction business and addressed different plant materials and their watering needs. He suggested a watering variance be allowed for new plants of at least two weeks.

Cynthia Ruiz, 1301 Latta Drive, representing Constellation Ranch Apartment Homes, noted that the closest EZ Rider bus stop is 1 ¾ miles away and asked to have a bus stop placed closer.

Rick French, 4926 Keenland, stated he was the owner and manager of Casa Verde Nursery. He noted he would like to have stronger enforcement of watering issues.

Eric Sellinger, of Flow Grow Sprinklers, noted that the city could make recommendations for ways to use irrigation such as a drip system that could reduce watering by 60% in

flower beds. He also suggested incentives instead of penalties and thought it would be better to list violator's names in the newspaper rather than giving fines.

There were no other requests by citizens to speak.

CONSENT AGENDA

Mayor Pro Tem Trost moved to approve Consent Agenda items 5, 7-10, and 16-17; 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.

5. Approved the minutes of the regular City Council meeting of May 24, 2011

7. Adopted Resolution No. 2011-127. Caption of said resolution is as follows:

RESOLUTION NO. 2011-127

RESOLUTION AUTHORIZING THE FRIENDS OF HIKE AND BIKE TRAILS TO RAISE FUNDS ON BEHALF OF THE CITY OF MIDLAND FOR HIKE AND BIKE TRAIL SYSTEMS THROUGHOUT THE CITY OF MIDLAND; UPON COMPLETION OF THE TRAIL SYSTEM THE CITY OF MIDLAND WILL BE RESPONSIBLE FOR THE HIKE AND BIKE TRAIL SYSTEMS OPERATION AND MAINTENANCE. (Community Services)

8. Adopted Resolution No. 2011-128. Caption of said resolution is as follows:

RESOLUTION NO. 2011-128

RESOLUTION AUTHORIZING THE CITY OF MIDLAND TO ACCEPT THE AMOUNT OF \$150,000.00 IN THE FORM OF A LAND DONATION AS A PART OF THE \$1,000,000.00 MATCHING FUNDS FROM THE FRIENDS OF THE I-20 WILDLIFE PRESERVE AND JENNA WELCH NATURE STUDY CENTER; SAID LAND BEING DESCRIBED AS A 6.51 ACRE TRACT OF LAND OUT OF A 20.55 ACRE TRACT OF LAND OUT OF THE SOUTHWEST QUARTER (SW/4) OF SECTION 5, BLOCK 39, T-2-S T&P R.R. CO. SURVEY, MIDLAND COUNTY, TEXAS; THE FOLLOWING TRACTS ONCE CONVEYED WILL NOT HAVE ACCESS TO A PUBLIC STREET OR ROAD; A 3.485 ACRE TRACT OF LAND OUT OF A 20.55 ACRE TRACT OF LAND OUT OF THE SOUTHWEST QUARTER (SW/4) OF SECTION 5, BLOCK 39, T-2-S T&P R.R. CO. SURVEY, MIDLAND COUNTY, TEXAS; A 1.131 ACRE TRACT OF LAND OUT OF A 3.10 ACRE TRACT OF LAND OUT OF THE SOUTHWEST QUARTER (SW/4) OF SECTION 5, BLOCK 39, T-2-S T&P R.R. CO. SURVEY, MIDLAND COUNTY, TEXAS; AND ORDERING RECORDATION BY THE CITY SECRETARY. (Community Services)

9. Adopted Resolution No. 2011-129. Caption of said resolution is as follows:

RESOLUTION NO. 2011-129

RESOLUTION APPROVING PLANS AND SPECIFICATIONS PREPARED BY RHOTENBERRY WELLEN ARCHITECTS, AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE CITY OF MIDLAND PROJECT DESCRIBED AS PHASE II OF THE I-20 WILDLIFE PRESERVE AND JENNA WELCH NATURE STUDY CENTER. (Community Services)

10. Approved a motion directing staff to add additional land parcels to the proposed annexation as authorized on April 12, 2011. Said land to include approximately 72 additional acres for a total of 220.94 acres out of Section 37 and 48, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Planning Division)

16. Adopted Resolution No. 2011-130. Caption of said resolution is as follows:

RESOLUTION NO. 2011-130

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR THE TEMPORARY CLOSURE OF STATE RIGHT-OF-WAY WITH THE STATE OF TEXAS FOR USE OF A STATE-OWNED HIGHWAY, INCLUDING SPUR 269 BETWEEN MAIN STREET AND LORAIN STREET, FOR THE PURPOSE OF THE SAN MIGUEL ARCANGEL CATHOLIC CHURCH ANNUAL FAIR SPECIAL EVENT. (Transportation)

17. Adopted Resolution No. 2011-131. Caption of said resolution is as follows:

RESOLUTION NO. 2011-131

RESOLUTION AUTHORIZING THE CITY ATTORNEY AND CITY MANAGER TO NEGOTIATE AND EXECUTE A RIGHT OF WAY LICENSE FOR THE INSTALLATION

AND MAINTENANCE OF AN OIL & GAS PIPELINE ACROSS SECTION 5, BLOCK 38, T-2-S, MIDLAND COUNTY, TEXAS, SECTION 8, BLOCK 38, T-2-S, MIDLAND COUNTY, TEXAS, SECTION 9, BLOCK 38, T-2-S, MIDLAND COUNTY, TEXAS, AND SECTION 10, BLOCK 38, T-2-S, MIDLAND COUNTY, TEXAS, WITH VITOL MIDSTREAM, LLC

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

6. Council Member Morales moved to adopt Resolution No. 2011-132; seconded by Council Member James.

Finance Director McNaughton asked that another special meeting be added on July 21, 2011, at 9 a.m. so that the City Council could provide direction as to what tax rate should be published in the paper.

Council Members Morales and James withdrew their motion.

Council Member Morales moved to adopt Resolution No. 2011-132 with the addition of the July 21, 2011 meeting; seconded by Council Member James.

It was noted that the August 9th meeting would be held at 6:30 p.m. to allow public access who cannot come during the day time.

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. 2011-132

RESOLUTION ADDING TWO (2) SPECIAL MEETINGS, ONE ON JULY 21, 2011, AND THE SECOND ON AUGUST 2, 2011, AND TWO (2) REGULAR MEETINGS, ONE ON AUGUST 16, 2011, AND THE SECOND ON AUGUST 22, 2011, TO THE CITY COUNCIL MEETINGS SCHEDULED FOR THE 2011 CALENDAR YEAR. (Finance)

11. A motion was made by Council Member Trost to direct staff to begin the process of annexing city owned land including the water pollution control plant, the landfill, and numerous small land parcels mostly located on the north and west sides of the city; seconded by Council Member James. (Planning Division)

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

12. Council Member Sparks moved to adopt Resolution No. 2011-133; seconded by Council Member James.

A discussion ensued about the cost of the project.

Council Member Sparks moved to amend the motion to change the maximum cost of the project from \$70,000 to \$50,000; seconded by Mayor Pro Tem Trost.

A discussion ensued about how much time, effort and money the fiber communication line would save between the police department and the District Attorney's Office.

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

The main 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. 2011-133

RESOLUTION AUTHORIZING AN AGREEMENT BETWEEN THE CITY OF MIDLAND AND MIDLAND COUNTY WHICH AUTHORIZES THE ESTABLISHMENT OF A FIBER COMMUNICATION LINE BETWEEN THE CITY OF MIDLAND AND MIDLAND COUNTY; SAID FIBER COMMUNICATION LINE WILL ALLOW DOCUMENTS TO BE TRANSMITTED ELECTRONICALLY; THE CITY OF MIDLAND AND MIDLAND COUNTY WILL SHARE EQUALLY IN THE COST, WHICH IS ESTIMATED AT \$40,000.00; THE CITY OF MIDLAND'S SHARE WILL COME FROM SEIZED POLICE FUNDS. (Police Department)

13. Mayor Pro Tem Trost moved to adopt Resolution No. 2011-134; 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 resolution is as follows:

RESOLUTION NO. 2011-134

RESOLUTION APPROPRIATING \$207,755.00 TO THE 2007 WATER CONSERVATION PROJECT; SAID FUNDS TO BE MADE AVAILABLE TO THE MIDLAND INDEPENDENT SCHOOL DISTRICT PURSUANT TO THE SCHOOL DISTRICT'S INTERLOCAL IRRIGATION SYSTEM AGREEMENT WITH THE CITY OF MIDLAND. (Utilities)

14. A discussion ensued about the number of hours the inspector would work, his responsibilities, and the need for a resident inspector.

Council Member Sparks moved to adopt Resolution No. 2011-135; seconded by Council Member Hailey.

Discussion ensued about the differences between a resident inspector who inspects all throughout the project and a city inspector who inspects at milestones of a project.

Council Member Hailey moved to call the previous question; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Hailey, Perry, James, and Sparks. NAY: Trost. ABSTAIN: None. ABSENT: Dufford.

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

RESOLUTION NO. 2011-135

RESOLUTION AUTHORIZING A NINTH AMENDMENT TO THE EXISTING PROFESSIONAL SERVICES AGREEMENT WITH HDR ENGINEERING, INCORPORATED; AND APPROPRIATING \$110,000.00 THEREFOR; THE ORIGINAL AGREEMENT WAS FOR \$293,200.00; THIS NINTH AMENDMENT WILL BRING THE TOTAL AGREEMENT PRICE TO \$1,900,513.00; AND APPROPRIATING FUNDS. (Utilities)

15. Council Member Morales moved to adopt Resolution No. 2011-136; 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 resolution is as follows:

RESOLUTION NO. 2011-136

RESOLUTION AWARDDING THE CONTRACT FOR THE CONSTRUCTION OF THE HEADWORKS IMPROVEMENTS - REPLACEMENT OF INFLUENT SCREENS PROJECT, AT A TOTAL ESTIMATED COST OF \$5,357,080.00, TO RED RIVER CONSTRUCTION COMPANY; AND APPROPRIATING FUNDS. (Utilities)

SECOND READINGS

18. Drought Contingency Plan.

City Secretary Turner read the caption of Ordinance No. 8892

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8892 in accordance with the Charter of the City of Midland; seconded by Mayor Pro Tem Trost.

Council Member Hailey noted that there were minor amendments to the Ordinance and asked City Attorney Stretcher to outline the amendments.

City Attorney Stretcher noted that a provision was placed in the ordinance that the Municipal Court would take judicial notice of any requests or orders from CRMWD which would prevent their director from having to come to Midland and testify every time there was a violation. Another provision was added so that the City Manager could grant variances up to 30 days and a copy would be filed in Municipal Court. He explained that phrase "the mental state is negated" means that the offense either happened or it didn't happen and that it does not have to be proven that the offense was committed knowingly, intentionally or recklessly.

Discussion ensued about how a variance could be obtained and penalties.

Council Member Hailey moved to amend the motion to include the amendments outlined by the City Attorney; seconded by Council Member James. The motion to amend carried by the following vote: AYE: Morales, Trost, Hailey, Perry, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford.

The motion as amended 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. 8892

ORDINANCE OF THE CITY OF MIDLAND, TEXAS, ESTABLISHING AND ADOPTING A DROUGHT CONTINGENCY PLAN FOR THE CITY OF MIDLAND, TEXAS, IN ORDER TO CONSERVE THE AVAILABLE WATER SUPPLY AND PROTECT THE INTEGRITY OF WATER SUPPLY FACILITIES; AND TO PROTECT AND PRESERVE PUBLIC HEALTH, WELFARE, AND SAFETY AND MINIMIZE THE ADVERSE IMPACT OF WATER SUPPLY SHORTAGES OR OTHER WATER SUPPLY EMERGENCY CONDITIONS; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); AND NEGATING A MENTAL STATE; AND ORDERING PUBLICATION. (First reading held April 26, 2011.) (Utilities)

19. City Secretary Turner read the caption of Ordinance No. 8896.

Council Member James moved to approve the second and final reading of Ordinance No. 8896 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, James, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Perry, and Dufford. Caption of said ordinance is as follows:

ORDINANCE NO. 8896

ORDINANCE PROHIBITING PARKING ON THE WEST SIDE OF MARK LANE FROM THE NORTH CURB LINE OF WADLEY AVENUE CONTINUING NORTH TO THE SOUTH CURB LINE OF GLENEAGLES DRIVE EXCEPT TO RESIDENTS WHOSE PROPERTY ABUTS SUCH STREET AND HAVE OBTAINED A VALID PARKING PERMIT; AUTHORIZING AND DIRECTING THE TRAFFIC ENGINEER TO ERECT APPROPRIATE SIGNS; DECLARING ANY VEHICLE IN VIOLATION OF THE PROVISIONS OF THIS ORDINANCE A NUISANCE AND PROVIDING FOR THE REMOVAL OF SAME; CONTAINING A CUMULATIVE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO HUNDRED DOLLARS (\$200.00); AND ORDERING PUBLICATION. (First reading held May 24, 2011.) (Transportation)

20. City Secretary Turner read the caption of Ordinance No. 8897.

Council Member James moved to approve the second and final reading of Ordinance No. 8897 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. 8897

ORDINANCE AMENDING ORDINANCE NO. 8797, WHICH VACATED AND ABANDONED A 0.5-ACRE PORTION OF HARRISON STREET RIGHT-OF-WAY ADJACENT TO THE EAST SIDE OF LOTS 1-3, BLOCK 19, REPLAT OF SOUTH PARK ADDITION AND A 715.5 SQUARE FOOT PORTION OF NEW JERSEY AVENUE RIGHT-OF-WAY AT THE HARRISON STREET INTERSECTION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON HARRISON STREET SOUTH OF NEW JERSEY AVENUE); SAID AMENDMENT TO EXTEND THE TIME FOR PLATTING TO MAY 24, 2012; 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. (First reading held May 24, 2011.) (Planning Division)

21. City Secretary Turner read the caption of Ordinance No. 8898.

Council Member James moved to approve the second and final reading of Ordinance No. 8898 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. 8898

ORDINANCE OF THE CITY OF MIDLAND ("CITY") APPROVING A NEGOTIATED RESOLUTION BETWEEN THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR ("STEERING COMMITTEE") AND ONCOR ELECTRIC DELIVERY COMPANY LLC ("ONCOR" OR "COMPANY") REGARDING THE COMPANY'S APPLICATION TO INCREASE ELECTRIC RATES IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATE MAKING EXPENSES; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE TARIFFS TO BE JUST AND REASONABLE; APPROVING ONCOR'S PROOF OF REVENUES; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE STEERING COMMITTEE'S LEGAL COUNSEL. (First reading held May 24, 2011.) (Administration)

22. City Secretary Turner read the caption of Ordinance No. 8899.

Council Member Morales moved to approve the second and final reading of Ordinance No. 8899 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. 8899

ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO CERTAIN AREAS ADJOINING THE PRESENT CITY LIMITS, BEING A 2.897-ACRE TRACT OF LAND OUT OF THE NORTHWEST QUARTER OF SECTION 26, 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 ½ MILE SOUTH OF THE MIDLAND INDEPENDENT SCHOOL DISTRICT BUS BARN FACILITY); AND APPROVING A PUBLIC SERVICE PLAN. (First reading held May 24, 2011.) (Planning Division)

23. City Secretary Turner read the caption of Ordinance No. 8900.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 8900 in accordance with the Charter of the City of Midland; seconded by Mayor Pro Tem 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. 8900

ORDINANCE ESTABLISHING THE ZONING CLASSIFICATION OF THE AREA INDICATED AS BEING A 2.897-ACRE TRACT OF LAND OUT OF THE NORTHWEST QUARTER OF SECTION 26, 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, AS A CE, COUNTRY ESTATE DISTRICT; SAID TRACT IS GENERALLY LOCATED ½ MILE SOUTH OF THE MIDLAND INDEPENDENT SCHOOL DISTRICT BUS BARN FACILITY; 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. (First reading held May 24, 2011.) (Planning Division)

PUBLIC HEARINGS

24. Consider a motion to open sealed Requests for Proposals for an Oil and Gas lease in and around Midland Airpark Airport. (General Services)

Mayor Perry opened the public hearing at 11:44 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member James moved to open sealed Requests for Proposals for an Oil and Gas lease in and around Midland Airpark Airport; 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.

The following bids were publicly opened from the following companies: Windsor Permian LLC, 14301 Caliber Drive, Suite 300, Oklahoma City, OK 73134. Endeavor Energy Resources, LP, 110 N. Marienfeld, Suite 200, Midland TX 79701.

No further action was taken on this item.

25. Public Hearing on whether or not to lease mineral rights in and around Midland Airpark Airport for the right to explore, operate, and drill for, producing and owning oil and gas. (General Services)

Mayor Perry opened the public hearing at 11:46 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Director of Airports Esterly noted how the bids were advertised and stated that seven RFP packets were picked up.

Following discussion, it was determined that the proposals would be forwarded to the committee for consideration and a recommendation would be brought back to the City Council for final determination.

No further action was taken on this item.

26. Public Hearing on the 2011/2012 Community Development Block Grant Program. (Community Development)

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.

Community Development Manager Cantu gave an overview of the final process.

No further action was taken on this item.

27. Public hearing to consider an ordinance on a request by Jonathan Wakefield for a zone change from PD, Planned District for a Shopping Center to an Amended Planned District.

Planning Division Manager Walker gave an overview of the item noting that no letters of objection had been received and the Planning & Zoning Commission supported the item.

Mayor Perry opened the public hearing at 12:00 noon.

Jonathon Wakefield, 15995 Parkers Landing Rd., stated he was a representative of Christian Brothers Automotive. He distributed and reviewed information with the Council. He emphasized that no vehicles would be left out on the property overnight, that heavy vehicle work accounts for about 2% of their overall work and explained how their operations work. He noted that this is franchise and that there are currently 84 stores open. He stated that the franchisee has signed a 60 year lease.

Glen Miller, 5505 San Saba Court, noted that the building proposed is near his home and he was in favor of the project. He commented that Christian Brothers Automotive is on the same par of Chick-fil-A and that he personally knows the franchisees that are moving from Houston and looking forward to being a part of Midland.

There being no one else present wishing to speak, the public hearing was closed at 12:10 p.m.

City Secretary Turner read the caption of Ordinance No. 8901.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 8901 in accordance with the Charter of the City of Midland; seconded by Mayor Pro Tem

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. 8901

ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 0.71-ACRE PORTION OF LOT 32, BLOCK 39, FAIRMONT PARK ADDITION, SECTION 38, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, 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 WEST LOOP 250 NORTH, APPROXIMATELY 400 FEET NORTH OF TREMONT AVENUE); 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. (Planning Division)

28. Public hearing to consider an ordinance on a request by Tavistock Freebirds, for approval of a Specific Use Permit with Term, for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant.

Planning Division Manager Walker gave an overview of the item noting no letters of objection had been received and that the Planning & Zoning Commission unanimously recommended approval.

Mayor Perry opened the public hearing at 12:13 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. 8902.

Council Member Morales moved approval of the first of two readings of Ordinance No. 8902 in accordance with the Charter of the City of Midland; seconded by Mayor Pro Tem 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. 8902

ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS 3,040 SQUARE FEET OUT OF LOT 23B, BLOCK 40, FAIRMONT PARK ADDITION, SECTION 39, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF WEST LOOP 250 AND TREMONT 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. (Planning Division)

29. Public hearing to consider an ordinance on a request by Dora Braun, for approval of a Specific Use Permit with Term, for the sale of all alcoholic beverages, for on-premises consumption, in a restaurant.

Planning Division Manager Walker gave an overview of the item noting no letters of objection had been received and Planning & Zoning recommended unanimous approval.

Mayor Perry opened the public hearing at 12:15 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. 8903.

Council Member Morales moved approval of the first of two readings of Ordinance No. 8903 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. 8903

ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS 2,358 SQUARE FEET OUT OF LOT 17A, BLOCK 1, FAIRMONT PARK ADDITION, SECTION 4, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF NORTH MIDLAND DRIVE AND WEST WADLEY 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. (Planning Division)

30. Public hearing to consider an ordinance on a request by 191 Storage for a zone change from FD, Future Development District to PD, Planned District for a Shopping Center to accommodate expansion of the facility.

Planning Division Manager Walker gave an overview of the item noting that no letters of objection had been received and that Planning & Zoning unanimously recommended approval. He clarified that the landscape would not include palm trees but a different tree better suited for West Texas.

Mayor Perry opened the public hearing at 12:23 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. 8904.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 8904 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. 8904

ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 2, BLOCK 1, WEST 191 INDUSTRIAL PARK, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED ON THE NORTH SIDE OF STATE HIGHWAY 191, APPROXIMATELY ½ MILE WEST OF COUNTY ROAD 1275); 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. (Planning Division)

31. Public hearing to consider a resolution on a request by Our Lady of Guadalupe Catholic Church for approval of a Temporary Land Use Permit for a Church Fair.

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 12:25 p.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Hailey moved approval of Resolution No. 2011-137; seconded by Council Member James. 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. 2011-137

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A CHURCH FAIR ON LOTS 8 AND 13A, BLOCK 7, GLENDALE, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NEAR THE NORTHEAST CORNER OF THE INTERSECTION OF GARDEN LANE AND NORTH TYLER STREET); AND

MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN. (Planning Division)

32. Public hearing to consider an ordinance amending the zoning of a lot located on the west side of FM 1788 from FD, Future Development District to LI, Light Industrial District in order to permit additional building permits and eventual facility expansion.

Planning Division Manager Walker gave an overview of the item noting that no letters of objection had been received, that staff supported the request, and that Planning & Zoning voted in favor of the item.

Mayor Perry opened the public hearing at 12:29 p.m.

Larry Hada, 1971 FM 574 W., noted that their new buildings are 300-400 feet back from the road and that changes requested would be made to their existing buildings. He noted that they are in agreement to make modifications to the front buildings and will work with the city to adopt one of the proposed fire changes. He requested permission to begin construction now.

City Attorney Stretcher cautioned against beginning construction prior to final approval from the City Council.

There being no one else present wishing to speak, the public hearing was closed at 12:35 p.m.

City Secretary Turner read the caption of Ordinance No. 8905.

Council Member Sparks moved approval of the first of two readings of Ordinance No. 8905 in accordance with the Charter of the City of Midland; seconded by Mayor Pro Tem 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. 8905

ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 4, BLOCK 2, WEST 1788 INDUSTRIAL PARK, SECTION 5, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED FD, FUTURE DEVELOPMENT DISTRICT, TO BE USED AS AN LI, LIGHT INDUSTRIAL DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF FARM-TO-MARKET ROAD 1788, APPROXIMATELY ONE MILE SOUTH OF STATE HIGHWAY 191); 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. (Planning Division)

33. Public hearing to consider an ordinance on a request by Richard Cornett to vacate and abandon an 80-foot wide (0.26 acre) portion of Tennessee Avenue right-of-way between Block 2 and Block 15, Original Town Addition from Mineola Street east to the north/south alley.

Transportation Manager Gary Saunders gave an overview of the item noting that he received three letters of objection and objections via the phone from five properties. The general reason for the objections was for access to the surrounding properties.

Mayor Perry opened the public hearing at 12:48 p.m.

Richard Cornett, 7509 WCR 116, applicant, noted he wanted to build a home on his property to the north of the proposed alley vacation and by abandoning the alley he would not have to pave the road and install curb and gutter.

Raymond Lopez Jr., noted he was representing his father who owned the property to the south of the proposed alley vacation and his uncle who owns the pool hall to the northeast. He stated that they objected to the closure because it would make access to the pool hall more difficult and would hamper business.

Margarita Guajardo stated she owned three properties near the site, and also objected to the closure because that would prohibit their access to the pool hall and their storage building.

There being no one else present wishing to speak, the public hearing was closed at 12:56 p.m.

City Attorney Stretcher stated that if the Council has an objection from an abutting property owner, Council does not have the authority to close the street.

City Secretary Turner read the caption of the Ordinance.

ORDINANCE VACATING AND ABANDONING A 0.26-ACRE PORTION OF TENNESSEE AVENUE RIGHT-OF-WAY LOCATED BETWEEN BLOCK 2 AND BLOCK 15, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED BETWEEN MINEOLA STREET AND LAMESA ROAD); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$2,800.00; RETAINING A GENERAL UTILITY AND DRAINAGE EASEMENT; AND ORDERING RECORDATION BY THE CITY SECRETARY. (Transportation)

Council Member Hailey moved to deny the request; 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.

DEVELOPMENT SERVICES

34. Establish No Parking Anytime zone on a portion of the west side of "N" Street between Illinois Avenue and Michigan Avenue and a portion of the south side of Michigan Avenue between "N" Street and Garfield Street.

Transportation Manager Saunders gave an overview of the item noting he had not received any letters of objection.

City Secretary Turner read the caption of Ordinance No. 8906.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 8906 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. 8906

ORDINANCE PROHIBITING PARKING AT ANYTIME ON A PORTION OF "N" STREET NORTH OF ILLINOIS AVENUE AND ON A PORTION OF MICHIGAN AVENUE WEST OF "N" STREET; AUTHORIZING AND DIRECTING THE TRAFFIC ENGINEER TO ERECT APPROPRIATE SIGNS; DECLARING ANY VEHICLE IN VIOLATION OF THE PROVISIONS OF THIS ORDINANCE A NUISANCE AND PROVIDING FOR THE REMOVAL OF SAME; 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. (Transportation)

Mayor noted that he was moving Item 44 forward.

44. Receive a proposal from representatives of the Midland Community Development Corporation and the Capital Area Housing Finance Corporation of Austin, Texas, and the NRP Group, LLC, of San Antonio, Texas regarding multifamily housing developments (including Playa Del Pueblo) and financing these developments in the City of Midland, Texas. The Council may discuss this item with the representatives and require additional information.

David Diaz, 208 S. Marienfeld, spoke about the proposal he submitted to the state noting that they are currently in first place and that the project would go to the state board the end of July for finalization and that they required a signed Interlocal Agreement with the City.

Discussion ensued about who was required to sign the agreement.

Debra Guerrero, 3915 Skylar, San Antonio, TX, noted that in order to stay in first place and collect all points, the City Council would need to sign the agreement.

Consensus was received to direct staff to work on the Interlocal Agreement and bring back for City Council consideration in July.

MISCELLANEOUS

35. Consider approval of specifications and authorizing advertisement for bids for Installation of Fiber-Optic Cable.

Council Member Sparks moved to adopt Resolution No. 2011-138; seconded by Mayor Pro Tem Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford and James. Caption of said resolution is as follows:

RESOLUTION NO. 2011-138

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE INSTALLATION OF A HIGH SPEED FIBER-OPTIC COMMUNICATIONS CABLE TO BE INSTALLED BETWEEN THE CITY OF MIDLAND'S PUBLIC SAFETY BUILDING AND THE MIDLAND COUNTY COURTHOUSE IN MIDLAND, TEXAS. (General Services)

36. Proposed criteria for redistricting.

Council Member Sparks moved to adopt Resolution No. 2011-139; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Perry, Dufford, and James. Caption of said resolution is as follows:

RESOLUTION NO. 2011-139

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS ADOPTING CRITERIA THAT WILL BE USED IN THE REDISTRICTING 2011 PROCESS WHERE THE CITY COUNCIL WILL ADOPT A REDISTRICTING PLAN FOR CITY COUNCIL MEMBER DISTRICTS; AND PROVIDING AN EFFECTIVE DATE. (City Attorney)

37. Proposed guidelines for redistricting.

Council Member Sparks moved to adopt Resolution No. 2011-140; seconded by Council Member Hailey. Following brief discussion, the motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford and James. Caption of said resolution is as follows:

RESOLUTION NO. 2011-140

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS ESTABLISHING GUIDELINES FOR PERSONS SUBMITTING COMMENTS AND SPECIFIC REDISTRICTING PROPOSALS FOR CITY COUNCIL MEMBER DISTRICTS; AND PROVIDING AN EFFECTIVE DATE. (City Attorney)

Mayor Perry noted that Item No. 38 would be heard after executive session.

39. Consideration of appointments to various Boards and Commissions.

No appointments were made.

40. Discuss the City's legislative agenda in the Regular Session of the 82nd Session of the Texas Legislature, including but not limited to House Bill 1283, House Bill 3109, House Bill 3111, House Bill 3861 and House Bill 628. (City Attorney)

City Attorney Stretcher gave an update on HB 1283, HB 3109 and HB 3111 noting that all of the city's concerns had been passed.

Mayor Perry moved executive session forward.

EXECUTIVE SESSION

45. 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:

Section 551.071, Consultation with the City Attorney

Discuss litigation styled Jud Walton v. City of Midland, in the 238th Judicial District Court of Midland County, Texas; Cause Number CV-41,309.

Mayor Perry recessed the meeting to Executive Session at 1:32 p.m. The Council met in executive session until 1:39 p.m.

38. Jud Walton v. City of Midland

Mayor Pro Tem Trost moved to adopt Resolution No. 2011-141; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford and James. Caption of said resolution is as follows:

RESOLUTION NO. 2011-141

RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO FILE ALL DOCUMENTS, INCLUDING BUT NOT LIMITED TO, ANSWERS, JUDGMENTS, PLEADINGS, MOTIONS AND SETTLEMENTS, AND TO EXECUTE ALL SETTLEMENT AGREEMENTS AND JUDGMENTS, EMPLOY ALL NECESSARY EXPERTS AND TO MAKE ALL NECESSARY APPEARANCES TO DEFEND THE CITY OF MIDLAND, TEXAS IN LITIGATION STYLED JUD WALTON V. CITY OF MIDLAND, CAUSE NO. 41,309 IN THE 238TH JUDICIAL DISTRICT COURT, MIDLAND COUNTY, TEXAS; AND AUTHORIZING PAYMENT; AND AUTHORIZING ATTORNEY(S) WITH THE LAW FIRM OF COTTON, BLEDSOE, TIGHE AND DAWSON TO EXECUTE ALL SETTLEMENT DOCUMENTS AND JUDGMENTS ON BEHALF OF THE CITY OF MIDLAND; AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL SETTLEMENT DOCUMENTS AND JUDGMENTS ON BEHALF OF THE CITY OF MIDLAND. (City Attorney)

Mayor Perry moved item 43 forward.

43. Consider authorizing the Building Official to issue certificates of occupancy for the Blue Ridge Apartments.

Council Member Morales moved to have the vote on this item at the Blue Ridge Apartments site; seconded by Mayor Pro Tem Trost. The motion carried by the following vote: AYE: Morales, Trost, Hailey, Perry, and Sparks. NAY: None. ABSTAIN: None. ABSENT: Dufford and James.

It was noted that the item would be discussed and voted upon after the tour of the Blue Ridge Apartments.

RECESS

41. Mayor Perry announced that the meeting would be recessed to the conference room for lunch and would then reconvene at Blue Ridge Apartments at 2:30 p.m. The meeting was recessed at 1:50 p.m.

Mayor Perry reconvened the meeting at 2:40 p.m. with the following Council Members present: Morales, Trost, Hailey, Perry, and Sparks.

42. Recess to the Blue Ridge Apartments located at 2818 West Loop 250 North, Midland, Texas, (Lot 18, Block 5, North Park Addition, Section 12, City of Midland, Midland County, Texas), to review and discuss improvements and modifications to the Apartments, including but not limited to carports, window film and fixed louvers and other items relevant to Ordinance Number 8873.

The Council toured Buildings H and O.

43. **(Continued from earlier)** Consider authorizing the Building Official to issue certificates of occupancy for the Blue Ridge Apartments.

Council Member Morales moved to authorize the Building Official to issue certificates of occupancy for Building No. 8 (Building H) and Building No. 15 (Building O) of the Blue Ridge Apartments located at 2818 West Loop 250 North, Midland, Texas (Lot 18, block 5, North park Addition, Section 12, an addition to the City of Midland, Midland County, Texas); seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Perry, and Sparks. NAY: Trost. ABSTAIN: Hailey. ABSENT: Dufford and James.

All of the business at hand having been completed, the meeting adjourned at 2:57 p.m.

PASSED AND APPROVED the 12th day of July, 2011.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary