

**MIDLAND CITY COUNCIL  
MINUTES  
June 30, 2011 – 10:00 a.m.**

The City Council convened in a Special Session in the basement conference room, City Hall, Midland, Texas, at 10:01 a.m. on June 30, 2011.

Council Members present: Mayor W. Wesley Perry, Mayor Pro Tem Michael Trost (District 4), Council Member Scott Dufford (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 Jerry Morales (At-Large) (Morales arrived at 10:05 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, and Public Information Officer Tasa Watts.

Mayor Perry noted that the meeting would be recessed and moved to the Council Chamber on the first floor of City Hall.

Mayor Perry reconvened the meeting at 10:05 a.m. with all Council Members present.

**Public hearing to consider a resolution on a request by Midland Christian School, ON APPEAL, for approval of the preliminary plat of Grandview, Section 5.**

Planning Division Manager Cameron Walker gave an overview of the item noting the purpose was to combine several properties owned by Midland Christian and to replat. He noted that the preliminary plat complies with requirements of the ordinance and that staff finds no variances in association with the proposed replat.

City Attorney Stretcher stated that if the Council determines there is a variance, it would require three-fourths approval or six of the seven Council Members would need to vote in favor. If there is no variance then it would require a majority for approval.

Mayor Perry opened the public hearing at 10:13 a.m.

Eric West, 1700 West Wall Street, representing Midland Christian, gave an overview of the last 15 months of activity noting that in March of 2010 the City Council conducted a public hearing for the purpose of building parking spaces and a new secondary school building. The ordinance was approved for the request and payments were made. Midland Christian hired an architectural and engineering consultant and fully designed a new building including a large parking lot and raised over \$25 million. He noted that Midland Christian has not and is not requesting a variance. He requested the City Council help get the project back on track noting that they have done everything required of them by the City.

Martin Bucy, 2004 Whitney, stated he has lived in his house for 20 years and hoped to retire in Midland. He noted that the school has grown so much that he has experienced disruption of his life on a daily basis from school activities, especially football games, and that the school is disrupting the entire neighborhood. He also commented that when the project is done, he will have a parking lot in his back yard which will ruin the atmosphere.

Linda Griffin, 2101 Northrop, stated that she saw Midland Christian build a football field right across from her house which left nowhere for anybody to park. She stated that the school thinks it is not a big deal and they have everything under control, but she felt they did not. She commented that some of her neighbors have given up and sold their property to the school and that the people who live on Northrop will be surrounded by parking lots. She stated she felt like she has a continual cloud over her head and is wondering what will happen next.

Carrie Hooper, 1807 Culver, stated that one of the last site plans she saw depicted the entrance to school is right by her driveway. She noted that she already has trouble entering and exiting her driveway because of the school and that she has problems with people parking in or blocking her driveway and it limits her ability to get to her house.

Marilyn Weaver, 1807 Hughes, stated that she can ignore the school for the most part but expressed concern about parking since they are adding more buildings. She stated she has a nightmare that they want all of Hughes Street. She asked what would happen to the zoning if they take all of those houses. Mayor Perry responded that it would not change her zoning. She

asked if the parking on the streets could be restricted for residents and guests. Mayor Perry noted that could be arranged and someone would explain to her how to make that happen.

Dave Gillis, 3101 Humble, stated he was a native Midlander and that he always wanted to live in that neighborhood. He asked if anyone else would like to live in a neighborhood with a big, crummy looking building and a parking lot next to their house. He felt that no one saw it from their point of view.

Clayton Hooper noted his mother and sister live at 1806 Culver and that he was speaking on their behalf. He felt that any undertaking of a construction project of that size would be difficult to complete without a variance. He noted that it was a commercial building in a residential neighborhood and that alone is the definition of a variance. He stated he felt it was easier for Midland Christian to ask for forgiveness later rather than permission up front and asked the City Council look closely to ensure that there were no variances.

Ana O'Bryant, 1909 Hughes, expressed concern regarding a two-story building. She noted that Midland Christian had not spoken with her directly and that a promise was made to have frosted windows on the second story and asked that they go on record today stating that frosted windows would be installed.

Joyce Hooper, 1806 Culver, stated that water pressure in the neighborhood is very low and that sometimes the sprinklers don't come up enough to water and wondered if when the school was completed there would be enough water pressure. She stated she was told by Mr. Brent Littlefield who is a contractor for Midland Christian that they would tear up Culver down to Sinclair to put in a new water line.

Vickie Mason, 2003 Hughes, noted she has lived in her home for 44 years and intended to stay there but has found it very difficult. She decided last year she would move to a smaller place and put her house on market and can't sell it because of Midland Christian. She stated she has a swimming pool with a six foot fence, but a two-story building can still see into her yard. She expressed concern about students driving down the alley at 40 MPH and traffic signs being ignored. She stated she has four grandchildren and this is creating a bad situation and potential hazard. She also noted that she had to replace the water tap to the city because the alley was grated so low.

There being no one else present wishing to speak, the public hearing was closed at 10:45 a.m.

Mayor Perry asked Eric West if he would like to address the questions raised.

Eric West noted that prior to any homes on Culver being relocated, 163 parking spaces existed on campus. He noted that with the new construction there would be 389 parking spaces but explained that during construction less than half would be available. He stated that the alley adjacent to new parking lot between Hughes and Culver would be screened and that a solid 6-8 foot fence constructed of brick columns and wood slats would run from Gulf Avenue all the way to Sinclair. Regarding variances, he noted that a variance is something that they would have to ask for and is related to the requirements of the plat and that no variances have been requested or were expected to be requested.

Mayor Perry asked if when the construction is going on and there is a variance what would happen. Mr. West responded that it would be a code enforcement issue and that they have the ability to stop construction and not issue certificates of occupancy.

Mr. West explained that when a plat is approved, there are conditions attached to the plat. If one of those conditions are not going to be met, a variance is required. He emphasized that they are very comfortable with the conditions required on the plat and that all conditions can be met and that if something is not followed, a certificate of occupancy would not be issued. In regard to the alley for trash pick-up, he noted that they are allowing a blanket easement to their property to allow the Solid Waste Department to come on the campus to dump the dumpsters in lieu of an alley plan.

A discussion ensued about the requirement of an alley. It was noted that most commercial lots don't require access to alleys and they instead use a blanket refuse permit.

City Attorney Stretcher stated that the determination of whether using the blanket refuse permit in lieu of the alley is a variance is up to the legislative body.

Discussion ensued regarding whether the property was commercial or residential. City Attorney Stretcher noted that it looked like it was being treated as a commercial activity and therefore all criteria must be judged in the same way emphasizing that it could not be both commercial and residential.

Transportation Division Manager Gary Saunders addressed how parking can be restricted in a neighborhood using a permit system.

Council Member James requested Mr. Lee to speak to the frosted windows.

Eddie Lee, 2002 N "I", stated Midland Christian fully intends to frost the second floor windows of the classrooms facing east, and he clarified that the windows are frosted at the manufacturer. He also noted that during construction there may be a continued need to park on the street and asked the surrounding neighbors to have patience with them.

Transportation Manager Saunders stated that speeding in the alley could be reduced by placing rumble strips in the pavement.

Council Member James moved to determine that a variance does exist on the plat; seconded by Council Member Trost.

Discussion ensued regarding whether the refuse blanket was a variance. Council Member Sparks noted that the school near his home allows the refuse trucks on the property to empty dumpsters. It was noted that if the alley were required for trash disposal, it would upset the surrounding neighbors. It would be better to block access to the school through the alley.

Transportation Manager Saunders stated that there is nothing on the plat that requires a variance and that the code gives the option of using alley access or a blanket refuse agreement. He also pointed out that this is the same process used for any other school.

Utility Director Stuart Purvis commented that commercial properties do not have to select the City of Midland for solid waste collection. He noted that if the City does not get a blanket easement, it cannot collect solid waste and that residences typically do not want dumpsters lined up against their fence for a commercial site.

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

Council Member Morales moved to adopt Resolution No. 2011-142; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Trost, Perry, Dufford, James, and Sparks. NAY: Hailey. ABSTAIN: None. ABSENT: None. Caption of said resolution is as follows:

RESOLUTION NO. 2011-142

RESOLUTION APPROVING A PRELIMINARY PLAT OF GRANDVIEW, SECTION 5, BEING A REPLAT OF LOTS 1-11, BLOCK 8, WEST WAY ADDITION, AND THE WEST HALF OF THE NORTH HALF OF THE SOUTH 264 FEET OF TRACT 11, GRANDVIEW ADDITION, AND LOTS 2B, 2C AND 3, BLOCK 2, AND THE ADJACENT VACATED NORTH/SOUTH ALLEY, GRANDVIEW ADDITION, SECTION 3, AND LOT 4, BLOCK 2, AND THE ADJACENT VACATED 0.024-ACRE PORTION OF THE NORTH/SOUTH ALLEY, GRANDVIEW ADDITION, SECTION 4, AND THE VACATED 1.260-ACRE PORTION OF CULVER DRIVE AND THE VACATED 0.093-ACRE PORTIONS OF NORTHRUP DRIVE RIGHTS-OF-WAY, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTH OF SINCLAIR AVENUE, SOUTH OF NEELY AVENUE, EAST OF NORTHRUP DRIVE, AND WEST OF THE NORTH/SOUTH ALLEY LOCATED IN BLOCK 8, WEST WAY ADDITION, AND CULVER DRIVE AND A VACATED PORTION OF CULVER DRIVE); SAID PRELIMINARY PLAT WAS FILED ON BEHALF OF MIDLAND CHRISTIAN SCHOOL AND WAS DENIED BY THE PLANNING AND ZONING COMMISSION AND IS ON AN APPEAL TO THE CITY COUNCIL

All of the business at hand having been completed, the meeting adjourned at 11:37 a.m.

PASSED AND APPROVED the 12<sup>th</sup> day of July, 2011.

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W. Wesley Perry, Mayor

ATTEST:

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Amy M. Turner, City Secretary