

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

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:01 a.m., July 12, 2011.

Council Members present: Mayor Pro Tem Michael Trost (District 4), Council Member Jerry Morales (At-Large), Council Member Vicky Hailey (District 2), and Council Member John James (District 3).

Council Members absent: Mayor W. Wesley Perry, Council Member Scott Dufford (At-Large), and Council Member Jeff Sparks (District 1).

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 Steve Mohr of Our Saviour's Lutheran 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 Morales noted that Girl Scout Troop 177 was present and working on a badge. The Troop was invited forward for a photo with the Council.
 - b. Council Member James presented and read a proclamation to Sue Roseberry for Sue Roseberry Day.

PUBLIC COMMENT

4. Mayor Pro Tem Trost opened the floor for public comments to allow individuals to address the City Council on city-related issues and projects. There were no requests by citizens to speak.

CONSENT AGENDA

Council Member James moved to approve Consent Agenda items 5a-25 and 27; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, and James. NAY: None. ABSTAIN: None. ABSENT: Perry, Dufford, and Sparks.

- 5a. Approved the minutes of the regular City Council meeting of June 14, 2011.
- 5b. Approved the minutes of the special City Council meeting of June 30, 2011 at 10:00 a.m.
- 5c. Approved the minutes of the special City Council meeting of June 30, 2011 at 12 noon.
6. Adopted Resolution No. 2011-143. Caption of said resolution is as follows:

RESOLUTION NO. 2011-143

RESOLUTION APPROVING THE PURCHASE OF FITNESS EQUIPMENT FOR THE MARTIN LUTHER KING JR. COMMUNITY CENTER FROM PROMAXIMA MANUFACTURING, LTD., FOR \$78,934.25 THROUGH THE TEXAS MULTIPLE AWARD SCHEDULE PURCHASING PROGRAM. (GENERAL SERVICES)

7. Adopted Resolution No. 2011-144. Caption of said resolution is as follows:

RESOLUTION NO. 2011-144

RESOLUTION REJECTING THE SINGLE PROPOSAL RECEIVED FOR REQUEST FOR PROPOSALS NUMBER 3458-11 FOR AN UNINTERRUPTIBLE POWER SUPPLY; AND APPROVING SPECIFICATIONS AND AUTHORIZING RE-ADVERTISEMENT AND SOLICITATION FOR NEW PROPOSALS. (GENERAL SERVICES)

8. Adopted Resolution No. 2011-145. Caption of said resolution is as follows:

RESOLUTION NO. 2011-145

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH JONES BROS. OF ODESSA, TEXAS, FOR THE PROJECT DESCRIBED AS PHASE II OF THE

NORTHWEST TAXIWAY EXTENSION (CONSTRUCTION OF ROADS AND PARKING) (7038) AT THE MIDLAND INTERNATIONAL AIRPORT; THE COUNCIL PREVIOUSLY AUTHORIZED ADVERTISEMENT FOR BIDS FOR THE PROJECT; THE CITY'S SHARE IS \$513,233.84 FOR PHASE II OF THE NORTHWEST TAXIWAY EXTENSION PROJECT (CONSTRUCTION OF ROADS AND PARKING); AND APPROPRIATING FUNDS. (AIRPORT)

9. Adopted Resolution No. 2011-146. Caption of said resolution is as follows:

RESOLUTION NO. 2011-146

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH RES UNDERGROUND SERVICES OF ODESSA, TEXAS, FOR THE PROJECT DESCRIBED AS PHASE II OF THE NORTHWEST TAXIWAY EXTENSION (WATER/SEWER UTILITIES) (7038) AT THE MIDLAND INTERNATIONAL AIRPORT; THE COUNCIL PREVIOUSLY AUTHORIZED ADVERTISEMENT FOR BIDS FOR THE PROJECT; THE CITY'S SHARE IS \$600,055.00 FOR PHASE II OF THE NORTHWEST TAXIWAY EXTENSION PROJECT (WATER/SEWER UTILITIES); AND APPROPRIATING FUNDS. (AIRPORT)

10. Adopted Resolution No. 2011-147. Caption of said resolution is as follows:

RESOLUTION NO. 2011-147

RESOLUTION APPROVING PLANS AND SPECIFICATIONS PREPARED BY PARKHILL, SMITH AND COOPER, INCORPORATED, AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE CITY OF MIDLAND PROJECT DESCRIBED AS REHABILITATE TAXIWAY SYSTEMS (7003) AT THE MIDLAND INTERNATIONAL AIRPORT. (AIRPORT)

11. Adopted Resolution No. 2011-148. Caption of said resolution is as follows:

RESOLUTION NO. 2011-148

RESOLUTION APPROVING PLANS AND SPECIFICATIONS PREPARED BY PARKHILL, SMITH AND COOPER, INCORPORATED, AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE CITY OF MIDLAND PROJECT DESCRIBED AS EXECUTIVE APRON RECONSTRUCTION PROJECT (7056) AT THE MIDLAND INTERNATIONAL AIRPORT. (AIRPORT)

12. Adopted Resolution No. 2011-149. Caption of said resolution is as follows:

RESOLUTION NO. 2011-149

RESOLUTION AUTHORIZING THE EXECUTION OF A MAINTENANCE AGREEMENT WITH ALPHACORP DOING BUSINESS AS SIRE TECHNOLOGIES OF WEST VALLEY CITY, UTAH FOR THE ELECTRONIC AGENDA AUTOMATION MODULE APPROVED BY THE CITY COUNCIL IN MAY. (CITY SECRETARY)

13. Adopted Resolution No. 2011-150. Caption of said resolution is as follows:

RESOLUTION NO. 2011-150

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH VANDERGRIF GROUP ARCHITECTS, PC FOR DESIGN AND CONSTRUCTION ADMINISTRATION SERVICES IN CONNECTION WITH THE CENTENNIAL PLAZA PHASE II PROJECT; AND AUTHORIZING PAYMENT THEREFOR. (ENGINEERING)

14. Adopted Resolution No. 2011-151. Caption of said resolution is as follows:

RESOLUTION NO. 2011-151

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE CENTENNIAL PLAZA PHASE II PROJECT; SAID PROJECT WILL BE FOR THE COMPLETION OF IMPROVEMENTS AT CENTENNIAL PLAZA. (ENGINEERING)

15. Adopted Resolution No. 2011-152. Caption of said resolution is as follows:

RESOLUTION NO. 2011-152

RESOLUTION AUTHORIZING THE TRANSFER OF LOTS 2-6, BLOCK 20, MIDLAND HEIGHTS ADDITION, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS, TO MIDLAND HABITAT FOR HUMANITY, INCORPORATED, IN ACCORDANCE WITH SECTION 253.011 AND SECTION 272.001 OF THE TEXAS LOCAL GOVERNMENT CODE; AND AUTHORIZING THE CITY MANAGER AND CITY

ATTORNEY TO EXECUTE ALL DOCUMENTS NECESSARY TO TRANSFER OWNERSHIP; THE TRANSFER OF THIS PROPERTY IS NOT SUBJECT TO THE NOTICE, BIDDING, AND OBTAINING FAIR MARKET VALUE REQUIREMENTS OF STATE LAW. (CDBG)

16. Adopted Resolution No. 2011-153. Caption of said resolution is as follows:

RESOLUTION NO. 2011-153

RESOLUTION AUTHORIZING THE TRANSFER OF LOTS 3-5 AND LOTS 9-10, BLOCK TWENTY-THREE (23), MIDLAND HEIGHTS ADDITION, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS, TO THE MIDLAND COMMUNITY DEVELOPMENT CORPORATION; AND AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO EXECUTE ALL DOCUMENTS NECESSARY TO TRANSFER OWNERSHIP OF THESE PROPERTIES TO THE MIDLAND COMMUNITY DEVELOPMENT CORPORATION IN ACCORDANCE WITH SECTION 253.011, AND SECTION 272.001 OF THE TEXAS LOCAL GOVERNMENT CODE; THE TRANSFER OF THIS PROPERTY IS NOT SUBJECT TO THE NOTICE, BIDDING, AND OBTAINING FAIR MARKET VALUE REQUIREMENTS OF STATE LAW. (CDBG)

17. Adopted Resolution No. 2011-154. Caption of said resolution is as follows:

RESOLUTION NO. 2011-154

RESOLUTION AUTHORIZING THE TRANSFER OF LOT 4, AND LOTS 8-12, BLOCK 1 (1), PUEBLO SAN JUAN, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS, TO THE MIDLAND COMMUNITY DEVELOPMENT CORPORATION; AND AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO EXECUTE ALL DOCUMENTS NECESSARY TO TRANSFER OWNERSHIP OF THIS PROPERTY TO THE MIDLAND COMMUNITY DEVELOPMENT CORPORATION IN ACCORDANCE WITH SECTION 253.011 AND SECTION 272.001 OF THE TEXAS LOCAL GOVERNMENT CODE; THE TRANSFER OF THIS PROPERTY IS NOT SUBJECT TO THE NOTICE, BIDDING, AND OBTAINING FAIR MARKET VALUE REQUIREMENTS OF STATE LAW. (CDBG)

18. Adopted Resolution No. 2011-155. Caption of said resolution is as follows:

RESOLUTION NO. 2011-155

RESOLUTION AUTHORIZING THE MIDLAND FIRE DEPARTMENT TO FILE AN APPLICATION WITH THE UNITED STATES GOVERNMENT FOR THE 2011 ASSISTANCE TO FIREFIGHTERS GRANT; SAID FUNDS WILL BE USED TO REPLACE FIREFIGHTER PROTECTIVE CLOTHING THAT IS MORE THAN TEN YEARS OLD; SAID GRANT IS A MATCHING FUNDS GRANT IN WHICH THE ASSISTANCE TO FIREFIGHTERS GRANT WOULD FUND 80% (\$80,000.00) OF THE TOTAL AMOUNT (\$100,000.00) AND THE CITY OF MIDLAND WOULD FUND 20% (\$20,000.00) OF THE TOTAL AMOUNT. (FIRE)

19. Adopted Resolution No. 2011-156. Caption of said resolution is as follows:

RESOLUTION NO. 2011-156

RESOLUTION ACCEPTING A CASH DONATION OF \$40,000.00 FROM THE "BAD BOY BLAST" FUNDRAISING PROJECT SPONSORED BY HALLIBURTON AND CONOCO-PHILLIPS; THE DONATED FUNDS WILL BE USED TO PURCHASE LAW ENFORCEMENT EQUIPMENT, SUPPLIES, AND TECHNOLOGY; AND APPROPRIATING SAID FUNDS. (POLICE)

20. Adopted Resolution No. 2011-157. Caption of said resolution is as follows:

RESOLUTION NO. 2011-157

RESOLUTION AUTHORIZING THE CITY OF MIDLAND TO FILE A JOINT APPLICATION WITH MIDLAND COUNTY FOR FISCAL YEAR 2011 JUSTICE ASSISTANCE GRANT FUNDS PROGRAM TOTALING \$36,251.00; AND AUTHORIZING THE EXECUTION OF AN AGREEMENT REGARDING THE DIVISION OF SAID GRANT FUNDS; THE CITY OF MIDLAND WILL RECEIVE \$21,751.00 (60%) AND MIDLAND COUNTY WILL RECEIVE \$14,500.00 (40%) OF THE GRANT FUNDS RESPECTIVELY; THIS AGREEMENT DOES NOT SUPERSEDE, MODIFY OR AMEND ANY OTHER PRIOR AGREEMENTS. (POLICE)

21. Adopted Resolution No. 2011-158. Caption of said resolution is as follows:

RESOLUTION NO. 2011-158

RESOLUTION AUTHORIZING AN OPERATING CERTIFICATE FOR IMPERIAL TAXI, TO OPERATE A TAXICAB BUSINESS; SETTING FORTH CONDITIONS ACCOMPANYING THE CERTIFICATE; AND ESTABLISHING THE TERMS OF THE CERTIFICATE. (POLICE)

22. Adopted Resolution No. 2011-159. Caption of said resolution is as follows:

RESOLUTION NO. 2011-159

RESOLUTION AUTHORIZING AN OPERATING CERTIFICATE FOR A-1/PERMIAN BASIN TAXI CO-OP, TO OPERATE A TAXICAB BUSINESS; SETTING FORTH CONDITIONS ACCOMPANYING THE CERTIFICATE; AND ESTABLISHING THE TERMS OF THE CERTIFICATE. (POLICE)

23. Adopted Resolution No. 2011-160. Caption of said resolution is as follows:

RESOLUTION NO. 2011-160

RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT OF REQUEST FOR QUALIFICATIONS FOR FIRMS TO EVALUATE AND RECOMMEND POTENTIAL WATER REDUCTION INCENTIVES; AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE A PROFESSIONAL SERVICES AGREEMENT FOR SAID SERVICES; AND THE CONTRACT WILL NOT BE EFFECTIVE UNTIL APPROVED BY THE CITY COUNCIL. (UTILITIES)

24. Adopted Resolution No. 2011-161. Caption of said resolution is as follows:

RESOLUTION NO. 2011-161

RESOLUTION AUTHORIZING THE EXECUTION OF A RIGHT OF WAY LICENSE AGREEMENT WITH DCP MIDSTREAM, L.P., FOR THE INSTALLATION, OPERATION AND MAINTENANCE OF AN OIL AND GAS PIPELINE AT THE CITY'S WATER POLLUTION CONTROL PLANT EFFLUENT FARM, IN SECTION 9, BLOCK 38, T-2-S, T&P RR. CO. SURVEY, MIDLAND COUNTY, TEXAS. (UTILITIES)

25. Adopted Resolution No. 2011-162. Caption of said resolution is as follows:

RESOLUTION NO. 2011-162

RESOLUTION AUTHORIZING AN AMENDMENT TO THE EXISTING DISCHARGE LICENSE AGREEMENT WITH PERMIAN SEPTIC SERVICE. (UTILITIES)

27. Adopted Resolution No. 2011-163. Caption of said resolution is as follows:

RESOLUTION NO. 2011-163

RESOLUTION ACCEPTING PRECLEARANCE FROM THE UNITED STATES DEPARTMENT OF JUSTICE REGARDING ANNEXATIONS BY ORDINANCE NOS.8808 AND 8809 EFFECTIVE IN 2010 AND ORDINANCE NOS. 8860, 8861 AND 8862 EFFECTIVE IN 2011; PRECLEARANCE BEING EFFECTIVE JUNE 8, 2011. (CITY SECRETARY)

The following item was pulled from consent calendar and considered individually.

26. Consider authorizing the execution of an Interlocal Agreement with Capital Area Housing Finance Corporation. The Capital Area Housing Finance Corporation plans to loan money for the Playa Del Pueblo, Ltd., project. The proposed resolution does not approve the loan but acknowledges the loan.

Council Member Hailey requested an update from City Attorney Keith Stretcher.

City Attorney Stretcher noted that this is a new process that is not required but emphasized that the developer gets points for having a signed agreement with the City. He explained he worked with the bond counsel in drafting the agreement while ensuring that it would not limit the City's ability to issue CO's. He stated that staff recommended approval.

Council Member Hailey invited David Diaz and the builder forward for an update.

Brad Knolle, 111 Soledad, San Antonio, noted leveraging of tax credits does not require subordinate debt from City but the State has a requirement to show that the City supports the deal and that a short term loan is obtained. He thanked the Council for their support and noted the final decision would be made on July 28, 2011. He

explained his development is a 96-unit development on eight acres near I-20, east of the Wal-Mart and next to the Best Western Hotel.

David Diaz noted that the project was brought to his attention by Council Members Hailey and Morales. He stated that future projects would be looked at seriously and emphasized that it is a very competitive application and they look for ways to obtain every possible point. They will be looking at other tracts in the future.

Council Member Hailey moved to adopt Resolution No. 2011-164; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Trost, Hailey, and James. NAY: None. ABSTAIN: None. ABSENT: Perry, Dufford, and Sparks. Caption of said resolution is as follows:

RESOLUTION NO. 2011-164

RESOLUTION AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT WITH CAPITAL AREA HOUSING FINANCE CORPORATION FOR THE PURPOSE OF ACKNOWLEDGING CAPITAL AREA HOUSING FINANCE CORPORATION'S LOAN TO PLAYA DEL PUEBLO, LTD., FOR HOUSING IN THE CITY OF MIDLAND, TEXAS AS AUTHORIZED BY CHAPTER 394, OF THE TEXAS LOCAL GOVERNMENT CODE; AND THE CAPITAL AREA HOUSING FINANCE CORPORATION IS A PUBLIC, NON-PROFIT HOUSING FINANCIAL CORPORATION EXISTING UNDER THE LAWS OF THE STATE OF TEXAS. (LEGAL)

SECOND READINGS

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

Council Member Morales moved to approve the second and final reading of Ordinance No. 8901 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, and James. NAY: None. ABSTAIN: None. ABSENT: Perry, Dufford, and Sparks. Caption of said ordinance is as follows:

ORDINANCE NO. 8901

AN 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. (FIRST READING HELD JUNE 14, 2011.) (PLANNING DIVISION).

29. City Secretary Turner read the caption of Ordinance No. 8902

Council Member Morales moved to approve the second and final reading of Ordinance No. 8902 in accordance with the Charter of the City of Midland; seconded by Council Member James.

City Attorney Stretcher noted that there was a discrepancy in the ordinance. Section One states "without term" but the caption states "with term". He suggested an amendment be made to clarify that it should be with term.

Council Member Morales moved to amend the motion by striking the word "without" from the third paragraph of Section One and replacing it with the word "with"; seconded by Council Member James. The motion to amend carried by the following vote: AYE: Morales, Trost, Hailey, and James. NAY: None. ABSTAIN: None. ABSENT: Perry, Dufford, and Sparks.

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

ORDINANCE NO. 8902

AN 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. (FIRST READING HELD JUNE 14, 2011.) (PLANNING DIVISION)

30. City Secretary Turner read the caption of Ordinance No. 8903.

Council Member Morales moved to approve the second and final reading of Ordinance No. 8903 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, and James. NAY: None. ABSTAIN: None. ABSENT: Perry, Dufford, and Sparks. Caption of said ordinance is as follows:

ORDINANCE NO. 8903

AN 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. (FIRST READING HELD JUNE 14, 2011.) (PLANNING DIVISION)

31. City Secretary Turner read the caption of Ordinance No. 8904.

Council Member Morales moved to approve the second and final reading 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, and James. NAY: None. ABSTAIN: None. ABSENT: Perry, Dufford, and Sparks. Caption of said ordinance is as follows:

ORDINANCE NO. 8904

AN 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. (FIRST READING HELD JUNE 14, 2011.) (PLANNING DIVISION)

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

Council Member James moved to approve the second and final reading of Ordinance No. 8905 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, and James. NAY: None. ABSTAIN: None. ABSENT: Perry, Dufford, and Sparks. Caption of said ordinance is as follows:

ORDINANCE NO. 8905

AN 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. (FIRST READING HELD JUNE 14, 2011.) (PLANNING DIVISION)

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

Council Member Hailey moved to approve the second and final reading 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, and James. NAY: None. ABSTAIN: None. ABSENT: Perry, Dufford, and Sparks. Caption of said ordinance is as follows:

ORDINANCE NO. 8906

AN 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. (FIRST READING HELD JUNE 14, 2011.) (TRANSPORTATION)

PUBLIC HEARINGS

34. Consider declaring certain structures as dangerous, dilapidated and public nuisances, and ordering their removal or securing.

Building Official Steve Thorpe gave an overview of the item noting staff always attempts to work with property owners to get them into compliance and that of the 17 properties, six authorizations of consent have been signed. He but requested Council move forward with the ordinance.

Council Member Morales noted that many of the pictures also showed piles of debris and questioned if the debris would be removed as well. Building Official Thorpe noted that the City would end up with a completely cleared lot.

Mayor Pro Tem Trost opened the public hearing at 10:38 a.m.

Jose Herrera, 701 N. Calhoun, requested that demolition of his structure be put off until later. He stated that it was a safe structure and he needed more time to bring it up to code. Building Official Thorpe stated that the work would have to be completed by a bonded contractor because it was not his primary residence in which he lives. He noted they would work with the owner by allowing 30 days to pull a building permit, come up with an action plan and allow 180 days to make final repairs. He requested that Council still move forward with the Ordinance in case he does not comply. Mr. Herrera stated that he is disabled and lacking funds and asked if there was anything the City could do to help him out. It was determined that Mr. Herrera could obtain a loan.

Rory DeLeon, 200 E. Longview, noted that the property in question was a guest house next to his own home and that it needs a roof and windows and that he has the money to make the repairs. He requested a six month extension. Building Official Thorpe noted he would allow the same situation as previously discussed. The owner would need to pull a permit within 30 days and come up with a workable plan and have a bonded contractor complete the work within 180 days. Mr. DeLeon asked for 60 days to find a contractor and stated he would follow Council orders.

Willy Wilson, 806 S. Lorraine, noted he took care of the property for another person for years and recently has purchased the property. He stated that is not a residence but is instead being used as a storage facility for janitorial supplies. He stated he plans to place cinderblock along the walls of the building and put on a new roof. He stated he

needs time to finish the repairs. City Attorney Stretcher noted that it did not sound like it was going to be used for habitation and the Council needed to determine if the building was a danger. Mr. Wilson requested time to sell the property if they would not allow him to use it for a storage facility. Building Official Thorpe noted that storage is not an allowable use in single family residential and needed to investigate if the zoning could be changed to suit that purpose.

There being no one else present wishing to speak, the public hearing was closed at 11:05 a.m.

City Secretary Turner read the caption of Ordinance No. 8907

Council Member Hailey moved approval of the first of two readings of Ordinance No. 8907 in accordance with the Charter of the City of Midland; seconded by Council Member James.

Following brief discussion, Council Member James moved to amend the motion to allow 30 days for the properties located at 200 E. Longview and 701 N. Calhoun to obtain a building permit and allow 180 days to complete the work; seconded by Council Member Morales. The motion carried by the following vote: AYES: Morales, Trost, Hailey, and James. NAY: None. ABSENT: Perry, Dufford, and Sparks.

Council Member Morales moved to amend the motion by allowing 30 days to begin the process to rezone 806 S. Loraine, and/or list the property for sale, or make it habitable; seconded by Council Member James. The motion carried by the following vote: AYES: Morales, Trost, Hailey, and James. NAY: None. ABSENT: Perry, Dufford, and Sparks.

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

ORDINANCE NO. 8907

AN ORDINANCE DECLARING CERTAIN STRUCTURES LOCATED AT 105 SOUTH LAMESA ROAD, 701 NORTH CALHOUN STREET, 303 SOUTH JEFFERSON STREET, 408 NORTH LEE STREET, 506 SOUTH BAIRD STREET, 505 EAST FLORIDA AVENUE, 602 EAST CUTHBERT AVENUE, 700 SOUTH BENTON STREET, 806 SOUTH LORAIN STREET, 1211 BELMONT STREET, 907 SOUTH DALLAS STREET, 909 SOUTH DALLAS STREET, 911 SOUTH DALLAS STREET, 507 EAST PECK AVENUE, 503 EAST LONGVIEW AVENUE, 200 EAST LONGVIEW AVENUE, AND 2100 SOUTH FORT WORTH STREET TO BE DILAPIDATED, SUBSTANDARD OR UNFIT FOR HUMAN HABITATION AND A HAZARD TO THE PUBLIC HEALTH, SAFETY AND WELFARE; ORDERING THEIR DESTRUCTION OR REMOVAL; DIRECTING THE CITY SECRETARY TO PUBLISH NOTICE; AND DIRECTING THE BUILDING OFFICIAL TO DELIVER A COPY OF THIS ORDINANCE TO AFFECTED OWNERS, LIENHOLDERS AND MORTGAGEES; SAID ORDINANCE BEING AUTHORIZED BY CHAPTER 214 OF THE TEXAS LOCAL GOVERNMENT CODE. (CODE ADMINISTRATION)

35. Consider a request by the Midland First Church of the Nazarene for a zone change from PD, Planned District for a Shopping Center to O-2, Office District.

Planning Division Manager Cameron Walker gave an overview of the item noting he recommended the property be removed from the site plan. He stated one letter of objection had been received noting concern about property valuation, crime, traffic and noise. He noted that Planning & Zoning unanimously recommended approval and that staff supports the request.

Mayor Pro Tem Trost opened the public hearing at 11:20 a.m.

Walter Pate, Pate & Assoc. Architects, noted he was representing the church. He stated the tallest portion of the building was like a bell tower, felt it was a good addition to community and stated he was available to answer questions.

There being no one else present wishing to speak, the public hearing was closed at 11:22 a.m.

City Secretary Turner read the caption of Ordinance No. 8908.

Council Member Morales moved approval of the first of two readings of Ordinance No. 8908 in accordance with the Charter of the City of Midland; seconded by Council

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

ORDINANCE NO. 8908

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOTS 1-28 AND LOT 29 LESS THE EAST 32 FEET THEREOF, AND THE VACATED 0.20-ACRE EAST/WEST ALLEY AND VACATED 0.57-ACRE PORTION OF BLUE HAVEN DRIVE, ALL OUT OF BLOCK 168, WILSHIRE PARK ADDITION, SECTION 11, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN O-2, OFFICE DISTRICT (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF LOOP 250 AND GRACELAND DRIVE); 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)

36. Consider amending the zoning of two land parcels located on the west side of Lamesa Road, approximately 500 feet north of Golf Course Road, from 1F-2, One-Family Dwelling District to LR-1, Local Retail District in order to allow the construction of a Dollar General Store.

Planning Division Manager Walker gave an overview of the item noting that the Planning Commission unanimously recommended approval. He noted three letters of objection had been received expressing concern about a retail development.

Mayor Pro Tem Trost opened the public hearing at 11:29 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

City Secretary Turner read the caption of Ordinance No. 8909.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 8909 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, and James. NAY: None. ABSTAIN: None. ABSENT: Perry, Dufford, and Sparks. Caption of said ordinance is as follows:

ORDINANCE NO. 8909

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 23, BLOCK 2, LOMA LINDA ANNEX, AND A 0.99-ACRE TRACT OF LAND OUT OF SECTION 23, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED 1F-2, ONE FAMILY DWELLING DISTRICT, TO BE USED AS AN LR-1, LOCAL RETAIL DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF LAMESA ROAD, APPROXIMATELY 500 FEET NORTH OF GOLF COURSE ROAD); 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)

37. Consider a request by Emma Ruth Stock for a Specific Use Permit, without term, to construct an accessory building as living and sleeping quarters.

Planning Division Manager Walker gave an overview of the item noting one letter of objection had been received with no comments, that staff supported the recommendation, and that Planning & Zoning unanimously recommended approval.

Mayor Pro Tem Trost opened the public hearing at 11:34 a.m.

Emma Ruth Stock, 2826 Durant, noted they are building for a family member and additional parking was being added in the front.

There being no one else present wishing to speak, the public hearing was closed at 11:35 a.m.

City Secretary Turner read the caption of Ordinance No. 8910.

Council Member Morales moved approval of the first of two readings of Ordinance No. 8910 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, and James. NAY: None. ABSTAIN: None. ABSENT: Perry, Dufford, and Sparks. Caption of said ordinance is as follows:

ORDINANCE NO. 8910

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF LOT 14, BLOCK 4, KIMBER-LEE, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF DURANT DRIVE, 90 FEET EAST OF WHITNEY DRIVE), WHICH IS PRESENTLY ZONED 1F2, ONE-FAMILY DWELLING DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITHOUT TERM FOR AN ACCESSORY BUILDING TO BE USED FOR LIVING OR SLEEPING QUARTERS; MAKING SAID PERMIT SUBJECT TO CERTAIN CONDITIONS AND RESTRICTIONS CONTAINED HEREIN; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); AND ORDERING PUBLICATION. (Planning Division)

38. Consider a request by Western International for a Specific Use Permit, With Term, for the sale and on-premises consumption of alcoholic beverages in a bar.

Planning Division Manager Walker gave an overview of the item noting it was for a bar located within a hotel, that no letters of objection had been received, and that Planning & Zoning recommended approval.

Mayor Pro Tem Trost opened the public hearing at 11:38 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

City Secretary Turner read the caption of Ordinance No. 8911.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 8911 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, and James. NAY: None. ABSTAIN: None. ABSENT: Perry, Dufford, and Sparks. Caption of said ordinance is as follows:

ORDINANCE NO. 8911

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 7, BLOCK 2, WESTRIDGE PARK ADDITION, SECTION 17, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHEAST CORNER OF DEAUVILLE BOULEVARD AND WESTRIDGE BOULEVARD), WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, 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. (Planning Division)

39. Consider a request for a zone change from PD, Planned District for a Shopping Center to LR-2, Local Retail District on Lot 3B, Block 25, Crestgate Addition, Section 22, City and County of Midland, Texas. (Generally located on the west side of N. Midkiff Road, approximately 600 feet north of W. Loop 250 North.)

Planning Division Manager Walker gave an overview of the item noting that staff and Planning & Zoning supported the request unanimously.

Mayor Pro Tem Trost opened the public hearing at 11:42 a.m.

Robert Rendall, 550 W. Texas, Suite 800, noted he was speaking on behalf of the Pilcher's Group, noted the property was under contract for purchase with a condition of changing the zoning in order to close. He noted the zoning would be consistent with the property across the street.

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

City Secretary Turner read the caption of Ordinance No. 8912.

Council Member Morales moved approval of the first of two readings of Ordinance No. 8912 in accordance with the Charter of the City of Midland; seconded by Council Member James. The motion carried by the following vote: AYE: Morales, Trost, Hailey, and James. NAY: None. ABSTAIN: None. ABSENT: Perry, Dufford and Sparks. Caption of said ordinance is as follows:

ORDINANCE NO. 8912

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 3B, BLOCK 25, CRESTGATE ADDITION, SECTION 22, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF NORTH MIDKIFF ROAD, APPROXIMATELY 600 FEET NORTH OF WEST LOOP 250 NORTH); 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)

40. Consider a request by Midland Park Mall, L.P. for a zone change from PD, Planned District for Shopping Center to an amended Planned District on a 63.23-acre Tract out of Lot 1, Block 17, Skyline Terrace, Unit 2, City and County of Midland, Texas. (Generally located on the southwest corner of the intersection of W. Loop 250 North and N. Midkiff Road.)

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

Mayor Pro Tem Trost opened the public hearing at 11:53 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

City Secretary Turner read the caption of Ordinance No. 8913.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 8913 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, and James. NAY: None. ABSTAIN: None. ABSENT: Perry, Dufford, and Sparks. Caption of said ordinance is as follows:

ORDINANCE NO. 8913

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 63.32-ACRE TRACT OF LAND OUT OF LOT 1, BLOCK 17, SKYLINE TERRACE, UNIT 2, 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 SOUTHWEST CORNER OF THE INTERSECTION OF WEST LOOP 250 NORTH AND NORTH MIDKIFF ROAD); 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)

41. Public hearing to receive public input regarding the annexation of a 465.07-acre tract of land (Tract 1A) all out of Sections 37 and 48, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the north side of SH 191 west of FM 1788.) (Planning Division)

Planning Division Manager Walker gave an overview of the item noting this is first of two public hearings and that the second hearing would be on Thursday at 8:15 a.m. He stated that no action can be taken today but this is an opportunity to hear public comment.

Mayor Pro Tem Trost opened the public hearing at 11:56 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

No further action was taken on this item.

42. Public hearing to receive public input regarding the annexation of a 220.94-acre tract of land out of (Tract 1B) all out of Sections 37 and 48, Block 41, T-1-S, T&P RR Co. Survey, Midland County Texas. (Generally located on the south side of SH 191 west of FM 1788.) (Planning Division)

Cameron Division Manager Walker gave an overview of the item noting this was the first of two public hearings and that the second meeting would be held on Thursday.

Mayor Pro Tem Trost opened the public hearing at 11:57 a.m.

Roy Allen, 700 N. Grand, Odessa, representing DJK Inc., stated he was trying to determine what zoning would be used and the plan for utilities. Cameron Walker noted that the Council indicated interest in retail zoning along the SH 191 corridor and to wrap that retail zoning south for properties facing the performing arts center but clarified that there is no zoning proposal on the table today.

Mr. Allen noted that his property has already started development and that it is an industrial commercial development. He doubted there would be an interest in retail development. He stated that without utilities it would sit without being developed.

There being no one else present wishing to speak, the public hearing was closed at 12:04 p.m.

No further action was taken on this item.

DEVELOPMENT SERVICES

Mayor Pro Tem Trost noted he was moving item number 44 forward.

44. Consider amending an approved oil and gas drilling permit on a request by Midland Energy, Inc. (MEI)

City Manager Sharp noted that Midland Energy was not able to attend the meeting and they requested it be placed on the next agenda.

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

43. Consider a motion authorizing an amendment to the public improvement development agreement between the City of Midland and Richard L. Minnix regarding the development of Pecan Acres Addition, Section 4, City and County of Midland, Texas (generally located north of the intersection of North County Road 1260 and Dunblane Drive); said amendment would increase the City's payment under said agreement by \$1,006.60.

City Engineer David Beard gave an overview of the item noting that a Development Agreement was approved in February and the owner completed the work. A request had been submitted for \$1,000 more than original development agreement. He outlined the changes that were made during the project and noted that City was not included in the negotiations for the change. He stated his recommendation is to deny the request for the full amount and to pay the amount set forth in the Development Agreement.

Max Richardson, 110 W. Louisiana, stated that Mr. Minnix's property did not have City water and wanted to tie into the City water. It was agreed that the City would extend the street and the water line from where it was located up to Mr. Minnix's property. He noted that changes forced him to cross the street from where they originally planned to tie in.

Council Member Morales asked if the City always paid invoices regardless in the past. Mr. Richardson noted that in the past there was always a 20-30% contingency, but this contract did not have a contingency built in.

City Manager Sharp noted that they were trying to involve staff in the change order process.

Gary Wilson, 1612 Winfield, noted he was the developer and that when the change order came in, it was negotiated by the contractor and copies were submitted to everyone. He noted that Mr. Minnix has paid the entire portion and is waiting for reimbursement.

Max Richardson, stated that the City was the one who made suggestions on how the project would be handled and they simply carried out the city's request.

Assistant City Manager Jim Nichols stated that Council approved a very specific amount. When changes were made it should have been run back through the City Council for approval.

David Beard noted that the developer is responsible for getting water to his property. The City provides the water line, and the owner pays the cost to tie into the City's water line.

Council Member Hailey moved to authorize an amendment to the public improvement development agreement between the City of Midland and Richard L. Minnix regarding the development of Pecan Acres Addition, Section 4, City and County of Midland, Texas (generally located north of the intersection of North County Road 1260 and Dunblane Drive); said amendment would increase the City's payment under said agreement by \$1,006.60.; seconded by Council Member James.

Discussion ensued about the need to develop a policy as to how these types of items will be handled in the future.

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

MISCELLANEOUS

45. Consideration of appointments to various Boards and Commissions.

No appointments were made.

RECESS/EXECUTIVE SESSION

46. Mayor Pro Tem Trost announced that the meeting would be recessed to the conference room for lunch.

47. Mayor Pro Tem Trost 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:

No items were discussed.

All of the business at hand having been completed, the meeting adjourned at 12:56 p.m.

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

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, City Secretary