

March 9, 2010

The City Council convened in a Briefing Session in Room #1 of the Martin Luther King, Jr., Community Center, 2300 Butternut Lane, Midland, Texas, at 9:31 a.m. on March 9, 2010, with the following members present:

W. Wesley Perry,
John H. James,
A. Scott Dufford,
Jerry F. Morales,
W. Jeffrey Sparks,
Vicky Hailey,
Michael B. Trost,

Mayor
Mayor Pro Tem
Council member - At-Large
Council member - At-Large
Council member - District 1
Council member - District 2
Council member - District 4

* * *

Staff members present:

Courtney Sharp,
Keith Stretcher,
Tommy Hudson,
Marcus Johnston,
Kaylah McCord,
Monette Burke,
Mark Phillips,
Tina Jauz,

City Manager
City Attorney
Deputy City Manager
Assistant City Manager
City Secretary
Director, Community Services
Director, Facilities and Fleet Management
Assistant to the City Mgr./Public Info. Officer

* * *

The Council received and discussed a presentation from the Hispanic Cultural Center of Midland regarding a naming rights agreement with the West Texas Ford Dealers in connection with property at Hogan Park.

José “Bo” Zertuche, Executive Director of the Hispanic Cultural Center, expressed gratitude for the City’s support of the Center, citing its value to the community and to the promotion of the arts. Mr. Zertuche noted that nonprofit organizations must make creative use of limited resources to fund their services, and he advised that they have developed a proposed agreement, approved by their Board of Directors in January, for a naming rights agreement which will assist in their fundraising. He briefly reviewed the proposed agreement, explaining that it has already been approved by the Ford dealers and needs only the Council’s approval to move forward. He emphasized that the agreement would be binding on the Hispanic Cultural Center only, rather than on the building itself, and that it does not imply any obligation on the part of the City. Mr. Zertuche reviewed progress to date on renovation of the City-owned building being leased by the Center, explaining that they have completed painting and expect to start exterior work in May, including items related to security needs and installation of xeriscaping. Mr. Zertuche also reviewed infrastructure needs, expressing hope that the City can participate in some needed paving improvements, and a brief discussion focused on whether the property would be eligible for CDBG funding. Asked the status of a gas line problem on the property, Mr. Zertuche confirmed that it has been repaired. Mr. Zertuche turned to signage plans and proposed dimensions, and he advised that they also hope to be allowed to erect a monument sign near Wadley since the facility is not very visible from the street. Mr. Zertuche confirmed that the Center’s “open house” will be held in June, in conjunction with their mariachi concert, and he expressed confidence that work on the facility will be completely finished by that time. Council response was supportive.

The foregoing agenda item at the Briefing Session was discussed by the Council with no formal action taken. The Briefing Session was adjourned at 9:48 a.m.

* * *

The City Council convened in regular session in the auditorium of the Martin Luther King, Jr. Community Center, 2300 Butternut Lane, Midland, Texas, at 10:03 a.m., March 9, 2010, with the following members present:

W. Wesley Perry,
John H. James,
A. Scott Dufford,

Mayor
Mayor Pro Tem
Council member - At-Large

Jerry F. Morales,
W. Jeffrey Sparks,
Vicky Hailey,
Michael B. Trost,

Council member - At-Large
Council member - District 1
Council member - District 2
Council member - District 4

* * *

Staff members present at the Council Table Annex:

Courtney Sharp,
Keith Stretcher,
Tommy Hudson,
Marcus Johnston,

City Manager
City Attorney
Deputy City Manager
Assistant City Manager

* * *

The invocation was voiced by Deacon Victor Lopez, Our Lady of Guadalupe Catholic Church.

* * *

Mayor Perry led the Pledge of Allegiance to the Flag.

* * *

Mayor Perry presented a proclamation proclaiming March 9, 2010 as “Deep Vein Thrombosis Awareness Day” in support of efforts by Midland Memorial Hospital to raise community awareness of this commonly occurring medical condition and its potentially fatal complication, pulmonary embolism. The proclamation was accepted by representatives of Midland Memorial Hospital.

* * *

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

Jimmie Daniels, whose son suffers from Muscular Dystrophy, thanked the City Council for allowing the Midland Fire Department to participate in the annual “Fill the Boot” fund-raising effort for the Muscular Dystrophy Association.

There were no other requests by citizens to speak.

* * *

Continued consideration was given to an ordinance vacating and abandoning a 0.038-acre portion of Northrup Drive Right-of-Way and a 0.024-acre portion of the north/south alley, both being adjacent to Lot 4, Block 2, Grandview, Section 4, and a 0.055-acre portion of Northrup Drive Right-of-Way adjacent to the remainder of Tract 11, Grandview, and to Lot 3, Block 2, Grandview, Section 3, and a 1.260-acre portion of Culver Drive Right-of-Way adjacent to Lots 1-11, Block 8, West Way, City and County of Midland, Texas (generally located adjacent to Midland Christian School); adopting the appraisal by the City Manager of \$134,991.00; and ordering recordation by the City Secretary.

Mayor Perry recalled the public hearing held in January on this matter and asked for reports from Staff. Transportation Division Manager Gary Saunders reported results of a traffic study conducted since then that involved several 24-hour traffic counts over a one-week period. The traffic was then redistributed through computer modeling to project the conditions if the subject portion of Culver Drive was not in place, and a high hourly volume was developed throughout the day to obtain the final traffic impact results. After reviewing additional information regarding the methodology used, Mr. Saunders advised that the results indicated a Level of Service A for most of the streets in the area, with a few locations/times when Level B or C predominated. He added that intersections, where drivers must make decisions, all reflected a Level A. Mr. Saunders concluded that there are several alternative streets for carrying traffic in this area and that all would operate well within capacity if Culver is closed. He also emphasized that the numbers were applied to a variety of different scenarios, since it is difficult to determine what drivers will do when an established pattern changes, and that doubling the numbers still provided a Level of Service A. Mr. Saunders responded to several Council questions. Planning Division Manager Cameron Walker reviewed the request, noting that the City has a long history of selling property, including the vacation of streets/alleys in certain situations, and he

emphasized that all property is sold at market value. He cited several such vacations in response to requests by Midland Memorial Hospital, St. Ann's School and others. Mr. Walker confirmed that the process normally involves replatting the property for future development purposes, and he reviewed the elements considered in the process, including drainage and other basic land use issues. Mr. Walker also reviewed the purpose and functions of the City's landscape and lighting ordinances, building standards and sign codes, and he noted that site plan review, which encompasses all development services functions, must be completed before any non-residential development can occur. He estimated that the entire process can take as much as nine months. Building Official Steve Thorpe reviewed the building permits that must be obtained by any non-residential developer before a development can be completed, regardless of whether the Culver vacation is approved. The School would first need to obtain a permit for a parking lot, which must be preceded by a plat and site plan review. Other building permits would follow for bleachers and for any building addition or alteration.

Mayor Perry invited others wishing to comment to come forward. Clayton Hooper, 1806 Culver, expressed appreciation for the Council's efforts to bring the parties together and stated that this initiative has helped them understand each other's issues. He voiced concern about the short notice provided by the School regarding its plans to request closure of Culver, and he reviewed traffic issues, asking that the Council consider the possibility that the School could defer building for several years after closure of the street, creating resentment among neighbors. Mr. Hooper also maintained that homes very near high schools stay on the market longer, leading to lower property values. Gordon Page, whose mother-in-law resides at 2105 Hughes, stated that he has reviewed the traffic study and the School's preliminary development plans, and has concluded that the safety problems at the School could be exacerbated by the requested street closure. He also pointed out that the traffic study has not been audited. Mr. Page recommended that the City work with the School and neighborhood to identify and work on implementing improvements, and that a procedure be developed to evaluate issues that may arise during construction.

Rita Brown, President of the Midland Christian School Board of Trustees, thanked the Council for listening to everyone's input and indicated that the Board appreciated the opportunity for the groups to meet. Ms. Brown acknowledged the neighbors' concerns regarding closure of Culver and other issues common to residential areas which also have a school, and she advised that they have invited the neighborhood to designate one or two representatives to be involved throughout the School's expansion/renovation process. Ms. Brown cited advantages of the School's plan, advising that it increases children's safety; squares up the campus, improving security; maximizes parking to get cars off the street; enables the school to build further away from the neighbors to the east; allows them to build in stages; and enables them to have a master plan for building in a logical sequence. She acknowledged that the disadvantage of the plan is inconvenience to the neighborhood by closing one block, but noted that there are many alternative streets that can be easily used. Ms. Brown maintained that there is much precedent for granting this request and that these updated facilities will benefit the community, adding that they have no plans to increase enrollment. Asked about progress of fundraising, Ms. Brown advised that they want to proceed immediately with fundraising and plans if the Culver closing is approved, although the plans would have to change if the closing is not allowed. Ana O'Bryant, 1909 Hughes, contended that the real issue is not inconvenience but safety, noting that many children play in front yards.

Council member James observed that the meetings between the school and neighborhood representatives established clear agreement that Midland Christian School is a valuable asset, that safety is a critical issue, that the School needs better facilities, and that parking limitations need to be addressed. He expressed confidence that the dialogue between the two groups will ensure that all move forward in a positive way.

Council member Morales made a motion to approve the proposed vacations with the added stipulation that the Culver Drive will be closed effective June 1, 2011, and subject to the following conditions: a plat and building permit for a parking lot must be in place prior to that date, and a Certificate of Occupancy for the new building must be issued by June 30, 2014. If these conditions are not met, ownership of the Culver Drive property would revert to the City. Further, Midland Christian School must pay the City compensation for the property on or before April 6, 2010. Council member James seconded the motion.

The discussion that followed focused on the conditions of approval. Council member James stated that if this street is closed, there must be some guarantees that the planned construction will proceed on a timely basis. Council member Dufford advised that he finds it unreasonable to impose an artificial deadline for this nonprofit entity to begin and complete construction, potentially compromising quality of the facility. Alan Brown of the MCS Board of Trustees advised that engineering has not yet been done because the requested street closure has not

been decided, and offered several reasons why the conditions being considered will present difficult obstacles for the School; he asked that the Council consider requiring that a building permit, rather than a certificate of occupancy, be issued for the facility by the 2014 date. Further discussion focused on whether a building permit may represent a more workable deadline. Building Official Steve Thorpe advised that there may be differences in interpretation of what constitutes the start of construction, noting that construction must begin within 180 days of issuance of a building permit. A question also arose as to how the situation would be resolved if the School has a facility built on the former Culver right-of-way that is not fully completed when the 2014 deadline arrives. John Boswell, 2702 West Dengar, came forward to state that there are too many unanswered questions. Rita Brown, who had spoken earlier, advised that it is important to know if Culver will be closed before they can even begin work on the parking lot, due to engineering/drainage considerations. Stephen Faulk, the School's architect for the project, outlined the design process and discussed expected timing requirements, emphasizing that the planned renovation is a single project and that the building and parking lot designs are interdependent. Additional discussion addressed the practical issues involved.

Council member Morales amended his motion on the floor to approve the proposed vacations with the stipulation that Culver Drive will be closed effective June 1, 2011, and subject to the following conditions: preliminary and final plats and a building permit for a parking lot must be in place by December 31, 2011, and a building permit for the new building must be issued by June 30, 2014. If these conditions are not met, ownership of the Culver Drive property would revert to the City. Council member James seconded the amended motion. The motion failed by the following vote:

Council members voting "AYE":	Morales, James and Perry
Council members voting "NAY":	Trost, Hailey, Dufford and Sparks

Following discussion of several points for clarification, Council member James moved for approval of the proposed ordinance vacating and abandoning the described property with the stipulation that the specified portion of Culver Drive will be closed effective June 1, 2011, and subject to the following conditions: preliminary and final plats and a building permit for a parking lot must be in place by December 31, 2011, and a building permit for the new building must be issued by June 30, 2014. If either of these conditions is not met, ownership of the Culver Drive property will revert to the City. Council member Morales seconded the motion.

Ordinance No. 8789 was amended and adopted accordingly on the first of two readings, vacating and abandoning a 0.038-acre portion of Northrup Drive Right-of-Way and a 0.024-acre portion of the north/south alley, both being adjacent to Lot 4, Block 2, Grandview, Section 4, and a 0.055-acre portion of Northrup Drive Right-of-Way adjacent to the remainder of Tract 11, Grandview, and to Lot 3, Block 2, Grandview, Section 3, and a 1.260-acre portion of Culver Drive Right-of-Way adjacent to Lots 1-11, Block 8, West Way, City and County of Midland, Texas (generally located adjacent to Midland Christian School); adopting the appraisal by the City Manager of \$134,991.00; ordering recordation; and authorizing execution of a special warranty deed with reservations. Caption and action had on said ordinance are as follows:

ORDINANCE NO. 8789

AN ORDINANCE VACATING AND ABANDONING WITH RESERVATIONS A 0.038-ACRE PORTION OF NORTHRUP DRIVE RIGHT-OF-WAY NORTH OF SINCLAIR AVENUE AND SOUTH OF NEELY AVENUE, AND A 0.024-ACRE PORTION OF THE NORTH/SOUTH ALLEY, (APPROXIMATELY 1,051 SQUARE FEET), GENERALLY LOCATED SOUTH OF NEELY AVENUE, NORTH OF GULF AVENUE, EAST OF NORTHRUP DRIVE AND WEST OF CULVER DRIVE, AND A 0.055-ACRE PORTION OF NORTHRUP DRIVE RIGHT-OF-WAY IN THE CITY OF MIDLAND IN SECTION 21, BLOCK 39, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (APPROXIMATE 2,395 SQUARE FOOT TRACT OF LAND LOCATED NORTH OF SINCLAIR AVENUE AND SOUTH OF GULF AVENUE); AND A 1.260-ACRE PORTION OF CULVER DRIVE RIGHT-OF-WAY ADJACENT TO LOTS 1-11, BLOCK 8, WEST WAY ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ADJACENT TO MIDLAND CHRISTIAN SCHOOL, NORTH OF SINCLAIR AVENUE AND SOUTH OF GULF AVENUE); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$134,991.00; AND ORDERING RECORDATION BY THE INTERIM CITY SECRETARY; AND AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE A SPECIAL

WARRANTY DEED WITH RESERVATIONS WITH MIDLAND
CHRISTIAN SCHOOL; AND ESTABLISHING AN EFFECTIVE
DATE FOR THE VACATING AND ABANDONING

The above and foregoing ordinance was duly proposed, read and adopted as amended on first reading in accordance with the Charter of the City of Midland, the 9th day of March, A.D., 2010; and passed to second reading on motion of Council member James, seconded by Council member Morales, by the following vote:

Council members voting "AYE": James, Morales, Perry, Dufford and Sparks
Council members voting "NAY": Trost and Hailey

* * *

Mayor Perry called a brief recess at 1:14 p.m.

* * *

The meeting was reconvened in the auditorium of the Martin Luther King, Jr. Community Center at 1:19 p.m., with the same members present.

* * *

A motion was made by Council member James for the approval of the Consent Agenda, listed as Item Nos. 6a through 25, with the exception of Item Nos. 9, 10, 12, 14, 15, 16 and 22, which were temporarily pulled from the agenda.

* * *

(Consent): The minutes of the regular City Council meeting of February 23, 2010 were approved by motion as submitted.

* * *

(Consent): The minutes of the Special City Council meeting of February 24 - 25, 2010 were approved by motion as submitted.

* * *

(Consent): The Council received for information the First Quarter Fiscal Year 2010 Investment Report.

* * *

(Consent): Resolution No. 2010-062 was adopted authorizing the purchase of seven thousand five hundred (7,500) gallons of liquid copper for treating City of Midland drinking water, from the lowest bidder, Chameleon Industries, Incorporated, for a total price of \$116,250.00. Caption of said resolution is as follows:

RESOLUTION NO. 2010-062
RESOLUTION AUTHORIZING THE PURCHASE OF SEVEN
THOUSAND FIVE HUNDRED (7,500) GALLONS OF LIQUID
COPPER FOR TREATING CITY OF MIDLAND DRINKING
WATER, FROM THE LOWEST BIDDER, CHAMELEON
INDUSTRIES, INCORPORATED, FOR A TOTAL PRICE OF
\$116,250.00

* * *

(Consent): Resolution No. 2010-063 was adopted authorizing the City Manager or his designee to negotiate a contract with Priority Power Management, for the City's electric supply. Caption of said resolution is as follows:

RESOLUTION NO. 2010-063
RESOLUTION AUTHORIZING THE CITY MANAGER OR HIS
DESIGNEE TO NEGOTIATE A CONTRACT WITH PRIORITY
POWER MANAGEMENT, FOR THE CITY'S ELECTRIC SUPPLY

* * *

(Consent): Resolution No. 2010-064 was adopted approving an amendment to the Economic Development Agreement between the Midland Development Corporation and the Midland Community College District, as authorized by Chapter 501 of the Texas Local Government Code. Caption of said resolution is as follows:

RESOLUTION NO. 2010-064
RESOLUTIONS APPROVING AN AMENDMENT TO THE
ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE
MIDLAND DEVELOPMENT CORPORATION AND THE
MIDLAND COMMUNITY COLLEGE DISTRICT, AS
AUTHORIZED BY CHAPTER 501 OF THE TEXAS LOCAL
GOVERNMENT CODE

* * *

(Consent): Resolution No. 2010-065 was adopted approving plans and specifications and authorizing advertisement for bids for renovations at the Midland Senior Center; and there is currently \$250,000.00 allocated for this project. Caption of said resolution is as follows:

RESOLUTION NO. 2010-065
RESOLUTION APPROVING PLANS AND SPECIFICATIONS
AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR
RENOVATIONS AT THE MIDLAND SENIOR CENTER; AND
THERE IS CURRENTLY \$250,000.00 ALLOCATED FOR THIS
PROJECT

* * *

(Consent): Resolution No. 2010-066 was adopted approving plans and specifications and authorizing advertisement for bids for the purchase and installation of sport lighting on Softball Field No. 7 at Ulmer Park, Baseball Field No. 7 at Hogan Park, and the athletic area at Bradford Park. Caption of said resolution is as follows:

RESOLUTION NO. 2010-066
RESOLUTION APPROVING PLANS AND SPECIFICATIONS
AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE
PURCHASE AND INSTALLATION OF SPORT LIGHTING ON
SOFTBALL FIELD NO. 7 AT ULMER PARK, BASEBALL FIELD
NO. 7 AT HOGAN PARK, AND THE ATHLETIC AREA AT
BRADFORD PARK

* * *

(Consent): Resolution No. 2010-067 was adopted approving plans and specifications and authorizing advertisement for bids for the Jal Draw Channel Lining Project; said project will be for the installation of a concrete block retaining wall on Jal Draw between Garfield Street and Ward Street. Caption of said resolution is as follows:

RESOLUTION NO. 2010-067
RESOLUTION APPROVING PLANS AND SPECIFICATIONS
AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE
JAL DRAW CHANNEL LINING PROJECT; SAID PROJECT WILL
BE FOR THE INSTALLATION OF A CONCRETE BLOCK
RETAINING WALL ON JAL DRAW BETWEEN GARFIELD
STREET AND WARD STREET

* * *

(Consent): Resolution No. 2010-068 was adopted adopting the City of Midland Citizen Participation Plan for Community Development and Housing Funds. Caption of said resolution is as follows:

RESOLUTION NO. 2010-068
RESOLUTION ADOPTING THE CITY OF MIDLAND CITIZEN PARTICIPATION
PLAN FOR COMMUNITY DEVELOPMENT AND HOUSING FUNDS

* * *

(Consent): Resolution No. 2010-069 was adopted approving the Professional Firefighters Association of Midland’s application to solicit charitable contributions in roadways on behalf of the Muscular Dystrophy Association by participating in the “Fill-the-Boot” Fundraiser; this is authorized by Section 552.0071 of the Texas Transportation Code; the dates and times of the solicitation are April 22, 23, and 24, 2010 from 8:00 a.m. to 6:00 p.m., alternate dates due to inclement weather are June 3, 4, and 5 from 8:00 a.m. to 6:00 p.m.; the intersection locations at which the solicitations shall occur are Midkiff Road and Wadley Avenue, Midland Drive and Loop 250, Midland Drive and Andrews Highway, and Rankin Highway and Longview Avenue; there will be fifteen (15) solicitors involved in solicitations at each location. Caption of said resolution is as follows:

RESOLUTION NO. 2010-069
RESOLUTION APPROVING THE PROFESSIONAL FIREFIGHTERS ASSOCIATION OF MIDLAND’S APPLICATION TO SOLICIT CHARITABLE CONTRIBUTIONS IN ROADWAYS ON BEHALF OF THE MUSCULAR DYSTROPHY ASSOCIATION BY PARTICIPATING IN THE “FILL-THE-BOOT” FUNDRAISER; THIS IS AUTHORIZED BY SECTION 552.0071 OF THE TEXAS TRANSPORTATION CODE; THE DATES AND TIMES OF THE SOLICITATION ARE APRIL 22ND, 23RD, AND 24TH, 2010 FROM 8:00 A.M. TO 6:00 P.M., ALTERNATE DATES DUE TO INCLEMENT WEATHER ARE JUNE 3RD, 4TH, AND 5TH FROM 8:00 A.M. TO 6:00 P.M.; THE INTERSECTION LOCATIONS AT WHICH THE SOLICITATIONS SHALL OCCUR ARE MIDKIFF ROAD AND WADLEY AVENUE, MIDLAND DRIVE AND LOOP 250, MIDLAND DRIVE AND ANDREWS HIGHWAY, AND RANKIN HIGHWAY AND LONGVIEW AVENUE; THERE WILL BE FIFTEEN (15) SOLICITORS INVOLVED IN SOLICITATIONS AT EACH LOCATION

* * *

(Consent): Resolution No. 2010-070 was adopted authorizing an operating certificate for Midessa Transportation, L.L.C., to operate a taxicab business; setting forth conditions accompanying the certificate; and establishing the terms of the certificate. Caption of said resolution is as follows:

RESOLUTION NO. 2010-070
RESOLUTION AUTHORIZING AN OPERATING CERTIFICATE FOR MIDESSA TRANSPORTATION, L.L.C., TO OPERATE A TAXICAB BUSINESS; SETTING FORTH CONDITIONS ACCOMPANYING THE CERTIFICATE; AND ESTABLISHING THE TERMS OF THE CERTIFICATE

* * *

(Consent): Resolution No. 2010-071 was adopted authorizing the City Manager to approve a Naming Rights Agreement between the Hispanic Cultural Center of Midland and the West Texas Ford Dealers regarding property in Hogan Park. Caption of said resolution is as follows:

RESOLUTION NO. 2010-071
RESOLUTION AUTHORIZING THE CITY MANAGER TO APPROVE A NAMING RIGHTS AGREEMENT BETWEEN THE HISPANIC CULTURAL CENTER OF MIDLAND AND THE WEST TEXAS FORD DEALERS REGARDING PROPERTY IN HOGAN PARK

* * *

(Consent): Resolution No. 2010-072 was adopted authorizing the execution of a General Warranty Deed for the transfer of Lots Seven (7), Eight (8), Nine (9), Ten (10), Eleven (11) and Twelve (12), Block Twenty Three (23), resurvey of Midland Heights Addition, an addition to the City of Midland, Midland County, Texas, to the Midland Community Development Corporation, in accordance with Section 253.011 and Section 272.001 of the Texas Local Government Code; authorizing the City Manager 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; and the closing costs shall be paid from funds available in the City's General Liability Fund. Caption of said resolution is as follows:

RESOLUTION NO. 2010-072
RESOLUTION AUTHORIZING THE EXECUTION OF A GENERAL WARRANTY DEED FOR THE TRANSFER OF LOTS SEVEN (7), EIGHT (8), NINE (9), TEN (10), ELEVEN (11) AND TWELVE (12), BLOCK TWENTY THREE (23), RESURVEY OF MIDLAND HEIGHTS ADDITION, AN ADDITION TO THE CITY OF MIDLAND, MIDLAND COUNTY, TEXAS, TO THE MIDLAND COMMUNITY DEVELOPMENT CORPORATION, IN ACCORDANCE WITH SECTION 253.011 AND SECTION 272.001 OF THE TEXAS LOCAL GOVERNMENT CODE; AUTHORIZING THE CITY MANAGER 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; AND THE CLOSING COSTS SHALL BE PAID FROM FUNDS AVAILABLE IN THE CITY'S GENERAL LIABILITY FUND

* * *

The foregoing motion for the approval of the Consent Agenda was seconded by Council member Morales, and carried by the following vote:

Council members voting "AYE": James, Morales, Trost, Hailey, Perry, Dufford and Sparks
Council members voting "NAY": None

* * *

Consideration was given to a resolution approving a contract with Reese Albert, Incorporated, of Midland, Texas, for the Mulberry Target Area Street and Alley Improvements Projects CD35/7009, 7029 and 8879, at a total cost of \$734,431.25.

Asked for additional information, City Engineer René Franks advised that due to lower than expected bids, \$50,000 in stimulus funds remains available but that a decision has not yet been made regarding how those funds will be directed; she clarified that the proposal at hand reflects only the originally proposed plan. Ms. Franks also provided details of paving needs on Garden Lane.

Resolution No. 2010-073 was adopted approving a contract with Reese Albert, Incorporated, for the designated Mulberry Target Area Street and Alley Improvements Projects. Caption and action had on said resolution are as follows:

RESOLUTION NO. 2010-073
RESOLUTION APPROVING A CONTRACT WITH REESE ALBERT, INCORPORATED, OF MIDLAND, TEXAS, FOR THE MULBERRY TARGET AREA STREET AND ALLEY IMPROVEMENTS PROJECTS CD35/7009, 7029 AND 8879, AT A TOTAL COST OF \$734,431.25

On motion of Council member Hailey, seconded by Council member Dufford, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the 9th day of March, A.D., 2010, by the following vote:

Council members voting "AYE": Hailey, Dufford, Morales, Trost, Perry, James and Sparks
Council members voting "NAY": None

* * *

Consideration was given to a resolution approving a contract with Key Enterprises, Incorporated, of Odessa, Texas, for the Mulberry and San Juan Target Areas Water & Sewer Improvements 2009 Project, at a total cost of \$314,980.00; and appropriating funds.

Ms. Franks explained that part of the Mulberry street paving involves paving a portion of alley that serves as the sole access to some homes. She also confirmed that there are breaks in the sewer line located directly under the alley and in proximity to the water line, an unacceptable condition which requires replacing all lines as part of the project.

Resolution No. 2010-074 was adopted approving a contract with Key Enterprises, Incorporated, for the Mulberry and San Juan Target Areas Water & Sewer Improvements 2009 Project. Caption and action had on said resolution are as follows:

RESOLUTION NO. 2010-074
RESOLUTION APPROVING A CONTRACT WITH KEY ENTERPRISES, INCORPORATED, OF ODESSA, TEXAS, FOR THE MULBERRY AND SAN JUAN TARGET AREAS WATER & SEWER IMPROVEMENTS 2009 PROJECT, AT A TOTAL COST OF \$314,980.00; AND APPROPRIATING FUNDS

On motion of Council member Hailey, seconded by Council member Trost, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the 9th day of March, A.D., 2010, by the following vote:

Council members voting "AYE": Hailey, Trost, Morales, Perry, Dufford, James and Sparks
Council members voting "NAY": None

* * *

Consideration was given to a resolution approving the personnel policies of the Midland Development Corporation.

Asked how the policies differed from those previously established by the Chamber of Commerce for these employees, Economic Development Vice President Mike Hatley advised that they have simply been updated to bring the policies in line with current law.

Resolution No. 2010-075 was adopted approving the personnel policies of the Midland Development Corporation. Caption and action had on said resolution are as follows:

RESOLUTION NO. 2010-075
RESOLUTION APPROVING THE PERSONNEL POLICIES OF THE MIDLAND DEVELOPMENT CORPORATION

On motion of Council member Trost, seconded by Council member Morales, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the 9th day of March, A.D., 2010, by the following vote:

Council members voting "AYE": Trost, Morales, Hailey, Perry, Dufford, James and Sparks
Council members voting "NAY": None

* * *

Consideration was given to a resolution approving a second amendment to the Economic Development Agreement between the Midland Development Corporation and Trace Engines, L.P., as authorized by Chapter 501 of the Texas Local Government Code; said amendment reduces the company's job creation obligation from one hundred fourteen (114) full-time jobs to twenty-five (25) full-time jobs.

Council member Sparks announced that he would abstain from deliberation and voting on this item.

In response to questions regarding clawback provisions, Mr. Hatley explained that Trace Engines is a startup and that a \$400,000 letter of credit was required at the outset to secure the entire value of the forgivable loan to the company. The letter of credit requirement was later reduced to \$325,000, and remains in effect. Discussion followed regarding details of the contract's job requirements and clawback provisions, along with whether the reduction in the letter of credit effectively constituted a reduction of the clawback. Midland Development Corporation Chairman David Mims advised that clawback provisions are not affected by the reduction in the letter of credit, which simply leaves the clawback not fully secured. Mr. Mims pointed out that Trace Engines represents an industry specifically targeted by MDC; that the

capital investment by its owners has been very significant, exceeding expectations; and that with new management now in place, Trace has improved its marketing position and is experiencing renewed momentum. Further discussion focused on MDC's knowledge of the company's current financial position and whether the contract expectations as to number of jobs should be lowered or simply extended. MDC Second Vice President Robert Rendall noted that Trace met its initial job goals, which triggered the reduction in the letter of credit, and maintained that it is in the MDC's interest to work with the company, emphasizing that it has created jobs and that there are significant potential benefits to come with the company's success. Several Council members indicated a need for more information regarding the company's current condition and outlook before approving this contract amendment, as well as others immediately following on the agenda.

Council member Trost made a motion to table this item. Council member Dufford seconded, and action on the proposed second amendment to the Economic Development Agreement between the Midland Development Corporation and Trace Engines, L.P., was deferred by the following vote:

Council members voting "AYE":	Trost, Dufford, Morales, Hailey, Perry and James
Council members "ABSTAINING":	Sparks
Council members voting "NAY":	None

* * *

Consideration was given to a resolution approving an amendment to the Economic Development Agreement between the Midland Development Corporation and Sentry Pumping Units International, Inc., as authorized by Chapter 501 of the Texas Local Government Code.

Council member Trost made a motion to table this item. Council member Dufford seconded, and action on the proposed amendment to the Economic Development Agreement between the Midland Development Corporation and Sentry Pumping Units International, Inc., was deferred by the following vote:

Council members voting "AYE":	Trost, Dufford, Morales, Hailey, Perry and James
Council members "ABSTAINING":	Sparks
Council members voting "NAY":	None

* * *

Consideration was given to a resolution approving an amendment to the Economic Development Agreement between the Midland Development Corporation and Natural Gas Services Group, Inc., as authorized by Chapter 501 of the Texas Local Government Code.

Council member Trost made a motion to table this item. Council member Dufford seconded, and action on the proposed amendment to the Economic Development Agreement between the Midland Development Corporation and Natural Gas Services Group, Inc., was deferred by the following vote:

Council members voting "AYE":	Trost, Dufford, Morales, Hailey, Perry and James
Council members "ABSTAINING":	Sparks
Council members voting "NAY":	None

* * *

Consideration was given to a resolution authorizing the execution of Change Order Number Five with Cajun Constructors, Incorporated, adding \$184,857.00 for additional work to the existing contract for improvements at the City of Midland Water Purification Plant; and appropriating funds; the original contract was for \$20,804,000.00; this fifth change order brings the total contract price to \$21,565,111.00.

In response to a question by Council member Trost regarding the multiple change orders, Utilities Director Stuart Purvis explained that the scope of work under this contract was based on a number of assumptions, and that the scope is subject to change as needs are identified in the course of the work on this facility. Mr. Purvis noted that the total 2.7% variance to date from the original contract amount is very modest.

Resolution No. 2010-076 was adopted authorizing Change Order Number Five with Cajun Constructors, Incorporated, for additional work to the existing contract for improvements at the Water Purification Plant. Caption and action had on said resolution are as follows:

RESOLUTION NO. 2010-076
RESOLUTION AUTHORIZING THE EXECUTION OF CHANGE ORDER NUMBER FIVE WITH CAJUN CONSTRUCTORS, INCORPORATED, ADDING \$184,857.00 FOR ADDITIONAL WORK TO THE EXISTING CONTRACT FOR IMPROVEMENTS AT THE CITY OF MIDLAND WATER PURIFICATION PLANT; AND APPROPRIATING FUNDS; THE ORIGINAL CONTRACT WAS FOR \$20,804,000.00; THIS FIFTH CHANGE ORDER BRINGS THE TOTAL CONTRACT PRICE TO \$21,565,111.00

On motion of Council member Trost, seconded by Council member Morales, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the 9th day of March, A.D., 2010, by the following vote:

Council members voting "AYE": Trost, Morales, Hailey, Perry, Dufford, James and Sparks
Council members voting "NAY": None
* * *

At 2:02 p.m., Mayor Perry announced that pursuant to Texas Government Code Section 551.101, the Council would now hold an Executive Session which is closed to the public, to discuss the following matters as permitted under the following Texas Government Code Sections:

Section 551.087 Deliberation Regarding Economic Development Negotiations
Discuss business prospects that the City seeks to have locate, stay, or expand in or near the City of Midland, Texas, and discuss possible incentives.

and the Council retired to Room #1 of the Martin Luther King, Jr., Community Center to hold such session in conjunction with lunch.

* * *

Mayor Perry reconvened the meeting in the Auditorium of the Martin Luther King, Jr., Community Center at 3:16 p.m., with the following members present:

W. Wesley Perry, Mayor
John H. James, Mayor Pro Tem
Jerry F. Morales, Council member - At-Large
Vicky Hailey, Council member - District 2
Michael B. Trost, Council member - District 4

W. Jeffrey Sparks, Council member - District 1, and A. Scott Dufford, Council member – At-Large, joined the proceedings in progress.

* * *

Ordinance No. 8786 was adopted on second and final reading changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting Lot 6, Block 1, Amaron Addition, Section 7, City and County of Midland, Texas, which is presently zoned PD, Planned District for a shopping center, to be used as an amended Planned District (generally located on the northwest corner of the intersection of Interstate 20 and Camp Street); 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. Caption and action had on said ordinance are as follows:

ORDINANCE NO 8786
AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING LOT 6, BLOCK 1, AMARON ADDITION, SECTION 7, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A SHOPPING CENTER, TO BE

USED AS AN AMENDED PLANNED DISTRICT (GENERALLY LOCATED ON THE NORTHWEST CORNER OF THE INTERSECTION OF INTERSTATE 20 AND CAMP STREET); 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

The above and foregoing ordinance was read and finally adopted, in accordance with the Charter of the City of Midland, by the following vote upon motion of Council member Hailey, seconded by Council member Morales, on the 9th day of March, A.D., 2010, at a regular meeting of the City Council.

Council members voting "AYE": Hailey, Morales, Trost, Perry and James
Council members voting "NAY": None

* * *

Ordinance No. 8788 was adopted on second and final reading changing the zoning use classification of the property described as Lot 1 and the north 30 feet of Lot 2, Block 60½, Original Town, and a 10 foot by 80 foot portion of Carrizo Street, City and County of Midland, Texas (generally located on the southeast corner of the intersection of South "A" Street and West Wall Street), which is presently zoned C-1, Central Area District, by permitting said property to be used under a Specific Use Permit with term for the sale of all alcoholic beverages in a 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. Caption and action had on said ordinance are as follows:

ORDINANCE NO. 8788
AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 1 AND THE NORTH 30 FEET OF LOT 2, BLOCK 60½, ORIGINAL TOWN, AND A 10 FOOT BY 80 FOOT PORTION OF CARRIZO STREET, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTHEAST CORNER OF THE INTERSECTION OF SOUTH "A" STREET AND WEST WALL STREET), WHICH IS PRESENTLY ZONED C-1, CENTRAL AREA DISTRICT, BY PERMITTING SAID PROPERTY TO BE USED UNDER A SPECIFIC USE PERMIT WITH TERM FOR THE SALE OF ALL ALCOHOLIC BEVERAGES IN A 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

The above and foregoing ordinance was read and finally adopted, in accordance with the Charter of the City of Midland, by the following vote upon motion of Council member Hailey, seconded by Council member Trost, on the 9th day of March, A.D., 2010, at a regular meeting of the City Council.

Council members voting "AYE": Hailey, Trost, Morales, Perry, James and Sparks
Council members voting "NAY": None

* * *

Ordinance No. 8785 was adopted on second and final reading establishing intersection stop signs at various locations within the City of Midland, Texas; requiring and authorizing the posting of appropriate signs at intersections; 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. Caption and action had on said ordinance are as follows:

ORDINANCE NO. 8785
AN ORDINANCE ESTABLISHING INTERSECTION STOPS AT VARIOUS LOCATIONS WITHIN THE CITY OF MIDLAND, TEXAS; REQUIRING AND AUTHORIZING THE POSTING OF APPROPRIATE SIGNS AT INTERSECTIONS; 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

The above and foregoing ordinance was read and finally adopted, in accordance with the Charter of the City of Midland, by the following vote upon motion of Council member Hailey, seconded by Council member Morales, on the 9th day of March, A.D., 2010, at a regular meeting of the City Council.

Council members voting "AYE": Hailey, Morales, Trost, Perry, James and Sparks

Council members voting "NAY": None

* * *

A public hearing was held and consideration given to an ordinance amending Title XI, "Planning and Development", Chapter 2, "Plats and Subdivisions", Section 5, "Requirements for Public Improvements, Reservation and Design", Subsection (B), "Lot Design and Improvements", Paragraph 8, "Site Plan Approval", of the City Code of Midland, Texas, so as to add the IP-1, Industrial Park District to the zoning districts exempted under Subparagraph 8(a), and so as to delete Subparagraphs 8(c)-(g); containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2000.00); and ordering publication.

Planning Division Manager Cameron Walker advised that this Staff-initiated request addresses duplication in different parts of the City Code regarding site plan requirements. Mr. Walker noted that a 2006 revision inadvertently left in a portion of the Subdivision Code that discusses site plan review and approval in great detail. A different section that specifically addresses site plan standards includes essentially the same language, and the proposal at hand would delete the duplicate provisions in the Subdivision Code. Mr. Walker also noted that the IP-1 Industrial Park District was removed from the site plan review standards in 2007, essentially allowing metal buildings in the District, and that this change is reflected in this "cleanup" request as well.

Mayor Perry opened the public hearing.

There being no one present wishing to speak either for or against said request, Mayor Perry closed the public hearing.

Ordinance No. 8790 was adopted on the first of two readings amending the described section of the City Code to add the IP-1, Industrial Park District to the zoning districts exempted under Subparagraph 8(a), and to delete Subparagraphs 8(c)-(g). Caption and action had on said ordinance are as follows:

ORDINANCE NO. 8790
AN ORDINANCE AMENDING TITLE XI, "PLANNING AND DEVELOPMENT", CHAPTER 2, "PLATS AND SUBDIVISIONS", SECTION 5, "REQUIREMENTS FOR PUBLIC IMPROVEMENTS, RESERVATION AND DESIGN", SUBSECTION (B), "LOT DESIGN AND IMPROVEMENTS", PARAGRAPH 8, "SITE PLAN APPROVAL", OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO ADD THE IP-1, INDUSTRIAL PARK DISTRICT TO THE ZONING DISTRICTS EXEMPTED UNDER SUBPARAGRAPH 8(a), AND SO AS TO DELETE SUBPARAGRAPHS 8(c)-(g); 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

The above and foregoing ordinance was duly proposed, read and adopted on first reading in accordance with the Charter of the City of Midland, the 9th day of March, A.D., 2010; and passed to second reading on motion of Council member Hailey, seconded by Council member Morales, by the following vote:

Council members voting "AYE": Hailey, Morales, Trost, Perry, James and Sparks
Council members voting "NAY": None

* * *

A public hearing was held and consideration given to an ordinance granting a special exception for the west 40 feet of Lot 2 and east 20 feet of Lot 3, Block 70, West End Addition, City and County of Midland, Texas (generally located on the south side of West Illinois Avenue, approximately 60 feet west of North "K" Street), by permitting an encroachment into the required front yard setback for construction of a carport; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); ordering recordation by the City Secretary in the deed records of Midland County, Texas; and ordering publication.

The Planning Division Manager reviewed the request, advising that the owner wishes to add on to his home and construct a carport. Mr. Walker noted that the property is zoned for office use but that a 20-foot setback is required, even though the property is used for a residence. He stated that the proposed 12-foot encroachment is an unusual situation and that Staff recommends approval of the request because there is a substantial amount of right-of-way behind the curb, creating a much deeper front yard than might be expected. There are existing carports on nearby properties that also encroach into the setback, and Mr. Walker confirmed that the proposed construction will extend the roofline of the home in an architecturally appropriate manner.

Mayor Perry opened the public hearing.

There being no one present wishing to speak either for or against said request, Mayor Perry closed the public hearing.

Ordinance No. 8791 was adopted on the first of two readings granting a special exception for the described property by permitting an encroachment into the required front yard setback for construction of a carport. Caption and action had on said ordinance are as follows:

ORDINANCE NO. 8791
AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR THE WEST 40 FEET OF LOT 2 AND EAST 20 FEET OF LOT 3, BLOCK 70, WEST END ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST ILLINOIS AVENUE, APPROXIMATELY 60 FEET WEST OF NORTH "K" STREET), BY PERMITTING AN ENCROACHMENT INTO THE REQUIRED FRONT YARD SETBACK FOR CONSTRUCTION OF A CARPORT; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF TWO THOUSAND DOLLARS (\$2,000.00); ORDERING RECORDATION BY THE CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION

The above and foregoing ordinance was duly proposed, read and adopted on first reading in accordance with the Charter of the City of Midland, the 9th day of March, A.D., 2010; and passed to second reading on motion of Council member Sparks, seconded by Council member Trost, by the following vote:

Council members voting "AYE": Sparks, Trost, Morales, Hailey, Perry, Dufford and James
Council members voting "NAY": None

* * *

A public hearing was held on amending the City of Midland 2009/2010 Action Plan to the City of Midland Consolidated Plan for Community Development and Housing Funds.

Community Development Administrator Sylvester Cantu advised that a formal amended Action Plan must be submitted to the Department of Housing and Urban Development and briefly described the proposed changes developed with the Council CDBG Committee. He advised

that the plan documents will be finalized and held for a 30-day public review period before bringing for Council approval and submitting to HUD. Mr. Cantu confirmed that the proposed changes update the distribution of funds and address spending deficiencies.

Mayor Perry opened the public hearing.

There being no one present wishing to speak either for or against said request, Mayor Perry closed the public hearing. No action was taken on this matter.

* * *

A public hearing was held and consideration given to a resolution authorizing the temporary use of land for a carnival on Lot 1, Block 17, Skyline Terrace, Unit 2, City and County of Midland, Texas (generally located on the southwest corner of the intersection of West Loop 250 North and North Midkiff Road); and making said permit subject to certain special conditions and restrictions contained herein.

Mr. Walker advised that this is the seventh year that this applicant's request for a carnival on the Midland Park Mall parking lot has been brought to the Council. He reviewed location details, proposed dates/hours of operation, and security arrangements, noting that they are consistent with those approved in the past. Mr. Walker also confirmed that the City has worked with this company in the past regarding reduced music volume in the evenings, and that they are fully aware of the requirements. There were no objections to the request.

Mayor Perry opened the public hearing.

There being no one present wishing to speak either for or against said request, Mayor Perry closed the public hearing.

Resolution No. 2010-077 was approved authorizing the temporary use of land for a carnival on the described property. Caption and action had on said resolution are as follows:

RESOLUTION NO. 2010-077
RESOLUTION AUTHORIZING THE TEMPORARY USE OF
LAND FOR A CARNIVAL ON LOT 1, BLOCK 17, SKYLINE
TERRACE, UNIT 2, CITY AND COUNTY OF MIDLAND, TEXAS
(GENERALLY LOCATED ON THE SOUTHWEST CORNER OF
THE INTERSECTION OF WEST LOOP 250 NORTH AND
NORTH MIDKIFF ROAD); AND MAKING SAID PERMIT
SUBJECT TO CERTAIN SPECIAL CONDITIONS AND
RESTRICTIONS CONTAINED HEREIN

On motion of Council member Trost, seconded by Council member Morales, the above and foregoing resolution was adopted by the City Council of the City of Midland at a regular meeting on the 9th day of March, A.D., 2010, by the following vote:

Council members voting "AYE": Trost, Morales, Hailey, Perry, Dufford, James
and Sparks
Council members voting "NAY": None

* * *

Consideration was given to an ordinance amending the Fire District so as to delete therefrom Lot 1, Block 10, Trueland Addition, Section 2, City and County of Midland, Texas (generally described as 2107 North Fairgrounds Road); directing the building official to amend the fire district map; containing a cumulative clause; and containing a savings and severability clause.

Building Official Steve Thorpe explained that the owner wishes to remove this property from the Fire District, which prohibits wood frame construction, in order to allow flexibility in developing the property, although there are no specific development plans in place at this time.

Ordinance No. 8792 was adopted on the first of two readings amending the Fire District to delete the described property. Caption and action had on said ordinance are as follows:

ORDINANCE NO. 8792
AN ORDINANCE AMENDING THE FIRE DISTRICT SO AS TO
DELETE THEREFROM LOT 1, BLOCK 10, TRUELAND
ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND,

TEXAS (GENERALLY DESCRIBED AS 2107 NORTH FAIRGROUNDS ROAD); DIRECTING THE BUILDING OFFICIAL TO AMEND THE FIRE DISTRICT MAP; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE

The above and foregoing ordinance was duly proposed, read and adopted on first reading in accordance with the Charter of the City of Midland, the 9th day of March, A.D., 2010; and passed to second reading on motion of Council member Hailey, seconded by Council member Sparks, by the following vote:

Council members voting "AYE": Hailey, Sparks, Morales, Trost, Perry, Dufford and James
Council members voting "NAY": None

* * *

Transportation Manager Gary Saunders presented the 2009 Annual Accident Report. Mr. Saunders advised that the total number of accidents in the City was lower than in the previous year, but that the total number of fatalities, at seventeen, has increased, and he stated that a primary factor in the fatal accidents was excessive speed. Mr. Saunders explained that attention is normally given to intersections with a 2.0 or higher MEV (number of accidents per million entering vehicles) rating, but that the highest accident ratio intersection in the City was still far below that threshold with an MEV rating of 1.137. He confirmed that the citywide MEV rating averaged 0.64, lower than the previous year's rating of 0.9.

No action was taken on this item.

* * *

Consideration was given to a motion making appointments to various Boards and Commissions.

Upon motion by Council member Trost, seconded by Council member Dufford, the following persons were unanimously appointed to the Oil and Gas Advisory Committee:

<u>OIL AND GAS ADVISORY COMMITTEE</u>			<u>Term Expires</u>
Andrew Ellis	-	appointed	TBD- Two year terms
Bart Hotchkiss	-	appointed	begin when appointments are completed

* * *

All of the business at hand having been completed, the meeting adjourned at 3:51 p.m.