

**MIDLAND CITY COUNCIL  
MINUTES  
APRIL 27, 2010**

The City Council convened in a Briefing Session in the Basement Conference Room, City Hall, Midland, Texas, at 9:06 a.m. on April 27, 2010.

Council Members present: Mayor Perry, Mayor Pro Tem James (District 3), Council Member Morales (At-Large), Council Member Sparks (District 1), and Council Member Trost (District 4)

Council Members absent: Council Member Dufford (At-Large), and Council Member Hailey (District 2) (Council Member Hailey joined the meeting in progress at 9:12 a.m.)

Staff members present: City Manager Sharp, City Attorney Stretcher, Deputy City Manager Hudson, Assistant City Manager Johnston, Interim City Secretary Turner, Development Services Director Crownover, and Assistant to the City Manager/Public Information Officer Jauz.

**BRIEFING SESSION**

Receive and discuss update on MOTRAN and Texas Department of Transportation financing for regional highways.

James Beauchamp, President of Midland Odessa Transportation Alliance Inc. reviewed information he provided to the City Council and answered questions.

The City Council discussed the preceding item with no formal action taken. The Briefing Session was adjourned at 9:40 a.m.

**REGULAR SESSION**

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:02 a.m., April 27, 2010.

Council Members present: Mayor Perry, Mayor Pro Tem James (District 3), Council Member Morales (At-Large), Council Member Sparks (District 1), Council Member Hailey (District 2), and Council Member Trost (District 4)

Council Members absent: Council Member Dufford (At-Large).

Staff members present at annex table: City Manager Sharp, City Attorney Stretcher, Deputy City Manager Hudson, and Assistant City Manager Johnston.

**MISCELLANEOUS**

1. The invocation was voiced by Reverend Jon Wymore, Living Way Foursquare Church.
2. The Pledge of Allegiance to the Flag was stated.
3. Presentation of special events, organizations, individuals, or periods of time.
  - a. Presentation of a Proclamation for Bicycle Month.

Mayor Perry and Council Member Morales presented the proclamation proclaiming May 2010 as bicycle month to John Floyd and David Ham of the Permian Basin Bicycle Association.

**PUBLIC COMMENT**

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

**CONSENT AGENDA**

Mayor Pro Tem James moved to approve Consent Agenda items 5-21; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Sparks, Hailey, Trost, James, Perry. NAY: None. ABSTAIN: None. ABSENT: Dufford.

5. Approved the minutes of the April 13, 2010, Regular City Council Meeting.
6. Adopted Resolution No. 2010-095. Caption of said resolution is as follows:

RESOLUTION NO. 2010-095  
RESOLUTION AUTHORIZING THE PURCHASE OF FOUR THOUSAND NINE HUNDRED THIRTY SIX (4,936) TONS OF COLD MIX COLD LAY LIMESTONE ROCK ASPHALT FROM VULCAN CONSTRUCTION MATERIALS, L.P., AT A TOTAL COST OF \$335,648.00.

7. Adopted Resolution No. 2010-096. Caption of said resolution is as follows:

RESOLUTION NO. 2010-096  
RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT TO PERFORM RENOVATIONS AT THE MIDLAND SENIOR CITIZENS CENTER WITH J.C. ROBERTS CONSTRUCTION COMPANY, INCORPORATED, AT AN ESTIMATED COST OF \$173,784.00.

8. Adopted Resolution No. 2010-097. Caption of said resolution is as follows:

RESOLUTION NO. 2010-097  
RESOLUTION APPROVING THE PURCHASE OF A BUCKET TRUCK THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (HGAC) AT A TOTAL COST OF \$165,962.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COUNCIL OF GOVERNMENTS.

9. Adopted Resolution No. 2010-098. Caption of said resolution is as follows:

RESOLUTION NO. 2010-098  
RESOLUTION CANCELING AND RESCINDING THE CONTRACT WITH DISCOUNT MATERIALS FOR YARD WASTE MULCHING SERVICES AT THE SMITH ROAD YARD WASTE DISPOSAL SITE AND CITY LANDFILL; AND AUTHORIZING FINAL PAYMENT OF \$11,082.62 TO DISCOUNT MATERIALS FOR SERVICES RENDERED UPON EXECUTION OF A FULL AND COMPLETE RELEASE.

10. Adopted Resolution No. 2010-099. Caption of said resolution is as follows:

RESOLUTION NO. 2010-099  
RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT WITH RBR CONSTRUCTION, INC., OF WEATHERFORD, TEXAS, FOR THE PROJECT DESCRIBED AS THE TERMINAL BUILDING REHABILITATION PROJECT (7004) AT THE MIDLAND INTERNATIONAL AIRPORT; THE COUNCIL PREVIOUSLY AUTHORIZED ADVERTISEMENT FOR BIDS FOR THE PROJECT; THE CITY'S SHARE IS \$289,000.00 FOR THE TERMINAL BUILDING REHABILITATION 7004 PROJECT; AND APPROPRIATING FUNDS INCLUDING FEDERAL AVIATION ADMINISTRATION'S REMAINING PORTION OF THIS PROJECT.

11. Adopted Resolution No. 2010-100. Caption of said resolution is as follows:

RESOLUTION NO. 2010-100  
RESOLUTION APPROVING PLANS AND SPECIFICATIONS AND AUTHORIZING ADVERTISEMENT FOR BIDS FOR THE SAN JUAN TARGET AREA SIDEWALK IMPROVEMENTS PROJECT; SAID PROJECT WILL BE FOR THE CONSTRUCTION OF A SIDEWALK ON THE SOUTH SIDE OF DAKOTA AVENUE IN THE SAN JUAN TARGET AREA.

12. Adopted Resolution No. 2010-101. Caption of said resolution is as follows:

RESOLUTION NO. 2010-101  
RESOLUTION RATIFYING THE EXECUTION OF CHANGE ORDER NUMBER ONE WITH REECE ALBERT, INC., REGARDING THE MULBERRY TARGET AREA STREET AND ALLEY IMPROVEMENTS PROJECT; SAID CHANGE ORDER TO PROVIDE FOR REVISIONS TO GARDEN LANE AND THE INCREASE IN THE PORTION OF THE PROJECT TO BE PAID FROM FEDERAL STIMULUS FUNDS; AND AUTHORIZING PAYMENT THEREFOR IN THE AMOUNT OF \$29,157.15.

13. Adopted Resolution No. 2010-102. Caption of said resolution is as follows:

RESOLUTION NO. 2010-102

RESOLUTION AUTHORIZING THE EXECUTION OF AN AGREEMENT FOR THE TEMPORARY CLOSURE OF STATE RIGHT-OF-WAY WITH THE STATE OF TEXAS FOR USE OF A STATE-OWNED HIGHWAY, INCLUDING SPUR 269 BETWEEN MAIN STREET AND COLORADO STREET, FOR THE PURPOSE OF THE CELEBRATION OF THE ARTS SPECIAL EVENT.

14. Adopted Resolution No. 2010-103. Caption of said resolution is as follows:

RESOLUTION NO. 2010-103

RESOLUTION AUTHORIZING A RIGHT OF WAY LICENSE WITH THE CITY OF MIDLAND, TEXAS AND ATLAS PIPELINE WESTTEX, L.L.C.; SAID RIGHT OF WAY LICENSE IS FOR THE PURPOSE OF PLACING, CONSTRUCTING, OPERATING, REPAIRING, MAINTAINING, REPLACING AND REMOVING ONE NATURAL GAS PIPELINE, NOT TO EXCEED EIGHT INCHES IN DIAMETER, FOR THE TRANSPORTATION OF GAS AND TO HAVE THE RIGHT OF INGRESS AND EGRESS AT CONVENIENT POINTS FOR SUCH PURPOSE; THE PIPELINE IS LOCATED WITHIN A PORTION OF SUNGLO AVENUE RIGHT OF WAY, MIDLAND COUNTY, TEXAS; THE LICENSE TERM IS FOR FIVE YEARS, COMMENCING WITH THE DATE OF THIS LICENSE AND SHALL AUTOMATICALLY RENEW AT THE END OF THE TERM FOR ADDITIONAL FIVE YEARS UPON 120 DAYS WRITTEN REQUEST PRIOR TO EXPIRATION.

15. Adopted Resolution No. 2010-104. Caption of said resolution is as follows:

RESOLUTION NO. 2010-104

RESOLUTION AWARDDING THE "AIRPORT AND PAUL DAVIS WELL SITES IMPROVEMENTS PROJECT" CONTRACT TO RED RIVER CONSTRUCTION COMPANY, AT AN ESTIMATED COST OF \$3,877,740.00; AND APPROPRIATING FUNDS.

16. Adopted Resolution No. 2010-105. Caption of said resolution is as follows:

RESOLUTION NO. 2010-105

RESOLUTION AWARDDING THE "REPLACEMENT OF PRIMARY CLARIFIER EFFLUENT LINES PROJECT" CONTRACT TO RED RIVER CONSTRUCTION COMPANY, AT AN ESTIMATED COST OF \$482,740.00; AND APPROPRIATING FUNDS.

17. Adopted Resolution No. 2010-106. Caption of said resolution is as follows:

RESOLUTION NO. 2010-106

RESOLUTION AUTHORIZING A SEVENTH AMENDMENT TO THE EXISTING PROFESSIONAL SERVICES AGREEMENT WITH HDR ENGINEERING, INCORPORATED; AND APPROPRIATING \$156,900.00 THEREFOR; THE ORIGINAL AGREEMENT WAS FOR \$293,200.00; THIS SEVENTH AMENDMENT WILL BRING THE TOTAL AGREEMENT PRICE TO \$1,681,613.00.

18. Adopted Resolution No. 2010-107. Caption of said resolution is as follows:

RESOLUTION NO. 2010-107

RESOLUTION AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT WITH CLEARWIRE US, L.L.C., FOR SPACE AT THE SHELL AVENUE WATER TOWER SITE; SAID NONRENEWABLE LEASE AGREEMENT SHALL BE FOR A TERM OF FIVE (5) YEARS WITH A MONTHLY RENTAL OF \$1,000.00.

19. Adopted Resolution No. 2010-108. Caption of said resolution is as follows:

RESOLUTION NO. 2010-108

RESOLUTION AUTHORIZING AN AMENDMENT TO THE 2009/2010 ACTION PLAN TO THE CITY OF MIDLAND CONSOLIDATED PLAN FOR COMMUNITY DEVELOPMENT AND HOUSING FUNDS PER AMENDMENT DOCUMENTS ON FILE WITH THE INTERIM CITY SECRETARY; SAID AMENDMENT TO INCLUDE THE REALLOCATION OF \$30,000.00 AND RELATED BUDGET TRANSFERS; AUTHORIZING THE CONSOLIDATION OF EXISTING ALLOCATIONS OF THE DEMOLITION, HOME BUYER ASSISTANCE AND OWNER OCCUPIED HOUSING ASSISTANCE PROGRAMS; THAT A COPY OF SAID AMENDMENT DOCUMENTS SHALL BE ON FILE IN THE CITY SECRETARY'S OFFICE.

20. Adopted Resolution No. 2010-109. Caption of said resolution is as follows:

RESOLUTION NO. 2010-109  
RESOLUTION OF THE CITY OF MIDLAND, TEXAS, REQUESTING THE TEXAS STATE LEGISLATURE AND GOVERNOR OF TEXAS TAKE ACTION TO COMPEL PAYDAY AND AUTO TITLE LENDERS TO STOP USURIOUS LENDING AND COMPLY WITH THE SAME STANDARDS AS LICENSED CONSUMER LENDERS IN TEXAS.

21. Adopted Resolution No. 2010-110. Caption of said resolution is as follows:

RESOLUTION NO. 2010-110  
RESOLUTION AUTHORIZING THE OFFICE OF THE CITY ATTORNEY TO FILE ALL DOCUMENTS, EMPLOY ALL NECESSARY EXPERTS AND MAKE ALL NECESSARY APPEARANCES TO REPRESENT THE CITY OF MIDLAND IN A LAWSUIT STYLED MIDLAND CENTRAL APPRAISAL DISTRICT V. JOE ESPINOZA, JR. ET AL, IN THE JUDICIAL DISTRICT COURT, MIDLAND COUNTY, TEXAS, CAUSE NO. TX 12084.

## **SECOND READINGS**

22. Interim City Secretary Turner read the caption of Ordinance No. 8793.

Council Member Trost moved to approve the second and final reading of Ordinance No. 8793 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Hailey, Morales, Sparks, Trost, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said ordinance is as follows:

ORDINANCE NO. 8793  
AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 7, BLOCK 15, COLLEGE HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTHEAST CORNER OF THE INTERSECTION OF COLLEGE AVENUE AND BURLESON STREET), BY PERMITTING AN ENCROACHMENT INTO THE REQUIRED SIDE YARD SETBACK FOR CONSTRUCTION OF A GARAGE; 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 INTERIM CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION.

23. Interim City Secretary Turner read the caption of Ordinance No. 8794.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8794 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Sparks, Hailey, Trost, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said ordinance is as follows:

ORDINANCE NO. 8794  
AN ORDINANCE GRANTING A SPECIAL EXCEPTION FOR LOT 30, BLOCK 22, CRESTGATE ADDITION, SECTION 40, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF COQUINA COURT, APPROXIMATELY 140 FEET SOUTH OF BLUEBIRD LANE), BY PERMITTING AN ENCROACHMENT INTO THE REQUIRED FRONT YARD SETBACK FOR CONSTRUCTION OF A PRIMARY STRUCTURE; 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 INTERIM CITY SECRETARY IN THE DEED RECORDS OF MIDLAND COUNTY, TEXAS; AND ORDERING PUBLICATION.

24. Interim City Secretary Turner read the caption of Ordinance No. 8795.

Council Member Sparks moved to approve the second and final reading of Ordinance No. 8795 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Sparks, Hailey, Trost, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said ordinance is as follows:

ORDINANCE NO. 8795

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS, ORDAINING THE CITY'S PARTICIPATION IN THE TEXAS ENTERPRISE ZONE PROGRAM PURSUANT TO THE TEXAS ENTERPRISE ZONE ACT, CHAPTER 2303, TEXAS GOVERNMENT CODE (THE "ACT"); PROVIDING TAX INCENTIVES; DESIGNATING A LIAISON FOR THE COMMUNICATION WITH INTERESTED PARTIES; NOMINATING PLAINS ALL AMERICAN PIPELINE, L.P., TO THE OFFICE OF THE GOVERNOR, ECONOMIC DEVELOPMENT AND TOURISM ("EDT") THROUGH THE ECONOMIC DEVELOPMENT BANK (THE "BANK") AS AN ENTERPRISE PROJECT; AND PROVIDING AN EFFECTIVE DATE.

25. Interim City Secretary Turner read the caption of Ordinance No. 8796.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8796 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Sparks, Hailey, Trost, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said ordinance is as follows:

ORDINANCE NO. 8796

AN ORDINANCE AMENDING THE FIRE DISTRICT SO AS TO DELETE THEREFROM LOT 6, BLOCK 165, SOUTHERN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY DESCRIBED AS 710 SOUTH ATLANTA STREET); DIRECTING THE BUILDING OFFICIAL TO AMEND THE FIRE DISTRICT MAP; CONTAINING A CUMULATIVE CLAUSE; AND CONTAINING A SAVINGS AND SEVERABILITY CLAUSE.

26. Interim City Secretary Turner read the caption of Ordinance No. 8797.

Transportation Manager Saunders reported that he met with the property owner, Mr. Englestad, and that they were able to reach an agreement allowing driveway access to the property off of New Jersey.

Council Member Hailey moved to amend Ordinance No. 8797 to allow driveway access on New Jersey, to set the cost of the property at \$1, to make the transfer of the title contingent on the replat of the property, and to allow one year to bring the driveway in compliance; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Sparks, Hailey, Trost, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: Dufford.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8797, as amended, in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Morales, Sparks, Hailey, Trost, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said ordinance is as follows:

ORDINANCE NO. 8797

AN ORDINANCE VACATING AND ABANDONING A 0.5-ACRE PORTION OF HARRISON STREET RIGHT-OF-WAY ADJACENT TO THE EAST SIDE OF LOTS 1-3, BLOCK 19, REPLAT OF SOUTH PARK ADDITION, AND A 715.5 SQUARE FOOT PORTION OF NEW JERSEY AVENUE RIGHT-OF-WAY AT THE HARRISON STREET INTERSECTION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON HARRISON STREET SOUTH OF NEW JERSEY AVENUE); AND NOT ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$2,474.50; RETAINING A GENERAL UTILITY AND DRAINAGE EASEMENT; ESTABLISHING REQUIREMENTS FOR A FINAL PLAT AND ESTABLISHING AN EXPIRATION DATE; ESTABLISHING DRIVEWAY REQUIREMENTS; AND ORDERING RECORDATION BY THE INTERIM CITY SECRETARY

**PUBLIC HEARINGS**

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

Mayor Perry opened the public hearing at 10:40 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Interim City Secretary Turner read the caption of Ordinance No. 8798.

Council Member Morales moved approval of the first of two readings of Ordinance No. 8798 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Morales, Sparks, Hailey, Trost, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said ordinance is as follows:

ORDINANCE NO. 8798

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 0.681-ACRE TRACT OF LAND OUT OF SECTION 19, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED O-1, OFFICE DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT (GENERALLY LOCATED ON THE NORTH SIDE OF PRESTON DRIVE, APPROXIMATELY 300 FEET EAST OF SUNBURST DRIVE); 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.

28. Planning Division Manager Walker gave an overview of the item noting that staff recommended approval.

Mayor Perry opened the public hearing at 10:43 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Hailey moved approval of Resolution No. 2010-111; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Sparks, Hailey, Trost, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said ordinance is as follows:

RESOLUTION NO. 2010-111

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR AN OUTDOOR AMUSEMENT FUNCTION BY THE RANCH ON THE COMMON AREA OF BLOCK 11A, FAIRWAY PARK ADDITION, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE EAST SIDE OF NORTH BIG SPRING STREET, APPROXIMATELY 1,000 FEET SOUTH OF LOOP 250 NORTH); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN.

**MISCELLANEOUS**

29. Assistant to the City Manager Jauz gave an overview of the item.

Interim City Secretary Turner read the caption of Ordinance No. 8799.

Council Member Hailey moved approval of the first of two readings of Ordinance No. 8799 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Sparks, Hailey, Trost, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said ordinance is as follows:

ORDINANCE NO. 8799

AN ORDINANCE AMENDING THE OFFICIAL MUNICIPAL BUDGET FOR FISCAL YEAR 2009-2010 IN ORDER TO PROVIDE ADDITIONAL FUNDS TO THE SPORTS AND ENTERTAINMENT ASSOCIATION OF MIDLAND AND THE MIDLAND ROCKHOUNDS; THE ADDITIONAL FUNDING PROVIDED TO THE SPORTS AND ENTERTAINMENT ASSOCIATION OF MIDLAND WILL HELP PROMOTE TOURISM IN THE CITY OF MIDLAND; THE ADDITIONAL FUNDS PROVIDED TO THE MIDLAND ROCKHOUNDS WILL ALLOW THE CITY TO PARTNER WITH THE ROCKHOUNDS IN ORDER TO HOST AN INDEPENDENCE DAY COMMUNITY FIREWORKS DISPLAY OPEN TO THE PUBLIC; AND ORDERING RECORDATION; AND DECLARING AN EMERGENCY.

30. Building Official Thorpe gave an overview of the item and answered questions of the City Council.

Interim City Secretary Turner read the caption of Ordinance No. 8800.

Council Member Morales moved approval of the first of two readings of Ordinance No. 8800 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Morales, Sparks, Hailey, Trost, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: Dufford. Caption of said ordinance is as follows:

ORDINANCE NO. 8800

AN ORDINANCE AMENDING TITLE V, "BUSINESS REGULATIONS", CHAPTER 10, "SIDEWALK SALES AND SELLING FROM FIXED LOCATIONS", SECTION 2, "PERMIT AND LICENSE REQUIRED IF SELLING FROM A FIXED LOCATION", AND SECTION 9, "DUTY OF POLICE", SO AS TO ALLOW LICENSED FOOD VENDORS TO SELL FOOD AT A LOCATION ADJACENT TO CENTENNIAL PLAZA; CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF FIVE HUNDRED DOLLARS (\$500.00); AND ORDERING PUBLICATION.

31. Consideration of appointments to various Boards and Commissions.

No appointments were made.

**RECESS/EXECUTIVE SESSION**

32. Mayor Perry announced that the meeting would be recessed to the conference room for lunch.

33. Mayor Perry announced that pursuant to Texas Government Code Section 551.101, the Council would now hold an Executive Session, closed to the public, to discuss the following matters as permitted under the following Texas Government Code Sections:

**Section 551.071, Consultation with the City Attorney**

Discuss matters in which the duty of the attorney(s) to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with chapter 551 of the Texas Government Code.

Discuss legal issues related to the Midland Development Corporation, a Type A Corporation as authorized by Chapter 504 of the Texas Local Government Code, and the Midland Football-Soccer and Baseball Complex Development Corporation, a Type B Corporation as authorized by Chapter 505 of the Texas Local Government Code.

Mayor Perry recessed the meeting to Executive Session at 10:52 a.m.

All of the business at hand having been completed, the meeting adjourned at 11:23 a.m.

PASSED AND APPROVED the 11<sup>th</sup> day of May, 2010.

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W. Wesley Perry, Mayor

ATTEST:

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Amy M. Turner, Interim City Secretary