

**MIDLAND CITY COUNCIL
MINUTES
MAY 25, 2010**

The City Council convened in a Briefing Session in the Basement Conference Room, City Hall, Midland, Texas, at 9:01 a.m. on May 25, 2010.

Council Members present: Mayor W. Wesley Perry, Mayor Pro Tem John James (District 3), Council Member Scott Dufford (At-Large), Council Member Jerry Morales (At-Large), Council Member Jeffrey Sparks (District 1), and Council Member Michael Trost (District 4)

Council Members absent: Council Member Vicky Hailey (District 3) (Hailey arrived at 9:05 a.m.)

Staff members present: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, Assistant City Manager Marcus Johnston, Interim City Secretary Amy Turner, Development Services Director Rick Crossover, Director of Finance Bob McNaughton, Administrative Services Director Beth Mosley, CISD Director Chuck Gibson, Director of Airports Marv Esterly, Facilities and Fleet Management Director Mark Phillips, Utilities Director Stuart Purvis, Community Services Director Monette Burke, Assistant to the City Manager/Public Information Officer Tina Jauz, GIS Manager Bill Hodge, and Transportation Manager Gary Saunders

BRIEFING SESSION

Present and discuss the 2010-2011 City Council Strategic Goals.

City Manager Sharp noted the purpose of the briefing is to update the City Council on the progress of Strategic Planning goals. He gave an update on the short term goal "Document and communicate City Council Philosophy, Policy and Vision regarding utilization of economic development funds".

Director of Finance McNaughton gave an update on the short term goal "Develop long term fiscal philosophy and policies to guide decision making" noting that the goals are used in development of the budget process. A discussion ensued about the budget process.

Assistant City Manager Johnston reviewed the short term goal "Develop a unified strategy for the development of downtown" noting developments with the courthouse, Art in Public Places, lunch in the plaza, and scheduling of the Midland Center.

Director of Finance McNaughton reviewed the short term goal "Develop a long term philosophy and policy for funding capital improvements" noting that an annual review is conducted of the city's wish list and projects are prioritized. He also reviewed how projects are approved and how potential funding sources are developed.

Fleet and Management Director Phillips reviewed the short term goal "Develop a long term facility plan".

Administrative Services Director Mosley reviewed the short term goal "Conduct customer service training for city employees".

Development Services Director Crossover reviewed the mid term goal "Develop Corridor Development Plans for I20, 349, 191, 1788, Loop 250, Big Spring Highway, the airport and downtown, to guide future development patterns and prioritize economic stimulation activities and priorities in each corridor.

City Manager Sharp noted that this item would be carried forward to the next briefing session.

The foregoing agenda item was discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:59 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:10 a.m., May 25, 2010.

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

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

MISCELLANEOUS

1. The invocation was voiced by Pastor Art Perkins of The Gathering at Midland.
2. The Pledge of Allegiance to the Flag was stated.
3. Presentation of special events, organizations, individuals, or periods of time.
 - a. Recognition of City staff for their rescue efforts during the recent storms and floods.

The City Council recognized the staff members in Police, Fire, Sanitation and Transportation that aided people in distress during the recent floods.

Gloria Sandoval expressed gratitude to the city employees who rescued her father.

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.

Alfredo Chaparro, 4602 Tanforan, requested that the City Council not sunset the community development advisory committee.

Elizabeth Glenn, spoke about a bird she found, shared an article, spoke about alley maintenance, and shared a bible verse.

There were no other citizens requesting to speak.

CONSENT AGENDA

Mayor Pro Tem James moved to approve Consent Agenda items 8-9 and 11-17; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Dufford, Morales, Sparks, Hailey, Trost, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None.

8. Adopted Resolution No. 2010-128. Caption of said resolution is as follows:

RESOLUTION NO. 2010-128

A RESOLUTION APPROVING THE 2010-2011 CITY OF MIDLAND STRATEGIC PLAN.

9. Adopted Resolution No. 2010-129. Caption of said resolution is as follows:

RESOLUTION NO. 2010-129

A RESOLUTION AUTHORIZING THE EXECUTION OF A PUBLIC IMPROVEMENT DEVELOPMENT AGREEMENT WITH INNOVATIVE LAND DEVELOPMENT FOR DEVELOPMENT OF STONEBRIDGE ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NORTH OF LOOP 250 AND EAST OF NORTH LAMESA ROAD); AND APPROPRIATING FUNDS IN THE AMOUNT OF \$262,900 THEREFOR; SAID AGREEMENT BEING AUTHORIZED BY SECTION 395.081 OF THE TEXAS LOCAL GOVERNMENT CODE.

11. Adopted Resolution No. 2010-130. Caption of said resolution is as follows:

RESOLUTION NO. 2010-130

A RESOLUTION AUTHORIZING THE CITY OF MIDLAND TO FILE A JOINT APPLICATION WITH MIDLAND COUNTY FOR FISCAL YEAR 2010 JUSTICE ASSISTANCE GRANT FUNDS PROGRAM TOTALING \$42,231.00; AND AUTHORIZING THE EXECUTION OF AN AGREEMENT REGARDING THE DIVISION OF SAID GRANT FUNDS; THE CITY OF MIDLAND WILL RECEIVE \$25,339.00 (60%) AND MIDLAND COUNTY WILL RECEIVE \$16,892.00 (40%) OF THE GRANT FUNDS

RESPECTIVELY; THIS AGREEMENT DOES NOT SUPERSEDE, MODIFY OR AMEND ANY OTHER PRIOR AGREEMENTS.

12. Adopted Resolution No. 2010-131. Caption of said resolution is as follows:

RESOLUTION NO. 2010-131

A RESOLUTION APPROVING A GRANT APPLICATION BY THE MIDLAND POLICE DEPARTMENT FOR A FEDERAL BULLETPROOF VEST PARTNERSHIP GRANT WITH SAID FUNDS TO BE USED FOR THE PURCHASE OF REPLACEMENT VESTS.

13. Adopted Resolution No. 2010-132. Caption of said resolution is as follows:

RESOLUTION NO. 2010-132

A RESOLUTION AUTHORIZING THE CITY OF MIDLAND TO APPLY FOR A GRANT IN THE AMOUNT OF \$15,000.00 OFFERED BY THE TEXAS ALCOHOLIC BEVERAGE COMMISSION TO ENFORCE UNDERAGE DRINKING LAWS; THERE ARE NO MATCHING FUNDS REQUIRED.

14. Adopted Resolution No. 2010-133. Caption of said resolution is as follows:

RESOLUTION NO. 2010-133

A RESOLUTION AUTHORIZING THE EXECUTION OF A DISCHARGE LICENSE AGREEMENT WITH BORETS WEATHERFORD US, INCORPORATED, FOR THE DISPOSAL OF TREATED WASTEWATER FROM PRESSURE TESTING AND ELECTRONIC SUBMERSIBLE PUMPS LOCATED AT 2222 COMMERCE DRIVE, MIDLAND, TEXAS, BY MEANS OF A PRE-TREATMENT SYSTEM.

15. Adopted Resolution No. 2010-134. Caption of said resolution is as follows:

RESOLUTION NO. 2010-134

A RESOLUTION APPROPRIATING \$3,000.00 TO THE MIDLAND DRAW RIGHT OF WAY ACQUISITION PROJECT (8941) FOR THE PURCHASE OF PORTIONS OF LOTS 10 AND 11, BLOCK 11, TRUELAND ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS.

16. Approved an amendment to the VALIC and Nationwide Retirement Solutions plan documents to allow employees to be able to take loans against their deferred compensation accounts and authorizing the City Manager, or his designee, to execute all documents necessary therefor.

17. Adopted Resolution No. 2010-135. Caption of said resolution is as follows:

RESOLUTION NO. 2010-135

A RESOLUTION APPROVING THE RENEWAL OF THE A-1 PERMIAN BASIN TAXICAB FRANCHISE.

5. Council Member Dufford noted that he would be abstaining from approving the minutes as he was not at the meeting.

Council Member Trost moved to approve the minutes of the regular City Council meeting of May 11, 2010; seconded by Council Member Morales. The motion carried by the following vote: AYE: Morales, Sparks, Hailey, Trost, James, Perry. NAY: None. ABSTAIN: Dufford. ABSENT: None.

6. Following a brief discussion, Council Member Trost moved to adopt Resolution No. 2010-136; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Dufford, Morales, Sparks, Hailey, Trost, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said resolution is as follows:

RESOLUTION NO. 2010-136

A RESOLUTION AUTHORIZING AN AMENDMENT TO THE EXISTING CONSULTING AGREEMENT WITH CGI TECHNOLOGIES AND SOLUTIONS, INCORPORATED; AND APPROPRIATING \$500,000.00 THEREFOR; THE ORIGINAL AGREEMENT WAS FOR \$2,150,000.00; THIS AMENDMENT WILL BRING THE TOTAL AGREEMENT PRICE TO \$2,650,000.00.

7. Following a brief discussion, Council Member Trost moved to adopt Resolution No. 2010-137; seconded by Council Member Dufford. The motion carried by the following

vote: AYE: Dufford, Morales, Sparks, Hailey, Trost, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said resolution is as follows:

RESOLUTION NO. 2010-137

A RESOLUTION APPROVING THE PURCHASE OF A 2011 WESTERN STAR 4900SA CHASSIS TRUCK WITH A VACTOR 2115P-15 COMBO SEWER CLEANER THROUGH THE HOUSTON-GALVESTON AREA COUNCIL OF GOVERNMENTS (HGAC) AT A TOTAL COST OF \$320,031.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COUNCIL OF GOVERNMENTS.

10. Council Member Hailey requested Lisa Grissom give an update on the Shades of Blues Festival.

Ms. Grissom noted the intent is to turn the festival into a multi-day event, reviewed the barricade and fencing plan, shared future goals of the event, and shared confirmed and pending artists who would be performing.

Council Member Hailey moved to adopt Resolution No. 2010-138; seconded by Council Member Trost. The motion carried by the following vote: AYE: Dufford, Morales, Sparks, Hailey, Trost, James, Perry. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said resolution is as follows:

RESOLUTION NO. 2010-138

A 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 SHADES OF BLUES FEST SPECIAL EVENT.

SECOND READINGS

18. Interim City Secretary Turner read the caption of Ordinance No. 8801.

Council Member Morales moved to approve the second and final reading of Ordinance No. 8801 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Dufford, Morales, Sparks, Hailey, Trost, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

ORDINANCE NO. 8801

AN ORDINANCE AMENDING TITLE II, "COMMISSIONS AND BOARDS", CHAPTER 8, "MIDLAND CRIME PREVENTION COMMISSION", OF THE CITY CODE OF MIDLAND, TEXAS, BY ESTABLISHING SECTION 5, "SUNSET PROVISION", SO AS TO SUNSET THE MIDLAND CRIME PREVENTION COMMISSION EFFECTIVE SEPTEMBER 30, 2010; 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.

PUBLIC HEARINGS

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

Mayor Perry opened the public hearing at 11:00 a.m.

Max Richardson, 110 W. Louisiana, representing West Company of Midland, pointed out specific areas on the plan where retail, hotel, multi-family, and office space were to be located.

There being no one else present wishing to speak, the public hearing was closed at 11:03 a.m.

Interim City Secretary Turner read the caption of Ordinance No. 8802.

Upon request, Bob Duree answered questions.

Council Member Trost moved approval of the first of two readings of Ordinance No. 8802 in accordance with the Charter of the City of Midland; seconded by Council Member Morales. The motion carried by the following vote: AYE: Dufford, Morales,

Sparks, Hailey, Trost, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

ORDINANCE NO. 8802

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 24.94-ACRE TRACT OF LAND ("TRACT 1") OUT OF SECTION 1, BLOCK 40, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION ONE HEREOF, WHICH IS PRESENTLY ZONED IP-1, INDUSTRIAL PARK DISTRICT, TO BE USED AS AN MF-1, MULTIPLE-FAMILY DWELLING DISTRICT; BY PERMITTING A 6.86-ACRE TRACT OF LAND ("TRACT 2") OUT OF SECTION 1, BLOCK 40, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION TWO HEREOF, WHICH IS PRESENTLY ZONED IP-1, INDUSTRIAL PARK DISTRICT, TO BE USED AS AN LR-2, LOCAL RETAIL DISTRICT; BY PERMITTING A 6.18-ACRE TRACT OF LAND ("TRACT 3") OUT OF SECTION 1, BLOCK 40, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION THREE HEREOF, WHICH IS PRESENTLY ZONED IP-1, INDUSTRIAL PARK DISTRICT, TO BE USED AS AN O-1, OFFICE DISTRICT; BY PERMITTING A 5.17-ACRE TRACT OF LAND ("TRACT 4") OUT OF SECTION 1, BLOCK 40, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, AND MORE SPECIFICALLY DESCRIBED IN SECTION FOUR HEREOF, WHICH IS PRESENTLY ZONED IP-1, INDUSTRIAL PARK DISTRICT, TO BE USED AS A PD, PLANNED DISTRICT FOR A TRANSITION DISTRICT; SAID TRACTS ALL BEING GENERALLY LOCATED ON THE NORTHWEST CORNER OF LOOP 250 WEST AND WEST HIGHWAY 80 (BUSINESS INTERSTATE20); 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.

20. A public hearing concerning a requested annexation of a 79.808-acre tract of land out of Section 37, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the west side of Tradewinds Boulevard, north of Champions Drive.)

Planning Division Manager Walker gave an overview of the item noting that two public hearings were required for any annexation and that the second public hearing for this item would be held on June 1, 2010 at 8:15 a.m.

Mayor Perry opened the public hearing at 11:10 a.m.

Drew Wegman, representing Betenbough Homes, spoke in favor of the annexation.

There being no one else present wishing to speak, the public hearing was closed at 11:12 a.m.

21. A public hearing concerning a requested annexation of a 27.04-acre tract of land out of Section 24, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located on the north side of Briarwood Avenue west of Holiday Hill Road.)

Planning Division Manager Walker gave an overview of the item noting that the second public hearing for this item would also be held on June 1, 2010 at 8:15 a.m.

Mayor Perry opened the public hearing at 11:14 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

DEVELOPMENT SERVICES

22. Conducted a work session on the preliminary distribution of 2010-2011 Community Development Block Grant Funds and the 2010-2014 Consolidated Plan.

Community Development Manager Cantu explained the process noting that the next public hearing would be held on June 8, 2010, at 7 p.m.

A discussion ensued. David Diaz of Midland Community Development Corporation and Alynda Best of Midland Habitat for Humanity answered questions posed by the City Council.

Following discussion, consensus was achieved to fund the Sparks Park housing development infrastructure and to talk about street paving as part of the budget process.

Max Cuellar expressed concern that money will not be put toward paving streets in the windowpane.

Luis Sanchez, 1215 S. Dallas, thanked the Council for work that has been completed in the windowpane area and expressed a need to further develop the area due to the new hotels.

23. Transportation Manager Saunders gave an overview of the item.

Interim City Secretary Turner read the caption of Ordinance No.8803.

Council Member Morales moved approval of the first of two readings of Ordinance No. 8803 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Dufford, Morales, Sparks, Hailey, Trost, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

ORDINANCE NO. 8803

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.

24. Building Official Thorpe gave an overview of the item.

Interim City Secretary Turner read the caption of Ordinance No. 8804.

Council Member Morales moved approval of the first of two readings of Ordinance No. 8804 in accordance with the Charter of the City of Midland; seconded by Council Member Trost. The motion carried by the following vote: AYE: Dufford, Morales, Sparks, Hailey, Trost, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: None. Caption of said ordinance is as follows:

ORDINANCE NO. 8804

AN ORDINANCE AMENDING THE FIRE DISTRICT SO AS TO DELETE THEREFROM LOT 18, BLOCK 14, BRIARWOOD ADDITION, SECTION 17, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY DESCRIBED AS 4600 ORIOLE DRIVE); DIRECTING THE BUILDING OFFICIAL TO AMEND THE FIRE DISTRICT MAP; CONTAINING A CUMULATIVE CLAUSE; AND CONTAINING A SAVINGS AND SEVERABILITY CLAUSE.

MISCELLANEOUS

25. Consideration of appointments to various Boards and Commissions.

No appointments were made.

RECESS/EXECUTIVE SESSION

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

27. Mayor Perry announced that pursuant to Texas Government Code Section 551.101, the Council would hold an Executive Session, 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.

Section 551.071, Consultation with the City Attorney

Discuss Texas Ethics Commission Advisory Opinion No. 484. Discuss litigation styled Diane Sanchez, et al. v. City of Midland, Texas; Matt Fraley; and Michael Hedrick; U.S. District Court for the Western District of Texas; Cause No. MO-08-CV-115.

Mayor Perry recessed the meeting to Executive Session at 12:17 p.m.

All of the business at hand having been completed, the meeting adjourned at 1:35 p.m.

PASSED AND APPROVED the 8th day of June, 2010.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, Interim City Secretary