

**MIDLAND CITY COUNCIL
MINUTES
JUNE 8, 2010**

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 8:34 a.m. on June 8, 2010.

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

Council Members absent: Mayor Pro Tem John James (District 3), Council Member Vicky Hailey (District 2), and Council Member Michael Trost (District 4) (Hailey arrived at 8:37 a.m.) (James arrived at 8:44 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 Crownover Director of Finance Bob McNaughton, City Engineer Rene Franks, Utilities Director Stuart Purvis, Director of Airports Marv Esterly, Community Services Director Monette Burke, Assistant Community Services Director Tina Jauz, Planning Division Manager Cameron Walker, Building Official Steve Thorpe, GIS Manager Bill Hodge, and Transportation Manager Gary Saunders.

BRIEFING SESSION

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

Development Services Director Crownover reviewed the mid-term goal "Develop Corridor Development Plans for 120, 349, 191, 1788 Loop 250, Big Springs Highway, corridor development of SH 191 and FM 1788.

City Engineer Franks reviewed street paving and traffic funding.

Utilities Director Purvis reviewed the mid-term goal "Develop a 50 year water plan".

City Manager Sharp reviewed the mid-term goal "Review Parks Master Plan to include long term financial sustainability and maintenance" and the mid-term goal "Develop cooperative plans with other taxing entities".

Assistant Community Services Director Jauz reviewed the long term goal "Pursue and achieve designation as an All American City.

The foregoing agenda item was discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:49 a.m.

REGULAR SESSION

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:02 a.m., June 8, 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 Jeff Sparks (District 1), and Council Member Vicky Hailey (District 2)

Council Members absent: Council Member Michael Trost (District 4)

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

MISCELLANEOUS

1. The invocation was voiced by Reverend Larry Long of Fellowship Community Church.
2. The Pledge of Allegiance to the Flag was stated.
3. Presentation of special events, organizations, individuals, or periods of time.

Recreation Superintendant Telesca presented a check in the amount of \$1,482.88 to Kitty Binek of the Aphasia Center.

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.

Richard Smith, 1406 E. Schirra Drive, Odessa, asked the City Council for help in building infrastructure in a development.

Rachel Stone and George Lera, 208 S. Marienfeld, and representing the Board of Directors of the Hispanic Chamber of Commerce, reported on the Mex-Tex Family Fiesta event, and requested that water spigots be installed in the event area.

There were no other requests by citizens to speak.

CONSENT AGENDA

Mayor Pro Tem James moved to approve Consent Agenda items 5a-7, 9, 11-13, and 17; seconded by Council Member Morales. The motion carried by the following vote: AYE: Dufford, Morales, Sparks, Hailey, James, Perry. NAY: None. ABSTAIN: None. ABSENT: Trost.

- 5a. Approved the minutes of the regular City Council meeting of May 25, 2010.
- 5b. Approved the minutes of the special City Council meeting of June 1, 2010.
6. Adopted Resolution No. 2010-139. Caption of said resolution is as follows:

RESOLUTION NO. 2010-139
RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO CITY'S DEPOSITORY AGREEMENT ENTERED JULY 9, 2008.

7. Adopted Resolution No. 2010-140. Caption of said resolution is as follows:

RESOLUTION NO. 2010-140
RESOLUTION REJECTING ALL BIDS RECEIVED FOR BID NUMBER 0163-10R FIREFIGHTER BUNKER GEAR UNIFORMS.

9. Adopted Resolution No. 2010-141. Caption of said resolution is as follows:

RESOLUTION NO. 2010-141
RESOLUTION APPROVING THE PURCHASE OF TWO (2) SELF-CONTAINED COMPACTORS, TWO (2) 30 CUBIC-YARD ENCLOSED RECYCLE ROLL-OFF CONTAINERS, AND THREE (3) 30 CUBIC-YARD OPEN-TOP ROLL-OFF CONTAINERS, FROM ROLL-OFFS USA, INCORPORATED, OF DURANT, OKLAHOMA, AT A TOTAL COST OF \$53,384.00.

11. Adopted Resolution No. 2010-142. Caption of said resolution is as follows:

RESOLUTION NO. 2010-142
RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE CONSTRUCTION OF NEW SIDEWALKS IN THE SAN JUAN TARGET AREA WITH ONYX CONTRACTORS OPERATIONS, L.P., OF MIDLAND, TEXAS, AT AN ESTIMATED COST OF \$70,393.61 INCLUDING CONTINGENCIES.

12. Adopted Resolution No. 2010-143. Caption of said resolution is as follows:

RESOLUTION NO. 2010-143
RESOLUTION ALLOCATING \$82,517.00 FOR THE CITY FACILITIES RENOVATION PROJECT (PROJECT 8881); AND THESE FUNDS ARE USED TO REPAIR AND REPLACE VARIOUS CITY FACILITIES.

13. Adopted Resolution No. 2010-144. Caption of said resolution is as follows:

RESOLUTION NO. 2010-144
RESOLUTION AUTHORIZING THE ACCEPTANCE OF THE MIDLAND DEVELOPMENT CORPORATION'S DEDICATION OF A 45.76-ACRE TRACT OF LAND LOCATED IN SECTIONS 11 AND 12, BLOCK 40, T-2-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, FOR DRAINAGE PURPOSES; DIRECTING THE CITY MANAGER TO OBTAIN A DEED FROM THE MIDLAND

DEVELOPMENT CORPORATION; AUTHORIZING THE EXECUTION OF ALL DOCUMENTS NECESSARY FOR THE ACCEPTANCE OF SAID PROPERTY; AUTHORIZING PAYMENT FOR CLOSING COSTS; AND ORDERING RECORDATION.

17. Adopted Resolution No. 2010-145. Caption of said resolution is as follows:

RESOLUTION NO. 2010-145

RESOLUTION APPROVING AN AMENDMENT TO THE ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND PERMIAN PLAZA, LLC, AS AUTHORIZED BY CHAPTER 501 OF THE TEXAS LOCAL GOVERNMENT CODE.

8. Council Member Sparks moved to approve the resolution with the amendment to not include lighting at Bradford Park. The motioned died due to a lack of a second.

Mayor Pro Tem James moved to approved Resolution No. 2010-146; seconded by Council Member Morales. The motion carried by the following vote: AYE: Dufford, Morales, Hailey, James, Perry. NAY: Sparks. ABSTAIN: None. ABSENT: Trost. Caption of said resolution is as follows:

RESOLUTION NO. 2010-146

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT FOR THE TURNKEY INSTALLATION OF SPORTS LIGHTING AT ULMER PARK, HOGAN PARK, AND BRADFORD PARK, WITH COREY SLY ELECTRICAL SERVICE, INCORPORATED, OF MIDLAND, TEXAS, AT AN ESTIMATED COST OF \$177,177.35; AND APPROPRIATING FUNDS.

10. City Engineer Franks responded to questions about how Jal Draw held up during the last rains and about construction logistics.

Council Member Morales moved to approved Resolution No. 2010-147; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Dufford, Morales, Sparks, Hailey, James, Perry. NAY: Sparks. ABSTAIN: None. ABSENT: Trost. Caption of said resolution is as follows:

RESOLUTION NO. 2010-147

RESOLUTION AUTHORIZING THE EXECUTION OF A CONTRACT TO CONSTRUCT A CONCRETE BLOCK RETAINING WALL IN THE JAL DRAW BETWEEN GARFIELD STREET AND WARD STREET WITH PRICE CONSTRUCTION, LTD., AT AN ESTIMATED COST OF \$1,626,400.00 INCLUDING CONTINGENCIES.

14. Community Development Manager Cantu gave a status report on the land acquisition.

Council Member Hailey moved to adopt Resolution No. 2010-148; seconded by Council Member Morales. The motion carried by the following vote: AYE: Dufford, Morales, Sparks, Hailey, James, Perry. NAY: Sparks. ABSTAIN: None. ABSENT: Trost. Caption of said resolution is as follows:

RESOLUTION NO. 2010-148

RESOLUTION AUTHORIZING THE COMMUNITY DEVELOPMENT MANAGER TO PURCHASE REAL PROPERTY LOCATED AT LOTS 9 THROUGH 14, BLOCK 1, GLENN FRANCES ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS; LOTS 2 THROUGH 8, BLOCK 3, GLENN FRANCES ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS; LOTS 1 THROUGH 8, BLOCK 4, GLENN FRANCES ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS; LOTS 1 THROUGH 9, BLOCK 5, GLENMORE HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS; AND LOTS 3 THROUGH 10, BLOCK 4, GLENMORE HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS; APPOINTING AN AUTHORIZED ACQUISITION OFFICIAL PURSUANT TO U.S. CODE OF FEDERAL REGULATIONS, TITLE 49, SECTION 24.102; AUTHORIZING THE INITIATION OF NEGOTIATIONS FOR THE PURCHASE OF SAID PROPERTIES; AUTHORIZING ADMINISTRATIVE SETTLEMENTS FOR THE PURCHASE OF SAID PROPERTIES PURSUANT TO U.S. CODE OF FEDERAL REGULATIONS, TITLE 49, SECTION 24.102 (I); FINDING THAT RESIDENTIAL OWNERSHIP AND DEVELOPMENT IS A PUBLIC PURPOSE; SPECIFICALLY DECLARING BY AFFIRMATIVE ACTION THAT IT IS NECESSARY TO ACQUIRE THE ABOVE DESCRIBED PROPERTY FOR A PUBLIC PURPOSE.

15. Police Chief Robinson publically acknowledged Ty Maxey and Loretta Seghers of Conoco Phillips for their fund raising efforts.

Mayor Pro Tem James moved to adopt Resolution No. 2010-149; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Dufford, Morales, Sparks, Hailey, James, Perry. NAY: Sparks. ABSTAIN: None. ABSENT: Trost. Caption of said resolution is as follows:

RESOLUTION NO. 2010-149

RESOLUTION ACCEPTING A CASH DONATION OF \$35,000 FROM THE "BAD BOY BLAST" FUND-RAISING PROJECT SPONSORED BY HALLIBURTON AND CONOCOPHILLIPS; THE DONATED FUNDS WILL BE USED TO PURCHASE LAW ENFORCEMENT EQUIPMENT, SUPPLIES, AND TECHNOLOGY; AND APPROPRIATING SAID FUNDS.

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

Council Member Hailey moved to adopt Resolution No. 2010-150; seconded by Council Member Morales. The motion carried by the following vote: AYE: Dufford, Morales, Sparks, Hailey, James, Perry. NAY: Sparks. ABSTAIN: None. ABSENT: Trost. Caption of said resolution is as follows:

RESOLUTION NO. 2010-150

RESOLUTION ACCEPTING A DEDICATION OF STREETS AND ALLEYWAYS, AND THE AREA DESIGNATED COMMON AREA "B", LOCATED IN SUPERIOR ADDITION, SECTION 3, CITY AND COUNTY OF MIDLAND, TEXAS; AND ORDERING RECORDATION.

SECOND READINGS

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

Planning Division Manager Walker gave an overview of the item.

Max Richardson, 110 W. Louisiana, and Gary Wilson, 1612 Winfield, responded to questions.

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8802 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. Following discussion, the motion was withdrawn.

A motion was made by Council Member Dufford to approve the second and final reading of Ordinance No. 8802 in accordance with the Charter of the City of Midland with the amendment to change Tract 1 from a MF-1 District to a Planned District for a Housing Development subject to the use and standards of an MF-1 District and subject to a site plan review by the City Council; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Dufford, Morales, Sparks, Hailey, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: Trost. 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 PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT; 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 INTERSTATE 20); 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.

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

Council Member Hailey moved to approve the second and final reading of Ordinance No. 8803 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, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: Trost. 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.

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

Council Member Dufford moved to approve the second and final reading of Ordinance No. 8804 in accordance with the Charter of the City of Midland; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Dufford, Morales, Sparks, Hailey, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: Trost. 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.

PUBLIC HEARINGS

21. Cameron Walker gave an overview of the item.

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

Council Member Hailey moved approval Resolution No. 2010-151; seconded by Council Member Morales. The motion carried by the following vote: AYE: Dufford, Morales, Sparks, Hailey, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: Trost. Caption of said resolution is as follows:

RESOLUTION NO. 2010-151

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A CHURCH FAIR ON LOTS 8 AND 13A, BLOCK 7, GLENDALE, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED NEAR THE NORTHEAST CORNER OF THE INTERSECTION OF GARDEN LANE AND NORTH TYLER STREET); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN.

22. Mayor Perry noted that the public hearing on the 2010/2011 Community Development Block Grant Program and the 2010-2014 Consolidated Plan would be held at 7:00 p.m.

MISCELLANEOUS

23. Consideration of appointments to various Boards and Commissions.

Mayor Pro Tem James moved to approve the City of Odessa's nomination of Barbara Graff to the Permian Basin Airport Board; seconded by Council Member Morales. The motion carried by the following vote: AYE: Dufford, Morales, Sparks, Hailey, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: Trost.

24. Mayor Pro Tem James moved to defer receiving an update from McDonald Transit on operations of the Midland Odessa Urban Transit District (EZ Rider) to the July 13th meeting; seconded by Council Member Hailey. The motion carried by the following vote: AYE: Dufford, Morales, Sparks, Hailey, James, and Perry. NAY: None. ABSTAIN: None. ABSENT: Trost.

RECESS/EXECUTIVE SESSION

25. Mayor Perry announced that the meeting would be recessed to the conference room for lunch.
26. 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 Chapters 49, 51 and 54 of the Texas Water Code.

Discuss Section 42.042 of the Texas Local Government Code.

Discuss matters in which the duty of the attorney 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.

Mayor Perry recessed the meeting to Executive Session at 11:16 a.m. The Council met in executive session until 11:56 a.m.

Mayor Perry reconvened the meeting in the Council Chamber at 7:01 p.m., with the following members present. Mayor W. Wesley Perry, Council Member Scott Dufford (At-Large), Council Member Jerry Morales (At-Large), Council Member Jeff Sparks (District 1), Council Member Vicky Hailey (District 2), and Council Member Michael Trost (District 4).

22. Public hearing on the 2010/2011 Community Development Block Grant Program and the 2010-2014 Consolidated Plan.

Community Development Manager Cantu gave an overview of the item noting that the next steps are to have the documents on review for 30 days and the final approval will be on July 7, 2010.

Mayor Perry opened the public hearing at 7:05 p.m.

Archia Jones, 3601 N. Andrews Hwy, asked if funding a social program targeting 3rd graders would fit the criteria for the CDBG funds. Community Development Manager Cantu noted that it could be a program funded through public services and gave her a business card.

There being no one else present wishing to speak, the public hearing was closed at 7:10 p.m.

Council consensus was received to move \$50,000 of funding from Taylor Park to Washington Park.

All of the business at hand having been completed, the meeting adjourned at 7:14 p.m.

PASSED AND APPROVED the 22nd day of June, 2010.

W. Wesley Perry, Mayor

ATTEST:

Amy M. Turner, Interim City Secretary