

**REVISED**

**CITY OF MIDLAND, TEXAS  
BRIEFING SESSION AGENDA  
Tuesday, July 28, 8:30 a.m.  
City Hall Conference Room  
300 North Loraine  
Midland, Texas**

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These items, as well as any other items on the regular posted agenda for the City Council Meeting on this date, may be discussed:

1. Received a presentation on the proposed Midland 101 Program.
2. Receive an update on the proposed Tennis Center at Beal Park.

# REVISED

AGENDA FOR CITY COUNCIL MEETING  
Tuesday, July 28, 2009 – 10:00 a.m.  
Council Chamber – City Hall

The Midland City Council agenda is posted for public notice at least 72 hours prior to the Tuesday meetings. All requests to be placed on the Council agenda by the public must be submitted to the City Manager, in writing, at least one week before the Council meetings. Such written requests must be in sufficient detail to identify the subject matter as well as the contact person who will represent the matter before the Council. The City Council reserves the right to not consider matters over which the City has no jurisdiction.

★ These items are related to achieving City Council's Policy Agenda for 2009:

Infrastructure  
Housing  
Economic Development  
Funding

1. Invocation – Bill Billett, Manor Park Chaplain

**INVOKED**

2. Pledge of Allegiance

**PLEDGED**

### **MISCELLANEOUS**

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
  - a. Presentation of Proclamation for National Night Out. . **(PRESENTED)**
  - b. Presentation of Resolution of Commendation to retiring City employee Dusty Land. . **(PRESENTED)**
  - c. Presentation of Resolution of Commendation to retiring City employee Randal Carlton. . **(PRESENTED)**

**PUBLIC COMMENT**

4. Receive public comments where individuals may address the City Council on City related issues and projects. Any deliberation of or decision by the City Council regarding the item being discussed shall be limited to a motion to place the item on the agenda for a subsequent meeting.

**CONSENT AGENDA**

5. Consider a motion approving minutes of the July 14, 2009, Regular City Council Meeting.

**APPROVED**

- 5a. Consider a motion approving minutes of the July 21, 2009, Special City Council Meeting.

**APPROVED**

6. Consider a resolution approving the purchase of nine hundred (900) three-cubic-yard refuse containers from Roll-Offs USA, Incorporated, of Durant, Oklahoma, at a total cost of \$296,100.

**APPROVED**

7. Consider a resolution authorizing a right of way license with the City of Midland, Texas and Dawson Geophysical Company at the Midland International Airport; said right of way license is for the purpose of conducting 3-D seismic testing on Airport property; the term is for a six months period with surface damages to be paid upon the execution of the agreement in the amount of \$19,410.00.

**APPROVED**

- ★ 8. Consider a resolution authorizing a second amendment to the existing contract with Nextel of Texas, Incorporated, regarding the City of Midland's 800 Megahertz Reconfiguration Project.

***[Related to Council Priority: Funding]***

**APPROVED**

- ★9. Consider resolution awarding the contract for the installation of water and sewer line extensions at the Wagner Noel Performing Arts Center, at a total estimated cost of \$1,520,472.47 including contingencies, to James Hindman, Incorporated, and appropriating funds.

***[Related to Council Priority: Infrastructure]***

**APPROVED**

10. Consider a resolution authorizing the execution of an addendum granting an extension of time to the agreement between the City of Midland, Texas and Midland Habitat for Humanity, Incorporated in order to complete construction of single family housing affordable to low income households; the current agreement expires August 14, 2009, the new agreement will end August 14, 2011.

**APPROVED**

- ★11. Consider a resolution authorizing the adoption of the City of Midland's 2009/2010 Action Plan to the Consolidated Plan for Community Development and Housing Funds for Fiscal Years 2006 through 2010; the consolidated plan was approved by Resolution Number 2005-202; and authorizing the execution of an application for Community Development Block Grant funds.

***[Related to Council Priority: Funding]***

**APPROVED**

12. Consider a motion approving the adoption of the 2008 Downtown Midland Tax Increment Reinvestment Zone No. 1 Annual Report.

**APPROVED**

- ★13. Consider 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; federal grant funds will cover 50% of the costs of the vests resulting in a savings of over \$70,000.00 to the city; the City of Midland has received similar grant funds in 1999, 2000, 2003, 2005, 2006, 2007, and 2008; the City is currently under a program to replace the bulletproof vests every five (5) years.

**APPROVED**

***[Related to Council Priority: Funding]***

14. Consider a resolution authorizing the City of Midland Police Department in conjunction with the Midland County Sheriff's Department to accept the FY 2009

Recovery Act Justice Assistance Grant funds totaling \$213,117.00; the City of Midland will receive \$127,870.00 (60%) and Midland County will receive \$85,247.00 (40%) of the grant funds; authorizing the execution of acceptance documents; and appropriating funds.

***[Related to Council Priority: Funding]***

**APPROVED**

15. Consider a resolution authorizing the execution of a ten (10) year lease extension agreement with American Towers, Incorporated, for space at the City's Water Purification Plant located east of Midland Drive and south of Bluebird Lane.

**APPROVED**

16. Consider a resolution approving the purchase of two (2) 10,000-gallon vertical asphalt storage tanks through the Houston-Galveston Area Council (HGAC) at a total cost of \$125,860.00.

**APPROVED**

17. Consider a resolution authorizing the purchase of one hundred seventeen (117) tons of emulsified asphalt from Cleveland Asphalt Products, Incorporated, at a total cost of \$80,766.27; said purchase was not bid.

**APPROVED**

18. Consider a resolution accepting \$1,000,000.00 in matching grant funds from the Texas Parks & Wildlife Department for the Beal Park Tennis Center; appropriating \$2,000,000.00 to City Project No. 7011 "Beal Park Tennis Center 2009"; and authorizing the City Manager to approve plans and specifications and advertise for competitive bids for the construction of tennis courts and necessary infrastructure at Beal Park.

**DEFERRED**

**SECOND READINGS**

19. Consider an ordinance on second reading amending Ordinance No. 8113 of the City Code of Midland, Texas, establishing a new rental fee for the recently purchased Parks and Recreation big screen television equipment; this ordinance establishes fees to be charged for deposit, four (4) hour rental and eight (8) hour rental; and these new fees shall become effective on October 1, 2009.

**APPROVED**

20. Consider an ordinance on second reading changing the zoning use classification of Lot 28, Block 3, Beckland Terrace, City and County of Midland, Texas

(Generally located on the southwest corner of the intersection of Bedford Avenue and Delmar Street), which is presently zoned 1F-2, One-Family Dwelling District, by permitting said property to be used under a specific use permit without term for an accessory building to be used for living or sleeping quarters; makings aid 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.

**APPROVED**

21. Consider an ordinance on second reading extending the boundaries of the City of Midland, Texas, by adding thereto certain areas adjoining the present City limits, being a 2,859.13-acre tract of land out of Sections 31-35, 37-43, all out of Block 40, T-1-S, out of Sections 5-8, Block 40, T-2-S, out of Sections 37 and 48, Block 41, T-1-S, and out of Section 1, Block 41, T-2-S, T&P RR Co. Survey, Midland County Texas, and being more specifically described by metes and bounds in Section One hereof (Generally located on both sides of State Highway 191 from the west City limit to FM 1788 and on both sides of FM 1788 from Business Interstate 20 to State Highway 191); approving a public service plan; and continuing the extraterritorial status of certain properties pursuant to Chapter 43 of the Texas Local Government Code.

**APPROVED**

22. Consider an ordinance on second reading establishing the zoning classification of the area indicated as being a 1,179.08-acre tract of land out of Sections 31-35 and Sections 37-42, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas ("Tract 2A"), and being more specifically described by metes and bounds in Section One hereof, as an FD, Future Development District; establishing the zoning classification of the area indicated as being a 327.38-acre tract of land out of Sections 31 and 42, Block 40, T-1-S, and Section 37, Block 41, T-1-S, T&P RR Co. Survey, Midland County, Texas ("Tract 2B"), and being more specifically described by metes and bounds in Section Two hereof, as an LR-2, Local Retail District; establishing the zoning classification of the area indicated as being a 68.17-acre tract of land out of Section 42, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas ("Tract 2C"), and being more specifically described by metes and bounds in Section Three hereof, as a PD, Planned District for a community center; establishing the zoning classification of the area indicated as being a 775.82-acre tract of land out of Sections 42 and 43, Block 40, T-1-S, Sections 37 and 48, Block 41, T-1-S, Section 1, Block 41, T-2-S, and Section 6, Block 40, T-2-S, T&P RR Co. Survey Midland County, Texas ("Tract 2D"), and being more specifically described by metes and bounds in Section Four hereof, as an LR-3, Local Retail District; establishing the zoning classification of the area indicated as being a 377.34-acre tract of land out of Sections 5-8, Block 40, T-2-S,

T&P RR Co. Survey, Midland County, Texas (“Tract 2E”), and being more specifically described by metes and bounds in Section Five hereof, as an LR-2, Local Retail District; establishing the zoning classification of the area indicated as being a 131.34-acre tract of land out of Section 8, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas (“Tract 2F”), and being more specifically described by metes and bounds in Section Six hereof, as an IP-3, Industrial Park District; said tracts are generally located on both sides of State Highway 191 from the west City limit to FM1788 and on both sides of 1788 from Business Interstate 20 to State Highway 191; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00);and ordering publication.

### **DENIED**

#### **PUBLIC HEARINGS**

23. At approximately 11:00 a.m. hold a public hearing and consider an ordinance changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting Lot 1, Block 2, replat of Blocks 1 and 2, Hollandale Heights, City and County of Midland, Texas, which is presently zoned O-1, Office District, to be used as a PD, Planned District for a transition district (generally located on the east side of North Lamesa Road, approximately 300 feet north of Dormard Avenue); providing for such use to be subject to certain special conditions and restrictions as set out herein; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication.

### **DEFERRED**

24. At approximately 11:03 a.m. hold a public hearing and consider an ordinance changing the zoning classification by amending Chapter One, Title XI, of the City Code of Midland, Texas, by permitting Lot 6 and the west 15 feet of Lot 7, Block 5, Highland Park Addition, City and County of Midland, Texas, which is presently zoned 1F-2, One-Family Dwelling District, to be used as a PD, Planned District for a Transition District (generally located on the northeast corner of the intersection of West Tennessee Avenue and North “N” 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.

### **APPROVED ON FIRST READING**

25. At approximately 11:06 a.m. hold a public hearing and consider an ordinance changing the zoning use classification of the property described as Lot 13A, Block 28, Wydeewood Estates, Section 27, City and County of Midland ,Texas (generally located on the south side of Wadley Avenue east of Sunburst Drive), which is presently zoned PD, Planned District for a shopping center, by permitting said

property to be used under a specific use permit with term for the sale of all alcoholic beverages in a nightclub 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.

**APPROVED ON FIRST READING AS AMENDED**

26. At approximately 11:12 a.m. hold a public hearing and consider an ordinance changing the zoning use classification of the property described as an 8,258 square foot portion of Lots 7 and 8, Block 8, Johnson and Moran and Tract 2, Town and Country Annex, City and County of Midland, Texas (generally located on the east side of North Midkiff Road, approximately 300 feet south of Andrews Highway), which is presently zoned LR-2, Local Retail District, by permitting said property to be used under a specific use permit with term for the sale of all alcoholic beverages in a nightclub 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.

**APPROVED ON FIRST READING AS AMENDED**

27. At approximately 11:15 a.m. hold a public hearing and consider an ordinance establishing the zoning classification of the area indicated as being a 2,780.97-acre tract of land out of Sections 31-35 and Sections 37-43, Block 40, T-1-S, out of Sections 5-8, Block 40, T-2-S, out of Sections 37 and 48, Block 41, T-1-S, and out of Section 1, Block 41, T-2-S, T&P RR Co. Survey, Midland County, Texas ("Tract 2A"), and being more specifically described by metes and bounds in Section One hereof, as an FD, Future Development District; establishing the zoning classification of the area indicated as being a 68.17-acre tract of land out of Section 42, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas ("Tract 2B"), and being more specifically described by metes and bounds in Section Two here of, as a PD, Planned District for a Civic Center; establishing the zoning classification of the area indicated as being a 10-00-acre tract of land described as Lot 1, Block 1, Glenwood, Midland County, Texas ("Tract 2C"), as an O-1, Office district; said Tracts are generally located on both sides of State Highway 191 from the west City limit to FM 1788 and on both sides of 1788 from Business Interstate 20 to State Highway 191; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of two thousand dollars (\$2,000.00); and ordering publication.

**APPROVED ON FIRST READING AS AMENDED**

**EVELOPMENT SERVICES**

28. Consider an ordinance vacating and abandoning a 0.0925-acre tract of land being a 10-footwide portion of the south side of Missouri Avenue between Garfield street and “N” Street abutting Lot 1, Block 89 and Lot 1, Block 90, West End Addition, City and County of Midland, Texas (generally located between Garfield Street and “N” Street); adopting the appraisal by the City Manager of \$4,029.00; and ordering recordation by the City Secretary.

**AMENDED**

**MISCELLANEOUS**

29. Consider an ordinance of the City Council of the City of Midland, Texas, (“City”) approving a negotiated resolution between the Atmos West Texas Cities Steering Committee (“Steering Committee”) and Atmos Energy Corp., West Texas Division (“Atmos West Texas” or “Company”) regarding the company’s second annual rate review mechanism filing in all cities exercising original jurisdiction; declaring existing rates to be unreasonable; requiring the company to reimburse cities’ reasonable ratemaking expenses; adopting tariffs that reflect rate adjustments consistent with the negotiated settlement and finding the rates to be set by the attached tariffs to be just and reasonable; approving Atmos’ proof of revenues; adopting a savings clause; determining that this ordinance was passed in an accordance with the requirements of the Texas Open Meetings Act; declaring an effective date; and requiring delivery of this ordinance to the company and the steering committee’s legal counsel.

**APPROVED ON FIRST READING**

30. Consider a motion making appointments to various Boards and Commissions.
31. Recess to the conference room for lunch.
32. Pursuant to Texas Government Code §551.101, the Council will hold an Executive Session which is closed to the public to discuss the following matters as permitted under the following Texas Government Code Sections:

Respectfully submitted,

Courtney B. Sharp  
City Manager