

Amended

**CITY OF MIDLAND, TEXAS
BRIEFING SESSION AGENDA
Tuesday, December 8, 2009 9:00 a.m.
City Hall Conference Room
300 North Loraine
Midland, Texas**

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. Discuss the 2010 City Council Strategic Planning Session.
2. Presentation by the Bowie Chorale.

AGENDA FOR CITY COUNCIL MEETING
Tuesday, December 8, 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 – Reverend Larry Long, Fellowship Community Church of Midland

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 to Trinity Football Texas Christian Athletic Fellowship (TCAF) State Champions. **PRESENTED**
 - b. Presentation of Proclamation for Miracle on Tyler Street. **PRESENTED**
 - c. Presentation of the 23rd Certificate of Achievement for Excellence in Financial Reporting. **PRESENTED**
 - d. Recognition of the 2009 Management Award Recipients. **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

- 5a. Consider a motion approving minutes of the November 10, 2009, Regular City Council Meeting.

APPROVED

- 5b. Consider a motion approving minutes of the November 11, 2009, Special City Council Meeting.

APPROVED

6. Consider a resolution nominating a candidate for the Midland Central Appraisal District Board of Directors; and directing the City Manager to deliver a copy of this resolution to the Midland Central Appraisal District.

APPROVED

- ★ 7. Consider a resolution authorizing the execution of an agreement for labor and materials for the installation of a traffic signal system at the intersection of Briarwood Avenue and Holiday Hill Road, with Willis Electric Company, L.P., at a total cost of \$109,755.00; the bid submitted by Willis Electric Company, L.P., was the only bid received.

[Related to Council Priority: Infrastructure]

APPROVED

8. Consider a resolution amending Chapter I, "Purpose", Section 2, "Applicability", of the City of Midland Personnel Policies; amending Chapter IV, "Applications, Applicants, and Conditions of Employment", Section 7, "Application and Selection Process", Section 16, "Sexual Harassment, and Section 17, "Workplace Violence", of said policies; amending Chapter V, "Attendance and Leaves", Section 1, "Vacations", Section 5, "Attendance", Section 9, "Family/Medical and Emergency Leave", Section 16, "Sick Leave Bank" and Section 17, "Bereavement Leave", of said policies; amending Chapter VI, "Wage and Salary Administration", Section 4, "Total Rate of Pay", of said policies; amending Chapter VII, "Transfers, Promotion, Resignation and Retirement", Section 6, "Request for Employment Verification", and Section 7 "Personnel Files", of said policies; amending Chapter XI, "Safety", Section 2, "Accident Review Board", of said policies; amending the foreword to

said policies; amending certain definitions; authorizing the Mayor to execute a certificate placing this resolution in the City of Midland Personnel Policies as authorized by Section 271.151 to Section 271.160 of the Texas Local Government Code; and setting an effective date of December 9, 2009.

APPROVED

9. Consider a resolution appropriating funds to Atmos Rate Review Mechanism Project (8923) in the amount of \$63,446.00; said funds represent reimbursement from Atmos for consulting/legal fees associated with various GRIP and Rate Review Mechanism analysis; there is no impact to the general fund.

APPROVED

10. Consider a resolution authorizing the naming of the newly created BMX Track at Reyes-Mashburn-Nelms Park in Midland, Texas as "West Texas BMX".

APPROVED

11. Consider a resolution authorizing the execution of a three-year renewal agreement with Frances Stapp, for Curator Services for the Heritage District, including the Scarborough - Linebery Home located at 802 South Main Street.

APPROVED

12. Consider a resolution appropriating funds in the amount of \$11,076.00 acquired from unclaimed or abandoned property from the property/evidence section of the Midland Police Department; the proceeds will be used to purchase equipment and technology essential to the law enforcement function for the Midland Police Department.

APPROVED

13. Consider a resolution authorizing the execution of Change Order Number Ten with Tiburon, Incorporated, for the use of different computer software with the existing contract for the Computer Aided Dispatch/Automated Vehicle Location/Records Management System; funding for this change order will be expended from Project Number 7013, FY2009 Recovery Act Justice Assistance Grant in the amount of \$98,500.

APPROVED

14. Consider a resolution authorizing the execution of a professional services agreement with Parkhill, Smith & Cooper, Incorporated, of Midland, Texas, for professional landfill/solid waste support services, at an estimated total cost of \$210,470.00; and appropriating funds.

APPROVED

15. Consider a motion on a request by Schumann Engineering Co., Inc. for East Midland Addition, Section 12, to approve a deferral of street paving and to waive the associated public improvement guarantee, and to defer sidewalk construction. This subdivision is located on the south side of Cherry Lane at Adams St.

APPROVED

16. Consider a resolution authorizing the City Manager to approve and execute a contract for the supply of Trimble Global Positioning System Devices to be used in City of Midland public safety vehicles, at an estimated cost not to exceed \$141,750.00; and appropriating funds.

APPROVED

- ★ 17. Consider a resolution establishing Project Number 8924 for a Christmas tree at Centennial Plaza; and appropriating \$50,000.00 therefor.

[Related to Council Priority: Funding]

APPROVED

18. Consider a resolution authorizing the execution of a contract for S-11A Hangar repairs at the Midland International Airport with Vanco Insulation, Incorporated of Midland, Texas for the asbestos abatement portion of the project; and with RBR Construction of Weatherford, Texas for the building repairs and interior demolition portion of the project; and appropriating necessary funds therefor.

APPROVED

- ★ 19. Consider a resolution approving the Midland Development Corporation's payment of \$117,580 to the City of Midland for renovations to Hangar S-11A (AMI Hangar) at Midland International Airport pursuant to the memorandum of understanding between the Midland Development Corporation and the City of Midland regarding said hangar; and depositing the funds into the City of Midland Airport Fund (500).

[Related to Council Priority: Economic Development/Funding]

APPROVED

20. Consider a resolution of the City of Midland, Texas, consenting to the creation of Midland County Fresh Water Supply District No. 1.

APPROVED

- ★ 21. Consider a resolution approving the amended Bylaws of the Midland Development Corporation.

[Related to Council Priority: Economic Development]

APPROVED

22. Consider a resolution approving the Midland Development Corporation's adoption of a qualified defined contribution retirement plan for the benefit of Midland Development Corporation employees.

APPROVED

23. Consider a resolution authorizing the purchase of one hundred and forty (140) mobile radios, including installation, to be used in public safety vehicles used by the City of Midland Fire Department, from Caprock Communications of Midland, Texas; said purchase was not bid but purchased as a sole source; and the costs for the mobile radios shall be approximately \$585,801.25.

APPROVED

24. Consider a resolution accepting preclearance from the United States Department of Justice regarding the City's election held on November 3, 2009, and annexation effective August 28, 2009.

APPROVED

25. Consider a resolution of the City Council of the City of Midland, Texas in support of the Midland-Odessa Urban Transit District's grant request to provide funding for inter-city bus service between the Cities of Odessa, Texas and Midland, Texas.

APPROVED

26. Consider a motion calling a Special Meeting of the City Council to be held at 10:30 a.m. on January 11, 2010, for swearing in of three re-elected City Council members and one City Council member elected on November 3, 2009.

APPROVED

SECOND READINGS

27. Consider an ordinance on a second reading changing the zoning use classification of Lot 2, Block 7, Berkshire Place Blocks 5-8 and the south half of 9 and 10, City and County of Midland, Texas (Generally located on the northeast corner of the intersection of North "N" Street and Shell Avenue), which is presently zoned 1F-1, 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; 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

28. Consider an ordinance on a second reading changing the zoning use classification of Lot 29 and the west 10 feet of Lot 28, Block 1, Wedgewood Park, Section 1, City and County of Midland, Texas (generally located on the north side of Andrews Highway, approximately 140 feet east of McDonald 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; 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

29. Consider an ordinance on a second reading establishing the zoning classification of the area indicated as being Lot 1A, Block 8, Bizzell-Kiser, Section 4, and Lots 2A and 3A, Block 8, Bizzell-Kiser, Section 5, Midland County, Texas, as a PD, Planned District for a shopping center; establishing the zoning classification of the area indicated as being Lot 1A, Block 5, and Lots 2A-5A and 7A, Block 4, Bizzell-Kiser, Section 5, and Lot 6B, Block 4, Bizzell-Kiser, Section 6, and a 0.45-acre portion of tract 4, Bizzell-Kiser, and Lots 10A-16A, Block 7, Bizzell-Kiser, Section 5, and a 0.145-acre portion of Tract 7, Bizzell-Kiser, Midland County, Texas, as an MH, Manufactured Home Dwelling District; establishing the zoning classification of the area indicated as being all of Block 3, Bizzell-Kiser, Sections 4 and 5, and Lots 1A, 10A-12A, Block 4, Bizzell-Kiser, Section 5, and Lots 8B and 9B, Block 4, Bizzell-Kiser, Section 6, and Lot 2A, Block 5, Bizzell-Kiser, Section 5, and Lots 1A-3A, 5A-9A, 12A-22A, Block 6, Bizzell-Kiser, Section 5, and Lots 10A and 11A, Block 6, Bizzell-Kiser, Section 4, and a 0.166-acre portion of Tract 6, Bizzell-Kiser, and Lots 1A and 2A, Block 7, Bizzell-Kiser, Section 4, and Lots 3A-9A, Block 7, Bizzell-Kiser, Section 5, and a 0.656-acre portion of Tract 7, Bizzell-Kiser, and Lots 1A-4A, Block 9, Bizzell-Kiser, Section 4, and a 0.45-acre portion of Tract 9, Bizzell-Kiser, and all of Block 10, Bizzell-Kiser, Section 4, and Lots 1A-7A, Block 11, Bizzell-Kiser, Section 4, and Lot 8A, Block 11, Bizzell-Kiser, Section 5, and a

0.87-acre portion of Tract 11, Bizzell-Kiser, and all of Block 12, Bizzell-Kiser, Section 4, and Lots 1A-21A, Block 13, Bizzell-Kiser, Section 7, and Lots 22B and 23B, Block 13, Bizzell-Kiser, Section 8, and Lots 1A-18A, Block 14, Bizzell-Kiser, Section 4, and a 0.18-acre portion of Tract 14, Bizzell-Kiser, and Blocks 43-48, Blocks 54 and 55, Belmont Addition, and all adjacent and previously vacated rights-of-way, Midland County, Texas, as a 1F-3, One-Family Dwelling District; said areas are generally located south of Gist Avenue, between South Colorado Street and South Terrell Street; 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

30. Consider an ordinance on a second reading establishing the zoning classification of the area indicated as being Lots 6, 7D and 8, Block 3, I-20 Terminal Park, Midland County, Texas, and a 4.539-acre tract of land out of Sections 8 and 17, Block 40, T-2-S, T&P RR Co. Survey, Midland County, Texas, as a C-3, Commercial District; said area is generally located on the west side of South County Road 1276, approximately 2,000 feet south of West Industrial Avenue; 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

31. Consider an ordinance on a second reading amending Title VI, "Police Regulations", Chapter 1, "General Offenses", of the City Code of Midland, Texas, so as to add a new Section 23, "Oil and Gas Well Permits issued on or after January 1, 2010"; said ordinance shall regulate and govern the granting or rejecting of applications for oil and gas well permits; said ordinance provides for revised regulations regarding the drilling of oil and gas wells and exploration of and production from oil and gas wells; containing a cumulative clause; containing a savings and severability clause; providing for a maximum penalty or fine of five hundred dollars(\$500.00); establishing an effective date of January 1, 2010; and ordering publication.

APPROVED

32. Consider an ordinance on a second reading 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.

APPROVED

33. Consider an ordinance on a second reading vacating and abandoning a 0.03-acre portion of North Carver Street right-of-way adjacent to Lots 14-16, Block 7, Lynside Neighborhood, City and County of Midland, Texas (Generally located on the west side of North Carver Street, approximately 300 feet north of East Golf Course Road); adopting the appraisal by the City Manager of \$140.70; waiving the fee for the cost of the right-of-way; and ordering recordation by the City Secretary.

APPROVED

PUBLIC HEARINGS

34. At approximately 11:00 a.m. hold a public hearing and consider a resolution authorizing the temporary use of land for outdoor sales on Lots 1, 2, 10, 11 and 12, Block 58, Original Town, City and County of Midland, Texas (Generally located on the south side of West Texas Avenue, between North Pecos Street and North Marienfeld Street); making said permit subject to certain special conditions and restrictions contained herein; and providing that the days of operation shall be from January 3, 2010 through November 28, 2010.

APPROVED

35. At approximately 11:03 a.m. hold a public hearing and consider an ordinance changing the zoning use classification of Lots 1-3 and the east 7 feet of Lot 4, Block 106, Resurvey Block 106, West End Addition, City and County of Midland, Texas (Generally located on the southwest corner of the intersection of West Indiana Avenue and South "I" Street), which is presently zoned 1F-1, 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; 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 WITH AMENDMENT

36. At approximately 11:06 a.m. hold a public hearing and consider an ordinance adopting a site plan for Lot 9, Block 28, Wydewood Estates, Section 21, City and County of Midland, Texas (Generally located on the east side of Sunmore Circle, approximately 270 feet east of Sunburst Drive); subject to the following conditions and restrictions; 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

DEVELOPMENT SERVICES

37. Consider an ordinance vacating and abandoning a 443 square foot portion of a 25-foot drainage easement out of the SW/4 of Lot 4, Block 34, Crestgate Addition, Section 32, City and County of Midland, Texas (Generally located between Eagle Cove and Cardinal Lane, approximately 265 feet west of North Midkiff Road); adopting the appraisal by the City Manager of \$203.00; waiving the fee for the cost of the right-of-way; and ordering recordation by the City Secretary.

APPROVED

38. Consider an ordinance amending Title VI, "Police Regulations", Chapter 1, "General Offenses", of the City Code of Midland, Texas, by establishing Section 24, "Use of Engine Brake Prohibited", so as to prohibit the use of such brakes within the City limits; 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.

APPROVED

39. Consider an ordinance amending Title X, "Traffic Regulations", Chapter Four, "Traffic Control Devices", Section 11, "School Zones and Crossings", of the Midland City Code, so as to designate each school zone and school crossing within the City and regulate the speed and movement of traffic therein; authorizing and directing the traffic engineer to install appropriate signs and markings; repealing Ordinance No. 8755; 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.

APPROVED

40. Consider a resolution on a request by Barron Operating, LLC (Robbie # 2406) for a Permit to drill an Oil and Gas Well within the City Limits located 1980' FNL and 1877' FWL, Section 24, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located approximately 1,870 feet east of Avalon Drive and ¾ mile north of Briarwood Avenue.)

APPROVED WITH AMENDMENT

41. Consider a resolution on a request by Barron Operating, LLC (Robbie # 2410) for a Permit to drill an Oil and Gas Well within the City Limits located 770' FNL and 1877' FWL, Section 24, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located approximately 1,870 feet east of Avalon Drive and 4,500 feet north of Briarwood Avenue.)

APPROVED WITH AMENDMENT

42. Consider a resolution on a request by Barron Operating, LLC (Robbie # 2411) for a Permit to drill an Oil and Gas Well within the City Limits located 1877' FWL and 1984' FSL, Section 24, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located approximately 1,870 feet east of Avalon Drive and 1,980 feet north of Briarwood Avenue.)

APPROVED WITH AMENDMENT

43. Consider a resolution on a request by Barron Operating, LLC (Robbie # 2403) for a Permit to drill an Oil and Gas Well within the City Limits located 1707' FSL and 590' FWL, Section 24, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located approximately 590 feet east of Avalon Drive and ¼ mile north of Briarwood Avenue.)

APPROVED WITH AMENDMENT

44. Consider a resolution on a request by Barron Operating, LLC (Robbie # 2407) for a Permit to drill an Oil and Gas Well within the City Limits located 660' FSL and 1877' FWL, Section 24, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located approximately 1,870 feet east of Avalon Drive and 660 feet north of Briarwood Avenue.)

APPROVED WITH AMENDMENT

45. Consider a resolution on a request by Barron Operating, LLC (Robbie #2414) for a Permit to drill an Oil and Gas Well within the City Limits located 2416' FNL and 590' FWL, Section 24, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located approximately 590 feet east of Avalon Drive and ½ mile north of Briarwood Avenue.)

APPROVED WITH AMENDMENT

46. Consider a resolution on a request by Barron Operating, LLC (Robbie # 2415) for a Permit to drill an Oil and Gas Well within the City Limits located 590' FSL and 590' FWL, Section 24, Block 40, T-1-S, T&P RR Co. Survey, Midland County, Texas. (Generally located approximately 590 feet east of Avalon Drive and 590 feet north of Briarwood Avenue.)

APPROVED WITH AMENDMENT

MISCELLANEOUS

47. Consider an ordinance amending Title VII, "Fire Regulations", Chapter 3, "Fireworks", Section 3, "Nuisance Declared", of the Municipal Code City of Midland, Texas, so as to delete the language referring to fireworks stands as they relate to annexation; containing a cumulative clause; containing a savings and severability clause; providing for a maximum fine or penalty of two thousand dollars (\$2,000.00); and ordering publication.

APPROVED

48. Consider a motion making appointments to various Boards and Commissions.

NONE MADE

49. Consider a motion appointing individuals to the Board of Directors of the Midland Development Corporation.

APPOINTED

50. Consider a resolution appointing the nine members to serve on the Building Codes Review Committee pursuant to Title Two (2), Chapter Six (6), Section Five (5) of the City Code of the City of Midland, Texas; and containing other provisions relating to the subject.

APPROVED

51. Recess to the conference room for lunch.
52. 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:

Personnel Matters, Section 551.074

Discuss the appointment of individuals to the Board of Directors of the Midland Development Corporation as authorized by Chapter 504 of the Texas Local Government Code.

Discuss and deliberate the appointment, employment, duties and compensation of the City Secretary.

Section 551.071, Consultation with the City Attorney and Attorney(s) with the Law Firm of Taylor, Olson, Adkins, Srala and Elam, LLP of Fort Worth, Texas

Discuss regulating the drilling and operating of Oil and Gas Wells in the City Limits and also in the City's Extra-territorial Jurisdiction. 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.

Respectfully submitted,

Courtney B. Sharp
City Manager