

**MIDLAND CITY COUNCIL  
MINUTES  
February 10, 2015**

**BRIEFING SESSION**

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:15 a.m. on February 10, 2015.

Mayor Morales called the Briefing Session to order at 9:16 a.m.

Council Members present: Mayor Jerry F. Morales, Mayor Pro Tem Scott Dufford (At-Large), Council Member Spencer Robnett (At-Large), Council Member Jeff Sparks (District 1), Council Member John B. Love, III (District 2), Council Member Sharla Hotchkiss (District 3), and Council Member J.Ross Lacy (District 4).

Staff members present: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, Assistant City Manager Robert Patrick, Assistant City Manager Frank Salvato, City Secretary Amy Turner, Police Chief Price Robinson, Director of General Services Fred Reyes, and Public Information Officer Sara Bustilloz.

1. Receive a presentation from Callon Petroleum Operating Company regarding land donation for a future fire station.

Council posed for a photograph with representatives from Callon Petroleum Operating Company and the Midland Fire Department.

2. Presentation of the 2014 Midland Police Department Traffic Contact report by Dr. Eric J. Fritsch, Ph.D., Professional Development Institute, University of North Texas.

Police Chief Price Robinson reported they are mandated by state law to present the racial profiling report to the governing body and introduced Dr. Eric Fritsch.

Dr. Fritsch introduced himself noting that he is a professor and chair of the Department of Criminal Justice at the University of North Texas and has been involved in racial profiling since 2004. His first task is to ensure that the police department is compliant with racial profiling laws and follows the seven standards that have been established. Midland is fully in compliance with the law.

He explained that the law is about the collection of data and explained the shortcoming of the law because of the lack of adequate data to compare it to. Typically census data or fair roads standards are used which is specific to the population of a city. However, in Midland's example, 17% of the stops were not residents of the City.

Racial profiling is whether or not an officer pulls someone over based on their race. Of the over 8,000 stops that were made in Midland, only 44 times did the officer know the ethnicity of the person prior to pulling them over. He confirmed that he often sees this number in the 90<sup>th</sup> percentile range and explained the various reasons why the ethnicity

is often not known prior to the stop. He went on to review search statistics, arrest statistics and answered questions.

The foregoing agenda items were discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 9:52 a.m.

### **REGULAR SESSION**

The City Council convened in regular session in the Council Chamber, City Hall, Midland, Texas, at 10:00 a.m., February 10, 2015.

Mayor Morales called the meeting to order at 10:00 a.m.

Council Members present: Mayor Jerry F. Morales, Mayor Pro Tem Scott Dufford (At-Large), Council Member Spencer Robnett (At-Large), Council Member Jeff Sparks (District 1), Council Member John B. Love, III (District 2), Council Member Sharla Hotchkiss (District 3), and Council Member J.Ross Lacy (District 4).

Staff members present at the annex table: City Manager Courtney Sharp, City Attorney Keith Stretcher, Deputy City Manager Tommy Hudson, Assistant City Manager Robert Patrick, and Assistant City Manager Frank Salvato.

The Agenda Items were heard in the following order: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 30, 31, 11, 15, 28, 29, 32, 33, 34, 35, 36, 43, 44, 37, 38, 39, 40, 41, 42, 46, (recess) 45.

### **OPENING ITEMS**

1. Invocation - Pastor Robert Pase, Grace Lutheran Church
2. Pledge of Allegiance

### **PRESENTATIONS**

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
  - a. Mayor Morales presented a proclamation to representatives from Stonegate Church and Crestview Church who provided aid after the recent ice storm.

### **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. (Please limit comments to three minutes or less.)

There were no citizens wishing to speak.

## CONSENT AGENDA

Council Member Lacy moved to approve Consent Agenda items 5 - 32 excluding 11, 15, 28, 29, 32; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

5. Approved a motion approving the following minutes:
  - a. Regular meeting of January 27, 2015.
6. Approved a resolution amending the Midland Development Corporation Budget for Fiscal Year 2015 by increasing contractual services by \$100,000. (FINANCE)

### RESOLUTION NO. 2015 - 026

RESOLUTION ACCEPTING PAYMENT FROM THE MIDLAND DEVELOPMENT CORPORATION IN AN AMOUNT NOT TO EXCEED \$100,000 IN ORDER FOR THE CITY OF MIDLAND TO ENTER INTO AN AGREEMENT FOR SPACEPORT SUPPORT SERVICES FOR MIDLAND INTERNATIONAL AIR AND SPACE PORT; PROVIDING THAT SAID MIDLAND DEVELOPMENT CORPORATION EXPENDITURE IS AN ADMINISTRATIVE EXPENSE AS AUTHORIZED BY CHAPTER 501 OF THE TEXAS LOCAL GOVERNMENT CODE; AND APPROVING AN AMENDMENT TO THE MIDLAND DEVELOPMENT CORPORATION'S FISCAL YEAR 2014-2015 BUDGET

7. Approved a resolution approving an agreement between the City of Midland, Texas and SilverWing Enterprises, and appropriating necessary funds. (AIRPORTS)

### RESOLUTION NO. 2015 - 027

RESOLUTION AUTHORIZING THE EXECUTION OF A PROFESSIONAL SERVICES AGREEMENT WITH SILVERWING ENTERPRISES LLC TO PROVIDE PROFESSIONAL SERVICES IN SUPPORT OF THE OPERATION OF THE SPACE PORT LOCATED AT MIDLAND INTERNATIONAL AIR AND SPACE PORT; AND APPROPRIATING FUNDS

8. Approved a resolution approving the purchase of one hundred thirty (130) E-Z-GO Golf Carts and trade-in of one hundred thirty (130) E-Z-GO Golf Carts for the Garage Division. (PURCHASING)

### RESOLUTION NO. 2015 - 028

RESOLUTION APPROVING THE PURCHASE OF ONE HUNDRED THIRTY (130) E-Z-GO GOLF CARTS, AND THE TRADE-IN OF ONE HUNDRED THIRTY (130) E-Z-GO GOLF CARTS THROUGH BUYBOARD AT A TOTAL COST OF \$341,120.00; AND THIS ITEM WAS NOT BID BUT PURCHASED THROUGH A COUNCIL OF GOVERNMENTS

9. Approved a resolution awarding a contract to the sole bidder, Valley Irrigation & Pump Service, Inc., for water well service for Paul Davis and Air Terminal Well Fields for the Utilities Department. (PURCHASING)

### RESOLUTION NO. 2015 - 029

RESOLUTION AUTHORIZING THE EXECUTION OF A TWO-YEAR CONTRACT, RENEWABLE FOR UP TO THREE MORE YEARS, FOR MAINTENANCE OF WATER

WELLS FOR PRODUCTION FOR THE CITY'S WATER SUPPLY WITH VALLEY IRRIGATION & PUMP SERVICE, INCORPORATED, OF SEMINOLE, TEXAS, AT AN ESTIMATED ANNUAL COST OF \$60,000.00

10. Approved a resolution appropriating \$200,000.00 from the General Fund Unappropriated Fund Balance and \$200,000.00 from the Sanitation Fund to the Brush Cleanup Project (9122) for the Solid Waste Department. (PURCHASING)

RESOLUTION NO. 2015 - 030

RESOLUTION AUTHORIZING THE APPROPRIATION OF FUNDS IN THE AMOUNT OF \$200,000.00 FROM THE UNAPPROPRIATED FUND BALANCE ACCOUNT (5650) OF THE GENERAL FUND (001) AND \$200,000.00 FROM THE SANITATION FUND (430), LANDFILL DIVISION'S (0405) 2015 OPERATING BUDGET TO THE BRUSH CLEANUP PROJECT (9122) FOR THE SOLID WASTE DEPARTMENT

12. Approved a resolution supporting the proposed Merritt Leisure Housing Development. (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2015 - 032

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS SUPPORTING THE PROPOSED MERRITT LEISURE HOUSING DEVELOPMENT; THE APPLICANT IS DDC MERRITT LEISURE, LTD.; THE PROPOSED DEVELOPMENT IS LOCATED AT THE NORTHEAST QUADRANT OF LEISURE DRIVE AND SOUTH TEXAS LOOP 250 WEST; PROVIDING AN EFFECTIVE DATE; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO CERTIFY THE RESOLUTION TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

13. Approved a resolution recognizing prior adoption of the Midland Airport Corridor Community Revitalization Plan. (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2015 - 033

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS RECOGNIZING PRIOR ADOPTION OF THE MIDLAND AIRPORT CORRIDOR COMMUNITY REVITALIZATION PLAN; SUPPORTING THE PROPOSED MERRITT LEISURE HOUSING DEVELOPMENT; IDENTIFYING THE PROPOSED MERRITT LEISURE HOUSING DEVELOPMENT AS THE DEVELOPMENT IN THE 2015 TAX CREDIT APPLICATION POOL THAT CONTRIBUTES MOST SIGNIFICANTLY TO THE CONCERTED REVITALIZATION EFFORTS OF THE CITY OF MIDLAND, TEXAS; THE APPLICANT IS DDC MERRITT LEISURE, LTD.; THE PROPOSED DEVELOPMENT IS LOCATED AT THE NORTHEAST QUADRANT OF LEISURE DRIVE AND SOUTH TEXAS LOOP 250 WEST; PROVIDING AN EFFECTIVE DATE; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO CERTIFY THE RESOLUTION TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

14. Approved a resolution committing to make a loan with conditions to DDC Merritt Leisure, Ltd. to pay for costs associated with the proposed Merritt Leisure Housing Development. (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2015 - 034

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS COMMITTING TO MAKE A LOAN WITH CONDITIONS TO DDC MERRITT LEISURE,

LTD. TO PAY FOR COSTS ASSOCIATED WITH THE PROPOSED MERRITT LEISURE HOUSING DEVELOPMENT; THE PROPOSED DEVELOPMENT IS LOCATED AT THE NORTHEAST QUADRANT OF LEISURE DRIVE AND SOUTH TEXAS LOOP 250 WEST; PROVIDING NO WAIVER OF GOVERNMENTAL IMMUNITY OR SOVEREIGN IMMUNITY; PROVIDING AN EFFECTIVE DATE; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO CERTIFY THE RESOLUTION TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

16. Approved a resolution regarding Workforce Training Grant to Midland College. (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2015 - 036

RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND MIDLAND COLLEGE, AS AUTHORIZED BY CHAPTERS 504 AND 501 OF THE TEXAS LOCAL GOVERNMENT CODE, AS AMENDED

17. Approved a resolution authorizing the execution of a sports agreement with West Texas BMX to administer programs, special events, and services related to BMX (Bicycle Motocross) racing and riding. (COMMUNITY SERVICES)

RESOLUTION NO. 2015 - 037

RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH WEST TEXAS BMX TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO WEST TEXAS BMX RACING AND RIDING

18. Approved a resolution authorizing the execution of a sports agreement with the Texas Cricket Club to administer programs, special events, and services related to cricket. (COMMUNITY SERVICES)

RESOLUTION NO. 2015 - 038

RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH THE TEXAS CRICKET CLUB TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO CRICKET

19. Approved a resolution authorizing the execution of a sports agreement with Midland Softball Association, Incorporated to administer programs, special events, and services related to softball for ages fifteen and older. (COMMUNITY SERVICES)

RESOLUTION NO. 2015 - 039

RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH MIDLAND SOFTBALL ASSOCIATION, INCORPORATED, TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO SOFTBALL FOR ADULTS AGES FIFTEEN (15) AND OLDER

20. Approved a resolution authorizing the execution of a sports agreement with the Midland Junior Baseball Association, Incorporated to administer programs, special events, and services related to baseball for men ages nineteen and younger. (COMMUNITY SERVICES)

RESOLUTION NO. 2015 - 040

RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH MIDLAND JUNIOR BASEBALL ASSOCIATION, INCORPORATED, TO ADMINISTER

PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO BASEBALL FOR MEN AGES NINETEEN AND YOUNGER

21. Approved a resolution authorizing the execution of a sports agreement with the Midland Soccer Association, Incorporated to administer programs, special events, and services related to soccer for adults and youth. (COMMUNITY SERVICES)

RESOLUTION NO. 2015 - 041

RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH MIDLAND SOCCER ASSOCIATION, INCORPORATED, TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO SOCCER FOR ADULTS AND YOUTH

22. Approved a resolution authorizing the execution of a sports agreement with Midland United Girls Softball Association, Incorporated to administer programs, special events, and services related to softball for girls. (COMMUNITY SERVICES)

RESOLUTION NO. 2015 - 042

RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH MIDLAND UNITED GIRLS SOFTBALL ASSOCIATION, INCORPORATED TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO SOFTBALL FOR GIRLS

23. Approved a resolution authorizing the execution of a sports agreement with the Greater Midland Football League to administer programs, special events, and services related to youth football. (COMMUNITY SERVICES)

RESOLUTION NO. 2015 - 043

RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH THE GREATER MIDLAND FOOTBALL LEAGUE TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO FOOTBALL

24. Approved a resolution authorizing the execution of a sports agreement with the Boys and Girls Club of Midland to administer programs, special events, and services related to flag football and soccer for youth ages eight through twelve. (COMMUNITY SERVICES)

RESOLUTION NO. 2015 - 044

RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH THE BOYS AND GIRLS CLUB OF MIDLAND TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO FLAG FOOTBALL AND SOCCER FOR YOUTH AGES EIGHT THROUGH TWELVE

25. Approved a resolution authorizing the execution of a sports agreement with First Baptist Church Upward Flag Football League to administer programs, special events, and services related to flag football activities for youth and adults. (COMMUNITY SERVICES)

RESOLUTION NO. 2015 - 045

RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH FIRST BAPTIST CHURCH UPWARD FLAG FOOTBALL LEAGUE TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO FLAG FOOTBALL ACTIVITIES FOR ADULTS AND YOUTH

26. Approved a resolution authorizing the execution of a sports agreement with Under the Lights Flag Football League to administer programs, special events, and services related to flag football for youth and adults. (COMMUNITY SERVICES)

RESOLUTION NO. 2015 - 046

RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH UNDER THE LIGHTS FLAG FOOTBALL LEAGUE TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO FLAG FOOTBALL ACTIVITIES FOR ADULTS AND YOUTH

27. Approved a resolution authorizing the execution of a sports agreement with Stonegate Fellowship to administer services related to flag football for youth and adults (COMMUNITY SERVICES)

RESOLUTION NO. 2015 - 047

RESOLUTION AUTHORIZING THE EXECUTION OF A SPORTS AGREEMENT WITH STONEGATE FELLOWSHIP TO ADMINISTER PROGRAMS, SPECIAL EVENTS AND SERVICES RELATED TO FLAG FOOTBALL ACTIVITIES FOR ADULTS AND YOUTH

30. Approved a motion on request by Schumann Engineering Co. Inc. to defer public improvements for Mystic Acres Addition, and to discount the associated construction costs by \$44,565, an amount equal to the full cost of construction. The subject property is generally located in Midland County on State Highway 349 (a.k.a., Rankin Hwy) near the intersection with East County Road 150. (ENGINEERING SERVICES)

31. Approved a motion on request by Schumann Engineering Co. Inc. to defer public improvements for Petro Lewis Addition Section 3, and to discount the associated construction costs by \$99,200, an amount equal to the full cost of construction. The subject property is generally located in the City of Midland at 2907 Rankin Hwy (a.k.a., SH 349) at the northeast corner of the intersection with East County Road 114. (ENGINEERING SERVICES)

The following items were pulled from Consent Agenda and considered individually.

11. Consider a resolution authorizing the execution of Amendment #7 to Parkhill, Smith & Cooper's Professional Services Agreement. (AIRPORTS)

RESOLUTION NO. 2015 - 031

RESOLUTION AUTHORIZING THE EXECUTION OF AMENDMENT NUMBER SEVEN TO THE PROFESSIONAL SERVICES AGREEMENT WITH PARKHILL, SMITH & COOPER, INCORPORATED, FOR IMPROVEMENTS CONTAINED IN THE AIRPORT CAPITAL IMPROVEMENT PROGRAM; SAID AMENDMENT TO INCLUDE THE FOLLOWING PROJECTS: ACCESS CONTROL SYSTEM AND CABLE UPDATE AND MAF AEROSPACE DEVELOPMENT PARK PROGRAMMATIC ENVIRONMENTAL ASSESSMENT, PHASE I ENVIRONMENTAL SITE ASSESSMENT AND BUILDINGS PS-1 AND PS-2 ASBESTOS SURVEY; AND APPROPRIATING FUNDS

Council Member Robnett pulled to obtain more information.

Interim Director of Airports Justine Ruff reported the project began in 2011 for the access control system upgrade. Since that time more upgrades have been needed

including the demolition of buildings for the spaceport development.

Council Member Sparks moved to adopt Resolution No. 2015-031; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

15. Consider a resolution supporting House Bill No. 80 - Texting while driving and the use of handheld wireless communication devices while operating a motor vehicle. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2015 - 035

RESOLUTION OF THE CITY OF MIDLAND, TEXAS REQUESTING THAT THE TEXAS STATE LEGISLATURE AND THE GOVERNOR OF TEXAS TAKE ACTION TO APPROVE HOUSE BILL NO. 80 WHICH WAS INTRODUCED BY THE HONORABLE TOM CRADDICK IN THE REGULAR SESSION OF THE 84TH SESSION OF THE TEXAS LEGISLATURE

This item was pulled to emphasize the Council's support of this item.

Council Member Love moved to adopt Resolution No. 2015 - 035; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

28. Consider a resolution authorizing the execution of a Lease Agreement by and between the City of Midland, Texas and the Midland Chamber of Commerce. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2015 - 048

RESOLUTION AUTHORIZING THE EXECUTION OF A LEASE AGREEMENT BETWEEN THE CITY OF MIDLAND AND THE MIDLAND CHAMBER OF COMMERCE REGARDING LOT 6, BLOCK 37, ORIGINAL TOWN, CITY AND COUNTY OF MIDLAND, TEXAS

Council Member Robnett asked what was being leased. Downtown Development Director Genora Young clarified it was the parking lot across the street from the Chamber and next to the Ritz.

Council Member Robnett moved to adopt Resolution No. 2015 - 048; seconded by Council Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

29. Consider a resolution authorizing the City Manager to negotiate, execute and file all documents necessary for the conveyance of the donations of two properties from Callon Petroleum Operating Company. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2015 - 049

RESOLUTION AUTHORIZING THE ACCEPTANCE OF A DONATION FROM CALLON PETROLEUM OPERATING COMPANY OF A 5.00-ACRE TRACT OF LAND OUT OF SECTION 23, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, IN FEE SIMPLE, AND A 7.57-ACRE TRACT OF LAND OUT OF SECTION 23, BLOCK 40, T-1-S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, AS AN EASEMENT ESTATE (SAID TRACTS BEING GENERALLY



LOCATED ON THE NORTHEAST CORNER OF BRIARWOOD AND GOLDEN GATE); AUTHORIZING THE CITY MANAGER TO NEGOTIATE THE DONATION OF SAID PROPERTY AND TO EXECUTE AND FILE ALL DOCUMENTS NECESSARY TO ACCEPT THE DONATION OF SAID PROPERTY; AUTHORIZING THE CLOSING FOR THE DONATION OF SAID PROPERTY TO BE HELD AT LONE STAR ABSTRACT AND TITLE CO., INC.; AND AUTHORIZING PAYMENT OF ALL CLOSING COSTS RELATED TO THE DONATION OF SAID PROPERTY

Oil & Gas Compliance Officer Ron Jenkins reported that Callon Petroleum donated land for a future fire station.

Council Member Lacy presented representatives of Callon Petroleum with a gift of appreciation for their donation.

Council Member Love moved to adopt Resolution No. 2015 - 049; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

32. Receive and/or discuss the 2014 Midland Police Department Racial Profiling Analysis. (POLICE)

Council Member Love commended the Midland Police Department on being fully compliant with the law noting it was a testament to the Chief and hard work of his staff. He also felt the racial profiling law is flawed. He noted he would like to see Midland comply not only with the letter of the law, but also the spirit of the law. He noted that it is uncomfortable to talk about race, but felt the dialogue needed to remain open.

## **SECOND READINGS**

33. Consider an ordinance on second reading on a request by Tim Dunn for a zone change from PD, Planned District for a Housing Development to 1F-1, One-Family Dwelling District on a 10.66-acre tract of land generally located northeast of the intersection of Mockingbird Lane and Mayfield Place. (DEVELOPMENT SERVICES) (First reading held January 27, 2015.)

### **ORDINANCE NO. 9404**

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 10.66-ACRE TRACT OF LAND OUT OF SECTION 9, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED PD, PLANNED DISTRICT FOR A HOUSING DEVELOPMENT, TO BE USED AS A 1F-1, ONE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF MOCKINGBIRD LANE AND MAYFIELD PLACE); 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

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9404.

Council Member Hotchkiss moved to approve the second and final reading of Ordinance No. 9404 in accordance with the Charter of the City of Midland; seconded by Council

Member Love. The motion carried by the following vote: AYE: Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: Sparks.

34. Consider an ordinance on second reading on a request by Mr. and Mrs. Hermesmeyer for a Specific Use Permit without Term for an Accessory Building for Living or Sleeping Quarters generally located on the north side of Humble Avenue, approximately 300-feet east of Western Drive. (DEVELOPMENT SERVICES) (First reading held January 27, 2015.)

ORDINANCE NO. 9405

AN ORDINANCE CHANGING THE ZONING USE CLASSIFICATION OF THE PROPERTY DESCRIBED AS LOT 2, BLOCK 17, NORTHWEST ACRES ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE NORTH SIDE OF HUMBLE AVENUE, APPROXIMATELY 300 FEET EAST OF WESTERN DRIVE), 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

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9405.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9405 in accordance with the Charter of the City of Midland; seconded by Council Member Hotchkiss. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

35. Consider an ordinance on second reading on a request by Midland Classical Academy for a zone change from 1F-1, One-Family Dwelling District to O-1, Office District on a 2.83-acre tract of land generally located northeast of the intersection of Whitman Drive and Mockingbird Lane. (DEVELOPMENT SERVICES) (First reading held January 27, 2015.)

ORDINANCE NO. 9406

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 2.83-ACRE TRACT OF LAND OUT OF SECTION 9, BLOCK "X", H.P. HILLIARD SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED 1F-1, ONE-FAMILY DWELLING DISTRICT, TO BE USED AS AN O-1, OFFICE DISTRICT (GENERALLY LOCATED NORTHEAST OF THE INTERSECTION OF WHITMAN DRIVE AND MOCKINGBIRD LANE); 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

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9406.

Council Member Lacy moved to approve the second and final reading of Ordinance No. 9406 in accordance with the Charter of the City of Midland; seconded by Council Member Robnett.

Council Member Love noted that at the first reading of the ordinance there was extensive discussion. He asked if those concerns have been addressed. Development Services Director Harrington reported he was not included in ongoing discussions. Council Member Dufford noted since no one was here to object it could be assumed they are okay with the issue.

The motion carried by the following vote: AYE: Hotchkiss, Love, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: Sparks. ABSENT: None.

36. Consider an ordinance on second reading amending Title III "Departments", Chapter 1, Water Department "Septage Water Hauler Discharges and Fees". (UTILITIES) (First reading held January 27, 2015.)

ORDINANCE NO. 9407

AN ORDINANCE AMENDING TITLE III, "DEPARTMENTS", CHAPTER 1, "WATER DEPARTMENT", SECTION 27, "SEPTAGE WASTE HAULER DISCHARGES AND FEES", OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO REGULATE THE DISCHARGE OF DOMESTIC SEPTAGE AT THE CITY'S WATER POLLUTION CONTROL PLANT; INCORPORATING A THIRTY CENTS (\$0.30) PER GALLON SEPTAGE HAULER'S DISCHARGE FEE; PROVIDING FOR A MAXIMUM PENALTY OR FINE OF ONE THOUSAND DOLLARS (\$1,000.00); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9407.

Council Member Love moved to approve the second and final reading of Ordinance No. 9407 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks.

Council Member Lacy reported he met with the group. The group doesn't agree with the City's position but they understand it. They are aware of other options available to them.

The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Robnett. NAY: Lacy. ABSTAIN: None. ABSENT: None.

## **PUBLIC HEARINGS**

37. At approximately 10:30 a.m. hold a public hearing regarding a proposed Oil and Gas Permit to Endeavor Energy Resources, L.P. (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Nail "34" #1) located 467 feet from the north line and 467 feet from the east line located in Section 34, Block 38, T-1-N, T&P RR Co. Survey, City of Midland and County of Martin, Texas. (Generally located in the northeastern corner of Section 34, approximately 467 feet west of North County Road 1150.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Council Member Lacy reported he would abstain on the next four items and left the dais.

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting this was the first of four wells all located on City owned property on the northeast city limits

in a pasture area. The item was reviewed by the Oil & Gas Advisory Committee and Endeavor is following their recommendations. A request was submitted for a variance in the fence slating and for landscape and irrigation until the area is developed at which time they will comply with the fence, landscape and irrigation requirements. No letters of objection were received.

Mayor Morales opened the public hearing at 10:32 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

38. At approximately 10:33 a.m. hold a public hearing regarding a proposed Oil and Gas Permit to Endeavor Energy Resources, L.P. (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Nail "34" #2) located 1,980 feet from the north line and 467 feet from the east line located in Section 34, Block 38, T-1-N, T&P RR Co. Survey, City of Midland and County of Martin, Texas. (Generally located in the northeastern corner of Section 34, approximately 467 feet west of North County Road 1150.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting everything was the same as the previous item.

Mayor Morales opened the public hearing at 10:33 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

39. At approximately 10:36 a.m. hold a public hearing regarding a proposed Oil and Gas Permit to Endeavor Energy Resources, L.P. (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Nail "34" #3) located 1,980 feet from the south line and 467 feet from the east line located in Section 34, Block 38, T-1-N, T&P RR Co. Survey, City of Midland and County of Martin, Texas. (Generally located in the northeastern corner of Section 34, approximately 467 feet west of North County Road 1150.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting this is exactly the same as the previous two items with the exception that this location contains the battery for all four wells. The City Fire Marshal will visit this site throughout the construction process.

Mayor Morales opened the public hearing at 10:36 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

40. At approximately 10:39 a.m. hold a public hearing regarding a proposed Oil and Gas Permit to Endeavor Energy Resources, L.P. (Operator), for a Permit to Drill an Oil & Gas Well within the City Limits, (Nail "34" #4) located 467 feet from the south line and 467 feet from the east line located in Section 34, Block 38, T-1-N, T&P RR Co. Survey, City of Midland and County of Martin, Texas. (Generally located in the northeastern corner of Section 34, approximately 467 feet west of North County Road 1150.) This is a public hearing only. No further action will be taken. (DEVELOPMENT SERVICES)

Oil & Gas Compliance Officer Ron Jenkins gave a brief overview of the item noting it was the same as the other locations.

Josh Harrison, on behalf of Endeavor, reported he was available if there were any questions.

Mayor Morales opened the public hearing at 10:39 a.m. There being no one present wishing to speak, the public hearing was immediately closed. No further action was taken on this item.

41. At approximately 10:42 A.M. hold a public hearing and consider an ordinance on a request by DJK, Inc. for a zone change from LR-2, Local Retail District to LI, Light Industrial District on a 49.32-acre tract of land generally located on the south side of State Highway 191, approximately 0.5-miles west of South FM 1788. (DEVELOPMENT SERVICES)

ORDINANCE NO. 9408

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION BY AMENDING CHAPTER ONE, TITLE XI, OF THE CITY CODE OF MIDLAND, TEXAS, BY PERMITTING A 49.32-ACRE TRACT OF LAND OUT OF SECTION 48, BLOCK 41, T-1 -S, T&P RR CO. SURVEY, CITY AND COUNTY OF MIDLAND, TEXAS, WHICH IS PRESENTLY ZONED LR-2, LOCAL RETAIL DISTRICT, TO BE USED AS AN LI, LIGHT INDUSTRY DISTRICT (GENERALLY LOCATED ON THE SOUTH SIDE OF STATE HIGHWAY 191, APPROXIMATELY 0.5 MILES WEST OF SOUTH FARM TO MARKET ROAD 1788); 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

Development Services Director Chuck Harrington gave a brief overview of the item noting the property is located on the extreme far west portion of the corporate City limits. The applicant is requesting to change the zoning to light industrial. Staff found the request consistent with the zoning of surrounding properties and in line with the plan for the area. Staff and Planning & Zoning recommend approval. No letters of objection have been received.

Mayor Morales opened the public hearing at 10:42 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 9408.

Council Member Lacy moved approval of the first of two readings of Ordinance No. 9408 in accordance with the Charter of the City of Midland; seconded by Council Member Sparks. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

42. At approximately 10:45 A.M. hold a public hearing and consider a resolution on a request by Robert Ahola for a Temporary Land Use Permit for a Tent Sale on a 27.31-acre portion generally located southwest of the intersection of West Loop 250 North and North Midkiff Road. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2015 - 050

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR A TENT SALE ON A 27.31-ACRE PORTION OF LOT 1, BLOCK 17, SKYLINE TERRACE ADDITION,

UNIT 2, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED SOUTHWEST OF THE INTERSECTION OF WEST LOOP 250 NORTH AND NORTH MIDKIFF ROAD); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Development Services Director Chuck Harrington gave a brief overview of the item noting it is a request for a rug sale to be held in the parking lot similar to a permit that was issued last September. The applicant is requesting 22 days. The 40 by 100 foot tent will displace 68 parking spaces. There will also be a travel trailer on site for security purposes. Previously Council has limited the event to 15 days and that is what staff recommends. The Fire Marshal will inspect the tent prior to the opening of the operation.

Mayor Morales opened the public hearing at 10:45 a.m.

Sherry Ahola, from California, addressed the length of the event. She reported they bring a lot of inventory of rugs and allow people to special order to meet their needs. Limiting the event to two weeks does not allow them enough time to get in special orders which means the customer has to pay extra for shipping. Their rugs are as small as 5 by 7 and go up in size and prices can range from \$89 to over \$1,000. She asked Council to consider granting them the 22 days requested.

There being no one else wishing to speak, the public hearing was closed at 10:48 a.m.

Council Member Robnett moved to adopt Resolution No. 2015 - 050; seconded by Council Member Sparks.

A representative from Midland Park Mall was present and confirmed this applicant is the only person who does tent sales at the mall and were previously allowed three weeks.

The motion carried by the following vote: AYE: Hotchkiss, Sparks, Morales, Robnett. NAY: Love, Dufford, Lacy. ABSTAIN: None. ABSENT: None.

## **MISCELLANEOUS**

43. Consider a motion appealing the Building Official's denial of a sign permit application Vineyard Development located at 5501 Sherwood Drive, Midland, Texas. (Generally located southeast of the intersection of Sherwood Drive and Sandstone Drive.) (DEVELOPMENT SERVICES)

Development Services Director Chuck Harrington reported this item is an appeal of the Building Official's denial of a sign permit. The applicant is proposing three signs two of which are smaller entryway signs totaling 69 square feet which is five square feet over the limit.

Council Member Sparks moved to approve a motion appealing the Building Official's denial of a sign permit application Vineyard Development located at 5501 Sherwood Drive, Midland, Texas. (Generally located southeast of the intersection of Sherwood Drive and Sandstone Drive.); seconded by Council Member Lacy. The motion carried by the following vote: AYE: Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: Hotchkiss. ABSENT: None.

44. Consider a motion making appointments to various Boards and Commissions, including appointments to the Midland Tax Increment Reinvestment Zone No. 1 (TIRZ) Board of Directors.

Council Member Hotchkiss moved to nominate Council Members Love and Dufford to the unexpired terms on TIRZ; seconded by Council Member Lacy. The motion carried by the following vote: AYE: Hotchkiss, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: Love, Sparks. ABSENT: None.

Council Member Lacy moved to appoint Earl Erdman as Ex-Officio member of the Airport Board; seconded by Council Member Robnett. The motion carried by the following vote: AYE: Hotchkiss, Love, Sparks, Morales, Dufford, Lacy, Robnett. NAY: None. ABSTAIN: None. ABSENT: None.

45. At approximately 1:00 p.m. recess and reconvene for a tour of the Wall Street Lofts located at 100 North Main Street, Midland, Texas.

At approximately 1:00 p.m. Council toured the Wall Street Lofts.

#### **EXECUTIVE SESSION**

46. Mayor Morales announced that 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:

- a. Section 551.074, Personnel Matters
  - a.1. Interview candidates for the position of the Presiding Judge of the City of Midland Municipal Court.
- b. Section 551.087, Deliberate Economic Development Negotiations
  - b.1. 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.
- c. Section 551.072, Deliberation Regarding Real Property.
  - c.1. Discuss the purchase, exchange, lease or value of real property described as Block 007, All Lots, Original Town Addition, Midland, Midland County, Texas.

Mayor Morales recessed the meeting at 10:53 a.m. to Executive Session. The Council met in Executive Session until 12:21 p.m.

All of the business at hand having been completed, the meeting adjourned at 1:50 p.m.

PASSED AND APPROVED the 24th day of February, 2015.

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Jerry F. Morales, Mayor

ATTEST:

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Amy M. Turner, City Secretary