

**MIDLAND CITY COUNCIL
MINUTES
February 25, 2020**

BRIEFING SESSION

The City Council convened in a Briefing Session in the basement conference room, City Hall, Midland, Texas, at 9:40 a.m. on February 25, 2020.

Council Members present: Mayor Patrick Payton, Mayor Pro Tem Spencer Robnett (At-Large), Council Member Michael Trost (At-Large), Council Member Scott Dufford (District 1), Council Member John Norman (District 2), Council Member Jack Ladd (District 3), and Council Member Lori Blong (District 4).

Staff members present: City Attorney John Ohnemiller, Assistant City Manager Robert Patrick, Assistant City Manager Morris Williams, Assistant to the City Manager Marcia Bentley-German, City Secretary Amy Turner, Administrative Services Director Mark Widmann, Interim Finance Director Jennifer Fung, Community Services Director Tina Jauz, Parks & Recreation Manager Laurie Williams, General Services Director Regina Stephenson, Purchasing Manager Erika Martinez, Procurement System Administrator Josette Dobbins, Traffic Engineer Mike Pacelli, and Public Information Officer Erin Bailey.

Mayor Payton called the meeting to order at 9:40 a.m.

1. Receive an update from the Downtown Park Conservancy.

Scott Kidwell, President of Midland Downtown Park Conservancy, introduced the other board members in attendance. He provided a brief history of how the park came to this point, noting people were looking for a green space in downtown. The conservancy was formed to manage and run the park. The total project cost of the park is \$18.2 million of which \$17.4 million has been committed. The City contributed \$2 million and has committed to ongoing operating expenses of the park capped at \$500,000 per year. They are also seeking \$3 million for the endowment fund to replace things like dying trees and to ensure high standards for the maintenance of the park. He gave a brief overview of the different parts of the park including history wall, food kiosk, mesa, children's play area, dog run, promenade, stage area, great lawn, and media mesh screen. Their substantial completion date is currently June 17th.

Executive Director Stephanie Martin reviewed the mission and vision statements noting they want this to be the premier green space in West Texas. She reviewed the leadership in place and the agreements currently in place to operate the park. They are currently working on developing general rules and feature rules, and an event planning guide.

Jim Rhotenberry reviewed construction to date noting most of the work has been underground but now people will be able to see the changes coming in the next several months.

The foregoing agenda item was discussed by the City Council with no formal action taken. The Briefing Session was adjourned at 10:07 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 25, 2020.

Council Members present: Mayor Patrick Payton, Mayor Pro Tem Spencer Robnett (At-Large), Council Member Michael Trost (At-Large), Council Member Scott Dufford (District 1), Council Member John Norman (District 2), Council Member Jack Ladd (District 3), and Council Member Lori Blong (District 4).

Staff members present at the annex table: City Attorney John Ohnemiller, Assistant City Manager Robert Patrick and Assistant City Manager Morris Williams.

The Agenda Items were heard in the following order: 1-9, 14-15, 17, 23, 10-13, 16, 18-22, 24-31, 33, 32, and 34.

Mayor Payton called the meeting to order at 10:20 a.m.

OPENING ITEMS

1. Invocation - Pastor Dustin Pearce, Stonegate Fellowship Church
2. Pledge of Allegiance

PRESENTATIONS

3. Presentation of special events, organizations, individuals, or periods of time including, but not limited to:
 - a. Mayor Payton presented a proclamation for Women's History Month.

CONSENT AGENDA

Council Member Robnett moved to approve Consent Agenda items 4 - 23 excluding 10, 11, 12, 13, 16, 18, 19, 20, 21, 22; seconded by Council Member Blong. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

4. Approved a motion approving the following minutes:
 - a. Regular City Council meeting of February 11, 2020.
5. Approved a motion authorizing the City Manager or the City Manager's designee to advertise a request for qualifications for professional services for on call engineering services for the Utilities Department; authorizing the City Manager or the City Manager's designee to negotiate professional services agreements for said services; and providing that said agreements shall not become effective until approved by the City Council. (PURCHASING)

6. Approved a motion authorizing the execution of Change Order Two (2) with Red Deer Construction, LLC regarding the Midland Meter Program 01; said change order to be in an amount not to exceed \$200,000.00 and to provide for additional work to replace existing water meters with new water meters throughout the City on an as-needed basis. (PURCHASING)
7. Approved a motion authorizing the execution of Change Order Three (3) with Red Deer Construction, LLC regarding the Water, Wastewater, & Fire Hydrant Taps Expanded Program 04; said change order to be in an amount not to exceed \$140,000.00 and to provide for additional work to construct small utility projects and service laterals throughout the City on an as-needed basis. (PURCHASING)
8. Approved a motion authorizing the execution of a professional services agreement with Parkhill, Smith & Cooper, Inc., to provide engineering and maintenance services at the Paul Davis Wellfield for the Utilities Department for a total cost not to exceed \$134,800.00. (PURCHASING)
9. Approved a resolution authorizing the employment of the law firm of Cotton Bledsoe Tighe & Dawson, P.C. to represent the City of Midland in a lawsuit styled Yadira Uranga v. Midland Odessa Urban Transit District, et al., in the United States District Court for the Western District of Texas, Midland-Odessa Division, Civil Action No. 7:20-CV-00021. (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2020 - 043

RESOLUTION AUTHORIZING THE EMPLOYMENT OF THE LAW FIRM OF COTTON BLEDSOE TIGHE & DAWSON, P.C. TO REPRESENT THE CITY OF MIDLAND IN A LAWSUIT STYLED YADIRA URANGAV. MIDLAND ODESSA URBAN TRANSIT DISTRICT, ET AL., IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS, MIDLAND-ODESSA DIVISION, CIVIL ACTION NO. 7:20-CV-00021

14. Approved a resolution supporting Mayor Patrick N. Payton's membership of the Permian Basin Regional Planning Commission's Board of Directors. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2020 - 047

RESOLUTION IN SUPPORT OF MAYOR PATRICK N. PAYTON'S MEMBERSHIP OF THE PERMIAN BASIN REGIONAL PLANNING COMMISSION'S BOARD OF DIRECTORS

15. Approved a resolution establishing a regular City Council meeting to be held on March 9, 2020. (CITY SECRETARY'S OFFICE)

RESOLUTION NO. 2020 - 054

RESOLUTION ESTABLISHING A REGULAR CITYCOUNCIL MEETING TO BE HELD ON MARCH 9, 2020

17. Approved a resolution supporting the proposed Merritt Edge Housing Development; the applicant is DDC Merritt Edge, Ltd.; the proposed development is located at 205 Corporate Drive. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2020 - 048

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS SUPPORTING THE PROPOSED MERRITT EDGE HOUSING DEVELOPMENT; THE APPLICANT IS DDC MERRITT EDGE, LTD.; THE PROPOSED DEVELOPMENT IS LOCATED AT 205 CORPORATE DRIVE; PROVIDING AN EFFECTIVE DATE; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO CERTIFY THE RESOLUTION TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

23. Approved a motion authorizing the execution of a sanitary sewer discharge license agreement with Baker Hughes Oilfield Operations, Inc. at 2605 Market Street, Building A, Midland, Texas. (UTILITIES)

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

10. Consider a resolution authorizing the execution of a Chapter 312 Tax Abatement Agreement between the City of Midland and RIMT Property, LP regarding a 1.742-acre tract of land out of Block 93, Original Town Addition, City and County of Midland, Texas. (CITY ATTORNEY'S OFFICE)

RESOLUTION NO. 2020 - 044

RESOLUTION AUTHORIZING THE EXECUTION OF A TAX ABATEMENT AGREEMENT WITH RIMT PROPERTY, LP AS AUTHORIZED BY CHAPTER 312 OF THE TEXAS TAX CODE (THE "AGREEMENT") REGARDING A 1.742-ACRE TRACT OF LAND OUT OF BLOCK 93, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (THE "PROPERTY"); SAID PROPERTY BEING LOCATED WITHIN TAX ABATEMENT REINVESTMENT ZONE NUMBER 2018-03 (THE "REINVESTMENT ZONE"); SAID REINVESTMENT ZONE BEING LOCATED AT THE SOUTHWEST CORNER OF THE INTERSECTION OF SOUTH BIG SPRING STREET AND WEST MISSOURI AVENUE; THE OWNER OF THE PROPERTY BEING RIMT PROPERTY, LP; THE APPLICANT FOR TAX ABATEMENT BEING RIMT PROPERTY, LP; THE IMPROVEMENTS INCLUDED IN THE AGREEMENT BEING GENERALLY DESCRIBED AS A HOTEL HAVING A MINIMUM OF 110 ROOMS AND ACCESSORY USES ASSOCIATED THEREWITH; THE ESTIMATED COST OF SAID IMPROVEMENTS BEING NOT LESS THAN \$15,000,000.00; AND DIRECTING THE CITY MANAGER TO DELIVER A WRITTEN NOTICE OF THE CITY'S INTENTION TO ENTER INTO THE AGREEMENT, OR ENSURE THAT SUCH A NOTICE HAS BEEN DELIVERED, TO THE PRESIDING OFFICER OF THE GOVERNING BODY OF EACH APPROPRIATE TAXING UNIT AT LEAST SEVEN DAYS PRIOR TO THE EXECUTION OF THE AGREEMENT

Council Member Blong wanted to hear the breakdown of what was requested and what that would be in dollar amounts. Assistant City Manager Robert Patrick reported they are requesting ten years 100% ad valorem taxes which would equate to about \$547,000. They are requesting donation of right-of-way in the amount of \$43,000 and street enhancements for the development of the property. The overall amount would be about \$750,000. The projected hotel occupancy tax over a ten-year period would be about \$2.6 million.

City Attorney John Ohnemiller noted that the vacation ordinance is a public hearing item, but if Council wants to do anything that affects that provision in the agreement it should be taken up now as a deal point.

Michael Mahoney, Addison Texas, reported that they own both sites. There is a public street running in the middle. They are proposing to make it a private street to enable development of both properties. It will be a private drive open to the public for circulation. There is a water and sewer line running north and south that must be moved to the periphery. In total, they have \$1.5 million land improvements needed and they are asking the City to fund a portion via long-term tax abatement capped at \$750,000. They are estimating their construction cost at \$22 million.

Council Member Blong asked about the right-of-way noting her understanding is the City charges for the right-of-way unless there are mitigating circumstances. Mr. Mahoney replied they must move the existing utilities which will be about \$1 million. When asked why it needed to be a private street, Mr. Mahoney reported they need the street to tie the two properties together with a roundabout and to provide additional parking.

Council Member Blong had concern over setting a precedent for right-of-way. When asked if the properties would be built simultaneously Mr. Mahoney noted the south side would be built first. The first hotel will not have a retail space, restaurant or bar, but the second hotel would have a full-service restaurant.

Council Member Trost moved to adopt Resolution No. 2020 - 044; seconded by Council Member Dufford.

Council Member Robnett noted he would be voting against this item as he felt tax abatements and Chapter 380s should be used for extraordinary circumstances over \$50 million. This would have been a perfect use for TIRZ.

The motion carried by the following vote: AYE: Blong, Trost, Payton, Dufford. NAY: Robnett, Ladd, Norman. ABSTAIN: None. ABSENT: None.

11. Consider a motion authorizing the City Manager to negotiate a land exchange with Midland College; and providing that any agreement must be approved by the City Council before becoming effective. (CITY ATTORNEY'S OFFICE)

Council Member Trost asked for clarification. Council Member Robnett asked that the item be placed on the agenda to initiate a formal conversation between the City and the College for drilling wells on the college surface. The City has lands in other locations to trade or replace. Access to these minerals is in the City's best interest and he is hoping to find a way to help facilitate that access.

Council Member Robnett moved to authorize the City Manager to negotiate a land exchange with Midland College; and providing that any agreement must be approved by the City Council before becoming effective; seconded by Council Member Blong. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

12. Consider a resolution authorizing the execution of an Economic Development Agreement with Kepler Aerospace, LTD., as authorized by Chapter 501 of the Texas Local Government Code. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2020 - 045

RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND KEPLER AEROSPACE, LTD., AS AUTHORIZED BY CHAPTER 501 OF THE TEXAS LOCAL GOVERNMENT CODE

Council Member Robnett pulled this item and number 13 for a record vote. He is still against the Spaceport even though this item does not cost the City any money.

Council Member Robnett moved to adopt Resolution No. 2020 - 045; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Blong, Trost, Payton, Dufford, Ladd, Norman. NAY: Robnett. ABSTAIN: None. ABSENT: None.

13. Consider a resolution authorizing the execution of a commercial sublease agreement with Kepler Aerospace, LTD., regarding certain real property located at Midland International Air & Space Port and described as a certain portion of Lot 1A, Block 13, Industrial Park Regional Air Terminal, Unit 12, Midland, Midland County, Texas. (CITY MANAGER'S OFFICE)

RESOLUTION NO. 2020 - 046

RESOLUTION APPROVING A COMMERCIAL SUBLEASE AGREEMENT BETWEEN THE MIDLAND DEVELOPMENT CORPORATION AND KEPLER AEROSPACE, LTD., REGARDING CERTAIN CITY-OWNED REAL PROPERTY LOCATED AT MIDLAND INTERNATIONAL AIR & SPACE PORT AND DESCRIBED AS A CERTAIN PORTION OF LOT 1A, BLOCK 13, INDUSTRIAL PARK REGIONAL AIR TERMINAL, UNIT 12, MIDLAND, MIDLAND COUNTY, TEXAS

Council Member Trost moved to adopt Resolution No. 2020 - 046; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Blong, Trost, Payton, Dufford, Ladd, Norman. NAY: Robnett. ABSTAIN: None. ABSENT: None.

16. Consider a motion accepting a donation in the amount of (i) \$2,000.00 from Vandergriff Group Architects and (ii) \$1,000.00 from the Hancock Group; said funds to be used for the new Animal Shelter Design and Build Project; and allocating said funds to the Animal Shelter Design and Build Project (900265). (COMMUNITY SERVICES)

Council Member Blong thanked the groups for their donation noting this is the kind of public/private project that benefits many Midlanders.

Council Member Trost moved to approve accepting a donation in the amount of (i) \$2,000.00 from Vandergriff Group Architects and (ii) \$1,000.00 from the Hancock Group; said funds to be used for the new Animal Shelter Design and Build Project; and allocating said funds to the Animal Shelter Design and Build Project (900265); seconded by Council Member Robnett. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

18. Consider a resolution of the City Council of the City of Midland, Texas supporting the proposed Merritt Sunset Housing Development; the applicant is DDC Merritt Sunset, Ltd. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2020 - 049

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS SUPPORTING THE PROPOSED MERRITT SUNSET HOUSING DEVELOPMENT; THE APPLICANT IS DDC MERRITT SUNSET, LTD.; THE PROPOSED DEVELOPMENT IS LOCATED AT THOMASON DR AND BEAL PKWY; PROVIDING AN EFFECTIVE DATE; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO CERTIFY THE RESOLUTION TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Council Member Trost asked for clarification on this item and agenda number 19 asking what the word support means overall. Development Services Director Chuck Harrington reported it meant nothing financially to the City, but we are supporting their project which helps them get funding from TDHCA.

Council Member Robnett moved to adopt Resolution No. 2020 - 049; seconded by Council Member Ladd. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

19. Consider a resolution of the City Council of the City of Midland, Texas supporting the proposed Merritt Gardens Housing Development; the applicant is DDC Merritt Gardens, Ltd. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2020 - 050

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLAND, TEXAS SUPPORTING THE PROPOSED MERRITT GARDENS HOUSING DEVELOPMENT; THE APPLICANT IS DDC MERRITT GARDENS, LTD.; THE PROPOSED DEVELOPMENT IS LOCATED AT 5606 STARBOARD; PROVIDING AN EFFECTIVE DATE; AND AUTHORIZING AND DIRECTING THE CITY SECRETARY TO CERTIFY THE RESOLUTION TO THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Council Member Robnett moved to adopt Resolution No. 2020 - 050; seconded by Council Member Norman. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

20. Consider a resolution approving the issuance of permits to Diamondback E&P LLC, for the drilling of oil and gas wells, being BILLINGS UNIT 807WA, BILLINGS UNIT 808LS, BILLINGS UNIT 808WB, and BILLINGS UNIT 819MS, generally located between 409 and 410 feet north of Green Tree Boulevard extension and between 1,373 and 1,432 feet west of North Midkiff Road extension. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2020 - 051

RESOLUTION APPROVING THE ISSUANCE OF PERMITS TO DIAMONDBACK E&P LLC ("OPERATOR") TO DRILL FOUR OIL AND GAS WELLS LOCATED IN SECTION 8, BLOCK 39, T-1-S, T&P RR CO. SURVEY, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED BETWEEN 409 FEET AND 410 FEET NORTH OF THE GREEN TREE BOULEVARD EXTENSION AND BETWEEN 1,373 FEET AND 1,432 FEET WEST OF THE NORTH MIDKIFF ROAD EXTENSION); AND WAIVING THE REQUIREMENT OF A ROAD REPAIR AGREEMENT

Oil & Gas Compliance Officer reported that Diamondback agreed to put up 24-foot sound walls during the fracing portion.

Council Member Robnett moved to adopt Resolution No. 2020 - 051; seconded by Council Member Trost. The motion carried by the following vote: AYE: Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: Blong. ABSENT: None.

21. Consider a motion on request by Maverick Engineering to defer public water, wastewater, and sidewalk improvements for Wakefield Addition and to waive the corresponding financial security guarantee valued at \$23,135.00, an amount equal to the estimated cost to construct the public infrastructure. (ENGINEERING SERVICES)

Noah Trammel, 5306 Ellen Jane Way, spoke in favor of the item noting he is trying to build a warehouse and the cost of water and sewer would take him out of the game so he could not build.

Council Member Robnett moved to approve a request by Maverick Engineering to defer public water, wastewater, and sidewalk improvements for Wakefield Addition and to waive the corresponding financial security guarantee valued at \$23,135.00, an amount equal to the estimated cost to construct the public infrastructure.; seconded by Council Member Trost. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

22. Consider a resolution approving the purchase of real property of a 2.5 acres tract out of Northwest corner of Section 5, Block 38, T-2-S, City of Midland, Midland County, Texas. (UTILITIES)

RESOLUTION NO. 2020 - 052

RESOLUTION AUTHORIZING THE PURCHASE OF REAL PROPERTY DESCRIBED AS A 2.5 ACRE TRACT OUT OF THE NORTHWEST CORNER OF SECTION 5, BLOCK 38, T-2-S, CITY OF MIDLAND, MIDLAND COUNTY, TEXAS; AUTHORIZING THE CITY MANAGER TO EXECUTE AND FILE ALL DOCUMENTS NECESSARY TO ACQUIRE SAID REAL PROPERTY INTEREST, PURCHASE TITLE INSURANCE AND POLICIES AND HOLD THE CLOSING FOR SAID ACQUISITION; APPROPRIATING FUNDS; AUTHORIZING PAYMENT FOR SAID REAL PROPERTY INTEREST, TITLE INSURANCE POLICY AND CLOSING COSTS; AND ORDERING THE CITY SECRETARY TO RECORD, OR ENSURE THAT THE TITLE COMPANY RECORDS, ALL INSTRUMENTS OF CONVEYANCE

Council Member Ladd asked for clarification as to why we are purchasing the property as opposed to the right-of-way. Utilities Director Carl Craigo reported there is a very large sewer line that goes through the property with no clear easement. With the new northeast water collection line, they will need to tie into this area and there is a possibility of tying all the lines together which would be a cost savings measure. The property could be sold once this is completed.

Council Member Robnett moved to adopt Resolution No. 2020 - 052; seconded by Council Member Blong. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

SECOND READINGS

- 24. Consider an ordinance on a second reading on a request by Jason Heller for a zone change from PD, Planned District for a Shopping Center to an amended PD, Planned Development District for a Shopping Center generally located on the northwest corner of the intersection of West Business I-20 Frontage Road and Tradewinds Boulevard. (DEVELOPMENT SERVICES) (First reading held February 11, 2020.)

ORDINANCE NO. 10053

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 1A, BLOCK 1, CYCLES ADDITION, SECTION 2, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER TO AN AMENDED PD, PLANNED DEVELOPMENT DISTRICT FOR A SHOPPING CENTER (GENERALLY LOCATED AT THE NORTHWEST CORNER OF THE INTERSECTION OF WEST BUSINESS INTERSTATE 20 FRONTAGE ROAD AND TRADEWINDS BOULEVARD); 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. 10053.

Council Member Trost moved to approve the second and final reading of Ordinance No. 10053 in accordance with the Charter of the City of Midland; seconded by Council Member Blong. The motion carried by the following vote: AYE: Blong, Trost, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: Robnett.

- 25. Consider an ordinance on a second reading on a request by Cora Lechler for a zone change from a C, Commercial District to SF-3, Single-Family Dwelling District generally located approximately 421 feet west of Cotton Flat Road and approximately 865 feet north of West Francis Avenue. (DEVELOPMENT SERVICES) (First reading held February 11, 2020.)

ORDINANCE NO. 10054

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE THE NORTH 1/2 OF THE WEST 1/3 OF TRACT 1, SNIVELY ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM C, COMMERCIAL DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED APPROXIMATELY 421 FEET WEST OF COTTON FLAT ROAD AND APPROXIMATELY 865 FEET NORTH OF WEST FRANCIS 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

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10054.

Council Member Trost moved to approve the second and final reading of Ordinance No. 10054 in accordance with the Charter of the City of Midland; seconded by Council Member Blong. The motion carried by the following vote: AYE: Blong, Trost, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: Robnett.

26. Consider an ordinance on second reading on a request for the annexation of a 40.0492-acre tract of land generally located on the west side of State Highway 158, approximately 2,372 feet north of State Highway 191 - Extraterritorial Jurisdiction. (DEVELOPMENT SERVICES) (First reading held February 11, 2020.)

ORDINANCE NO. 10055

AN ORDINANCE EXTENDING THE BOUNDARIES OF THE CITY OF MIDLAND, TEXAS, BY ADDING THERETO A CERTAIN AREA ADJOINING THE PRESENT CITY LIMITS, BEING A 40.0492-ACRE TRACT OF LAND OUT OF SECTION 35, BLOCK 40, T-1-S, T&P RR CO. SURVEY, MIDLAND COUNTY, TEXAS (GENERALLY LOCATED ON THE WEST SIDE OF STATE HIGHWAY 158, APPROXIMATELY 2,372 FEET NORTH OF STATE HIGHWAY 191); ORDERING PUBLICATION; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10055.

Council Member Robnett moved to approve the second and final reading of Ordinance No. 10055 in accordance with the Charter of the City of Midland; seconded by Council Member Ladd. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

PUBLIC HEARINGS

27. Hold a public hearing and consider an ordinance on a request by Sara Bradshaw, for a zone change from PD, Planned District for an Office Center to O-1, Office District, generally located on the southeast corner of the intersection of Andrews Highway and Tarleton Street. (DEVELOPMENT SERVICES)

ORDINANCE NO. 10058

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOTS 3 AND 4, BLOCK 6, LILLY HEIGHTS ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM PD, PLANNED DEVELOPMENT DISTRICT FOR AN OFFICE CENTER TO O-1, OFFICE DISTRICT (GENERALLY LOCATED AT THE SOUTHEAST CORNER OF THE INTERSECTION OF ANDREWS HIGHWAY AND TARLETON 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

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10058.

Mayor Payton opened the public hearing at 10:58 a.m. There being no one present wishing to speak, the public hearing was immediately closed.

Council Member Robnett moved approval of the first of two readings of Ordinance No. 10058 in accordance with the Charter of the City of Midland; seconded by Council Member Blong. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

28. Hold a public hearing and consider an ordinance on a request by Western International (BGC Midland DNTN Land Acquisition, LLC). for a vacation of the 0.496-acre portion of

W. Indiana Avenue right-of-way, generally located approximately 380 feet south of West Missouri Avenue between South Marienfeld Street and South Big Spring Street. (DEVELOPMENT SERVICES)

ORDINANCE NO. 10059

AN ORDINANCE VACATING AND ABANDONING A 0.496-ACRE PORTION OF WEST INDIANA AVENUE RIGHT-OF-WAY LOCATED ADJACENT TO BLOCKS 88 AND 93, ORIGINAL TOWN ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED APPROXIMATELY 380 FEET SOUTH OF WEST MISSOURI AVENUE, BETWEEN SOUTH MARIENFELD STREET AND SOUTH BIG SPRING STREET); ADOPTING THE APPRAISAL BY THE CITY MANAGER OF \$43,212.00; AND ORDERING RECORDATION BY THE CITY SECRETARY

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10059.

Council Member Ladd stated he was not opposed to the hotel but does have a problem with the abatement. He asked if the right-of-way was still needed if they only build one hotel. Development Services Director Chuck Harrington noted they would have to redo their site plan.

Mayor Payton opened the public hearing at 11:01 a.m.

Michael Mahoney reported that the parking on the west side of the roundabout is based on existing parking requirements and that parking is necessary for the current hotel. Without it, they will be short on parking. One other noteworthy item regarding the \$43,000 is the requirement for trees and landscaping on both sides and public improvements. Council Member Blong agreed it would make that area in town much more attractive.

There being no one else wishing to speak, the public hearing was closed at 11:02 a.m.

Council Member Trost moved approval of the first of two readings of Ordinance No. 10059 in accordance with the Charter of the City of Midland; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd. NAY: Norman. ABSTAIN: None. ABSENT: None.

29. Hold a public hearing and consider an ordinance on a request by Elsa Marquez for a zone change from a MF-22, Multiple-Family Dwelling District to SF-3, Single-Family Dwelling District generally located on the west side of North Tyler Street, approximately 100 feet south of East Texas Avenue. (DEVELOPMENT SERVICES)

ORDINANCE NO. 10060

AN ORDINANCE AMENDING THE ZONING DISTRICT MAP OF THE CITY OF MIDLAND TO REZONE LOT 3, LESS THE SOUTH 10 FEET, BLOCK 26, MOODY ADDITION, CITY AND COUNTY OF MIDLAND, TEXAS, FROM MF-22, MULTIPLE-FAMILY DWELLING DISTRICT TO SF-3, SINGLE-FAMILY DWELLING DISTRICT (GENERALLY LOCATED ON THE WEST SIDE OF NORTH TYLER STREET, APPROXIMATELY 100 FEET SOUTH OF EAST TEXAS 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

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10060.

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

Council Member Robnett moved approval of the first of two readings of Ordinance No. 10060 in accordance with the Charter of the City of Midland; seconded by Council Member Ladd. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

30. Hold a public hearing and consider a resolution on a request by Manuel Rebecchi, for a Temporary Land Use Permit for an Acrobatic Show generally located on the south side of West Loop 250 North approximately 1,116 feet west of North Midkiff Street. (DEVELOPMENT SERVICES)

RESOLUTION NO. 2020 - 053

RESOLUTION AUTHORIZING THE TEMPORARY USE OF LAND FOR AN ACROBATIC SHOW ON LOT 9, BLOCK 17, SKYLINE TERRACE, UNIT 7, CITY AND COUNTY OF MIDLAND, TEXAS (GENERALLY LOCATED ON THE SOUTH SIDE OF WEST LOOP 250 NORTH, APPROXIMATELY 1,116 FEET WEST OF NORTH MIDKIFF ROAD); AND MAKING SAID PERMIT SUBJECT TO CERTAIN SPECIAL CONDITIONS AND RESTRICTIONS CONTAINED HEREIN

Development Services Director Chuck Harrington noted this is for a Temporary Land Use Permit for an acrobatic circus. This morning they received a letter of objection from J.C. Penny who is the property owner. The application received was from the mall who signed as the owner. The mall thought they had approval.

Mayor Payton opened the public hearing at 11:05 a.m.

Brenda Scott, marketing director for Midland Park Mall, was surprised when she got the objection this morning. She had been advised it was okay. They can relocate to the same location as the May 2017 carnival on the front of the Mall as that area is fully owned by the mall. City Attorney John Ohnemiller cautioned that a public notice was sent to folks within a specific radius and it would need to have a new public notice sent out.

Mr. Harrington noted there is a two-week time constraint before the event so there would not be time to bring this back before Council.

There being no one else wishing to speak, the public hearing was closed at 11:08 a.m.

Mr. Harrington noted that staff has the authority to approve return events. City Attorney Ohnemiller noted that Council could delegate approval authority to the City Manager.

Council Member Robnett moved to adopt Resolution No. 2020 - 053 with the amendment to delegate the final approval to the City Manager; seconded by Council Member Trost. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

MISCELLANEOUS

31. Consider an ordinance amending Title II, "Commissions and Boards," Chapter 10, "Animal Control Advisory Commission," Section 2, "Membership," of the City Code of Midland, Texas, so as to increase the number of commission members to seven. (COMMUNITY SERVICES)

ORDINANCE NO. 10061

AN ORDINANCE AMENDING TITLE II, "COMMISSIONS AND BOARDS," CHAPTER 10, "ANIMAL CONTROL ADVISORY COMMISSION," SECTION 2, "MEMBERSHIP," OF THE CITY CODE OF MIDLAND, TEXAS, SO AS TO INCREASE THE NUMBER OF COMMISSION MEMBERS TO SEVEN (7); CONTAINING A CUMULATIVE CLAUSE; CONTAINING A SAVINGS AND SEVERABILITY CLAUSE; AND ORDERING PUBLICATION

Deputy City Secretary SueAnn Reyes read the caption of Ordinance No. 10061.

Community Services Director Tina Jauz reported they are preparing for the opening of the new Animal Services Facility and wanted to beef up the number of board members and get more people engaged prior to the opening.

Council Member Robnett moved approval of the first of two readings of Ordinance No. 10061 in accordance with the Charter of the City of Midland; seconded by Council Member Norman. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

32. Approved a motion making appointments to various Boards and Commissions.

Mayor Payton noted that he spoke with MDC and has asked them to consider asking for a change in their by-laws to put no more than seven people on their board. He asked Council if they would support that change. Consensus was received.

Mayor Payton asked Council how much time they need to review the applications. It was suggested to consider at the March 9th meeting. Mayor Payton asked to push to April to allow staff time to review applications and make recommendations.

Council Member Ladd moved to appoint Council Member Blong to temporarily fill the vacancy on the MDC board; seconded by Council Member Dufford. The motion carried by the following vote: AYE: Blong, Trost, Robnett, Payton, Dufford, Ladd, Norman. NAY: None. ABSTAIN: None. ABSENT: None.

Council Member Robnett moved to appoint Zachary Deck and Frank Tarzian to the Midland Spaceport Development Corporation; seconded by Council Member Ladd. The motion carried by the following vote: AYE: Blong, Robnett, Payton, Dufford, Ladd. NAY: Trost, Norman. ABSTAIN: None. ABSENT: None.

PUBLIC COMMENT

33. Receive public comments where individuals may address the City Council on City related issues and projects not on the present agenda. 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.)

Keith Dial, Odessa, noted that Karen Patterson would be giving the results of the West Texas spay and neuter event that was held at the Horseshoe Arena. They had nearly 400 animals altered at the event. He noted that Mayor Payton, when sworn in, called for West Texas exceptionalism and he hopes this program will begin that type of behavior. Mayor Payton also asked everyone to get off their bottoms and do the work necessary and that's what this program does. They have two upcoming events in Odessa and Midland and they may be calling on the City again for help.

Karen Patterson, 4921 North County Road 1147, reported they believe in a high-volume, low-cost spay and neuter. In the past few months they have amassed a large volume of donors and volunteers to help support this concept noting no one is paid except for the vet and the vet techs. They are trying to make a difference in animal overpopulation. They provided services to 398 animals with an average cost of \$75 before the voucher in three days. They did around 800 vaccinations with the majority not being current on their rabies. Their next clinic is March 12-15 in Odessa which is open to Midland residents as well. They are looking for a location for the April 23-26 event noting it will only work if the location is free. She asked for the City's support. They would also like to amend the current spay and neuter voucher ordinance to reduce barriers to low-income families from obtaining a voucher.

Dustin Johnson, 700 McDonald, reported he is with the skate park association and has been emailing for help because their drains are not working, and the lights are going off early. He also asked for benches at the skate park so people who are watching have a place to sit.

Shirley Howard, 405 E Magnolia, noted her leadership conference is coming up in March There will be representatives from seven southern states. They have about 500 registered to date. They need volunteers to help make this event work. She provided information about some of their workshops.

Mayor Payton recessed the meeting 11:44 a.m.

EXECUTIVE SESSION

34. 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 551.071, Consultation with Attorney
 - a.1. Discuss a matter 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.
 - b. Section 551.072, Deliberation Regarding Real Property

b.1. Discuss the purchase, exchange, lease, or value of real property described as an 11.72-acre tract located in Section 13, Block 39, T-1-S, T&P RR Co. Survey, City and County of Midland, Texas.

c. 551.074 Personnel Matters

c.1. Deliberate the appointment and duties of the Municipal Court Presiding Judge and interview candidates for said position.

All the business at hand having been completed, the meeting adjourned at 1:34 p.m.

PASSED AND APPROVED the 24th day of March 2020.

Patrick Payton, Mayor

ATTEST:

Amy M. Turner, City Secretary