

UNAPPROVED

June 8, 2006

A special meeting of the City Council was held on Thursday, June 8, 2006, at 6:30 p.m. in Conference Room B in City Hall. Mayor Johnson presided.

Councilmen present: Thomas Adams, Bruce Johnson, Hollis McKeag, James Myers, Joseph Rokosz

Councilmen absent: None

Council interviewed Dorwood "Ernie" Bedford, Jr., Gayle Hanna, Michael Kapp and Richard Osburn for vacancies on various boards and commissions and made the following appointments:

CABLE ACCESS ADVISORY COMMISSION

The following resolution was offered by Councilman McKeag and seconded by Councilman Rokosz:

RESOLVED, that Dorwood Ernest Bedford, Jr. is hereby appointed as citizen-at-large member of the Cable Access Advisory Commission to fill a term expiring June 30, 2009. (Motion ADOPTED.)

LOCAL OFFICERS COMPENSATION COMMISSION

The following resolution was offered by Councilman Rokosz and seconded by Councilman McKeag:

RESOLVED, that Richard Osburn and Joan Brausch are hereby appointed as citizen-at-large members of the Local Officers Compensation Commission to fill terms expiring June 30, 2010 and June 30, 2013 respectively. (Motion ADOPTED.)

PLANNING COMMISSION

The following resolution was offered by Councilman Rokosz and seconded by Councilman McKeag:

RESOLVED, that Gayle Hanna is hereby appointed as a citizen-at-large member of Midland Planning Commission to fill a term expiring June 30, 2008. (Motion ADOPTED.)

WEST MAIN STREET HISTORIC DISTRICT COMMISSION

The following resolution was offered by Councilman McKeag and seconded by Councilman Myers:

RESOLVED, that Richard Osburn and Dorwood Ernest Bedford, Jr. are hereby appointed as citizen-at-large members of the West Main Street Historic District Commission to fill terms expiring June 30, 2008 and June 30, 2009 respectively; and
RESOLVED FURTHER, that Jacinth Black is hereby appointed as a historical society representative to the West Main Street Historic District Commission with a term expiring June 30, 2009. (Motion ADOPTED.)

Being no further business the meeting adjourned at 7:57 p.m.

Selina Tisdale, City Clerk

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June 12, 2006

A regular meeting of the City Council was held on Monday, June 12, 2006, at 7:00 p.m. in the Council Chambers of City Hall. Mayor Johnson presided. The Pledge of Allegiance to the Flag was recited in unison.

Councilmen present: Thomas Adams, Bruce Johnson, Hollis McKeag, James Myers, Joseph Rokosz
Councilmen absent: None

MINUTES

Approval of the minutes of the May 22, 2006 regular, May 30, 2006 and June 1, 2006 special meetings was offered by Councilman Myers and seconded by Councilman McKeag. (Motion ADOPTED.)

DOT HORNSBY DAY

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

RESOLVED, that the Mayor is authorized to issue the attached proclamation designating June 16, 2006, as Dot Hornsby Day in Midland. (Motion ADOPTED.)

AMATEUR RADIO WEEK

Communications Coordinator Libby Richart introduced Midland Amateur Radio Club Treasurer Larry Macklin who spoke regarding a proclamation proclaiming June 18-25, 2006 as Amateur Radio Week in Midland. The following resolution was offered by Councilman McKeag and seconded by Councilman Myers:

RESOLVED, that the Mayor is authorized to issue the attached proclamation designating the week of June 18-25, 2006, as Amateur Radio Week in Midland. (Motion ADOPTED.) Mayor Johnson presented the proclamation to Midland Amateur Radio Club Member Larry Macklin.

2005 POLICE OFFICER OF THE YEAR

Police Chief James St. Louis introduced Warrant Officer Marc Purtell as the 2005 Carl and Esther Gerstacker Law Enforcement Officer of the Year recipient. The following resolution was then offered by Councilman McKeag and seconded by Councilman Rokosz:

RESOLVED, that the City Council hereby recognizes Midland City Police Warrant Officer Marc Purtell as the Midland Exchange Club recipient for the 2005 Carl & Esther Gerstacker Law Enforcement Officer of the Year. (Motion ADOPTED.)

ZONING PETITION NO. 530

Assistant City Manager Jon Lynch introduced Zoning Petition No. 530 – a request to rezone property at 4203 E. Ashman Street from Industrial A to Residential B zoning. A public hearing opened at 7:24 p.m., recognizing no public comments, the hearing closed at 7:24 p.m. The following ordinance amendment was then offered by Councilman McKeag and seconded by Councilman Myers:

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ORDINANCE NO. 1585, BEING AN ORDINANCE TO REGULATE AND RESTRICT THE LOCATION OF TRADES AND INDUSTRIES AND THE LOCATION OF BUILDINGS DESIGNED FOR SPECIFIC USES, TO REGULATE AND LIMIT THE HEIGHT AND BULK OF BUILDINGS HEREAFTER ERECTED OR ALTERED, TO

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REGULATE AND DETERMINE THE AREA OF YARDS, COURTS, AND OTHER OPEN SPACES SURROUNDING BUILDINGS, TO REGULATE AND LIMIT THE DENSITY OF POPULATION, AND FOR SAID PURPOSES, TO DIVIDE THE CITY INTO DISTRICTS AND PRESCRIBE PENALTIES FOR THE VIOLATION OF ITS PROVISIONS BY AMENDING THE ZONING MAP TO PROVIDE A RESIDENTIAL B ZONING WHERE A INDUSTRIAL A ZONING DISTRICT PRESENTLY EXISTS.

The City of Midland Ordains:

Section 1. That the Zoning Map of Ordinance No. 1585, being the Zoning Ordinance of the City of Midland, is hereby amended as follows:

COMMENCING TWENTY (20) RODS (334.54') EAST OF THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SECTION 12, T14N, R2E FOR THE POINT OF BEGINNING, THENCE NORTH EIGHTY (80) RODS (1317.61'); THENCE EAST TWENTY (20) RODS (332.70'); THENCE SOUTH EIGHTY (80) RODS (1317.22'); THENCE WEST TWENTY (20) RODS (334.54') TO THE POINT OF BEGINNING, CONTAINING TEN (10) ACRES OF LAND, BEING A PART OF SOUTHWEST ¼ OF THE SOUTHEAST ¼, SECTION 12, CITY OF MIDLAND, MIDLAND COUNTY, MICHIGAN.

be, and the same is hereby changed to Residential B.

Section 2. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 3. This Ordinance shall take effect upon publication. (Ordinance DENIED. Yeas: None Nays: Adams, Johnson, McKeag, Myers, Rokosz)

CONDITIONAL USE PERMIT NO. 22

Assistant City Manager Jon Lynch introduced Conditional Use Permit No. 22 – a request to allow a single family dwelling in an Office Service Zone at 416 George Street. A public hearing opened at 7:33 p.m. The petitioner Tom McCann spoke in favor of the request. The hearing closed at 7:35 p.m. The following resolution was offered by Councilman McKeag and seconded by Councilman Myers:

WHEREAS, Tom McCann has submitted a request for a conditional use permit review and approval to allow a single family dwelling in an office service zone at 416 George Street; and WHEREAS, the City Planning Commission has conducted a public hearing in accord with Section 28.02(A) of the Zoning Ordinance of the City of Midland on said conditional use; and WHEREAS, the Planning Commission has submitted its recommendation of approval, contingent upon the following:

1. The proposed garage is illustrated on the site plan and meets applicable setbacks.

2. Driveway locations and the curb cut are illustrated on the site plan.

in accord with Section 28.02(B) of the Zoning Ordinance of the City of Midland; now therefore RESOLVED, that the City Council finds the request for the conditional use permit to be in accord with Section 28.03 of the Zoning Ordinance of the City of Midland, and hereby approves Conditional Use Permit No. 22, in accord with documents provided and submitted at the meeting of May 22, 2006. (Motion ADOPTED.)

DOW CHEMICAL & DOW AGROSCIENCES IFT APPLICATIONS – PUBLIC HEARINGS

City Assessor Reid Duford introduced three Industrial Facilities Exemption Certificate applications for The Dow Chemical Company and one for Dow Agrosiences, LLC. A public hearing opened at 7:40 p.m. Midland Tomorrow Executive Director Scott Walker spoke in favor of the exemption certificates. Michigan Operations Site Logistics Leader Kevin DeLine outlined the projects and encouraged Council support. The following four resolutions were then presented for consideration:

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DOW CHEMICAL COMPANY – IFT APPLICATION (\$1,500,000)

The following resolution was offered by Councilman McKeag and seconded by Councilman Adams:

WHEREAS, the Michigan Division Dow Chemical Company Plant Rehabilitation District No. 1 was established by resolution of the Midland City Council on September 25, 1978; and

WHEREAS, The Dow Chemical Company made an application dated May 4, 2006, which was received by the City Clerk on May 5, 2006, for an Industrial Facilities Exemption Certificate relating to approval of a new facility within said District; and

WHEREAS, the application for the certificate is for approval of a new facility with the total project cost of \$1,500,000, which includes \$1,000,000 in new personal property and \$500,000 in real property improvements with the same being located within the Michigan Division Dow Chemical Company Plant Rehabilitation District No. 1 to allow The Dow Chemical Company to make facility upgrades to both real and personal property within the 438 and 354 Buildings to accommodate commercial scale product development equipment and to establish consolidated product testing; and

WHEREAS, the City Council, by written notice, afforded the applicant, the City Assessor, and representatives of each affected taxing unit an opportunity for a hearing on June 12, 2006, as required by Public Act 198 of Public Acts of the State of Michigan of 1974, as amended, and has given due consideration to all information presented; and

WHEREAS, the application appears to comply with the requirements set forth in Section 9 of said statute, as amended, in that the proposed facility is located within a plant rehabilitation district that was duly established within the City of Midland with the City of Midland being eligible under said statute to establish such a district and with the district having been established upon a request before the commencement of the restoration, replacement or construction of the facility described herein; that the commencement of this project did not occur earlier than six months before the filing of the application for the industrial facilities exemption certificate, that the application relates to a construction, restoration or replacement program that when completed constitutes a new or replacement facility within the meaning of said statute and is situated within a previously established plant rehabilitation district that was established in the City of Midland which was itself eligible under the statute to establish the district; that completion of the facility is calculated to, and will at the time of the issuance of the certificate, have the reasonable likelihood to create employment, retain employment, prevent a loss of employment or produce energy in the community; now therefore

RESOLVED, that the City Council of the City of Midland finds and determines that the granting of the industrial facilities exemption certificate requested by The Dow Chemical Company considered together with the aggregate amount of industrial facilities exemption certificates previously granted and currently in force, shall not have the effect of substantially impeding the operation of the City of Midland or impairing the financial soundness of any other taxing unit which levies an ad valorem property tax in the City of Midland; and

RESOLVED FURTHER, that said application for an Industrial Facilities Exemption certificate from The Dow Chemical Company for a new facility approval within the Plant Rehabilitation District be and the same is hereby approved for a period of 12 years with an ending date of December 30, 2018; and

RESOLVED FURTHER, that the Mayor and City Clerk are authorized to execute the Public Act 198 Agreement submitted between the City and The Dow Chemical Company pursuant to P.A. 334 of Public Acts of the State of Michigan of 1993. (Motion ADOPTED.)

DOW CHEMICAL COMPANY – IFT APPLICATION (\$6,000,000)

The following resolution was offered by Councilman McKeag and seconded by Councilman Myers:

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WHEREAS, the Michigan Division Dow Chemical Company Plant Rehabilitation District No. 1 was established by resolution of the Midland City Council on September 25, 1978; and WHEREAS, The Dow Chemical Company made an application dated May 4, 2006, which was received by the City Clerk on May 5, 2006, for an Industrial Facilities Exemption Certificate relating to approval of a new facility within said District; and

WHEREAS, the application for the certificate is for approval of a new facility with the total project cost of \$6,000,000, which includes \$5,800,000 in new personal property and \$200,000 in real property improvements with the same being located within the Michigan Division Dow Chemical Company Plant Rehabilitation District No. 1 to allow The Dow Chemical Company to make building additions and modifications and to purchase personal property for a Dow Automotive performance center project linked to project Daytona that will allow development of low volumes of specialty products and new technologies to be implemented prior to large volume production; and

WHEREAS, the City Council, by written notice, afforded the applicant, the City Assessor, and representatives of each affected taxing unit an opportunity for a hearing on June 12, 2006, as required by Public Act 198 of Public Acts of the State of Michigan of 1974, as amended, and has given due consideration to all information presented; and

WHEREAS, the application appears to comply with the requirements set forth in Section 9 of said statute, as amended, in that the proposed facility is located within a plant rehabilitation district that was duly established within the City of Midland with the City of Midland being eligible under said statute to establish such a district and with the district having been established upon a request before the commencement of the restoration, replacement or construction of the facility described herein; that the commencement of this project did not occur earlier than six months before the filing of the application for the industrial facilities exemption certificate, that the application relates to a construction, restoration or replacement program that when completed constitutes a new or replacement facility within the meaning of said statute and is situated within a previously established plant rehabilitation district that was established in the City of Midland which was itself eligible under the statute to establish the district; that completion of the facility is calculated to, and will at the time of the issuance of the certificate, have the reasonable likelihood to create employment, retain employment, prevent a loss of employment or produce energy in the community; now therefore

RESOLVED, that the City Council of the City of Midland finds and determines that the granting of the industrial facilities exemption certificate requested by The Dow Chemical Company considered together with the aggregate amount of industrial facilities exemption certificates previously granted and currently in force, shall not have the effect of substantially impeding the operation of the City of Midland or impairing the financial soundness of any other taxing unit which levies an ad valorem property tax in the City of Midland; and

RESOLVED FURTHER, that said application for an Industrial Facilities Exemption certificate from The Dow Chemical Company for a new facility approval within the Plant Rehabilitation District be and the same is hereby approved for a period of 12 years "after completion"; and

RESOLVED FURTHER, that the Mayor and City Clerk are authorized to execute the Public Act 198 Agreement submitted between the City and The Dow Chemical Company pursuant to P.A. 334 of Public Acts of the State of Michigan of 1993. (Motion ADOPTED.)

DOW CHEMICAL COMPANY – IFT APPLICATION (\$15,700,000)

The following resolution was offered by Councilman McKeag and seconded by Councilman Adams:

WHEREAS, the Michigan Division Dow Chemical Company Plant Rehabilitation District No. 1 was established by resolution of the Midland City Council on September 25, 1978; and

WHEREAS, The Dow Chemical Company made an application dated May 10, 2006, which was received by the City Clerk on May 10, 2006, for an Industrial Facilities Exemption Certificate relating to approval of a new facility within said District; and

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WHEREAS, the application for the certificate is for approval of a new facility with the total project cost of \$15,700,000, which includes \$13,600,000 in new personal property and \$2,100,000 in real property improvements with the same being located within the Michigan Division Dow Chemical Company Plant Rehabilitation District No. 1 to allow The Dow Chemical Company to make a building addition and purchase personal property for a DowPharma project involving the production of an active pharmaceutical product in Building 1 at Dow's Michigan Operations; and

WHEREAS, the City Council, by written notice, afforded the applicant, the City Assessor, and representatives of each affected taxing unit an opportunity for a hearing on June 12, 2006, as required by Public Act 198 of Public Acts of the State of Michigan of 1974, as amended, and has given due consideration to all information presented; and

WHEREAS, the application appears to comply with the requirements set forth in Section 9 of said statute, as amended, in that the proposed facility is located within a plant rehabilitation district that was duly established within the City of Midland with the City of Midland being eligible under said statute to establish such a district and with the district having been established upon a request before the commencement of the restoration, replacement or construction of the facility described herein; that the commencement of this project did not occur earlier than six months before the filing of the application for the industrial facilities exemption certificate, that the application relates to a construction, restoration or replacement program that when completed constitutes a new or replacement facility within the meaning of said statute and is situated within a previously established plant rehabilitation district that was established in the City of Midland which was itself eligible under the statute to establish the district; that completion of the facility is calculated to, and will at the time of the issuance of the certificate, have the reasonable likelihood to create employment, retain employment, prevent a loss of employment or produce energy in the community; now therefore

RESOLVED, that the City Council of the City of Midland finds and determines that the granting of the industrial facilities exemption certificate requested by The Dow Chemical Company considered together with the aggregate amount of industrial facilities exemption certificates previously granted and currently in force, shall not have the effect of substantially impeding the operation of the City of Midland or impairing the financial soundness of any other taxing unit which levies an ad valorem property tax in the City of Midland; and

RESOLVED FURTHER, that said application for an Industrial Facilities Exemption certificate from The Dow Chemical Company for a new facility approval within the Plant Rehabilitation District be and the same is hereby approved for a period of 12 years with an ending date of December 30, 2018; and

RESOLVED FURTHER, that the Mayor and City Clerk are authorized to execute the Public Act 198 Agreement submitted between the City and The Dow Chemical Company pursuant to P.A. 334 of Public Acts of the State of Michigan of 1993. (Motion ADOPTED.)

DOW AGROSCIENCES, LLC – IFT APPLICATION

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, the Michigan Division Dow Chemical Company Plant Rehabilitation District No. 1 was established by resolution of the Midland City Council on September 25, 1978; and

WHEREAS, Dow Agrosciences, LLC made an application dated May 4, 2006, which was received by the City Clerk on May 5, 2006, for an Industrial Facilities Exemption Certificate relating to approval of a new facility within said District; and

WHEREAS, the application for the certificate is for approval of a new facility with the total project cost of \$6,855,000, which includes \$6,765,000 in new personal property and \$90,000 in real property improvements with the same being located within the Michigan Division Dow Chemical Company Plant Rehabilitation District No. 1, and being intended to allow Dow Agrosciences, LLC to rehabilitate, reconfigure and re-pipe existing structures and equipment at

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the 680 and 1000 Buildings at Michigan Operations for the production of DE-742, a new cereal herbicide; and

WHEREAS, the City Council, by written notice, afforded the applicant, the City Assessor, and representatives of each affected taxing unit an opportunity for a hearing on June 12, 2006, as required by Public Act 198 of Public Acts of the State of Michigan of 1974, as amended, and has given due consideration to all information presented; and

WHEREAS, the application appears to comply with the requirements set forth in Section 9 of said statute, as amended, in that the proposed facility is located within a plant rehabilitation district that was duly established within the City of Midland with the City of Midland being eligible under said statute to establish such a district and with the district having been established upon a request before the commencement of the restoration, replacement or construction of the facility described herein; that the commencement of this project did not occur earlier than six months before the filing of the application for the industrial facilities exemption certificate, that the application relates to a construction, restoration or replacement program that when completed constitutes a new or replacement facility within the meaning of said statute and is situated within a previously established plant rehabilitation district that was established in the City of Midland which was itself eligible under the statute to establish the district; that completion of the facility is calculated to, and will at the time of the issuance of the certificate, have the reasonable likelihood to create employment, retain employment, prevent a loss of employment or produce energy in the community; now therefore

RESOLVED, that the City Council of the City of Midland finds and determines that the granting of the industrial facilities exemption certificate requested by Dow Agrosciences, LLC considered together with the aggregate amount of industrial facilities exemption certificates previously granted and currently in force, shall not have the effect of substantially impeding the operation of the City of Midland or impairing the financial soundness of any other taxing unit which levies an ad valorem property tax in the City of Midland; and

RESOLVED FURTHER, that said application for an Industrial Facilities Exemption certificate from Dow Agrosciences, LLC for a new facility approval within the Plant Rehabilitation District be and the same is hereby approved for a period of 12 years "after completion"; and

RESOLVED FURTHER, that the Mayor and City Clerk are authorized to execute the Public Act 198 Agreement submitted between the City and Dow Agrosciences, LLC pursuant to P.A. 334 of Public Acts of the State of Michigan of 1993. (Motion ADOPTED.)

PUBLIC COMMENTS

No public comments were made.

WATER & SEWER RATES ORDINANCE AMENDMENTS

Utilities Director Noel Bush presented information on amendments to the City of Midland Water and Sewer Rates. The following two amendments were then presented for first reading and consideration:

WATER RATES AMENDMENT – FIRST READING

Introduction and first reading of the following ordinance amending water rates was offered by Councilman McKeag and seconded by Councilman Adams:

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF MIDLAND, MICHIGAN, BY AMENDING SECTION 28-52 OF DIVISION 3 OF ARTICLE II OF CHAPTER 28 THEREOF.

The City of Midland Ordains:

Section 1. Section 28-52 of Division 3 of Article II of Chapter 28 of the Code of Ordinances is hereby amended to read as follows:

Sec. 28-52. Filtered water rate generally.

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The city's methodology of adjusting water rates shall be in accordance with the cost of service water and sewer rate study prepared by the city's consultant, presented to and approved by the council in 1993 and shall be in conformity with the findings set forth in section 28-2 of this chapter.

All filtered water bills shall be calculated according to the following:

- (1) For each one thousand (1,000) gallons used per quarter: ~~\$1.03~~ \$1.06

In addition to the rate set forth in this section for the use of water, there shall be a readiness-to-serve charge per quarter on each metered service as follows:

<u>Metered Service</u>	<u>Amount</u>	<u>AMOUNT</u>
5/8" - 3/4"	\$27.42	\$28.74
1"	35.65	\$37.36
1 - 1/2"	43.87	\$45.98
2"	71.29	\$74.72
3"	274.20	\$287.40
4"	356.46	\$373.62
6"	520.98	\$546.06
8"	740.34	\$775.98

- (2) Gross rates shall be ten (10) percent greater than the above schedule of rates and shall be charged for water service paid for after the date shown on the bills.

Section 2. This ordinance shall take effect upon publication. (Motion ADOPTED. Considered first reading.)

SEWER RATES AMENDMENT – FIRST READING

Introduction and first reading of the following ordinance amending sewer rates was offered by Councilman McKeag and seconded by Councilman Rokosz:

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF MIDLAND, MICHIGAN, BY AMENDING SECTION 28-163 OF DIVISION 3 OF ARTICLE III OF CHAPTER 28 THEREOF.

The City of Midland Ordains:

Section 1. Section 28-163 of Division 3 of Article III of Chapter 28 of the Code of Ordinances is hereby amended to read as follows:

Sec. 28-163. Amount of sewer charge.

The city's methodology of adjusting sewer rates shall be in accordance with the cost of service water and sewer rate study prepared by the city's consultant, presented to and approved by the council in 1993 and shall be in conformity with the findings set forth in Section 28-4 of this chapter.

The charges for sewer service shall be calculated according to the following schedule:

- (1) There shall be a readiness-to-serve charge per quarter on each metered water service as follows:

<u>Metered Service</u>	<u>Amount</u>	<u>AMOUNT</u>
5/8" - 3/4"	\$32.14	\$33.77
1"	41.78	\$43.90
1 - 1/2"	51.42	\$54.03
2"	83.56	\$87.80
3"	324.40	\$337.69
4"	417.82	\$439.00
6"	640.66	\$641.61

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8" 867.78 \$911.77

- (2) In addition to the readiness-to-serve charge set forth in subsection (1) of this section, there will be an additional charge for sewer service, which will be calculated as follows:

For each 1,000 gallons of water used per quarter: \$1.57 \$1.61

However, bills for sewer services for two (2) summer quarters for domestic customers, schools and churches shall be based on the average consumption during two (2) winter quarters. In cases where there is no previous consumption upon which to base bills for sewer services in the summer quarters, twenty-five thousand (25,000) gallons or actual consumption, whichever is the least, shall be used.

Section 2. This ordinance shall take effect upon publication. (Motion ADOPTED. Considered first reading.)

PROPOSED STREET FUNDS TRANSFER – BASEBALL STADIUM

Assistant City Manager Jon Lynch spoke regarding a public hearing scheduled for June 26, 2006 regarding an amendment to the 2006-07 major street fund and local street fund budgets to recognize additional revenue from County Road Millage and transfer funds for the construction of infrastructure improvements to support the new baseball stadium facility. He also introduced a resolution appointing Director of Public Services Martin McGuire to serve as the City's representative on the Michigan Baseball Foundation. Michigan Baseball Foundation Vice President and Secretary Michael Hayes spoke regarding the baseball stadium project and the appointment of Martin McGuire to the foundation board. The following resolution was then offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, the Michigan Baseball Foundation has submitted a request that the City of Midland undertake construction of public improvements supporting a baseball stadium; and

WHEREAS, such improvements are anticipated in Site Plan No. 250 which was approved by the City Council in March of 2006; and

WHEREAS, the City of Midland has been unsuccessful is securing grant funding to finance construction of said improvements; and

WHEREAS said improvements consist of a public water main valued at \$180,000 and improvements to Mill Street, Haley Street, East Buttles Street, Lyon Street, and East Indian Street valued at \$450,000; and

WHEREAS installation of the water main is to be financed via a transfer within the existing Water Fund budget; now therefore

RESOLVED, that in accord with Section 11.6 of the Charter of the City of Midland, a public hearing shall be conducted at 7:00 p.m., Monday, June 26, 2006, in the Council Chambers of City Hall on the proposal to amend the Major Street Maintenance Fund and Local Street Maintenance Fund 2006-07 budgets to recognize \$450,000 of additional county road millage, and to increase appropriations by \$450,000 to transfer \$410,000 to the Major Street Construction Fund and \$40,000 to the Local Street Construction Fund. (Motion ADOPTED.)

CITY REP FOR THE MICHIGAN BASEBALL FOUNDATION

The following resolution was offered by Councilman Adams and seconded by Councilman Rokosz:

WHEREAS, the Michigan Baseball Foundation has submitted a request that Marty McGuire, Director of Public Services for the City of Midland, be appointed to the Michigan Baseball Foundation Board of Directors; now therefore

RESOLVED, that the City Council hereby appoints Marty McGuire as the City of Midland's representative on the Michigan Baseball Foundation. (Motion ADOPTED.)

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SITE PLAN NO. 252

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, the City Council has received the recommendation of the City Planning Commission for approval of Site Plan No. 252, the request of Helger Construction on behalf of Feeny Chrysler to construct a 13,347 square foot addition of a new body shop, paint shop and wash bay at 7400 Eastman Avenue on 7.13 acres; and

WHEREAS, the City Council has reviewed the proposed Site Plan No. 252 in accord with the provisions set forth in Sections 27.02(A) and 27.06(A) of the Zoning Ordinance of the City of Midland; now therefore

RESOLVED, that the City Council does hereby approve Site Plan No. 252, contingent upon the following:

1. Stormwater detention system is re-verified to determine that it can handle the new runoff.
2. Verification that the private sanitary system will handle the additional capacities.
3. New and relocated exterior lighting shall be fully shielded and not exceed 1.0 foot candle of illumination at the property line.
4. Any new or restriped parking spaces must be delineated with "box" style striping.

(Motion ADOPTED.)

SITE PLAN NO. 253

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, the City Council has received the recommendation of the City Planning Commission for approval of Site Plan No. 253, the request of Three Rivers Corporation on behalf of Members First Credit Union to construct a 22,173 square foot addition at 600 West Wackerly Street on 3.11 acres; and

WHEREAS, the City Council has reviewed the proposed Site Plan No. 253 in accord with the provisions set forth in Sections 27.02(A) and 27.06(A) of the Zoning Ordinance of the City of Midland; now therefore

RESOLVED, that the City Council does hereby approve Site Plan No. 253, contingent upon the following:

1. The stormwater detention system is designed and constructed in accord with Engineering Department requirements.
2. All exterior lighting adheres to Section 3.12 of the Zoning Ordinance.
3. All landscaping adheres to Article 6 of the Zoning Ordinance.
4. All parking spaces must be delineated with "box" style striping.
5. Any proposed site signage adheres to Article 8 of the Zoning Ordinance.

(Motion ADOPTED.)

ROLLING MEADOWS ESTATES NO. 1 – TIME EXTENSION

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, the City Council has received a request from Gary Bartow, Bartow & King Engineers, on behalf of Prodo Inc., for a one-year time extension for the Tentative Approval of the Preliminary Plat of Rolling Meadows Estates No. 1; and

WHEREAS, Tentative Approval of the Preliminary Plat expires June 27, 2006; and

WHEREAS, the City Council has reviewed the request for the time extension of the Tentative Approval of the Preliminary Plat of Broadhead Estates No. 2; now therefore

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RESOLVED, that the City Council does hereby approve a one-year time extension until June 27, 2007, for the Tentative Preliminary Plat of Rolling Meadows Estates No. 1. (Motion ADOPTED.)

JULY 2006 TAX LEVY – MIDLAND PUBLIC SCHOOLS

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, in accord with Act 333 of the Public Acts of Michigan of 1982, the Midland Public Schools has submitted a request for the City of Midland to collect a summer property tax levy of school property taxes within the City of Midland, for the year 2006; and

WHEREAS, the General Property Tax Act, P.A. 206 of 1893 as amended, allows for the collection of taxes and outlines the distribution of collected taxes; and

WHEREAS, the City of Midland Treasurer, has in the past, and will continue to collect taxes under the following conditions: 1) The City of Midland shall retain all collection fees, administration fees, penalties and interest accrued on collection of taxes for other taxing entities. 2) Taxes collected by the City of Midland for other units shall be remitted to the taxing entity in accordance with the General Property Tax Act, P.A. 206 of 1893 as amended. 3) The City of Midland agrees that it will not charge the taxing entities for collection of these taxes; now therefore

RESOLVED, that the City Council hereby approves said request and hereby authorizes the City Treasurer to collect and distribute the 2006 Midland Public Schools summer property tax levy in accordance with the General Property Tax Act, P.A. 206 of 1893 as amended; and

RESOLVED FURTHER, that the City Treasurer is authorized to enter into agreements with the applicable taxing entities for collection and distribution of taxes under the above stated conditions. (Motion ADOPTED.)

JULY 2006 TAX LEVY – MIDLAND COUNTY EDUCATIONAL SERVICE AGENCY

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, in accord with Act 333 of the Public Acts of Michigan of 1982, the Midland County Educational Service Agency has submitted a request for the City of Midland to collect a summer property tax levy of school property taxes within the City of Midland, for the year 2006; and

WHEREAS, the General Property Tax Act, P.A. 206 of 1893 as amended, allows for the collection of taxes and outlines the distribution of collected taxes; and

WHEREAS, the City of Midland Treasurer, has in the past, and will continue to collect taxes under the following conditions: 1) The City of Midland shall retain all collection fees, administration fees, penalties and interest accrued on collection of taxes for other taxing entities. 2) Taxes collected by the City of Midland for other units shall be remitted to the taxing entity in accordance with the General Property Tax Act, P.A. 206 of 1893 as amended. 3) The City of Midland agrees that it will not charge the taxing entities for collection of these taxes; now therefore

RESOLVED, that the City Council hereby approves said request and hereby authorizes the City Treasurer to collect and distribute the 2006 Midland County Educational Service Agency summer property tax levy in accordance with the General Property Tax Act, P.A. 206 of 1893 as amended; and

RESOLVED FURTHER, that the City Treasurer is authorized to enter into agreements with the applicable taxing entities for collection and distribution of taxes under the above stated conditions. (Motion ADOPTED.)

UNAPPROVED

JULY 2006 TAX LEVY – BAY CITY PUBLIC SCHOOLS

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, in accord with Act 333 of the Public Acts of Michigan of 1982, the Bay City Public Schools has submitted a request for the City of Midland to collect a summer property tax levy of school property taxes within the City of Midland, for the year 2006; and

WHEREAS, the General Property Tax Act, P.A. 206 of 1893 as amended, allows for the collection of taxes and outlines the distribution of collected taxes; and

WHEREAS, the City of Midland Treasurer, has in the past, and will continue to collect taxes under the following conditions: 1) The City of Midland shall retain all collection fees, administration fees, penalties and interest accrued on collection of taxes for other taxing entities. 2) Taxes collected by the City of Midland for other units shall be remitted to the taxing entity in accordance with the General Property Tax Act, P.A. 206 of 1893 as amended. 3) The City of Midland agrees that it will not charge the taxing entities for collection of these taxes; now therefore

RESOLVED, that the City Council hereby approves said request and hereby authorizes the City Treasurer to collect and distribute the 2006 Bay City Public Schools summer property tax levy in accordance with the General Property Tax Act, P.A. 206 of 1893 as amended; and

RESOLVED FURTHER, that the City Treasurer is authorized to enter into agreements with the applicable taxing entities for collection and distribution of taxes under the above stated conditions. (Motion ADOPTED.)

JULY 2006 TAX LEVY – BAY-ARENAC INTERMEDIATE SCHOOL DISTRICT

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, in accord with Act 333 of the Public Acts of Michigan of 1982, the Bay-Arenac Intermediate School District has submitted a request for the City of Midland to collect a summer property tax levy of school property taxes within the City of Midland, for the year 2006; and

WHEREAS, the General Property Tax Act, P.A. 206 of 1893 as amended, allows for the collection of taxes and outlines the distribution of collected taxes; and

WHEREAS, the City of Midland Treasurer, has in the past, and will continue to collect taxes under the following conditions: 1) The City of Midland shall retain all collection fees, administration fees, penalties and interest accrued on collection of taxes for other taxing entities. 2) Taxes collected by the City of Midland for other units shall be remitted to the taxing entity in accordance with the General Property Tax Act, P.A. 206 of 1893 as amended. 3) The City of Midland agrees that it will not charge the taxing entities for collection of these taxes; now therefore

RESOLVED, that the City Council hereby approves said request and hereby authorizes the City Treasurer to collect and distribute the 2006 Bay-Arenac Intermediate School District summer property tax levy in accordance with the General Property Tax Act, P.A. 206 of 1893 as amended; and

RESOLVED FURTHER, that the City Treasurer is authorized to enter into agreements with the applicable taxing entities for collection and distribution of taxes under the above stated conditions. (Motion ADOPTED.)

JULY 2006 TAX LEVY – DELTA COLLEGE

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

UNAPPROVED

WHEREAS, in accord with Act 333 of the Public Acts of Michigan of 1982, Delta College has submitted a request for the City of Midland to collect a summer property tax levy of school property taxes within the City of Midland, for the year 2006; and

WHEREAS, the General Property Tax Act, P.A. 206 of 1893 as amended, allows for the collection of taxes and outlines the distribution of collected taxes; and

WHEREAS, the City of Midland Treasurer, has in the past, and will continue to collect taxes under the following conditions: 1) The City of Midland shall retain all collection fees, administration fees, penalties and interest accrued on collection of taxes for other taxing entities. 2) Taxes collected by the City of Midland for other units shall be remitted to the taxing entity in accordance with the General Property Tax Act, P.A. 206 of 1893 as amended. 3) The City of Midland agrees that it will not charge the taxing entities for collection of these taxes; now therefore

RESOLVED, that the City Council hereby approves said request and hereby authorizes the City Treasurer to collect and distribute the 2006 Delta College summer property tax levy in accordance with the General Property Tax Act, P.A. 206 of 1893 as amended; and

RESOLVED FURTHER, that the City Treasurer is authorized to enter into agreements with the applicable taxing entities for collection and distribution of taxes under the above stated conditions. (Motion ADOPTED.)

JULY 2006 TAX LEVIES

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

RESOLVED, that the City Assessor is hereby authorized and instructed to spread upon the July 2006 tax roll, Special Assessments in the various amounts as indicated herein:

Street Improvement Rolls

1994 Street Improvement	\$ 2,963.52
1996 Street Improvement	4,680.91
2001 Street Improvement	4,903.44
2002 Street Improvement	7,063.78
2005 Street Improvement	<u>2,881.19</u>
Subtotal Street Improvement Rolls	\$ 22,492.84

Sanitary Sewer Improvement Rolls

1994 Sanitary Sewer Improvement	\$ 1,521.64
1996 Sanitary Sewer Improvement	2,602.46
1998 Sanitary Sewer Improvement	1,733.90
2001 Sanitary Sewer Improvement	883.73
2002 Sanitary Sewer Improvement	15,307.01
2003 Sanitary Sewer Improvement	<u>19,407.55</u>
Subtotal Sanitary Sewer Improvement Rolls	\$ 41,456.29

Water Main Improvement Rolls

1998 Water Main Improvement	18,965.77
2002 Water Main Improvement	<u>17,807.46</u>
Subtotal Water Main Improvement Rolls	\$ 36,773.23

Sidewalk Improvement Rolls

2001 Sidewalk Improvement	1,629.45
2004 Sidewalk Improvement	5,914.48
2005 Sidewalk Improvement	<u>3,457.42</u>
Subtotal Sidewalk Improvement Rolls	\$ 11,001.35

2005 Downtown Economic Revitalization Roll (SARA) \$ 36,005.00

Accounts Receivable Roll \$ 44,638.49

TOTAL SPECIAL ASSESSMENT ROLL \$ 192,367.20

; and

UNAPPROVED

RESOLVED FURTHER, that the current accounts receivable listed herein be transferred to the 2006 General Fund Tax Roll Accounts Receivable. (Motion ADOPTED.)

CLAIMS AGAINST THE CITY SETTLEMENTS

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, on March 8, 2004 the City Council authorized the City Attorney to settle small damage claims in an amount not to exceed \$5,000.00; and

WHEREAS, the City Attorney has requested that City Council revise the current policy to maintain the City Attorney's authority to settle claims made against the City in an amount not to exceed \$5,000.00 and further to allow the City Attorney, with joint approval by the City Manager, to settle claims made against the City in an amount not to exceed \$20,000.00; now therefore

RESOLVED, that authorization is hereby granted to the City Attorney to settle claims made against the City in an amount not to exceed \$5,000.00 per claim; and

RESOLVED FURTHER, that joint authorization is hereby granted to the City Attorney and the City Manager to settle claims made against the City in an amount not to exceed \$20,000.00 per claim. (Motion ADOPTED.)

2006 SIDEWALK CONSTRUCTION AGREEMENTS

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, on May 8, 2006, City Council granted property owners in the 2006 Sidewalk Improvement Program the option of installing their own sidewalks upon submission of a legal agreement acceptable to the City Attorney; and

WHEREAS, the City Attorney has prepared a Sidewalk Construction Agreement to be used for said purpose and which states that the sidewalk must be constructed by no later than July 31, 2006; and

WHEREAS, the City Engineering Department has received two (2) Sidewalk Construction Agreements from property owners desiring to install their own walk which are listed below:

<u>PARCEL CODE</u>	<u>OWNER</u>
14-05-60-006	KEVIN K. & CONNIE M. GEILING
14-02-40-550 & 560	DANNY W. & KRISTY I. NAGEL

; now therefore

RESOLVED, that the Mayor and City Clerk are authorized to sign the Sidewalk Construction Agreements prepared by the City Attorney for parcels in the 2006 Sidewalk Improvement Program. (Motion ADOPTED.)

2005 ANNUAL DRINKING WATER QUALITY REPORT

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

RESOLVED, that the 2005 Annual Drinking Water Quality Report be received and filed in the office of the City Clerk. (Motion ADOPTED.)

GAS TO ENERGY FEASIBILITY STUDY FOR LANDFILL

Utilities Director Noel Bush introduced Dr. Kevin Foye of CTI and Associates, Inc. who presented a report on a gas to energy feasibility study for the City of Midland Landfill. The following resolution was then offered by Councilman Rokosz and seconded by Councilman Myers:

UNAPPROVED

RESOLVED, that the report prepared by CTI & Associates on the Gas to Energy Feasibility Study for the City of Midland Landfill be received and filed in the office of the City Clerk. (Motion ADOPTED.)

DECANTERS LLC - LIQUOR LICENSE

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

RESOLVED, That the request from DECANTERS LLC for a New Micro Brewer License in conjunction with 2005 Small Wine Maker License, located at 1804 W. Wackerly, Midland, Midland County, be considered for approval.

It is the consensus of this legislative body that the application be: Recommended for issuance. (Motion ADOPTED.)

PIZZA SAM, INC. – LIQUOR LICENSE

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

RESOLVED, that the request from Pizza Sam, Inc. for new Outdoor Service (1 area), in conjunction with 2006 Class C licensed business with Dance-Entertainment Permit, located at 102 W. Main, Midland, Michigan, Midland County, be considered for approval.

It is the consensus of this legislative body that the application be: Recommended for issuance. (Motion ADOPTED.)

MERS RETIREE HEALTH FUNDING

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

UNIFORM RESOLUTION ADOPTING THE MERS RETIREE HEALTH FUNDING VEHICLE

(Excluding Plans Governed by Internal Revenue Code Section 401(h))

WHEREAS, the Municipal Employees' Retirement System ("MERS") Plan Document of 1996, effective October 1, 1996, authorized the Municipal Employees' Retirement Board ("Board") to establish additional programs including but not limited to defined benefit and defined contribution program (MERS Plan Document Section 36(2)(a)); and the Municipal Employees Retirement Act of 1984, Section 36(2)(a) as amended by 1996 PA 220, MCL 38.1536(2)(a);

WHEREAS, the Board has previously authorized MERS' establishment of a retiree health funding vehicle ("RHFV" or "Program"), which a participating municipality or court, or another eligible public employer that is a political subdivision of the State which constitutes a "municipality" under MERS Plan Document Section 2B(4); MCL 38.1502b(2) ("Eligible Employer"), may adopt for its Eligible Employees;

WHEREAS, the Board has established a governmental trust under Section 115 of the Internal Revenue Code (the "Trust Fund") to hold the assets of the RHFV, which Trust Fund shall be administered under the discretion of the Board as fiduciary, directly by (or through a combination of) MERS or MERS' duly-appointed Program Administrator;

WHEREAS, 1999 PA 149, the Public Employee Health Care Fund Investment Act, MCL 38.1211 et seq. ("PA 149") provides for the creation by a public corporation of a public employee health care fund, and its administration, investment, and management, in order to accumulate funds to provide for the funding of health benefits for retirees and beneficiaries;

WHEREAS, a MERS health care trust fund constitutes a governmental trust established by a public corporation ("municipality") as an Eligible Employer, provided that all such employers shall be the State of Michigan, its political subdivisions, and any public entity the income of which is excluded from gross income under Section 115 of the Internal Revenue Code; provided

UNAPPROVED

further, that the health care trust shall not accept assets from any defined benefit health account established under Section 401(h) of the Internal Revenue Code;

WHEREAS, adoption of this Uniform Resolution (the "Uniform Resolution") by the Eligible Employer is necessary and required in order that the benefits available under the MERS Retiree Health Funding Vehicle may be extended; WHEREAS, this Uniform Resolution has been approved by the Board under the authority of 1996 PA 220, MERS Plan Document Section 36(2)(a), MCL 38.1536(2)(a), declaring that the Board "shall determine . . . and establish" all provisions of the retirement system. The MERS RHFV shall not be implemented with respect to any Eligible Employer unless in strict compliance with the terms and conditions of this Resolution, the Trust Document, and Trust Agreement. Retiree Hlth FundVeh 11-15-05 1

- It is expressly agreed and understood as an integral and nonseverable part of extension or continuation of coverage under this Uniform Resolution Adopting MERS Retiree Health Funding Vehicle that Section 43B of the MERS Plan Document shall not apply to this Uniform Resolution, its administration or interpretation.

- In the event any alteration of the language, terms or conditions stated in this Uniform Resolution Adopting MERS Retiree Health Funding Vehicle is made or occurs, under MERS Plan Document Section 43B or other plan provision or other law, it is expressly recognized that MERS and the Board, as fiduciary of the MERS Plan and its trust reserves, and whose authority is nondelegable, shall have no obligation or duty: to administer (or to have administered) the MERS RHFV or its Trust Fund; or to continue administration.

NOW, THEREFORE, BE IT RESOLVED that the governing body adopts the MERS PA 149 Health Care Trust Fund as provided below.

SECTION 1. MERS RHFV PROGRAM

EFFECTIVE June 12, 2006, the MERS Retiree Health Funding Vehicle is hereby adopted by the City of Midland.

(MERS municipality or court or other eligible employer)

CONTRIBUTIONS shall be made only by the Eligible Employer, remitted to MERS by the Eligible Employer, and credited to the Eligible Employer's separate fund within the trust subfund for MERS RHFV. As this Plan is funded solely by employer, on a cash or actuarial basis as determined by the employer, there is no requirement for a Participation Agreement establishing the schedule of contributions.

INVESTMENT of funds accumulated and held in the Fund shall be held in a separate reserve and invested on a pooled basis by MERS subject to the Public Employee Retirement System Investment Act ("PERSIA"), 1965 PA 314, as provided by MERS Plan Document Section 39; MCL 38.1539, and PA 149.

THE ELIGIBLE EMPLOYER shall abide by the terms of MERS RHFV, including all investment, administration, and service agreements, and all applicable provisions of the Code and other law. It is affirmed that no assets from any defined benefit health account established under Section 401(h) of the Internal Revenue Code shall be transferred to, or accepted by, MERS.

SECTION 2. IMPLEMENTATION DIRECTIONS FOR MERS AS RHFV INVESTMENT FIDUCIARY AND TRUSTEE

(A) The governing body of this Eligible Employer desires that all assets placed in its MERS RHFV (as a sub-fund within all pooled Trust Funds with MERS) be administered by MERS, which shall act as investment fiduciary with all powers provided under Public Employee Retirement System Investment Act, PA 149, all applicable provisions of the Internal Revenue Code and other relevant law.

(B) The governing body desires, and MERS upon its approval of this Resolution agrees, that all funds accumulated and held in the MERS RHFV Trust Fund shall be invested and managed by MERS within the collective and commingled investment of all funds held in trust for all Eligible Employers.

(C) All monies in the MERS RHFV Trust Fund (and any earnings thereon, positive or negative) shall be held and invested for the sole purpose of paying health care benefits for the exclusive benefit of "Eligible Employees" who shall constitute "qualified persons" who have retired or

UNAPPROVED

separated from employment with the Eligible Employer, and for any expenses of administration, and shall not be used

for any other purpose, and shall not be distributed to the State.

(D) The Eligible Employer will fund its MERS RHFV Trust sub-fund to provide funds for health care benefits for "Eligible Employees" who shall constitute "qualified persons." Participation in and any coverage under RHFV shall not constitute nor be construed to constitute an "accrued financial benefit" under Article 9 Section 24 of the Michigan Constitution of 1963, nor shall any contribution method for Eligible Employer funding other than "pay as you go" cash funding be required or imposed, and all benefits, rights, and obligations conferred by or arising under RHFV shall be as provided under the RHFV documents.

(E) The Eligible Employer generically designates the following groups of persons as "Eligible Employees" who shall constitute "qualified persons," to receive retiree health care benefits subsidized under the MERS RHFV trust sub-fund. Groups may include any dependent(s) as specified in your bargaining agreement and/or personnel policy (provide copies of any governing agreement or other policy): For example "non-union employees"

Eligible Retired City Employees & Dependents

(F) The Director of Fiscal Services (Use title of official, not name) shall be the Eligible Employer's RHFV Coordinator; shall direct payment of fund monies for the benefit of the Eligible Employees identified in (E) under any MERS (or non-MERS) retiree health care benefit program, including, but not limited to, MERS HCSP, or MERS Premier Health; make investment allocations of the Employer's sub-trust fund within MERS-approved portfolios; receive necessary reports, notices, etc.; shall act on behalf of the Eligible Employer; and may delegate any administrative duties relating to the Fund to appropriate departments.

SECTION 3. EFFECTIVENESS OF THIS RESOLUTION

This Resolution shall have no legal effect until a certified copy of this adopting Resolution shall be filed with MERS, and MERS determines that all necessary requirements under MERS Plan Document Section 36(2)(a), 1999 PA 149 and other relevant laws, and this Resolution have been met. Upon MERS' determination that all necessary documents have been submitted, MERS shall record its formal approval upon this Resolution, and return a copy to the Eligible Employer's RHFV Coordinator as identified above.

In the event an amendatory resolution or other action by the Eligible Employer is required by MERS, such Resolution or action shall be deemed effective as of the date of the initial Resolution or action where concurred in by this governing body and MERS (and the Program Administrator if necessary). Section 54 of the MERS Plan Document shall apply to this Resolution and all acts performed under its authority. The terms and conditions of this Resolution supersede and stand in place of any prior resolution, and its terms are controlling. (Motion ADOPTED.)

POST EMPLOYMENT HEALTH CARE BOARD OF TRUSTEES - DISSOLVED

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, on April 24, 2000, the City Council created the Post Employment Health Care Fund Board of Trustees (the Board) to act as fiduciary of said Fund, consisting in membership of the City Treasurer, the City Director of Human Resources, the City Director of Fiscal Services, one Department Head of a City operating department and one member from the community at large; and

WHEREAS, on June 12, 2006, City Council adopted the Retiree Health Funding Vehicle administered by Municipal Employees' Retirement System (the Plan), and this plan has its own board of trustees to fulfill this function, thereby making the Board unnecessary; and

WHEREAS, the Board has recommended to City Council that the Board be dissolved; now therefore

UNAPPROVED

RESOLVED, that the City of Midland Post Employment Health Care Fund Board of Trustees is hereby dissolved upon the City's successful adoption and implementation of the MERS Retiree Health Funding Vehicle. (Motion ADOPTED.)

LOCAL BRIDGE PROGRAM FUNDING – AIRPORT ROAD OVER STURGEON CREEK

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, the Michigan Department of Transportation is soliciting applications for rehabilitation projects within the Local Bridge Program; and

WHEREAS, The Airport Road over Sturgeon Creek Bridge meets requirements for Federal and State bridge rehabilitation funding; and

WHEREAS, selected projects will be funded during the 2008/9 and 2009/10 fiscal years; and

WHEREAS, the application requires City Council support; now therefore

RESOLVED, that the City Council supports pursuing Local Bridge program funding for rehabilitation of the Airport Road over Sturgeon Creek Bridge. (Motion ADOPTED.)

LICENSE AGMT – GRAND CURVE TRAIL ON DOW PROPERTY

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

RESOLVED, that the attached License Agreement from The Dow Chemical Company, to the City of Midland, for a proposed non-motorized paved pathway across property owned by The Dow Chemical Company along the east side of State Street from Main Street to Buttles Street; the south side of Buttles Street from State Street to Lyon Street and the south side of Patrick Road from east of Swede Avenue to one half mile east of Waldo Avenue, is hereby accepted and that the Mayor and City Clerk are authorized to sign said agreement. (Motion ADOPTED.)

2006 STATE DRAIN STORM SEWER OUTLET REPAIR; CONTRACT NO. 13

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, sealed proposals have been advertised and received in accord with Article II of Chapter 2 of the Midland Code of Ordinances for the repair of six storm sewer outlets into the State Drain between Main Street and Saginaw Road; and

WHEREAS, funding for this project is provided by a cost sharing grant of 75% from the MDEQ (Clean Michigan Initiative) to the Midland Conservation District and the City of Midland funding 25% of the cost from the Storm Water Utility portion of the General Fund; now therefore

RESOLVED, that the low sealed proposal submitted by Sterling Excavation, Inc. of West Branch, Michigan, for the "2006 State Drain Storm Sewer Outlet Repairs; Contract No. 13", in the indicated amount of \$19,595.00, based upon City estimated quantities is hereby accepted and the Mayor and the City Clerk are authorized to execute a contract therefore in accord with the proposal and the City's specifications; and

RESOLVED FURTHER, that the City Manager has the authority to approve any change orders modifying or altering this contract in an aggregate amount up to \$10,000. (Motion ADOPTED.)

2006 SALZBURG WATER MAIN REPLACEMENT; CONTRACT NO. 11

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, sealed proposals have been advertised and received in accord with Article II of Chapter 2 of the Midland Code of Ordinances for the replacement of the water main on Salzburg Road from Saginaw Road to the railroad tracks; and

UNAPPROVED

WHEREAS, funding for this project is provided by the Water Fund; now therefore RESOLVED, that the low sealed proposal submitted by Eric Construction, Inc. of St. Charles, Michigan, for the "2006 Salzburg Water Main Replacement; Contract No. 11", in the indicated amount of \$87,265.20, based upon City estimated quantities is hereby accepted and the Mayor and the City Clerk are authorized to execute a contract therefore in accord with the proposal and the City's specifications; and RESOLVED FURTHER, that the City Manager has the authority to approve change orders modifying or altering this contract in an aggregate amount not to exceed \$20,000. (Motion ADOPTED.)

BIKE PATH – MDOT CONTRACT NO. 06-5179

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, the Michigan Department of Transportation, MDOT, has submitted Contract No. 06-5179 to the City of Midland for approval of funding for the construction of a bike path from Jefferson Avenue to the Midland Mall; and WHEREAS, the total estimated cost of the project is \$170,800, and that \$91,630 will be paid from a transportation enhancement grant, and that the remaining cost of \$79,170 will be paid by the City of Midland General Fund; and WHEREAS, the City of Midland desires having said bike path constructed; now therefore RESOLVED, that the City Council hereby approves the proposed Michigan Department of Transportation Contract No. 06-5179 and authorizes the Mayor and City Clerk to execute the contract on behalf of the City of Midland following final approval by the City Attorney. (Motion ADOPTED.)

BARSTOW AIRPORT RUNWAY 18/36 REHAB – MDOT CONTRACT 2006-0399

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, a proposed Contract No. 2006-0399 has been submitted to the City of Midland by the Michigan Department of Transportation for approval of funding for the rehabilitation of Runway 18-36 and parallel taxiway at Jack Barstow Municipal Airport; and WHEREAS, the total estimated cost of the project is \$606,100 and a block grant from the Federal Aviation Administration (FAA) along with State funds is providing 97.5%, or \$590,948, and the City of Midland General Fund is providing 5%, or \$15,152; and WHEREAS, the City of Midland desires to have said runway and taxiway rehabilitated; now therefore RESOLVED, that the City Council hereby approves the proposed Michigan Department of Transportation Contract No. 2006-0399 and authorizes the Mayor and City Clerk to execute the contract on behalf of the City of Midland, following final approval by the City Attorney. (Motion ADOPTED.)

BARSTOW AIRPORT – MDOT CONSTRUCTION CONTRACT NO. FM 56-1-C37

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, Michigan Department of Transportation Construction Contract No. FM 56-1-C37 has been submitted to the City of Midland for approval of the construction contract with Pyramid Paving & Contracting Co., Inc. for the rehabilitation of Runway 18/36 and parallel taxiway at Jack Barstow Municipal Airport; and WHEREAS, the City of Midland approved a contract with MDOT to approve funding for said work; and

UNAPPROVED

WHEREAS, the City of Midland supports having said runway and taxiway rehabilitated; now therefore

RESOLVED, that the City Council hereby approves the proposed Michigan Department of Transportation Construction Contract No. FM 56-1-C37 with Pyramid Paving & Contracting Co., Inc of Essexville, Michigan and authorizes the Mayor and City Clerk to execute the contract on behalf of the City of Midland following final approval of the contract by the City Attorney. (Motion ADOPTED.)

PROFESSIONAL SERVICE AGMT AMENDMENT – BARSTOW RUNWAY DESIGN

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, on October 10, 2005 a professional services agreement was approved between the City of Midland and Mead & Hunt, Inc. for the design of Runway 18/36 and parallel taxiway rehabilitation at Barstow Municipal Airport; and

WHEREAS, an amendment to said agreement was provided to the City of Midland by Mead & Hunt, Inc. to include construction administration services; and

WHEREAS, the City of Midland approved a contract with MDOT to approve funding for said work in accordance with Federal, State, and local cost sharing formulas; and

WHEREAS, the City of Midland supports having said construction administration services rendered; now therefore

RESOLVED, that the City Council hereby approves the amended professional services agreement with Mead & Hunt, Inc. of Lansing, Michigan and authorizes the Mayor and City Clerk to execute the agreement on behalf of the City of Midland following final approval of the amended agreement by the City Attorney. (Motion ADOPTED.)

CALCIUM OXIDE PURCHASE

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, sealed bids for the contract of Water Treatment Chemicals - Calcium Oxide, Bid No. 2932, for a period of one year beginning July 1, 2006, have been advertised and received in accord with Section 2-18 of the Midland Code of Ordinances; and

WHEREAS, sufficient funds have been budgeted in the 2006/07 Water Fund, account #591-8162-811.76-56 - Chemicals; now therefore

RESOLVED, that the low sealed proposal submitted by Carmeuse Lime of Pittsburgh, PA for the indicated price per ton of \$129.49 for up to 1,200 tons per year, at a total contract amount not to exceed \$155,388.00, is hereby accepted and a purchase order is authorized. (Motion ADOPTED.)

FERRIC CHLORIDE PURCHASE

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, sealed bids for the contract of Water Treatment Chemicals - Ferric Chloride, Bid No. 2932, for a period of one year beginning July 1, 2006, have been advertised and received in accord with Section 2-18 of the Midland Code of Ordinances; and

WHEREAS, sufficient funds have been provided in the 2006/07 budgets for the Water Fund account #591-8162-811.76-56 - Chemicals and in the Wastewater Fund account #590-8142-811.76-56 - Chemicals.; now therefore

RESOLVED, that the low sealed proposal submitted by PVS Technologies of Detroit, Michigan for the indicated price per ton of \$297.82 for up to 500 tons (250 each for the Water and

UNAPPROVED

Wastewater Treatment Plants), at a total aggregate contract amount not to exceed \$148,910.00, is hereby accepted and purchase orders are authorized. (Motion ADOPTED.)

BOOK ORDERING AND PROCESSING SERVICES - LIBRARY

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, sealed bids were received in accord with Article II of Chapter 2 of the Midland Code of Ordinances for book ordering and book processing services for the Grace A. Dow Memorial Library in July 2002; and

WHEREAS, the proposal submitted by Brodart Co. was determined to produce the lowest net cost to the City for the purchasing and processing of books for the library; and

WHEREAS, Brodart Co. has agreed to extend the same discounts, terms and conditions of the current contract into fiscal year 2006/2007; now therefore

RESOLVED, that the current contract with Brodart Co. for book ordering and processing services for the Grace A. Dow Memorial Library be extended through fiscal year 2006/2007 in an amount not to exceed \$325,000 and the necessary purchase order authorized. (Motion ADOPTED.)

LEGAL SERVICES – DIOXIN ISSUES

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, the law firm of Miller, Canfield, Paddock & Stone, PLC has been retained by the City of Midland to assist in reviewing The Dow Chemical Company's revised Scope of Work and the Interim Response Activities relating to the dioxin issues with the Michigan Department of Environmental Quality to determine the impact on both public and private property within the City of Midland; and

WHEREAS, on June 28, 2004, Council authorized payments to Miller, Canfield, Paddock & Stone, PLC for the aforementioned services in a total amount not to exceed \$380,000; and

WHEREAS, the cost of said legal and consulting fees is expected to exceed the previously approved amount and therefore approval of the City Council is required under Section 2-18 of the Code of Ordinances; and

WHEREAS, sufficient budgetary funding exists within the 2005-2006 and 2006-2007 City Attorney's General Fund budget; and

WHEREAS, the above-referenced services are hereby determined to be professional services within the meaning of Section 2-19 of the Code of Ordinances and do not require sealed proposals; now therefore

RESOLVED, that payment to the law firm of Miller, Canfield, Paddock & Stone, PLC for their assistance in connection with the aforementioned lawsuit is hereby authorized in an amount not to exceed \$600,000. (Motion ADOPTED.)

GOLF COURSE CHEMICALS - PURCHASE

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, sealed proposals were advertised and received in accord with Article II of Chapter 2 of the Midland Code of Ordinances for the purchase of golf course chemicals, Bid No. 2935; and

WHEREAS, funding for these golf course supplies is included in the 2005-06 and 2006-07 Golf Course Fund budgets under "Horticultural Supplies"; now therefore

RESOLVED, that the Purchasing Agent is authorized to issue a purchase order to Turfgrass, Inc. of South Lyon, Michigan up to the amount of \$90,000, and to Lesco, Inc. of Cleveland, Ohio

UNAPPROVED

up to the amount of \$30,000 for chemicals in accordance with their proposals and city specifications. (Motion ADOPTED.)

ICELESS SKATING RINK

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, the Downtown Development Authority Board of Directors and City Council have previously approved the funding of a portable synthetic rink from Florida Skating; now therefore RESOLVED, that the Downtown Development Authority is authorized to purchase said rink prior to the 2006/2007 budget year in the amount of \$36,700. (Motion ADOPTED.)

2006 SIDEWALK IMPROVEMENT SPECIAL ASSESSMENT ROLL

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, pursuant to the direction of the City Council, the City Assessor of said City of Midland has prepared and reported to the City Council the Assessment Roll covering and containing the proposed Special Assessments assessed and levied, respectively in the "2006 SIDEWALK IMPROVEMENT SPECIAL ASSESSMENT DISTRICT" as heretofore established for the proposed Sidewalk Improvement in said district, as designated in Resolutions heretofore adopted by the City Council; now therefore

RESOLVED, that the said Roll be accepted by the City Council and that it be filed in the office of the City Clerk for public examination, and that the City Clerk be and is hereby directed to give notice pursuant to the Ordinance that the Assessment Roll has been made and filed in the office of the City Clerk for public examination and that the City Council of the City of Midland will meet at the Council Chambers in the City Hall in said City at 7:00 p.m., on the tenth day of July, 2006 to review said Special Assessment Roll at which time and place, opportunity will be given to all persons interested to be heard; and

RESOLVED FURTHER, that the City Clerk give notice of said hearing by causing a copy of this Resolution to be published once in the Midland Daily News at least ten days prior the date of the tenth day of July, 2006, and that the City Clerk also give notice of said hearing by letter to each property owner subject to Special Assessment by reason of said improvement, the addresses of said property owners to be taken from the latest Tax Assessment Roll in the City Assessor's Office in accordance with Act 162 of the Public Acts of Michigan of 1962. (Motion ADOPTED.)

CONDITIONAL USE PERMIT NO. 21

The following resolution was offered by Councilman Myers and seconded by Councilman McKeag:

WHEREAS, Verizon Wireless has submitted a request for a conditional use permit review and approval to allow a 140 foot monopole cellular tower at Elisenal north of Home Depot; and

WHEREAS, the City Planning Commission has conducted a public hearing in accord with Section 28.02(A) of the Zoning Ordinance of the City of Midland on said conditional use; and

WHEREAS, the Planning Commission has submitted its recommendation of approval, contingent upon the following:

1. The equipment shelter is setback at least 25 feet from the front property line as required by the Zoning Ordinance.
2. All barbed wire is removed from the proposed site fence.
3. The access driveway is constructed of sufficient material to support a 60,000 lb. fire apparatus in all weather conditions.
4. The maintenance/removal affidavit is provided to the City Attorney prior to Conditional Use Permit approval.

UNAPPROVED

5. The petitioner agrees to co-location requirements set forth in the Zoning Ordinance in accord with Section 28.02(B) of the Zoning Ordinance of the City of Midland; now therefore RESOLVED, that notice is hereby given that a public hearing will be held by the City Council on Monday, June 26, 2006, at 7:00 p.m. in the Council Chambers, City Hall, for the purpose of considering the request for a conditional use permit; and RESOLVED FURTHER, that the City Clerk is hereby directed to notify property owners and occupants within three hundred (300) feet of the area proposed by transmitting notice on June 16, 2006 and to publish said notice on June 17, 2006. (Motion ADOPTED.)

Being no further business the meeting adjourned at 9:20 p.m.

Selina Tisdale, City Clerk