

UNAPPROVED

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November 20, 2006

A special meeting of the City Council was held on Monday, November 20, 2006, at 6:00 p.m. in Conference Room A in City Hall. Mayor Johnson presided.

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

Councilmen absent: None

**CLOSED SESSION**

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

RESOLVED, that in accord with Section 8(e) of Public Act 267 of the Public Acts of the State of Michigan of 1976, as amended, and upon adoption of this resolution by at least four affirmative votes of the City Council, the City Council shall immediately adjourn to a closed session to consult with its attorney regarding trial or settlement strategy in connection with specific pending litigation, specifically Midland Cogeneration Venture Limited Partnership vs. City of Midland, which, if discussed at an open meeting, would have a detrimental financial effect on the litigating or settlement position of the public body. (Motion ADOPTED by a Roll Call Vote.)

Being no further business the meeting adjourned to a closed session at 6:04 p.m.

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John E. Duso, Deputy City Clerk

# UNAPPROVED

November 20, 2006

A regular meeting of the City Council was held on Monday, November 20, 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 November 6, 2006 regular meeting was offered by Councilman Myers and seconded by Councilman Rokosz. (Motion ADOPTED.)

## **ZONING PETITION NO. 531**

Interim Planning Director Daryl Poprave introduced Zoning Petition No. 531 – a request to rezone property at 300 Joseph Drive from Residential A-4 zoning to Office Service zoning. A public hearing opened at 7:16 p.m. Mike Pnacek, 2661 Blackhurst Drive, representing FA Pnacek, owners of the property, spoke in favor of the rezoning. The public hearing closed at 7:22 p.m. The following ordinance amendment was then offered by Councilman Adams and seconded by Councilman Myers:

### ORDINANCE NO. 1623

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 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 AN OFFICE SERVICE ZONING WHERE A RESIDENTIAL A-4 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 1318 FEET NORTH OF THE SOUTHEAST CORNER OF THE SOUTHWEST ¼ OF SECTION 34, T15N R2E, THENCE EAST 1265.93 FEET, THENCE NORTH 391.29 FEET TO THE SOUTH RIGHT OF WAY OF JOSEPH DRIVE, THENCE WESTERLY ALONG THE SOUTH RIGHT OF WAY OF JOSEPH DRIVE TO THE WEST RIGHT OF WAY LINE OF JEFFERSON AVENUE, THENCE SOUTH TO THE POINT OF BEGINNING. EXCEPT FOR THE FOLLOWING: PART OF THE SOUTH ½ OF THE NORTH ½ OF THE SOUTHWEST ¼ OF SECTION 34, T15N-R2E, LARKIN TOWNSHIP, MIDLAND COUNTY, MICHIGAN, DESCRIBED AS BEGINNING AT A POINT ON THE WEST LINE OF SAID SECTION 34, WHICH IS N 00D 30M 49S W ALONG SAID WEST LINE, 1318.01 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 34; THENCE CONTINUING N 00D 30M 49S W ALONG SAID WEST LINE, 329.56 FEET TO A POINT ON THE CENTERLINE OF JOSEPH DRIVE, THENCE N 89D 54M 40 S E, ALONG SAID CENTERLINE OF JOSEPH DRIVE 300 FEET: THENCE S 00D 30M 49S E, PARALLEL WITH SAID WEST LINE OF SECTION 34, 329.56 FEET: THENCE S 89D 54M 40S W PARALLEL WITH THE CENTERLINE OF JOSEPH DRIVE, 300 FEET TO THE POINT OF BEGINNING. CONTAINING 2.70 ACRES OF LAND,

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SUBJECT TO THE USE OF THE NORTHERLY AND WESTERLY PORTIONS THEREOF AS JOSEPH DRIVE AND JEFFERSON ROAD RESPECTIVELY AND ALSO SUBJECT TO ANY OTHER EASEMENTS, RESTRICTIONS OR RIGHTS OF WAY OF RECORD.

be, and the same is hereby changed to Office Service.

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 ADOPTED.)

**PUBLIC COMMENTS**

No public comments were made.

**MCTV FEES ORDINANCE AMENDMENT (1<sup>ST</sup> READING)**

MCTV Director Ron Beacom introduced an ordinance amending Section 21-121 of Division 4 of Article VII of Chapter 21 of the Code of Ordinances to establish new and increase existing Midland Community Television use fees. Linda Malekadeli, 3108 Sweetbriar, Friends of MCTV spoke regarding funds collected thus far by the Friends of MCTV through donations, support of those in the community, and a variety of fundraisers. Fay Wood, 3501 Bay City Road, encouraged users of MCTV to help fund the service. Introduction and first reading of the following ordinance amending MCTV use fees was then offered by Councilman Myers and seconded by Councilman Adams:

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF MIDLAND, MICHIGAN, BY AMENDING SECTION 21-121 OF DIVISION 4 OF ARTICLE VII OF CHAPTER 21 THEREOF.

The City of Midland Ordains:

Section 1. Section 21-121 of Division 4 of Article VII of Chapter 21 is hereby amended to read as follows:

Sec. 21-121. Use fees.

The use fees for MCTV services are as follows:

- (1) Annual access user fee** **\$25.00**
- ~~(4)~~(2) Training fees:
  - ~~a. Volunteer training course~~ ~~\$10.00~~
  - a. Access user training course (initial)** **\$20.00**
  - b. Access user training course (advanced)** **10.00**
  - c. Video camp** **50.00**
- ~~(2)~~(3) Videotape duplication fees:
  - a. ~~Per 30~~ **0-60 minutes of content** **\$10.00**
  - b. 61-120 minutes of content** **20.00**
  - c. Over 120 minutes of content** **30.00**
- ~~(3)~~ Videotape duplication-processing fee:
  - ~~a. Processing fee . . . . . 5.00~~

Section 2. This Ordinance shall take effect March 1, 2007. (Motion ADOPTED. Considered first reading.)

**PROPOSED DOW CORNING RENAISSANCE ZONE AND PUBLIC ACT 328 AGREEMENT**

Assistant City Manager Jack Duso introduced two resolutions setting public hearings to consider a Proposed Renaissance Zone and a proposed Public Act 328 Agreement for Dow Corning Corporation.

Ken Kaufman, Midland Site Manager for Dow Corning Corporation, spoke in favor of the requests made by Dow Corning Corporation and encouraged Council support following the public hearing on December 4, 2006.

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Scott Walker, Midland Tomorrow Executive Director, spoke in favor of the Renaissance Zone and Public Act 328 agreement stating that approval of these requests would help to maintain employment at the Midland Site, create spin-off jobs in the local community and have an overall positive impact for the Midland area. The following two resolutions were then presented for consideration.

### **PROPOSED DOW CORNING RENAISSANCE ZONE**

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

WHEREAS, in 1996 the State Legislature adopted the Michigan Renaissance Zone Act to provide the state and its municipalities with additional economic development incentive tools to induce new industrial plants to locate in Michigan; and

WHEREAS, the City of Midland successfully acquired the one remaining Renaissance Zone authorized by the Michigan Renaissance Zone Act for The Dow Chemical Company in November 2002; and

WHEREAS, in 2006 the State Legislature amended the Michigan Renaissance Zone Act to authorize several new Renaissance Zones throughout Michigan for which Midland qualifies for one; and

WHEREAS, Dow Corning Corporation is the only industrial site in the City of Midland that qualifies for a Renaissance Zone under the amended legislation; and

WHEREAS, Dow Corning Corporation has requested that the Dow Corning Renaissance Zone be created in order to invest \$180 million at its Midland Site and create a minimum of 50 jobs; now therefore

RESOLVED, that the City Manager is hereby directed to prepare a Renaissance Zone Application; and

RESOLVED FURTHER, that the City Manager and City Attorney are directed to prepare a draft development agreement; and

RESOLVED FURTHER, that a public hearing shall be held before the City Council on Monday, December 4, 2006, at 7:00 p.m. in the Council Chambers of Midland City Hall, 333 W. Ellsworth Street, Midland, Michigan, and the City Clerk is hereby directed to send a notice of this public hearing to all local taxing jurisdictions. (Motion ADOPTED.)

### **PROPOSED DOW CORNING PUBLIC ACT 328 AGREEMENT**

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

WHEREAS, in 1998 the State Legislature adopted Public Act 328 to provide municipalities with additional economic development incentive tools; and

WHEREAS, Public Act 328 provides for the exemption of ad valorem taxes on all new personal property for all taxing jurisdictions following the adoption of a Public Act 328 Agreement by the City Council; and

WHEREAS, Dow Corning Corporation has requested that the City Council consider entering into a Public Act 328 Agreement with Dow Corning in order to invest \$180 million at its Midland Site and create a minimum of 50 new jobs; and

WHEREAS, Dow Corning's Midland Site is an eligible business as defined by Public Act 328 located in an Industrial Development District; now therefore

RESOLVED, that the City Manager and City Attorney are directed to prepare a draft Public Act 328 Agreement; and

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RESOLVED FURTHER, that a public hearing shall be held before the City Council on Monday, December 4, 2006, at 7:00 p.m. in the Council Chambers of Midland City Hall, 333 W. Ellsworth St., Midland, Michigan, and the City Clerk is hereby directed to send a notice of this public hearing to all local taxing jurisdictions. (Motion ADOPTED.)

### **2007-08 BUDGET PREPARATION SCHEDULE**

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

RESOLVED, that the attached budget preparation schedule for the 2007-08 fiscal year is hereby received; and

RESOLVED FURTHER, that said budget preparation schedule shall be filed for public examination in the City Clerk's office and at the Grace A. Dow Memorial Library; and

RESOLVED FURTHER, that the City Manager shall set a special meeting of the City Council at 7:00 p.m. in the Council Chambers of City Hall on Monday, January 15, 2007, for the purpose of reviewing the proposed Engineering Priorities Listing and receiving public input on the listing; and

RESOLVED FURTHER, that the City Manager shall set special meetings of the City Council at 7:00 p.m. in the Council Chambers of City Hall on Monday, April 16, 2007 and on Monday, April 30, 2007 for the purpose of budget review and public input on the budget; and

RESOLVED FURTHER, that a preliminary public hearing shall be conducted at 7:00 p.m., Monday, April 23, 2007, in the Council Chambers of City Hall, on the proposed 2007-08 budget; and

RESOLVED FURTHER, 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, May 7, 2007, in the Council Chambers of City Hall on the proposed 2007-08 budget. (Motion ADOPTED.)

### **CONSUMERS ENERGY TREE TRIMMING PRACTICES REPORT**

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

RESOLVED, that the report to the City Council on Consumers Energy Tree Trimming Practices hereby accepted and ordered placed on file in the Office of the City Clerk. (Motion ADOPTED.)

### **SOLICIT BIDS FOR DEMOLITION OF FORMER CIVIC ARENA**

Director of Public Services Martin McGuire presented a resolution directing the City Manager to solicit bids for the demolition of the former Midland Civic Arena in Central Park. Richard McCreadie, 2700 Washington, suggested the City should have had two proposals – one for the sale and one for the discontinuation of the Civic Arena. He stated he does not believe the City has the authority to demolish the building. The following resolution was offered by Councilman McKeag and seconded by Councilman Adams:

WHEREAS, the City determined it beneficial and appropriate to consider discontinuation of approximately 4.6 acres out of a total of 18 acres of Central Park currently occupied by the former Midland Civic Arena for the purpose of selling that acreage and facility to The Villas of Central Park, LLC for redevelopment into a senior citizen residential project; and

WHEREAS, provisions of Section 4.7 and Section 5.7 of the Midland City Charter required that the matter be presented to the electorate of the City during a general election; and

WHEREAS, on November 7, 2006 the ballot measure did not garner a 3/5 margin of voter approval as required by the Midland City Charter; now therefore

RESOLVED, that the City Council hereby directs the City Manager to solicit bids for demolition of the former Midland Civic Arena at Central Park and to make plans for integration of the site into the park for public use. (Motion ADOPTED.)

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### **BUDGET TRANSFER FOR FUEL TRUCK PURCHASE - AIRPORT**

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

WHEREAS, Jack Barstow Municipal Airport has a mobile fuel truck that primarily provides jet fuel; and

WHEREAS, the fuel truck tank does not meet current airport jet fuel codes, the fuel truck is in poor condition and must be replaced; and

WHEREAS, purchase of a used fuel truck as opposed to a new or leased fuel truck would be most economical and practical; and

WHEREAS, the estimated funding needed for the fuel truck purchase is \$35,000; and

WHEREAS, funding for the fuel truck shall be provided by budget transfer of \$35,000 from the General Fund Reserve for Contingencies to the Airport budget; now therefore

RESOLVED, that the City Controller is authorized to transfer \$35,000 from the General Fund Reserve for Contingencies to the 2006/07 Airport budget. (Motion ADOPTED.)

### **WATER MAIN & SANITARY SEWER AGMT – FAST ICE DRIVE (RAPANOS)**

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

WHEREAS, Nicolaos A. Rapanos is in the process of extending Fast Ice Drive from its existing terminus near the Midland Civic Arena, to the south and east to intersect with Rockwell Drive; and

WHEREAS, The City of Midland must extend public water mains from the end of Centennial Drive to the proposed Fast Ice Drive and sanitary sewers along Rockwell Drive from Fisher Road to the proposed Fast Ice Drive, so they can be constructed within the new road right-of-way; and

WHEREAS, Nicolaos A. Rapanos will extend said public water main and sanitary sewer as part of the construction of Fast Ice Drive and grant easements for the water main and sanitary sewer locations and a deed for the property for the roadway to the City of Midland as a public street following construction; and

WHEREAS, the City of Midland desires to have said water main and sanitary sewer extended to the proposed Fast Ice Drive and will participate in funding of the construction cost for said water main and sanitary sewer extensions; and

WHEREAS, the City Attorney has approved the "City of Midland and Nicolaos A. Rapanos Water Main and Sanitary Sewer Agreement," which outlines conditions for allowing them to construct said water main and sanitary sewer extensions and sets conditions for said construction and inspection of same and sets reimbursement amounts of construction costs; now therefore

RESOLVED, that the Mayor and City Clerk are authorized to execute the "City of Midland and Nicolaos A. Rapanos Water Main and Sanitary Sewer Agreement" on behalf of the City of Midland. (Motion ADOPTED.)

### **MUNICIPAL SERVICE CENTER AIR CONDITIONING PROJECT**

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

WHEREAS, sealed proposals were advertised and received in accord with Article II of Chapter 2 of the Midland Code of Ordinances for the Municipal Service Center Air Conditioning project, Bid No. 2962; and

WHEREAS, funding for this project is included in the 2006-07 Capital budget for the Municipal Service Center; now therefore

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RESOLVED, that the Purchasing Agent is authorized to issue a purchase order to Technical Building Alliance of Saginaw, Michigan in the amount of \$34,875.00, in accordance with the proposal and city specifications. (Motion ADOPTED.)

Being no further business the meeting adjourned at 9:10 p.m.

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Selina Tisdale, City Clerk