

UNAPPROVED

March 8, 2010

A regular meeting of the City Council was held on Monday, March 8, 2010, at 7:00 p.m. in the Council Chambers of City Hall. Mayor Donker presided. The Pledge of Allegiance to the Flag was recited in unison.

Councilmen present: Thomas Adams, Maureen Donker, Scott Gaynor, Bruce Johnson, Marty Wazbinski  
Councilmen absent: None

**MINUTES**

Approval of the minutes of the February 22, 2010 regular and March 3, 2010 special meetings was offered by Councilman Adams and seconded by Councilman Gaynor. (Motion ADOPTED.)

**PARKS AND RECREATION MASTER PLAN**

Department of Public Services Director Karen Murphy presented the Parks and Recreation Master Plan. A public hearing opened at 7:14 p.m., recognizing no public comments, the hearing closed at 7:14 p.m. The following resolution was then offered by Councilman Wazbinski and seconded by Councilman Adams:

WHEREAS, the City of Midland has undertaken a five-year Parks and Recreation Master Plan which describes the physical features, existing recreation facilities, and the desired actions to be taken to improve and maintain recreation facilities during the period between 2010 and 2014; and

WHEREAS, the Parks and Recreation Commission recommended adoption of the Plan at their meeting of December 1, 2009; and

WHEREAS, City Council held a public hearing to receive public input on the Plan at their March 8, 2010 meeting; now therefore

RESOLVED, City Council formally adopts the Parks and Recreation Master Plan. (Motion ADOPTED.)

**PUBLIC COMMENTS**

Charles Roberts, 3205 Burnside, spoke regarding Midland Daily News' negative coverage of Currie Municipal Golf Course and complimented improvements made at the golf course.

**REFUSE AND YARD WASTE COLLECTION FEES ORDINANCE AMENDMENT**

Department of Public Services Director Karen Murphy presented for second reading and adoption an ordinance amendment repealing Section 21-3 – Refuse Collection Fees and amending Section 21-4 – Yard Waste Collection Fees. The following ordinance amendment was then offered by Councilman Wazbinski and seconded by Councilman Gaynor:

ORDINANCE NO. 1691

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF MIDLAND, MICHIGAN, BY REPEALING SECTION 21-3 AND AMENDING SECTION 21-4 OF ARTICLE I OF CHAPTER 21 THEREOF.

The City of Midland Ordains:

Section 1. Section 21-3 of Article I of Chapter 21 is hereby repealed.

Section 2. Section 21-4 of Article I of Chapter 21 is hereby amended to read as follows:

Sec. 21-4. Yard waste collection fees.

(a) Roll-out container. An annual total fee of thirty-five dollars (\$35.00) shall be charged to the owners or occupants of each premises requesting city collection of yard waste contained in the owners' or occupants' roll-out yard waste container(s).

An annual fee shall be charged to the owners or occupants of each premises requesting

## UNAPPROVED

city collection of yard waste contained in the owners' or occupants' roll-out yard waste container(s) as follows:

- (1) Thirty-five dollars (\$35.00) for the first roll-out container;
- (2) Fifteen dollars (\$15.00) for each additional roll-out container.

This fee must be paid to the city prior to the beginning of the city's collection service.

(b) Kraft paper yard waste bag collection sticker. A yard waste collection sticker must be affixed to each individual kraft paper yard waste bag that is placed at the curb for collection by the city. The fee for each yard waste collection sticker shall be thirty-five cents (\$0.35).

(c) If residents with a roll-out container choose to set additional yard waste out in kraft paper bags, they must also affix a \$0.35 collection sticker to each bag.

(d) Waiver. Yard waste collection fees (whether for containers or yard waste bags) shall be waived during the three-week spring and fall cleanup periods, as such periods are designated by the director of public services. Notwithstanding the foregoing, yard waste collection fees may be waived during the fall leaf collection program upon approval by the city manager.

Section 3. This ordinance shall take effect upon publication. (Ordinance ADOPTED.)

### **2010 SIDEWALK IMPROVEMENT PROGRAM**

City Engineer Brian McManus presented a report on the 2010 Sidewalk Improvement Program. The following resolution was then offered by Councilman Gaynor and seconded by Councilman Wazbinski:

WHEREAS, the City Council has had under consideration the construction of concrete sidewalks, to be financed in part by special assessment, located in certain streets in the City of Midland, said streets being:

Dublin Avenue (east side) from Plumtree Lane to Rail-Trail

; now therefore

RESOLVED, that the City Manager is directed to prepare a report which shall include estimates of the expense thereof, an estimate of the life of the improvement, and a description of the district benefited to enable the Council to decide the cost, extent and necessity of the improvement proposed and what part or portion thereof should be paid by special assessments upon property especially benefited, and what part, if any, should be paid by the City at large, in conformance with the provisions of Chapter 20 of the Code of Ordinances of the City of Midland, Michigan. (Motion ADOPTED. Yeas: Adams, Donker, Gaynor, Johnson Nays: Wazbinski)

### **MDOT COST AGREEMENTS – STATE TRUNK LINE SIGNAL CONTROLS**

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

WHEREAS, the Michigan Department of Transportation (MDOT) proposes maintenance agreements with the City of Midland for six (6) upgraded State trunk line signalized or illuminated light locations in the City of Midland; and

WHEREAS, the said maintenance agreements require a City cost share; and

WHEREAS, the estimated total combined annual city cost to maintain these signalized or illuminated light locations does not exceed \$1,644; and

WHEREAS, the City will be billed by the State only for actual work performed; and

WHEREAS, the City Attorney has reviewed the maintenance agreements; and

WHEREAS, any necessary maintenance charges from MDOT will be provided by the Major Street Maintenance Fund; now therefore

RESOLVED, that MDOT Cost Agreements for Traffic Signal Control are hereby accepted, and the Mayor and City Clerk are authorized to sign the agreements on behalf of the City of Midland. (Motion ADOPTED.)

UNAPPROVED

**DOW AGROSCIENCES – IFT CERTIFICATE TIME EXTENSION**

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

WHEREAS, pursuant to Section 15(2) of the Michigan Plant Rehabilitation and Industrial Development Districts Act (Act 198 of the Public Acts of 1974 as amended) the State Tax Commission can authorize a time greater than two (2) years after the effective date of an Industrial Facilities Exemption Certificate (IFT) for good cause; and

WHEREAS, Dow AgroSciences, LLC has requested an extension of time until December 31, 2010 to complete the project identified by IFT No. 2007-523 due to longer construction periods; and

WHEREAS, the City Council of the City of Midland finds good cause for this extension has been demonstrated by Dow AgroSciences, LLC; now therefore

RESOLVED, that the City Council of the City of Midland does hereby approve the request by Dow AgroSciences, LLC to extend the completion date of the project identified by Industrial Facilities Exemption Certificate No. 2007-523 to December 31, 2010; and

RESOLVED FURTHER, that the City Council of the City of Midland does hereby request the State Tax Commission to authorize an extension of the completion date of the project identified by Industrial Facilities Exemption Certificate No. 2007-523 to December 31, 2010. (Motion ADOPTED.)

**DOW CHEMICAL COMPANY – IFT CERTIFICATE TIME EXTENSION**

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

WHEREAS, pursuant to Section 15(2) of the Michigan Plant Rehabilitation and Industrial Development Districts Act (Act 198 of the Public Acts of 1974 as amended) the State Tax Commission can authorize a time greater than two (2) years after the effective date of an Industrial Facilities Exemption Certificate (IFT) for good cause; and

WHEREAS, The Dow Chemical Company has requested an extension of time until December 31, 2010 to complete the project identified by IFT No. 2007-524 due to longer construction periods; and

WHEREAS, the City Council of the City of Midland finds good cause for this extension has been demonstrated by The Dow Chemical Company; now therefore

RESOLVED, that the City Council of the City of Midland does hereby approve the request by The Dow Chemical Company to extend the completion date of the project identified by Industrial Facilities Exemption Certificate No. 2007-524 to December 31, 2010; and

RESOLVED FURTHER, that the City Council of the City of Midland does hereby request the State Tax Commission to authorize an extension of the completion date of the project identified by Industrial Facilities Exemption Certificate No. 2007-524 to December 31, 2010. (Motion ADOPTED.)

**DOW CHEMICAL COMPANY – IFT CERTIFICATE TIME EXTENSION**

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

WHEREAS, pursuant to Section 15(2) of the Michigan Plant Rehabilitation and Industrial Development Districts Act (Act 198 of the Public Acts of 1974 as amended) the State Tax Commission can authorize a time greater than two (2) years after the effective date of an Industrial Facilities Exemption Certificate (IFT) for good cause; and

## UNAPPROVED

WHEREAS, The Dow Chemical Company has requested an extension of time until December 31, 2010 to complete the project identified by IFT No. 2007-525 due to longer construction periods; and

WHEREAS, the City Council of the City of Midland finds good cause for this extension has been demonstrated by The Dow Chemical Company; now therefore

RESOLVED, that the City Council of the City of Midland does hereby approve the request by The Dow Chemical Company to extend the completion date of the project identified by Industrial Facilities Exemption Certificate No. 2007-525 to December 31, 2010; and

RESOLVED FURTHER, that the City Council of the City of Midland does hereby request the State Tax Commission to authorize an extension of the completion date of the project identified by Industrial Facilities Exemption Certificate No. 2007-525 to December 31, 2010. (Motion ADOPTED.)

### **DOW CHEMICAL COMPANY – IFT CERTIFICATE TIME EXTENSION**

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

WHEREAS, pursuant to Section 15(2) of the Michigan Plant Rehabilitation and Industrial Development Districts Act (Act 198 of the Public Acts of 1974 as amended) the State Tax Commission can authorize a time greater than two (2) years after the effective date of an Industrial Facilities Exemption Certificate (IFT) for good cause; and

WHEREAS, The Dow Chemical Company has requested an extension of time until December 31, 2010 to complete the project identified by IFT No. 2007-526 due to longer construction periods; and

WHEREAS, the City Council of the City of Midland finds good cause for this extension has been demonstrated by The Dow Chemical Company; now therefore

RESOLVED, that the City Council of the City of Midland does hereby approve the request by The Dow Chemical Company to extend the completion date of the project identified by Industrial Facilities Exemption Certificate No. 2007-526 to December 31, 2010; and

RESOLVED FURTHER, that the City Council of the City of Midland does hereby request the State Tax Commission to authorize an extension of the completion date of the project identified by Industrial Facilities Exemption Certificate No. 2007-526 to December 31, 2010. (Motion ADOPTED.)

### **DOW CHEMICAL COMPANY – IFT CERTIFICATE TIME EXTENSION**

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

WHEREAS, pursuant to Section 15(2) of the Michigan Plant Rehabilitation and Industrial Development Districts Act (Act 198 of the Public Acts of 1974 as amended) the State Tax Commission can authorize a time greater than two (2) years after the effective date of an Industrial Facilities Exemption Certificate (IFT) for good cause; and

WHEREAS, The Dow Chemical Company has requested an extension of time until December 31, 2010 to complete the project identified by IFT No. 2007-528 due to longer construction periods; and

WHEREAS, the City Council of the City of Midland finds good cause for this extension has been demonstrated by The Dow Chemical Company; now therefore

RESOLVED, that the City Council of the City of Midland does hereby approve the request by The Dow Chemical Company to extend the completion date of the project identified by Industrial Facilities Exemption Certificate No. 2007-528 to December 31, 2010; and

RESOLVED FURTHER, that the City Council of the City of Midland does hereby request the State Tax Commission to authorize an extension of the completion date of the project identified

## UNAPPROVED

by Industrial Facilities Exemption Certificate No. 2007-528 to December 31, 2010. (Motion ADOPTED.)

### **GREAT LAKES LOONS OPENING DAY PARADE**

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

RESOLVED, that the request from the Downtown Development Authority and the Great Lakes Loons to hold an Opening Day Parade in the downtown area on Sunday, April 11, 2010, from 11 a.m. – 1 p.m., utilizing the public right-of-way, is hereby approved subject to the following conditions:

- Organizers must meet with MPD, DPS, FD and Engineering one month prior to event to coordinate final traffic control plans and address any public safety concerns.
- Provide special event liability insurance in the amount of \$1,000,000 per occurrence, \$2,000,000 aggregate, with the City of Midland named as an Additional Insured. The certificate must be submitted to the City Manager's Office no less than five days prior to the event.
- The Fire Department may need to access areas on or near the route of the parade in case of an emergency. Should access be necessary, we ask that the participants move out of the way and let fire apparatus proceed to the emergency scene. Someone should be put in charge of moving the barricades for emergency access. The Fire Department will endeavor to avoid the route unless absolutely necessary.
- Contact Fire Marshal Chris Coughlin at 837-3413 for tent and cooking requirements.
- Organizers must communicate with local churches regarding the event and potential impact to Sunday church services.

;and

RESOLVED FURTHER, that the Administrative Staff is hereby authorized to approve future requests if conducted in substantially the same manner. (Motion ADOPTED.)

### **WALKATHON AT STRATFORD PARK – CHRISTIAN CELEBRATION CENTER**

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

RESOLVED, that the request from Keith Grabill, Youth Pastor at Christian Celebration Center, to hold a 5k walkathon/runathon in Stratford Park on Saturday, May 15, 2010, and charge an entry fee, is hereby approved; and

RESOLVED FURTHER, that the Administrative Staff is hereby authorized to approve future requests if conducted in substantially the same manner. (Motion ADOPTED.)

### **ZONING PETITION NO. 565**

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

WHEREAS, a public hearing was held by the Planning Commission on Tuesday, February 23, 2010 for property located at 1321 East Wackerly Road for the purpose of considering the advisability of amending the Zoning Map of Ordinance No. 1585, 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, April 12, 2010, at 7:00 p.m. in the Council Chambers, City Hall, for the purpose of considering the advisability of amending the Zoning Map of Ordinance No. 1585, the Zoning Ordinance of the City of Midland, as set forth in the following proposed Ordinance, which is hereby introduced and given first reading; and

## UNAPPROVED

RESOLVED FURTHER, that the City Clerk is hereby directed to notify property owners within three hundred (300) feet of the area proposed to be rezoned by transmitting notice on March 26, 2010 and to publish said notice on March 27, 2010.

### 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 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 INDUSTRIAL A ZONING WHERE A LINCOLN TOWNSHIP 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:

PART OF THE SOUTHWEST ¼ OF THE SOUTHEAST ¼ OF SECTION 35, TOWN 15 NORTH, RANGE 1 EAST, LINCOLN TOWNSHIP, MIDLAND COUNTY, MICHIGAN DESCRIBED AS: BEGINNING AT A POINT ON THE NORTH-SOUTH ¼ LINE OF SECTION 35 THAT IS NORTH 00D 36M 25S EAST, 660.00 FEET FROM THE SOUTH ¼ CORNER; THENCE CONTINUING NORTH 00D 36M 25S EAST, 667.57 FEET ALONG THE NORTH-SOUTH ¼ LINE TO THE SOUTH 1/8 LINE; THENCE SOUTH 89D 58M 47S EAST, 223.22 FEET ALONG THE SOUTH 1/8 LINE TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF U.S. 10; THENCE SOUTH 49D 41M 12S EAST, 556.02 FEET ALONG SAID RIGHT OF WAY LINE TO THE POINT OF CURVATURE OF A 2967.79 FOOT RADIUS CURVE TO THE LEFT; THENCE SOUTHEASTERLY, 432.44 FEET ALONG THE ARC OF SAID CURVE AND HAVING A LONG CHORD BEARING SOUTH 53D 51M 39S EAST; THENCE SOUTH 0D 25M 11S WEST, 713.15 FEET TO THE SOUTH SECTION LINE; THENCE NORTH 89D 59M 11S WEST, 449.95 FEET ALONG THE SOUTH SECTION LINE; THENCE NORTH 00D 36M 25S EAST, 325.00 FEET PARALLEL WITH THE NORTH-SOUTH ¼ LINE; THENCE NORTH 89D 59M 11S WEST, 225.00 FEET PARALLEL WITH THE SOUTH SECTION LINE; THENCE NORTH 00D 36M 25S EAST, 335.00 FEET PARALLEL WITH THE NORTH-SOUTH ¼ LINE; THENCE NORTH 89D 59M 11S WEST, 330 FEET PARALLEL WITH THE SOUTH SECTION LINE TO THE POINT OF BEGINNING. CONTAINING 18.14 ACRES AND SUBJECT TO THE SOUTH 33 FEET THEREOF FOR WACKERLY ROAD.

Be, and the same is hereby changed to Industrial A.

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. (Motion ADOPTED.)

### **DOW AGROSCIENCES, LLC – IFT APPLICATION**

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

RESOLVED, that an application dated March 2, 2010, was received March 3, 2010, from Dow AgroSciences, LLC, with supporting data pursuant to Public Act 198 of the Public Acts of the State of Michigan of 1974, as amended, for an industrial facilities exemption certificate within the Michigan Division Dow Chemical Company Plant Rehabilitation District No. 1, relating to new real and personal property to utilize Building 827 at Michigan Operations for the production

UNAPPROVED

of agricultural insecticide products by installing all necessary process instrumentation, piping and equipment for production with a total project cost of \$13,625,900, to allow further expansion in the Michigan Division Dow Chemical Company Plant Rehabilitation District No. 1 is hereby acknowledged received and ordered placed on file in the City Clerk's office; and  
RESOLVED FURTHER, that a hearing shall be held before the City Council on Monday, March 22, 2010, at 7:00 p.m., in the Council Chambers of the City Hall, 333 W. Ellsworth Street, Midland, Michigan, for the purpose of affording the applicant, the City Assessor and representatives of the affected taxing units an opportunity for a hearing on the application and the City Clerk shall provide written notice thereof in accordance with Section 5 of Public Act 198. (Motion ADOPTED.)

Being no further business the meeting adjourned at 7:40 p.m.

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Selina Tisdale, City Clerk

UNAPPROVED

March 10, 2010

A special meeting of the City Council was held Wednesday, March 10, 2010, at 6:30 p.m. in the Council Chambers in City Hall. Mayor Donker presided.

Councilmen present: Thomas Adams, Maureen Donker, Marty Wazbinski  
Councilmen absent: Scott Gaynor, Bruce Johnson

**CITIZENS ACADEMY**

City Council held a discussion with the participants of the 2010 Citizens Academy.

Being no further business the meeting adjourned at 8:25 p.m.

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Selina Tisdale, City Clerk