

**MINUTES  
REGULAR COUNCIL MEETING  
FEBRUARY 28, 2012**

The City Council of the City of Midlothian convened in a Regular Meeting in the Council Chambers of City Hall, 104 West Avenue E, with the meeting open to the public and notice of said meeting posted as prescribed by V.T.C.A., Government Code, Chapter 551, with the following members present to-wit:

Bill Houston	§	Mayor
Wayne Sibley	§	Councilmember Place 1
Mike Rodgers	§	Councilmember Place 2
Jason Kyle	§	Councilmember Place 3
Joe Frizzell	§	Mayor Pro Tem Place 4
Hank Miller	§	Councilmember Place 5
Steve Massey	§	Councilmember Place 6

**REGULAR AGENDA – 6:00 P.M.**

Mayor Houston called the meeting to order at 6:00 p.m. with notice of the meeting duly posted and a quorum present. Mayor pro tem Frizzell gave the invocation and led in the pledges.

**2012-55 ANNOUNCEMENTS/PRESENTATIONS**

Councilmember Miller provided Council with a report he compiled regarding the City's position related to litigation, taxes, and fees.

**a. Community Affairs calendar**

Filing for City Council election to continue through March 5; April 14<sup>th</sup> – Spring Clean-Up Day; applications being accepted for Spring Session of Citizens Police Academy.

**b. Presentation of City's financial audit for FY 2010-11 from representatives of Weaver & Tidwell, LLP**

Adam McCane reported on findings and stated that the City's accounting practices had again earned the highest rating that can be achieved from an auditing firm. All records examined were found to be materially correct.

**c. Receive Mockingbird Park update from representatives of Texas Master Naturalist Society**

Naturalist Aaron Gritzmaker cited improvements made, including construction of benches, the start of a butterfly garden, installation of an archway, and plans to build a bird blind in the future.

**d. Receive racial profiling report**

Chief Smith presented the report in compliance with requirements of the Texas Racial Profiling Law. Compiled data revealed no indication of any race being targeted for traffic stops, searches, or arrests.

**e. Administrative announcements related to personnel**

Newly hired Parks Department Special Events Coordinator Gina Moore was introduced to Council.

**CONSENT AGENDA**

**2012-56 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETINGS OF FEBRUARY 7 AND 14, 2012**

**2012-57 CONSIDER AND ACT UPON APPROVAL OF A COOPERATIVE PURCHASING AGREEMENT WITH THE CITY OF COPPELL, TEXAS IN ORDER TO GAIN ACCESS TO CONTRACTS PREVIOUSLY BID OUT FOR UNIFORMS AND OTHER ITEMS REQUIRED FOR DAILY OPERATIONS THROUGHOUT THE CITY**

Mayor pro tem Frizzell moved to approve the Consent Agenda as presented. Motion was seconded by Councilmember Sibley and carried unanimously (7-0).

<b>PUBLIC HEARINGS</b>
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**2012-58 CONDUCT A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE AMENDING ORDINANCE 2007-15, AS AMENDED, THE COMPREHENSIVE PLAN FOR THE CITY OF MIDLOTHIAN, TEXAS, A REVISION TO THE PARKS, RECREATION AND OPEN SPACE MASTER PLAN, REPEALING ALL SECTIONS OF SAID PLAN AND MAP ELEMENTS AND REPLACING THEM AS APPROPRIATE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE**

Mayor Houston opened the Public Hearing for public comment.

Historic Board Chairman Karen Esberger and Vice Chairman Judy Howard expressed the Board's desire to maintain Kimmel Park as an historic park and expressed concern that the park was not large enough for a splash park feature and picnic pavilion. The Board strongly supported all other amenities and stressed the need to showcase the historic bandstand.

Michael Formby, 717 Chelsea Drive, asked that consideration be given to moving the dog park up in terms of priority.

Park Board member Mark Fletcher spoke on behalf of the plan and encouraged adoption.

Councilmember Sibley moved to close the Public Hearing. Motion was seconded by Mayor pro tem Frizzell and carried unanimously (7-0). Councilmember Miller moved to approve Item 2012-58 with an amendment to remove the splash park feature and picnic pavilion from the Kimmel Park plans. Motion was seconded by Councilmember Sibley and carried unanimously (7-0).

**2012-59 CONDUCT A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE TO REZONE 114 SOUTH 5<sup>TH</sup> STREET (ORIGINAL TOWN LOT 7 AND PART OF LOT 8, BLOCK 29) FROM ITS CURRENT RESIDENTIAL THREE (R3) DISTRICT TO A PROPOSED URBAN VILLAGE PLANNED DEVELOPMENT (UVPD) DISTRICT FOR PROFESSIONAL OFFICE USES. PROPERTY CONTAINS ± 0.29757 ACRES AND IS LOCATED EAST OF SOUTH 5<sup>TH</sup> STREET AND ± 122 FEET SOUTH OF WEST MAIN STREET, IN THE CITY OF MIDLOTHIAN, TEXAS. (CASE NO. Z01-2011-10)**

Mayor Houston opened the Public Hearing and Mr. Garfield requested the Public Hearing be continued to March 13.

Councilmember Miller moved to continue the Public Hearing to March 13. Motion was seconded by Councilmember Kyle and carried unanimously (7-0).

<b>REGULAR AGENDA</b>
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**2012-60 CITIZENS TO BE HEARD**

None were received.

**2012-61 CONSIDER AND ACT UPON APPROVAL OF A CONCEPT PLAN FOR THE MIDLOTHIAN COMMUNITY PARK THAT WILL HELP GUIDE THE DESIGN AND ENGINEERING OF THE NEW COMMUNITY PARK**

Dunkin, Sims, Stoffels Inc. partner Dennis Sims presented features of the 104 acre Community Park Plan including hike and bike trails, amphitheater, splash park, basketball courts, tennis courts, athletic fields, fishing piers, picnic pavilions, playgrounds, and open space.

Speaking in support of the Concept Plan were:

David Setzer	Cindy Lourgent	Tim Jackson, Soccer Association President
2214 Baltic Avenue	6413 Mill Valley Drive	1005 Crooked Creek Court

Randall Steel, Baseball Association President	Jimmy Culberson, Football League Vice President
226 Brookdale Drive	401 Cimarron Meadows

Non-speakers registering in support were:

John Adams 5609 Leander Way	Angie Culberson 401 Cimarron Meadows	Bret Detavernier P.O. Box 421	Mike Dillow 7881 Faith Lane
Jeff Hyndman 3020 Timber Rock	Ron King 5611 Twin Creek	Steve Lamb 3021 Brads Way	Chad Martin 921 Hill Meadows Dr.
Leslie Martin 921 Hill Meadows Dr.	Matthew Palmer 518 Meandering Way	Shene Rodermund 525 Quail Hollow	Kelly Simpson 5811 Hackberry Ct.
Carley Ward 525 Quail Hollow	Alton Webster 5811 Hackberry Ct.		

Councilmember Kyle moved to approve Item 2012-61 as presented. Motion was seconded by Councilmember Miller and carried unanimously (7-0).

**2012-62 CONSIDER AND ACT UPON A RESOLUTION SUPPORTING GS MIDLOTHIAN, LP, FOR AFFORDABLE RENTAL SENIOR HOUSING DEVELOPMENT IN THE CITY OF MIDLOTHIAN, TEXAS, TO BE LOCATED WITHIN THE PROPOSED WOODBRIDGE DEVELOPMENT OF MIDLOTHIAN (CASE NO. RES03-2011-15)**

Item 2012-62 was removed from consideration at the request of staff.

**2012-63 CONSIDER AND ACT UPON A RESOLUTION AMENDING THE PREVIOUSLY ADOPTED RESOLUTION 2010-12 GUIDELINES AND CRITERIA FOR TAX ABATEMENT UNDER TEXAS TAX CODE CHAPTER 312**

Garfield presented the required periodic review and recommended one minor revision.

Councilmember Miller moved to approve Item 2012-63 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (7-0).

**2012-64 CONSIDER AND ACT UPON A RESOLUTION OF THE CITY OF MIDLOTHIAN, ELLIS COUNTY, TEXAS, ESTABLISHING A TARGET AREA FOR COMMUNITY REVITALIZATION AND PROVIDING AN EFFECTIVE DATE (CASE NO. RES04-2011-16)**

Item 2012-64 was removed from consideration at the request of the applicant.

**2012-65 CONSIDER AND ACT UPON AN ORDINANCE ESTABLISHING REQUIREMENTS FOR THE PLACEMENT OF MAILBOX ASSEMBLIES WITHIN PUBLIC RIGHTS-OF-WAY IN THE CITY OF MIDLOTHIAN, ATTACHED HERETO AS EXHIBIT "A"; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY THAT ANY VIOLATION OF THE TERMS OF THIS ORDINANCE IS DECLARED TO BE A MISDEMEANOR, AND ANY PERSON FOUND TO BE GUILTY THEREOF SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED ONE THOUSAND DOLLARS (\$1,000), AND EACH DAY THAT SUCH VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE AND SHALL BE PUNISHABLE ACCORDINGLY; AND PROVIDING FOR AN EFFECTIVE DATE**

Mike Adams presented the proposed Ordinance supported by the Transportation Subcommittee, Planning & Zoning Commission and local Postmaster.

Mayor pro tem Frizzell moved to table the Item for further staff review and continued refinement related to a warning clause, existing mailboxes, new mailbox construction, public notification, and permitting process. Motion was seconded by Councilmember miller and carried unanimously (7-0).

**2012-66 CONSIDER AND ACT UPON MODIFICATION NO. 1 TO AN ENGINEERING SERVICES AGREEMENT WITH SCHRICKEL, ROLLINS AND ASSOCIATES, INC. FOR PHASE I DESIGN ON WATER TREATMENT PLANT NO. 2 IN AN AMOUNT NOT TO EXCEED \$140,000**

Mike Adams presented the request complicated by a significant delay in the completion date and a liquidated damage assessment against the contractor.

Councilmember Miller moved to approve Item 2012-66 with the stipulation that the amount to be released to the contractor be scheduled for discussion in Executive Session at the March 13 meeting. Motion was seconded by Mayor pro tem Frizzell and carried unanimously (7-0).

**2012-67 CONSIDER AND ACT UPON APPOINTMENTS TO VARIOUS CITY BOARDS AND COMMISSIONS**

Mayor Houston recommended appointing Ross Weaver to the Planning & Zoning vacancy created by the election of Mike Rodgers to Council and recommended appointing Pat Farrell to the Parks Board vacancy created by the resignation of David Stanton. It was agreed that the board appointment process would be scheduled for a Workshop prior to July appointments.

Councilmember Sibley moved to approve appointments as recommended. Motion was seconded by Councilmember Rodgers and carried unanimously (7-0).

*Council moved to Executive Session at 8:50 p.m. for the purpose of discussing Items 3, 4, 5, 6, 7, and 9, with the following present: Mayor Houston, Mayor pro tem Frizzell, Councilmembers Sibley, Rodgers, Kyle, Miller, Massey; City Manager and City Attorney*

<b>EXECUTIVE SESSION</b>
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1. SECTION 551.071 LEGAL: CONSULTATION WITH ATTORNEY REGARDING CITY OF MIDLOTHIAN V. RANDALL DENTON, MIDTEXAS INTERNATIONAL CENTER, INC., TEXAS PROPERTIES TRUST AND TRADE ZONE OPERATIONS, INC.
2. SECTION 551.071 LEGAL: CONSULTATION WITH ATTORNEY REGARDING CAUSE NO. 3-07-CV-1351-N, TEXAS CENTRAL BUSINESS LINES CORPORATION V. CITY OF MIDLOTHIAN
3. SECTION 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS
4. SECTION 551.074 PERSONNEL MATTERS: (A)(1) TO DELIBERATE THE APPOINTMENT, EMPLOYMENT OR DUTIES OF AN ECONOMIC DEVELOPMENT EXECUTIVE DIRECTOR FOR THE CITY OF MIDLOTHIAN
5. SECTION 551.074 PERSONNEL MATTERS: (A)(1) TO DELIBERATE THE APPOINTMENT, EMPLOYMENT OR DUTIES OF A CITY SECRETARY FOR THE CITY OF MIDLOTHIAN
6. SECTION 551.074 PERSONNEL MATTERS: (A)(1) TO DELIBERATE THE DUTIES OF THE CITY ATTORNEY FOR THE CITY OF MIDLOTHIAN
7. SECTION 551.074 PERSONNEL MATTERS: (A)(1) TO DELIBERATE THE DUTIES OF THE CITY MANAGER FOR THE CITY OF MIDLOTHIAN
8. SECTION 551.072 REAL ESTATE: DELIBERATE AND CONSIDER THE ACQUISITION OF REAL PROPERTY NECESSARY FOR ROADWAY AND PARKS IMPROVEMENT PROJECTS
9. SECTION 551.072 REAL ESTATE: DELIBERATION REGARDING REAL PROPERTY - TO DELIBERATE THE PURCHASE, EXCHANGE, LEASE OR VALUE OF REAL PROPERTY

AS AUTHORIZED BY SECTION 551.071(2) OF THE TEXAS GOVERNMENT CODE, THIS MEETING MAY BE CONVENED INTO CLOSED EXECUTIVE SESSION FOR THE PURPOSE OF SEEKING CONFIDENTIAL LEGAL ADVICE FROM THE CITY ATTORNEY ON ANY AGENDA ITEM LISTED HEREIN

*Council reconvened in Regular Session at 11:02 p.m. with no action taken in Executive Session.*

**REGULAR AGENDA**

**2012-68 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: RANDALL DENTON, ET AL**

The Item was not discussed in Executive Session nor was action taken.

**2012-69 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: TEXAS CENTRAL BUSINESS LINES**

The Item was not discussed in Executive Session nor was action taken.

**2012-70 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: ECONOMIC DEVELOPMENT**

City Finance Director and Planning Director, Kevin Blankenship, Sharon Welhouse, and Vance Flores participated in discussion; no action was taken following Executive Session.

**2012-71 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: PERSONNEL – ECONOMIC DEVELOPMENT EXECUTIVE DIRECTOR**

Danny Rodgers and Tim Tobey participated in discussion; no action was taken following Executive Session.

**2012-72 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #5: PERSONNEL – CITY SECRETARY**

No action was taken following Executive Session.

**2012-73 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #6: PERSONNEL – CITY ATTORNEY**

No action was taken following Executive Session.

**2012-74 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #7: PERSONNEL – CITY MANAGER**

No action was taken following Executive Session.

**2012-75 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #8: REAL ESTATE**

The Item was not discussed in Executive Session nor was action taken.

**2012-76 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #9: REAL ESTATE**

No action was taken following Executive Session.

**2012-77 ACTION RESULTING FROM EXECUTIVE SESSION RELATED TO SECTION 551.071(2)**

The Item was not discussed in Executive Session nor was action taken.

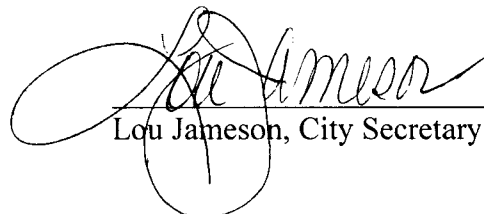
**2012-78 ADJOURN**

With there being no further business to discuss, Mayor Houston adjourned the meeting at 11:03 p.m.

ATTEST:



Bill Houston, Mayor



Lou Jameson, City Secretary