

**MINUTES
REGULAR COUNCIL MEETING
OCTOBER 9, 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
T. J. Henley	§	Councilmember Place 5
Ted Miller	§	Councilmember Place 6

REGULAR AGENDA

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

2012-370 ANNOUNCEMENTS/PRESENTATIONS

a. Community Affairs calendar

- Every Saturday thru October – Downtown Farmers Market 8am-1pm at Heritage Park
- October 12, 2012 – Community Gardening Day 8am-11am at Ridgeview Park.
- October 13, 2012 - Movies in the Park – Soul Surfer 7pm at Hawkins Spring Park
- October 14, 2012 – Midlothian Youth Football League Powder Puff Football Tournament fundraiser 10am-4pm at Don Floyd Memorial Stadium
- October 19, 2012 – Kickin’ for a Cause – Texans against Breast Cancer fundraiser - 7pm-12am at the Western Kountry Klub
- October 20, 2012 – Fall Festival 9am-4pm at the MISD Multi-Purpose Stadium
- October 23 – November 2 – Early Voting at Midlothian Conference Center
- 3rd Annual Veterans Tribute Dinner - November 11, 2012 at 6:30 p.m. at the Midlothian Conference Center

b. Presentation of Proclamation recognizing Red Ribbon Week

Mayor Houston presented the proclamation to Tom Kowatch of REACH Council Prevention Services. A proclamation was also presented to Mark Fletcher in recognition of October as Breast Cancer Awareness Month.

c. Administrative announcements related to personnel

Don Hastings recognized Paul Hernandez of Oncor and expressed thanks on behalf of the City for the receipt of \$14,609 in Oncor grant funds to upgrade the HVAC units at the Midlothian Justice Center.

CONSENT AGENDA

2012-371 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETING OF SEPTEMBER 25, 2012

2012-372 CONSIDER AND ACT UPON APPROVAL OF AN ADMINISTRATIVE SERVICES CONTRACT BETWEEN THE CITY OF MIDLOTHIAN AND MIDLOTHIAN ECONOMIC DEVELOPMENT

2012-373 CONSIDER AND ACT UPON APPROVAL OF AN ADMINISTRATIVE SERVICES CONTRACT BETWEEN THE CITY OF MIDLOTHIAN AND THE MIDLOTHIAN COMMUNITY DEVELOPMENT CORPORATION

- 2012-374 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE MIDLOTHIAN INDEPENDENT SCHOOL DISTRICT ("MISD") 2012 HOMECOMING PARADE, AN EVENT HOSTED BY THE MISD, SCHEDULED FOR FRIDAY, OCTOBER 26, 2012, IN ACCORDANCE WITH A SPECIAL EVENT PERMIT AS ESTABLISHED BY THE CITY OF MIDLOTHIAN ZONING ORDINANCE 89-13 AS AMENDED, SECTION 4.4 (CASE NO. RES19-2011-72)
- 2012-375 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE MIDLOTHIAN CHAMBER OF COMMERCE FALL FESTIVAL/CHRISTELLE MOSER MEMORIAL 5K RUN/WALK, AN EVENT HOSTED BY THE MIDLOTHIAN CHAMBER OF COMMERCE AND SCHEDULED FOR SATURDAY, OCTOBER 20, 2012, IN ACCORDANCE WITH A SPECIAL EVENT PERMIT AS ESTABLISHED BY THE CITY OF MIDLOTHIAN ZONING ORDINANCE 89-13 AS AMENDED, SECTION 4.4 (CASE NO. RES21-2011-79)
- 2012-376 CONSIDER AND ACT UPON A RESOLUTION APPROVING A FUNDING REQUEST BY THE CITY OF MIDLOTHIAN IN THE AMOUNT OF TWELVE THOUSAND FIVE HUNDRED AND 00/100 (\$12,500.00) DOLLARS, TO BE AWARDED BY THE MIDLOTHIAN COMMUNITY DEVELOPMENT CORPORATION (MCDC OR 4B) TO FUND THE PURCHASE OF A 20' PRE-LIT ARTIFICIAL CHRISTMAS TREE FOR USE DURING THE HOLIDAY SEASON IN HERITAGE PARK
- 2012-377 ITEM TO BE CONSIDERED AT OCTOBER 23, 2012 CITY COUNCIL MEETING.

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

**MINUTES OF
JOINT PUBLIC HEARING
OF THE
MIDLOTHIAN CITY COUNCIL
AND
CITY OF MIDLOTHIAN PLANNING AND ZONING COMMISSION
OCTOBER 9, 2012**

2012-378 CALL TO ORDER OF THE CITY OF MIDLOTHIAN PLANNING AND ZONING COMMISSION

At 6:13 p.m. Commissioner Weaver called the Planning and Zoning Commission to order with a quorum of members present. Commissioners Weaver, Griffin, Kemp, Collins and Koehler were present; Commissioners Seeds and Johnson were absent. Terry Morgan, Attorney, provided a brief overview and history of the City of Midlothian vs. Texas Central Business Lines and Mid-Texas International litigation and the Settlement Agreement between the parties.

- 2012-379 CONDUCT A JOINT PUBLIC HEARING BETWEEN THE CITY COUNCIL AND PLANNING & ZONING COMMISSION TO CONSIDER AND ACT UPON AN ORDINANCE REQUESTING TO REZONE ± 19.004 ACRES FROM RESIDENTIAL THREE (R3) DISTRICT TO A LIGHT INDUSTRIAL (LI) DISTRICT. PROPERTY IS OUT OF THE HARRISON F. HINKLEY SURVEY, ABSTRACT NO. 459 AND IS LOCATED ± 710 FEET NORTH OF FM 1387 AND ± 1,200 FEET WEST OF NORTH MIDLOTHIAN PARKWAY, IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. Z09-2011-75)**

Mayor Houston and Commissioner Weaver opened the Public Hearing for Items 2012-379 and 2012-380. With no public input received, Mayor pro tem Frizzell moved to close the Public Hearing for Items 2012-379 and 2012-380. Motion was seconded by Councilmember Sibley and carried unanimously (7-0). Commissioner Griffin moved to close the Planning and Zoning Commission portion of the Public Hearing for Items 2012-379 and 2012-380. Motion was seconded by Commissioner Kemp and carried unanimously (5-0). Commissioner Kemp moved to approve Item 2012-379 as presented. Motion was seconded by Commissioner Collins and carried unanimously (5-0). Mayor pro tem Frizzell moved to approve Item 2012-379 as presented. Motion was seconded by Councilmember Kyle and carried unanimously (7-0).

2012-380 CONDUCT A JOINT PUBLIC HEARING BETWEEN THE CITY COUNCIL AND PLANNING & ZONING COMMISSION TO CONSIDER AND ACT UPON AN ORDINANCE REQUESTING TO REZONE ± 56.51 ACRES FROM COMMERCIAL (C) AND LIGHT INDUSTRIAL (LI) DISTRICTS AND ± 295.633 ACRES LIGHT INDUSTRIAL (LI) DISTRICT TO A PLANNED DEVELOPMENT (PD) DISTRICT FOR LIGHT INDUSTRIAL USES TOTALING ± 352.143 ACRES. PROPERTIES ARE KNOWN AS LOT 1, BLOCK 1 AND LOTS 1-3, BLOCK 2 OF THE AUTOPARK AND ARE LOCATED APPROXIMATELY NORTH OF FM 1387 AND EAST OF US HWY 67, IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. Z10-2011-76)

Mayor Houston and Commissioner Weaver opened the Public Hearing for Items 2012-379 and 2012-380. With no public input received, Mayor pro tem Frizzell moved to close the Public Hearing for Items 2012-379 and 2012-380. Motion was seconded by Councilmember Sibley and carried unanimously (7-0). Commissioner Griffin moved to close the Planning and Zoning Commission portion of the Public Hearing for Items 2012-379 and 2012-380. Motion was seconded by Commissioner Kemp and carried unanimously (5-0). Commissioner Collins moved to approve Item 2012-380 as presented. Motion was seconded by Commissioner Koehler and carried unanimously (5-0). Mayor pro tem Frizzell moved to approve Item 2012-380 as presented. Motion was seconded by Councilmember Rodgers and carried unanimously (7-0).

With there being no further business to discuss, Commissioner Weaver adjourned the Planning and Zoning Commission portion of the meeting at 6:30 p.m.

PUBLIC HEARING

2012-381 CONDUCT A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE TO REZONE ± 11.871 ACRES OUT OF THE DANIEL WEAVER SURVEY, ABSTRACT NO. 1138 FROM THE CURRENT AGRICULTURAL (A) AND SINGLE FAMILY ONE (SF-1) DISTRICTS TO A LIGHT INDUSTRIAL (LI) DISTRICT. PROPERTY IS GENERALLY LOCATED SOUTH OF US HWY. 287 AND SOUTHWEST REX ODOM DRIVE, IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. Z08-2011-64)

Mayor Houston opened the Public Hearing and John Taylor presented the Item that was unanimously approved by the Planning and Zoning Commission on August 21, 2012. With no public input received, Councilmember Sibley moved to close the Public Hearing. Motion was seconded by Councilmember Miller and carried unanimously (7-0). Councilmember Sibley moved to approve Item 2012-381 as presented. Motion was seconded by Councilmember Miller and carried unanimously (7-0).

REGULAR AGENDA

2012-382 CITIZENS TO BE HEARD

None to be heard.

2012-383 RECEIVE AN UPDATE ON VARIOUS CITY BOARD AND COMMISSION MEETINGS AND ACTIVITIES

None received.

2012-384 RECEIVE A PRESENTATION ON AND DISCUSS AN OVERVIEW OF MUNICIPAL MANAGEMENT DISTRICTS AND THE PROPOSED WINDSOR HILLS DEVELOPMENT

John Taylor provided a brief overview of the Municipal Management District that was originally adopted by the City Council in November, 2010 and expired by its own terms on September 1, 2012. Kirk Wilson of Centurion American Development Group, 1221 I-35E South, Carrollton, Texas gave a presentation regarding Municipal Management Districts, their purpose and the proposed Windsor Hills Development. Mr. Wilson requested City Council to consider approving another resolution in support of the creation of the Municipal Management District that would expire on September 1, 2015.

2012-385 CONSIDER AND ACT UPON AN ORDINANCE APPROVING THE CITY'S PARTICIPATION IN THE TEXAS ENTERPRISE ZONE PROGRAM PURSUANT TO THE TEXAS ENTERPRISE ZONE ACT, CHAPTER 2303, TEXAS GOVERNMENT CODE (THE "ACT"), PROVIDING TAX INCENTIVES, DESIGNATING A LIAISON FOR COMMUNICATION WITH INTERESTED PARTIES, AND NOMINATING ASH GROVE CEMENT COMPANY TO THE OFFICE OF THE GOVERNOR ECONOMIC DEVELOPMENT & TOURISM ("EDT") THROUGH THE ECONOMIC DEVELOPMENT BANK ("BANK") AS A DOUBLE JUMBO ENTERPRISE PROJECT (THE "PROJECT") (CASE NUMBER M01-2012-03)

John Taylor presented the Item, which was posted and advertised as a Public Hearing. Mayor Houston opened the Public Hearing. Adam Glass of Ryan LLC requested a nomination from City Council to the Economic Development and Tourism Division of the Governor's Office to designate the Ash Grove Texas LP revitalization project as a Double Jumbo Enterprise Project. With no public input received, Councilmember Sibley moved to close the Public Hearing. Motion was seconded by Councilmember Henley and carried unanimously (7-0). Councilmember Kyle moved to approve Item 2012-385 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (7-0).

2012-386 CONSIDER AND ACT UPON APPROVAL OF THE ECONOMIC DEVELOPMENT PERFORMANCE AGREEMENT BETWEEN ASH GROVE TEXAS LP AND MIDLOTHIAN ECONOMIC DEVELOPMENT FOR IMPROVEMENTS TO PROPERTY LOCATED AT 900 GIFCO ROAD, IN ASH GROVE ADDITION, BLOCK 1, LOT 1R OF THE NORTHWEST TAX REINVESTMENT ZONE, CITY OF MIDLOTHIAN, TEXAS

Larry Barnett of Midlothian Economic Development requested approval of the Economic Development Performance Agreement between Midlothian Economic Development and Ash Grove Texas LP wherein MED would reimburse 75% of one-half cent sales and use tax that will be credited to MED on taxable purchases in the City of Midlothian, paid by Ash Grove Texas LP in relation to its plant revitalization project. Councilmember Sibley moved to approve Item 2012-386 as presented. Motion was seconded by Councilmember Henley and carried unanimously (7-0).

2012-387 REVIEW, DISCUSS AND DIRECT STAFF AS APPROPRIATE REGARDING THE POTENTIAL ASSUMPTION OF OWNERSHIP AND MAINTENANCE RESPONSIBILITIES FOR A SEGMENT OF FM 663 (S. 9TH STREET), FROM US 287 BUSINESS (MAIN STREET) TO THE US HIGHWAY 287 NORTHBOUND ACCESS ROAD/RAMP

Mike Adams explained that due to the ongoing and future development expected along FM 663, between George Hopper/Walter Stephenson Roads and US Highway 287, staff recommends the City assume ownership and maintenance responsibilities of this segment of roadway. Councilmember Henley moved to authorize City staff to prepare and send correspondence to TxDOT requesting removal of state highway designation on FM 663 from US Highway 287 to Business 287 (Main Street). Motion was seconded by Councilmember Rodgers and carried unanimously (7-0).

2012-388 CONSIDER AND ACT UPON AN ORDINANCE AUTHORIZING THE ISSUANCE AND SALE OF CITY OF MIDLOTHIAN, TEXAS GENERAL OBLIGATION REFUNDING BONDS, SERIES 2012, IN AN AGGREGATE AMOUNT NOT TO EXCEED \$8,000,000; AND ORDAINING OTHER MATTERS RELATED THERETO, INCLUDING IMMEDIATE EFFECTIVENESS

Chris Dick and Mark McLiney of Southwest Securities presented the Item, explaining the debt service savings that will occur with this bond issuance. Councilmember Sibley moved to approve Item 2012-388 as presented. Motion was seconded by Councilmember Henley and carried unanimously (7-0). *Council moved to Executive Session at 7:55 p.m. for the purpose of discussing Item 5 and with the following present: Mayor Houston, Mayor pro tem Frizzell, Councilmembers Sibley, Rodgers, Kyle, Henley, Miller; City Manager, City Attorney, City Engineer, Patrick Lindner, Attorney, and Maurice Osborne.*

EXECUTIVE SESSION

- | | | |
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| 1. | SECTION
551.071 | LEGAL: CONSULTATION WITH ATTORNEY REGARDING CAUSE NO. 3-07-CV-1351-N, TEXAS CENTRAL BUSINESS LINES CORPORATION V. CITY OF MIDLOTHIAN |
| 2. | SECTION
551.087 | DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS |
| 3. | SECTION
551.072 | REAL ESTATE: DELIBERATE AND CONSIDER THE ACQUISITION OF REAL PROPERTY AND EASEMENTS NECESSARY FOR ROADWAY, UTILITY AND PARKS IMPROVEMENT PROJECTS |
| 4. | 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. |
| 5. | SECTION
551.071 | LEGAL: CONSULTATION WITH ATTORNEY BASED ON AN ETHICAL DUTY TO ADVISE REGARDING POTENTIAL LITIGATION |

This meeting will be conducted pursuant to the Texas Government Code Section 551.001 et seq. At any time during the meeting the Council reserves the right to adjourn into Executive Session on any of the above posted agenda items in accordance with the Sections 551.071 (litigation and certain consultation with attorney), 551.072 (acquisition of interest in real property), 551.073 (contract for gift to city), 551.074 (certain personnel deliberations) or 551.076 (deployment/implementation of security personnel or devices).

Council reconvened in Regular Session at 9:03 p.m. with no action taken in Executive Session.

REGULAR AGENDA

2012-389 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: TEXAS CENTRAL BUSINESS LINES

The Item was not discussed during Executive Session.

2012-390 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: ECONOMIC DEVELOPMENT

The Item was not discussed during Executive Session.

2012-391 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: REAL ESTATE

The Item was not discussed during Executive Session.

2012-392 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: DENTON

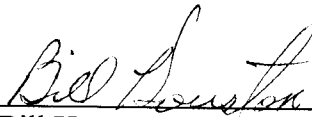
The Item was not discussed during Executive Session.

2012-393 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #5: CONTEMPLATED LITIGATION

No action taken following Executive Session.

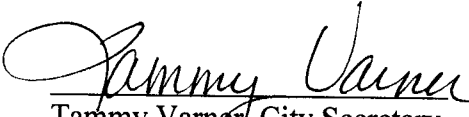
2012-394 ADJOURN

With there being no further business to discuss, Mayor Houston adjourned the meeting at 9:03 p.m.



Bill Houston, Mayor

ATTEST:



Tammy Varner, City Secretary