

**MINUTES  
REGULAR COUNCIL MEETING  
FEBRUARY 26, 2013**

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

**WORK SESSION AGENDA**

**2013-59 REVIEW AND DISCUSS DEBT MANAGEMENT AND CAPITAL PROJECT FUNDING**

Mayor Houston called the work session to order at 5:03 p.m. Council and staff reviewed and discussed the City's current debt service and management plan and a generalized capital project summary.

**REGULAR AGENDA**

Mayor Houston called the meeting to order at 6:03 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.

**2013-60 ANNOUNCEMENTS/PRESENTATIONS**

**a. Community Affairs calendar**

- March 2 – MISD Rowdy Runners 5k Run/Walk at Kimmel Park
- March 2 – Midlothian Soccer Association SoccerFest at Hawkins Spring Park
- March 4 – Carter BloodCare Community Blood Drive – City Hall parking lot

**b. Introduction of new City personnel**

Don Hastings introduced and welcomed the following new personnel:

- Marcos Narvaez – Planning Department
- Tracy Ausmus – Building Inspections
- Mike Stacey – Public Works Department

**c. Recognition of Fire Department personnel**

Fire Chief Schrodt recognized Deputy Fire Chief Dale McCaskill for completion of the Executive Fire Officer Program at the National Fire Academy

**d. Receive racial profiling report**

Chief of Police, Carl Smith, presented the annual racial profiling report.

**e. Presentation of City's financial audit for FY 2011-12 from representatives of Weaver & Tidwell, LLP**

Adam McCane of Weaver & Tidwell presented the unqualified audit opinion for FY 2011-12

**f. Receive quarterly financial reports from Patterson & Associates**

Linda Patterson presented the quarterly financial report for October through December 2012

**g. Administrative announcements related to personnel**

None were received

<b>CONSENT AGENDA</b>
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- 2013-61 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETING OF FEBRUARY 12, 2013**
- 2013-62 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE ROWDY RUN 5K FUN RUN/WALK HOSTED BY THE MIDLOTHIAN INDEPENDENT SCHOOL DISTRICT ELEMENTARY RUNNING CLUB SCHEDULED FOR SATURDAY, MARCH 2, 2013, 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. RES08-2012-42)**

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

<b>PUBLIC HEARINGS</b>
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- 2013-63 CONDUCT A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE TO AMEND PD-44, ORDINANCE 2007-47 (COVENTRY CROSSING) TO AMEND THE CONCEPTUAL LAYOUT AND PROPOSED LOT SIZES. PROPERTY CONTAINS ± 106 ACRES GENERALLY LOCATED EAST OF 663 AND SOUTH OF MCALPIN ROAD (CASE NO. Z04-2012-26)**

Mayor Houston opened the Public Hearing and John Taylor presented the amendment request for 258 lots, which was unanimously approved by the Planning and Zoning Commission on January 15, 2013. Adam Buzcek, 8214 Westchester Drive, Dallas, TX 75225, representing the Coventry Crossing developer, gave a presentation on the proposed development and answered Council inquiries regarding makeup of the architectural review committee and proposed lot sizes within the development. Input was also received from Ken Chambers, 1711 Windswept Dr., Midlothian, TX, regarding sewer capacity. Councilmember Sibley moved to close the Public Hearing. Motion was seconded by Councilmember Miller and carried unanimously (7-0). Councilmember Henley moved to approve Item 2013-63 as presented. Motion was seconded by Councilmember Miller and carried by a vote of 5-2, with Mayor pro tem Frizzell and Councilmember Rodgers voting in opposition.

<b>REGULAR AGENDA</b>
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**2013-64 CITIZENS TO BE HEARD**

Matt Maxwell, 827 Abigail Way and Wayne Nance, 326 Skye Lane Midlothian, TX addressed Council with concerns regarding appointees to the MidTowne Architectural Review Committee.

**2013-65 RECEIVE AN UPDATE ON VARIOUS CITY BOARD AND COMMISSION MEETINGS AND ACTIVITIES**

None were received.

**2013-66 CONSIDER AND ACT UPON AUTHORIZING THE EXPENDITURE OF FUNDS TO ELLIS COUNTY PRECINCT 4 FOR PAVEMENT REHABILITATION AND RESURFACING SERVICES FOR LONGBRANCH ROAD IN AN AMOUNT NOT TO EXCEED \$76,500.00**

Adam Mergener presented the Item for repairs to the City-owned portion of Longbranch Road. Councilmember Sibley moved to approve Item 2013-66 as presented. Motion was seconded by Councilmember Rodgers and carried unanimously (7-0).

**2013-67 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MUTUAL AID AGREEMENT THROUGH THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS FOR PUBLIC WORKS SUPPORT IN RESPONSE TO EMERGENCIES OR DISASTERS**

Adam Mergener presented the Item which will allow the City to be a member in a regional mutual aid response team that provides and/or be the recipient of public works resources in the event of an emergency or disaster. Ron Bates, Street Services Manager for the City of Grand Prairie and the Chair of the North Texas Public Works Emergency Response Team addressed Council regarding the history and makeup of the response team. Mayor pro tem Frizzell moved to approve Item 2013-67 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (7-0).

**2013-68 CONSIDER AND ACT UPON AN ORDINANCE AMENDING ORDINANCE 2011-03, SECTION 6 - LEVY OF FEES FOR GARBAGE/REFUSE AND RECYCLING COLLECTION SERVICE, BY INCREASING GARBAGE AND REFUSE COLLECTION SERVICE FEES FROM \$13.27 (INCLUSIVE OF TAX) TO \$13.41 (INCLUSIVE OF TAX) AND INCREASING RECYCLING COLLECTION SERVICE FEES FROM \$2.11 (INCLUSIVE OF TAX) TO \$2.13 (INCLUSIVE OF TAX); AMENDMENTS INCLUDE RATES INCREASES FOR COMMERCIAL HAND LOAD, FRONT LOAD AND ROLL-OFF SERVICES EQUATING TO AN OVERALL INCREASE OF 1.13%; ESTABLISHING VIOLATION AND PENALTY CLAUSES; PROVIDING A SEVERABILITY CLAUSE AND REPEALER CLAUSE AND SETTING AN EFFECTIVE DATE**

Chris Dick presented the annual rate adjustment request received from Allied Waste Services which will result in a 1.13% increase. Councilmember Sibley moved to approve Item 2013-68 as presented. Motion was seconded by Councilmember Henley and carried unanimously (7-0).

**2013-69 CONSIDER AND ACT UPON ADOPTION OF AN ORDINANCE GRANTING TO ATMOS ENERGY CORPORATION, MID-TEX DIVISION, A TEXAS AND VIRGINIA CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO FURNISH, TRANSPORT AND SUPPLY GAS TO THE GENERAL PUBLIC IN THE CITY OF MIDLOTHIAN, ELLIS COUNTY, TEXAS, FOR THE TRANSPORTING, DELIVERY, SALE, AND DISTRIBUTION OF GAS IN, OUT OF, AND THROUGH SAID MUNICIPALITY FOR ALL PURPOSES; PROVIDING FOR THE PAYMENT OF A FEE OR CHARGE FOR THE USE OF THE PUBLIC RIGHTS-OF-WAY; REPEALING ALL PREVIOUS ATMOS ENERGY GAS FRANCHISE ORDINANCES; PROVIDING THAT IT SHALL BE IN LIEU OF OTHER FEES AND CHARGES, EXCEPTING AD VALOREM TAXES; PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS AND LIMITATIONS UNDER WHICH SUCH FRANCHISE SHALL BE EXERCISED; A MOST FAVORED NATIONS CLAUSE, AND A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

Chris Dick presented the Item which will result in a new 10-year franchise agreement with the franchise fee remaining unchanged at 5% of quarterly gross revenues. Councilmember Kyle moved to approve Item 2013-69 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (7-0).

**2013-70 CONSIDER AND ACT UPON AUTHORIZING THE EXPENDITURE OF UP TO \$230,000 TO SARDIS-LONE ELM WATER SUPPLY CORPORATION FOR RELOCATING THEIR EXISTING WATER LINES THAT ARE IN CONFLICT WITH THE FM 1387/HIGH SCHOOL NO. 2 CAPITAL IMPROVEMENT PROJECT**

Mike Adams presented the Item for relocation of Sardis-Lone Elm Water Supply water lines due to the construction of High School No. 2; explaining that this relocation will occur at the City's expense due to the lines being located in private easements. Councilmember Sibley moved to approve Item 2013-70 as presented. Motion was seconded by Councilmember Kyle and carried unanimously (7-0).

**2013-71 CONSIDER AND ACT UPON EXPANDING THE PARKS DEPARTMENT VEHICULAR FLEET THROUGH THE PURCHASE OF A 1984 INTERNATIONAL TRUCK WITH A 32' BOOM FROM THE GOVERNMENT SURPLUS IN FORT WORTH, IN AN AMOUNT NOT TO EXCEED \$3,200**

Billy King presented the purchase request, said expenditure to be divided between Parks Department (\$800), Public Works (\$1,600) and Water Treatment Plant (\$800). The repair costs will also be split accordingly. The City will realize cost savings in rental fees for similar types of equipment. Councilmember Rodgers moved to approve Item 2013-71 as presented. Motion was seconded by Councilmember Henley and carried unanimously (7-0).

**2013-72 CONSIDER AND ACT UPON A REQUEST TO CREATE A POSITION OF ASSISTANT CITY MANAGER AT A PAY GRADE OF 38; TO AUTHORIZE STAFF TO POST THIS VACANT POSITION FOR INTERNAL CANDIDATES; AND, TO DIRECT STAFF TO PREPARE CORRESPONDING AMENDMENTS TO THE FY2012-13 GENERAL GOVERNMENT PAY SCHEDULE**

Don Hastings presented the position request to be posted internally within the City. After discussion by Council, Councilmember Sibley moved to approve Item 2013-72 as presented. Motion was seconded by Councilmember Kyle and carried by a vote of 6-1 with Councilmember Rodgers voting in opposition.

*Council moved to Executive Session at 8:56 p.m. for the purpose of discussing Items 1, 3, 5 and 7 with the following present: Mayor Houston, Mayor pro tem Frizzell, Councilmembers Sibley, Rodgers, Kyle, Henley, Miller; City Manager, City Attorney, and the following staff: City Engineer, Planning Director, Alberto Mares, Planner, Fritz Quast, attorney and Kevin Laughlin, attorney, each being present for their respective Items.*

<b>EXECUTIVE SESSION</b>
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| <b>1. SECTION<br/>551.071</b> | <b>LEGAL: CONSULTATION WITH ATTORNEY REGARDING CAUSE NO. 3-07-CV-1351-N, TEXAS CENTRAL BUSINESS LINES CORPORATION V. CITY OF MIDLOTHIAN</b>  |
| <b>2. SECTION<br/>551.087</b> | <b>DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS</b>  |
| <b>3. SECTION<br/>551.072</b> | <b>REAL ESTATE: DELIBERATE AND CONSIDER THE ACQUISITION OF REAL PROPERTY AND EASEMENTS</b>   |
| <b>4. SECTION<br/>551.071</b> | <b>LEGAL: CONSULTATION WITH ATTORNEY REGARDING CITY OF MIDLOTHIAN V. RANDALL DENTON, MIDTEXAS INTERNATIONAL CENTER, INC., TEXAS PROPERTIES TRUST AND TRADE ZONE OPERATIONS, INC.</b> |
| <b>5. SECTION<br/>551.071</b> | <b>LEGAL: CONSULTATION WITH ATTORNEY REGARDING SUPREME COURT OF TEXAS CAUSE NO. 10-0150, ECOM REAL ESTATE MANAGEMENT, INC. V. CITY OF MIDLOTHIAN, TEXAS.</b>                         |
| <b>6. SECTION<br/>551.071</b> | <b>LEGAL: CONSULTATION WITH ATTORNEY BASED ON AN ETHICAL DUTY TO ADVISE REGARDING POTENTIAL LITIGATION</b>   |
| <b>7. SECTION<br/>551.074</b> | <b>PERSONNEL: PERSONNEL MATTERS: (A)(1) CITY MANAGER ANNUAL EVALUATION</b>   |

*Council reconvened into Regular Session at 11:10 p.m. with no action taken in Executive Session.*

<b>REGULAR AGENDA</b>
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**2013-73 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: TEXAS  
CENTRAL BUSINESS LINES**

No action taken following Executive Session.

**2013-74 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: ECONOMIC  
DEVELOPMENT**

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

**2013-75 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: REAL  
ESTATE**

No action taken following Executive Session.

**2013-76 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: DENTON**

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

**2013-77 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #5:  
CONTEMPLATED LITIGATION**

No action taken following Executive Session.

**2013-78 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #6: ECOM**

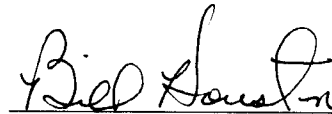
The Item was not discussed in Executive Session nor was action taken.

**2013-79 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #7: CITY  
MANAGER EVALUATION**

No action taken following Executive Session.

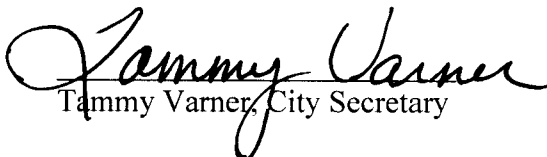
**2013-80 ADJOURN**

With there being no further business to discuss, Mayor Houston adjourned the meeting at 11:10 p.m.



Bill Houston, Mayor

ATTEST:



Tammy Varner, City Secretary