

**MINUTES
REGULAR COUNCIL MEETING
MARCH 12, 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

REGULAR AGENDA

Mayor Houston called the meeting to order at 6:02 p.m. with notice of the meeting duly posted and a quorum present. Councilmember Sibley gave the invocation and led in the pledges.

2013-81 ANNOUNCEMENTS/PRESENTATIONS

a. Community Affairs calendar

- March 16 – 9:00am-5:00pm - 2013 Lawn & Garden Expo at Waxahachie Civic Center
- March 20 – 4:30pm & 7:30pm – Carson Barnes Circus at Midlothian Conference Center (2 shows)
- March 22 – 7:00pm – Pantherette Spring Fling at MHS Arena
- March 22 – 8:30pm – Night Hike & Owl Prowl at Mockingbird Nature Park
- March 23 – 9:00am-2:00pm – Chamber of Commerce 2013 Experience Midlothian Community Expo & A Taste of Midlothian at the Midlothian Conference Center
- March 23 – 10:00am – Easter Egg Hunt at Kimmel Park

b. Draw for order of candidate names on May 11 City Council election ballot

Names were drawn and will appear on the ballot in the order as shown below:

Place 3

Jeff Murray
Jimmie Lou McClure
Jason Kyle
Wayne Nance

Place 4

Joe Frizzell
Ken Chambers

c. Presentation of DeMolay proclamation

Proclamation presented to representatives of Legacy DeMolay Chapter

d. Administrative announcements related to personnel

None were received

2013-82 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETING OF FEBRUARY 26, 2013

Councilmember Sibley moved to approve Item 2013-82 as presented. Motion was seconded by Councilmember Kyle and carried unanimously (7-0).

2013-83 CITIZENS TO BE HEARD

None to be heard.

2013-84 RECEIVE AN UPDATE ON VARIOUS CITY BOARD AND COMMISSION MEETINGS AND ACTIVITIES

None to be heard.

2013-85 CONDUCT A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE TO AMEND PD-1 TO APPROVE AND FORMALIZE AN ASSOCIATED SITE PLAN. PROPERTY CONTAINS ± 3.563 ACRES AND IS LOCATED IN THE PEBBLE CREEK ADDITION AT THE SOUTHWEST CORNER OF N. 9TH STREET AND PEBBLE CREEK DRIVE, IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. Z07-2012-38)

Mayor Houston opened the Public Hearing and John Taylor presented the request to amend PD-1 and to officially adopt the site plan, due to the fact that there appears to be no record of this step being taken in the past. The applicant, Kenneth Lundberg, addressed Council, explaining there will not be a homeowners association because all of the newly-constructed homes will be rental properties. Mayor pro tem Frizzell moved to close the Public Hearing. Motion was seconded by Councilmember Sibley and carried 6-0-1 (*Councilmember Miller abstained from discussion and voting due to a conflict of interest*). Mayor pro tem Frizzell moved to approve Item 2013-85 as presented. Motion was seconded by Councilmember Henley and carried 6-0-1.

2013-86 CONDUCT A PUBLIC HEARING AND ACT UPON AN ORDINANCE TO AMEND PD-42, ORDINANCE 2007-14, AS AMENDED (MIDTOWNE PD), TO ALTER THE STRUCTURE, REQUIREMENTS AND POWERS OF THE MIDTOWNE ARCHITECTURAL REVIEW COMMITTEE. (CASE NO. Z06-2012-28)

Mayor Houston opened the Public Hearing and John Taylor presented the Item intended to revise the structure of the MidTowne Architectural Review Committee (“ARC”). Matt Maxwell, 821 Abigail Way, addressed Council regarding his support of adding two homeowners to the ARC. MidTowne developers, Monte Anderson and Will Pinkerton, spoke expressing their desire to have one homeowner added to the ARC with the City’s Planning Director to remain as a member of the ARC. Mr. Anderson also expressed that he wished to have veto power over the homeowner selection. Councilmember Sibley moved to close the Public Hearing. Motion was seconded by Councilmember Rodgers and carried unanimously (7-0). After further discussion by Council, it was the consensus of Council to make three separate motions as follows:

Item I - Councilmember Sibley moved to adopt Option B - to replace the Planning and Zoning Commission board member on the MidTowne Architectural Review Committee with a MidTowne resident/homeowner and retain the Planning Director (aka Development Services Director), or his designee, on the ARC. Motion was seconded by Councilmember Miller and carried unanimously (7-0).

Item II – John Taylor asked Council to consider an Option C which was not included in the Council packet materials. Option C would allow the MidTowne Homeowners Council to appoint a MidTowne resident to the ARC, with said selection to be ratified by the Developer. In further discussion, Councilmember Rodgers requested that Council also consider an Option D, which would appoint a MidTowne resident and would not be ratified by the Developer, as requested in a petition submitted by MidTowne residents. Councilmember Rodgers moved to include an Option D under Item II to be considered by City Council. Motion was seconded by Mayor Houston and carried by a vote of 6-1 with Councilmember Sibley voting in opposition. Councilmember Kyle moved to approve Option D, which provides for a MidTowne homeowner to be appointed to the ARC, with the following clarifications: said appointee to be a MidTowne *residential* lot-owner; to be elected annually, by a simple majority vote, with one vote per lot owned; said annual homeowners meeting to be conducted at 6:00 p.m. on the third Thursday of each January; elected appointee to require no ratification or approval from City Council, Planning and Zoning Commission or the Developer. Motion was seconded by Mike Rodgers, and carried by a vote of 5-2, with Councilmembers Sibley and Henley voting in opposition.

Item III – Councilmember Sibley moved to approve Option A – to retain the current appeal process to the Planning and Zoning Commission. Motion was seconded by Councilmember Kyle and carried by a vote of 6-1, with Councilmember Rodgers voting in opposition.

REGULAR AGENDA

2013-87 **CONSIDER AND ACT UPON AN ORDINANCE REPEALING ORDINANCE 2012-473 IN ITS ENTIRETY AND ESTABLISHING AN ORDINANCE ADOPTING THE BUILDING PERMIT FEE SCHEDULE OF THE CITY OF MIDLOTHIAN, TEXAS ATTACHED HERETO AS EXHIBIT "A"; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE**

Tim Littlejohn, Chief Building Official, reported that the current building permit fee schedule has been reviewed and recommended minimal changes to clean up outdated wording and add certain permit categories along with the respective fees. Councilmember Sibley moved to approve Item 2013-87 as presented. Motion was seconded by Councilmember Kyle and carried unanimously (7-0).

2013-88 **CONSIDER AND ACT UPON AN ORDINANCE AMENDING ORDINANCE NO. 2009-28 BY ESTABLISHING A NEW SCHOOL SPEED ZONE ON MEADOW GLEN DRIVE AS DESCRIBED IN THE "TABLE OF SCHOOL SPEED ZONES" (ATTACHED AS EXHIBIT A); POSTINGS AND/OR SIGNALIZATION SHALL SET MAXIMUM SPEED AND HOURS OF ENFORCEMENT; AUTHORIZING ERECTION OF APPROPRIATE SIGNS; PROVIDING FOR A CUMULATIVE EFFECT; PROVIDING FOR A PENALTY; PROVIDING FOR A SEVERABILITY CLAUSE; AND SETTING AN EFFECTIVE DATE**

Mike Adams reported that with the last phase of Meadows at Longbranch now completed, a new school speed zone will need to be established along Meadow Glen Drive. Councilmember Henley moved to approve Item 2013-88 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (7-0).

2013-89 **CONSIDER AND ACT UPON STAFF'S REQUEST TO PURCHASE SEVEN (7) FORD POLICE INTERCEPTORS FROM SAM PACKS FIVE STAR FORD, 1635 S. I-35 CARROLLTON, TEXAS. THIS REQUEST INCLUDES BOTH THE ACQUISITION OF SEVEN (7) 2013 FORD POLICE INTERCEPTOR UTILITY VEHICLES AND ADDITIONAL EQUIPMENT AS WELL AS EXTENDED WARRANTIES FOR THESE VEHICLES, IN AN AMOUNT NOT TO EXCEED \$332,394.**

Chief Smith presented the request for new vehicles intended to replace the aging fleet of Crown Victorias currently in service. Councilmember Sibley moved to approve Item 2013-89 as presented. Motion was seconded by Councilmember Kyle and carried unanimously (7-0).

Council moved to Executive Session at 8:05 p.m. for the purpose of discussing Items 3 and 5 with the following present: Mayor Houston, Mayor pro tem Frizzell, Councilmembers Sibley, Rodgers, Kyle, Henley, Miller; City Manager, City Attorney and City Engineer.

EXECUTIVE SESSION

- | | | |
|----|----------------------------|---|
| 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 |

- 4. SECTION 551.071 LEGAL: CONSULTATION WITH ATTORNEY REGARDING SUPREME COURT OF TEXAS CAUSE NO. 10-0150, ECOM REAL ESTATE MANAGEMENT, INC. V. CITY OF MIDLOTHIAN, TEXAS.
- 5. SECTION 551.071 LEGAL: CONSULTATION WITH ATTORNEY BASED ON AN ETHICAL DUTY TO ADVISE REGARDING POTENTIAL LITIGATION

Council reconvened in Regular Session at 8:52 p.m. with no action taken in Executive Session.

REGULAR AGENDA

2013-90 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: TEXAS CENTRAL BUSINESS LINES

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

2013-91 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: ECONOMIC DEVELOPMENT

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

2013-92 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: REAL ESTATE

No action taken following Executive Session.

2013-93 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: CONTEMPLATED LITIGATION

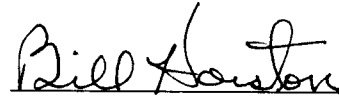
The Item was not discussed in Executive Session nor was action taken.

2013-94 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #5: ECOM

No action taken following Executive Session.

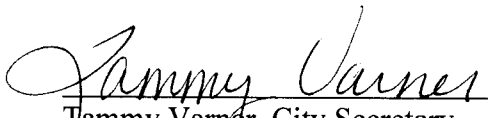
2013-95 ADJOURN

With there being no further business to discuss, Mayor Houston adjourned the meeting at 8:53 p.m.



Bill Houston, Mayor

ATTEST:



Tammy Varner, City Secretary