

**MINUTES
REGULAR COUNCIL MEETING
MAY 14, 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 6:00 p.m. with notice of the meeting duly posted and a quorum present. Councilmember Henley gave the invocation and led in the pledges.

2013-162 CANVASS VOTES FROM CITY COUNCIL ELECTION OF MAY 11, 2013

Council reviewed election returns submitted by Election Judge Lou Jameson and accepted the following as official:

Place 3

Jeff Murray	18
Jimmie Lou McClure	428
Jason Kyle	170
Wayne Nance	332

Place 4

Joe Frizzell	534
Ken Chambers	385

2013-163 ADMINISTER OATH OF OFFICE TO COUNCILMEMBERS PLACE 3 AND 4

Municipal Judge Kent Traylor administered the oath of office to Councilmember Joe Frizzell, Place 4. With no candidate winning by a majority, Place 3 returns resulted in a runoff.

2013-164 ELECT MAYOR PRO TEM

Councilmember Sibley moved to nominate Joe Frizzell for Mayor pro tem. Motion was seconded by Councilmember Miller and carried unanimously (7-0).

2013-165 CONDUCT DRAWING FOR PLACE ON BALLOT IN THE JUNE 8 RUNOFF ELECTION

Order on the ballot will be as follows: Jimmie Lou McClure
Wayne Nance

2013-166 ANNOUNCEMENTS/PRESENTATIONS

a. Community Affairs calendar

May 18th – 8 a.m. Heroes of Midlothian Benefit 5K & Festival at the MISD Multi-Purpose Stadium

May 20th - 10 a.m. Wildflower & Bird Walk at Mockingbird Nature Park

May 31st – 5:30 p.m. Punt, Pass & Kick Classic at the MISD Multi-Purpose Stadium

June 1st – 8 a.m. -11 a.m. Pancake Breakfast & Fly-In at Mid-Way Regional Airport

b. Administrative announcements related to personnel

None were received.

2013-167 CITIZENS TO BE HEARD

None to be heard.

2013-168 RECEIVE AN UPDATE ON VARIOUS CITY BOARD AND COMMISSION MEETINGS AND ACTIVITIES

None were received.

CONSENT AGENDA

- 2013-169 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETING OF APRIL 23, 2013
- 2013-170 CONSIDER AND ACT UPON A RESOLUTION PROVIDING FOR A JUNE 8, 2013 RUNOFF ELECTION TO BE HELD TO ELECT COUNCILMEMBER PLACE 3 IN THE CITY OF MIDLOTHIAN; DEFINING THE TERM OF OFFICE; DESIGNATING THE POLLING LOCATION; DESIGNATING THE ELECTION JUDGE AND PROVIDING FOR CLERICAL PERSONNEL; DESIGNATING THE TIME AND PLACE FOR SAID ELECTION.
- 2013-171 CONSIDER AND ACT UPON A RESOLUTION TO AUTHORIZE THE MIDLOTHIAN DOWNTOWN FARMERS MARKET TO BE HOSTED BY THE MIDLOTHIAN DOWNTOWN BUSINESS ASSOCIATION TO BE HELD EACH SATURDAY, JUNE 1, 2013 THROUGH OCTOBER 26, 2013, IN ACCORDANCE WITH ZONING REQUIREMENTS FOR SPECIAL EVENTS AS ESTABLISHED BY THE CITY OF MIDLOTHIAN ZONING ORDINANCE 89-13, AS AMENDED, SECTION 4.4 (USE TABLE) (CASE NO. RES14-2012-58)
- 2013-172 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE MIDLOTHIAN HEROES BENEFIT 5K RUN FOR THE FAMILIES OF CHRIS KYLE AND CHAD LITTLEFIELD, AN EVENT HOSTED BY THE MIDLOTHIAN HEROES AND SCHEDULED FOR SATURDAY, MAY 18, 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. RES13-2012-79)
- 2013-173 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE USE OF A TEMPORARY CONCRETE BATCH PLANT IN THE ROSEBUD ADDITION, SECTION 4, FOR THE PURPOSE OF DEVELOPING A NEW SUBDIVISION OF SINGLE-FAMILY HOMES, INCLUDING STREETS, WITHIN A RESIDENTIAL DISTRICT AND PROVIDING FOR PROCEDURES ESTABLISHED BY THE TEXAS LOCAL GOVERNMENT CODE AND CITY ORDINANCE; PROVIDING FOR CONDITIONS AND EXEMPTIONS; AND SETTING AN EFFECTIVE DATE AND TERMINATION DATE (CASE NO. RES15-2012-59)

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

PUBLIC HEARINGS

2013-174 CONDUCT A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE FOR A SPECIFIC USE PERMIT (SUP) TO ALLOW A MOBILE TELECOMMUNICATION TOWER AND EQUIPMENT AT 1050 US HIGHWAY 67. PROPERTY IS ZONED LIGHT INDUSTRIAL (LI) DISTRICT, CONTAINING ± 0.459 ACRES, AND GENERALLY LOCATED SOUTH OF US HIGHWAY 67 NORTHBOUND SERVICE ROAD AND EAST OF GREEN ACRES, IN THE CITY OF MIDLOTHIAN, TEXAS (SUP04-2012-47)

Mayor Houston opened the Public Hearing and John Taylor presented the Item for the placement of a cell tower and communication equipment on a 40'x50' lease area within the City's Public Works Center. With there being no public input, Mayor pro tem Frizzell moved to close the Public Hearing. Motion was seconded by Councilmember Sibley and carried unanimously (7-0). Councilmember Kyle moved to approve Item 2013-174 as presented. Motion was seconded by Councilmember Miller and carried unanimously (7-0).

2013-175 CONDUCT A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE TO REZONE ± 28.79 ACRES FROM THE CURRENT SINGLE FAMILY FOUR (SF-4), RESIDENTIAL 2.5 (R2.5) AND MEDIUM DENSITY ONE (MD-1) DISTRICTS TO COMMUNITY RETAIL (CR) AND SINGLE FAMILY FOUR (SF-4) DISTRICTS. PROPERTY IS IN THE J.B. LITTLEPAGE SURVEY, ABSTRACT NO. 643 AND THE ALLEN REEVES SURVEY, ABSTRACT NO. 939, AND IS GENERALLY LOCATED NORTH OF US HWY 67 AND WEST OF OVERLOOK DRIVE, IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. Z09-2012-50)

Mayor Houston opened the Public Hearing and John Taylor presented the rezoning request. With no public input received, Councilmember Kyle moved to close the Public Hearing. Motion was seconded by Councilmember Sibley and carried unanimously (7-0). Councilmember Sibley moved to approve Item 2013-175 as presented. Motion was seconded by Councilmember Miller and carried unanimously (7-0).

2013-176 CONDUCT A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE FOR A SPECIFIC USE PERMIT (SUP) TO ALLOW A NON-PROFIT DONATION COLLECTION FACILITY AT 250 ERIC STREET. PROPERTY IS ZONED PLANNED DEVELOPMENT 10, CONTAINING ± 0.6897 ACRES, AND GENERALLY LOCATED SOUTH OF AVE. F AND EAST OF ERIC STREET, IN THE CITY OF MIDLOTHIAN, TEXAS. (CASE NO. SUP05-2012-49)

Mayor Houston opened the Public Hearing and John Taylor presented the Item, explaining that upon further investigation, staff has determined that the SUP applicant is a for-profit company, and that staff recommended denial of the SUP application. With no public input received, Councilmember Kyle moved to close the Public Hearing. Motion was seconded by Councilmember Sibley and carried unanimously (7-0). Councilmember Sibley moved to deny Item 2013-176 as presented. Motion was seconded by Councilmember Miller and carried unanimously (7-0).

2013-177 CONTINUE A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE TO REZONE ± 1,167.375 ACRES FROM THE CURRENT AGRICULTURAL (A) DISTRICT TO A PLANNED DEVELOPMENT DISTRICT (PD) FOR RESIDENTIAL USES (SINGLE-FAMILY, TOWNHOMES AND MULTI-FAMILY) NON-RESIDENTIAL USES (COMMERCIAL AND LIGHT INDUSTRIAL) AND OPEN SPACES. PROPERTY ENCOMPASSES TWO (2) TRACTS: THE NORTH TRACT CONTAINS ± 966.36 ACRES AND GENERALLY LOCATED NORTH OF US HWY. 287 AND EAST OF WALNUT GROVE ROAD AND THE SOUTH TRACT CONTAINS ± 201.01 ACRES GENERALLY LOCATED SOUTH OF THE SOUTHERN PACIFIC RAILROAD AND EAST AND SOUTHEAST OF PLAINVIEW ROAD IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. Z05-2012-27)

Mayor Houston opened the Public Hearing which was continued from the March 26 Council meeting. John Taylor gave a brief recap of the project. Mayor Houston delayed any further discussion on this Item until the project developer, who was running late, arrived at the Council meeting.

REGULAR AGENDA

2013-178 CONSIDER AND ACT UPON MODIFICATION NO. 1 TO AN ENGINEERING SERVICES AGREEMENT WITH SCHRICKEL, ROLLINS AND ASSOCIATES, INC. FOR THE FM 663 AT US HIGHWAY 287 BRIDGE RECONSTRUCTION AND WIDENING PROJECT IN AN AMOUNT NOT TO EXCEED \$50,200

Mike Adams presented the Item for the additional FM 663 Bridge Project design work that is being funded by the Midlothian Development Authority. Councilmember Sibley moved to approve Item 2013-178 as presented. Motion was seconded by Councilmember Miller and carried unanimously (7-0).

2013-179 CONSIDER AND ACT UPON APPROVING AN AUCTION TO SELL MISCELLANEOUS ITEMS THAT ARE OUTDATED, BROKEN OR BEYOND ECONOMICAL REPAIR

Chris Dick presented the Item for various auction items valued under \$3,000. Councilmember Kyle moved to approve Item 2013-179 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (7-0).

2013-180 CONSIDER AND ACT UPON AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MIDLOTHIAN, TEXAS, ("CITY") APPROVING AND ADOPTING RATE SCHEDULE "RRM – RATE REVIEW MECHANISM" FOR ATMOS ENERGY CORPORATION, MID-TEX DIVISION TO BE IN FORCE IN THE CITY FOR A PERIOD OF TIME AS SPECIFIED IN THE RATE SCHEDULE; ADOPTING A SAVINGS CLAUSE; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; DECLARING AN EFFECTIVE DATE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND ACSC LEGAL COUNSEL.

Chris Dick presented the Item requesting approval of the revised rate schedule. Mayor pro tem Frizzell moved to approve Item 2013-180 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (7-0).

2013-181 CONSIDER AND ACT UPON AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF RED OAK AND THE CITY OF MIDLOTHIAN, TEXAS TO AUTHORIZE MIDLOTHIAN TO PROVIDE 9-1-1 COMMUNICATION AND DISPATCH SERVICES TO RED OAK.

Carl Smith presented the updated interlocal agreement as per the three-year review clause in the original interlocal agreement approved in 2009. Councilmember Sibley moved to approve Item 2013-181 as presented. Motion was seconded by Councilmember Kyle and carried unanimously (7-0).

2013-177 CONTINUE A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE TO REZONE ± 1,167.375 ACRES FROM THE CURRENT AGRICULTURAL (A) DISTRICT TO A PLANNED DEVELOPMENT DISTRICT (PD) FOR RESIDENTIAL USES (SINGLE-FAMILY, TOWNHOMES AND MULTI-FAMILY) NON-RESIDENTIAL USES (COMMERCIAL AND LIGHT INDUSTRIAL) AND OPEN SPACES. PROPERTY ENCOMPASSES TWO (2) TRACTS: THE NORTH TRACT CONTAINS ± 966.36 ACRES AND GENERALLY LOCATED NORTH OF US HWY. 287 AND EAST OF WALNUT GROVE ROAD AND THE SOUTH TRACT CONTAINS ± 201.01 ACRES GENERALLY LOCATED SOUTH OF THE SOUTHERN PACIFIC RAILROAD AND EAST AND SOUTHEAST OF PLAINVIEW ROAD IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. Z05-2012-27)

With the arrival of the project developer to the meeting, Mayor Houston took the matter back up for discussion.

Matt Alexander of Dowdey Anderson & Associates, 5226 Village Creek, Plano, TX gave an overview of the concept plan and design standards as set out in the Diamond J Development Design Book.

The following speakers addressed Council in opposition to the proposed project:

Brent Edminster 241 Parks Street	Nita Watson 3640 Willow Cir.	Jacquelyn Koch 203 S. 7 th	Wendy King 3520 Judy Court
Stephen Hines 738 Victoria Dr.	Casey Mattingly 218 Ashlawn Dr.	Christina Clemons 5840 Hayes Rd.	Gary Myers 3421 Mindy

The following speakers addressed Council in support of the proposed project:

Ross Weaver 1521 Melanie Trail	Terry Weaver 815 W. Main St.
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The following non-speakers registered in opposition to the proposed project:

Pam & Randy Till 3040 Keri Lane	Mary Redding 2010 Clearview Dr.	Ashley & Andrew Edmondson 2831 Keri Court
Gary Rowland 830 Sheparkon	Tim Johnson 4251 Zachs Circle	Charlotte Bailey 1647 Alexis

Lisa Burnham
1651 W. Pleasant Dr.

Marshall King
3520 Judy Court

Evelyn Day
218 Blake Lane

Larry Koch
203 S. 7th St.

Lauren Dillon
309 Boardwalk

Tom Hill
4060 Walnut Lane

Travis Brown
117 S. 7th St.

Emily Mattingly
218 Ashlawn Dr.

Kenneth & Patrick Babb
3001 Keri Lane

Alan French
3005 Keri Lane

Stacy Miller
225 Brookmeadow

Linda Blake
202 Stiles Dr.

Tina Gage
717 Buck Horn Ct.

Michael McClendon
5410 Mulberry Ln.

Mike & Christina Chambers
804 Virginia

Sandra & David Bundrick
111 Crestbrook Court

Sam Raybourn
2021 Clearview

Wade Moran
200 Williamsburg Lane

Rhoney Boyd
111 S. 7th St.

Judith Howard
203 N. 4th Street

Larry Johnson
1821 Plum Creek

Sarah Potter
16 Atlantic Ave.

Katherine Jackson
202 Williamsburg Ln.

Joe & Joyce Jessing
1842 Plum Creek Dr.

E. Espinoza
533 Westminster

Marcus Jimenez
421 Hidden Meadow

Marcus & Jennifer Johnson
3022 Blue Jay Lane

Marty Durston
700 Walter Stephenson

Norma Carbone
2430 Savanna Circle

Aimee Ketran
751 Walter Stephenson

Kristen Swanson
1000 Baltic

Wanda Wilkerson
280 S. Walnut Grove Rd.

Laura & Marsha Emmons
1010 S. Clinton Lane

Mayor pro tem Frizzell moved to continue the Public Hearing to June 3 at 6:00 p.m. at the Midlothian Conference Center. Motion was seconded by Councilmember Henley and carried unanimously.

2013-182 CONSIDER AND ACT UPON THE FINAL SITE SELECTION FOR THE PROPOSED SKATE PARK

Billy King presented the Item requesting Council's consideration of Hawkins Spring Park or Ridgeview Park as the final location for the skate park facility. After analysis of both locations, the Park Board has recommended Hawkins Spring Park as the location. Council discussed various safety and liability issues and accessibility of each site location to local youth. Marty Durston, 700 Walter Stephenson Road and Aimee Ketrane, 751 Walter Stephenson Road, addressed Council requesting that Hawkins Spring Park be selected as the final site location, citing their respective residences close location to Ridgeview Park and the effect such a facility would have on their quality of life, as the reason for their request. Councilmember Kyle moved to approve Hawkins Spring Park as the site location for the skate park facility. Motion was seconded by Councilmember Sibley and carried unanimously (7-0).

2013-183 CONSIDER AND ACT UPON AN AGREEMENT WITH INSITUFORM TECHNOLOGIES, INC. OF CORINTH, TEXAS FOR THE 2013 MANHOLE REHABILITATION PROGRAM USING THE SPECTRASHIELD MULTI-LAYERED LINER SYSTEM, IN AN AMOUNT NOT TO EXCEED \$73,000

Adam Mergener reported that the first phase of the rehabilitation project was approved by Council on May 25, 2010 and presented the request for the rehabilitation of 29 manholes within this phase of the ongoing project. Councilmember Sibley moved to approve Item 2013-183 as presented. Motion was seconded by Councilmember Kyle and carried unanimously (7-0).

Council moved to Executive Session at 9:38 p.m. for the purpose of discussing Item 2 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

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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 |
| 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 9:48 p.m. with no action taken in Executive Session.

REGULAR AGENDA

2013-184 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: TEXAS CENTRAL BUSINESS LINES

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

2013-185 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: ECONOMIC DEVELOPMENT

No action was taken following Executive Session.

2013-186 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: REAL ESTATE

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

2013-187 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: ECOM

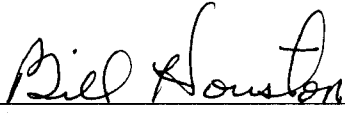
The Item was not discussed in Executive Session nor was action taken.

2013-188 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #5: CONTEMPLATED LITIGATION

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

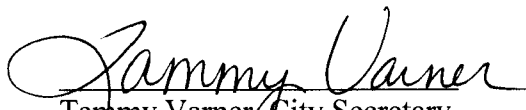
2013-189 ADJOURN

With there being no further business to discuss, Mayor Houston adjourned the meeting at 9:48 p.m.



Bill Houston, Mayor

ATTEST:



Tammy Varner, City Secretary