

**MINUTES  
REGULAR COUNCIL MEETING  
JUNE 11, 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 |
| Joe Frizzell | § | Mayor Pro Tem Place 4 |
| Ted Miller   | § | Councilmember Place 6 |

*Absent: Councilmembers Kyle and Henley due to family obligations. Councilmember-elect McClure was absent due to family obligations outside of the U.S.*

**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. Mayor pro tem Frizzell gave the invocation and led in the pledges.

**2013-217 Canvass votes from City Council runoff election of June 8, 2013**

Results from the June 8 runoff election for Place 3 were canvassed by City Council with the results as follows: Jimmie Lou McClure – XX votes Wayne Nance – XX votes

**2013-218 Administer Oath of Office to Councilmember Place 3**

The oath of office will be administered to Mrs. McClure upon her return to the United States. A letter from Councilmember-elect McClure expressing her appreciation to all those who supported her during the recent election process was read into the record by Mayor Houston.

**2013-219 ANNOUNCEMENTS/PRESENTATIONS**

**a. Community Affairs calendar**

- June 15 8 a.m. -12 p.m. Midlothian Downtown Farmers Market at Heritage Park
- June 15 9 a.m. – 3 p.m. “The Event on Main” at the Midlothian Civic Center. House of Grace youth benefit to send kids to camp.
- June 17 9 a.m. Wildflower & Bird Walk at Mockingbird Nature Park
- June 22 7 a.m. Sand Volleyball Tournament at the Midlothian Sports Complex - benefitting Momentum Youth Track Club.

**b. Administrative announcements related to personnel**

Don Hastings announced that Water Treatment Plant employees Sandra Binkley and Cindy Day placed 11<sup>th</sup> in the national Top Ops competition held in Denver, Colorado.

**2013-220 CITIZENS TO BE HEARD**

None to be heard.

**CONSENT AGENDA**

**2013-221 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETING OF MAY 28, 2013**

**2013-222 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE INDEPENDENCE DAY PARADE, AN EVENT HOSTED BY THE CITY OF MIDLOTHIAN PARKS AND RECREATION DEPARTMENT AND THE CITY OF MIDLOTHIAN PARKS ADVISORY BOARD SCHEDULED FOR THURSDAY, JULY 4, 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. RES17-2012-77)**

**2013-223 CONSIDER AND ACT UPON AWARDING A UNIT PRICE CONTRACT TO ROAD MASTER STRIPING, LLC FOR PAVEMENT STRIPING AND MARKING WORK THROUGHOUT THE CITY OF MIDLOTHIAN**

Mayor pro tem Frizzell moved to approve the Consent Agenda as presented. Motion was seconded by Councilmember Miller and carried unanimously (5-0).

**REGULAR AGENDA**

**2013-224 CONSIDER AND ACT UPON A PROPOSED TRI-PARTY DEVELOPMENT AGREEMENT WITH MIDLOTHIAN NH LLC ("THE DEVELOPER") AND MIDLOTHIAN ECONOMIC DEVELOPMENT ("MED" AKA "4A") INTENDED TO INCENTIVIZE THE CONSTRUCTION OF A SKILLED NURSING FACILITY BY CONDITIONALLY COMMITTING TO REIMBURSE THE DEVELOPER UP TO \$150,000 OF CITY MONIES, AND UP TO \$150,000 OF MED MONIES, TOWARD THE COST OF CONSTRUCTING 650± FEET OF SILKEN CROSSING EXTENDED SOUTH OF GEORGE HOPPER ROAD**

The item will be taken up at the June 25 City Council meeting.

**2013-225 CONSIDER AND ACT UPON A REQUEST FOR APPROVAL OF INCENTIVES REGARDING PROJECT TREASURE.**

The item will be taken up at the June 25 City Council meeting.

**JOINT MEETING WITH CITY OF MIDLOTHIAN PLANNING AND ZONING COMMISSION**

**2013-226 Call to order of Planning and Zoning Commission**

P&Z Chairman, Ross Weaver, called the Planning and Zoning Commission to order at 6:10 p.m. with a quorum present. Commissioners attending were: Lynda Johnson, Vicki Collins, Brett Kemp and Michael Griffith. Commissioners Rob Seeds and James Koehler were absent.

**PUBLIC HEARINGS**

**2013-227 CONDUCT A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE FOR A REVISED ZONING ORDINANCE TO REPLACE THE CURRENT ORDINANCE 89-13, AS AMENDED, TO REFORMAT AND REORGANIZE THE EXISTING ZONING ORDINANCE BY CREATING NEW SECTIONS AND SUBSECTIONS, AND INCLUDING ILLUSTRATIONS (CASE NO. OZ03-2012-43)**

Mayor Houston opened the Public Hearing. Mayor pro tem Frizzell moved to continue the Public Hearing until June 25. Motion was seconded by Councilmember Rodgers and carried unanimously (5-0).

**2013-228 CONDUCT A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE TO AMEND THE CITY OF MIDLOTHIAN ZONING ORDINANCE 89-13, AS AMENDED, AMENDING SECTION 7.4-8.3, SIGNS LOCATED IN THE GENERAL PROFESSIONAL (GP), COMMUNITY RETAIL (CR), OR COMMERCIAL (C) DISTRICTS, INCORPORATING CHANGES TO VARIOUS, ARTICLES, SECTIONS AND SUBSECTIONS; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE (CASE NO. OZ04-2012-44)**

Mayor Houston opened the Public Hearing and John Taylor reported that this Item was reviewed during the June 3 Council work session. The intent of the ordinance amendment is to allow the size of the building signage to be relative to the size of the structure. Mayor pro tem Frizzell moved to close the Public Hearing. Motion was seconded by Councilmember Sibley and carried unanimously (5-0). Councilmember Miller moved to approve Item 2013-228 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (5-0).

**2013-229 CONDUCT A PUBLIC HEARING AND ACT UPON AN ORDINANCE TO REZONE ± 0.8793 ACRES FROM COMMUNITY RETAIL (CR), MEDIUM DENSITY ONE (MD-1) AND RESIDENTIAL THREE (R3) TO A RESIDENTIAL THREE (R3) DISTRICT FOR MAXWELL ADDITION, LOTS 1A-R AND 1B-R. PROPERTY IS LOCATED ON SOUTH 5<sup>TH</sup> STREET APPROXIMATELY 50 FEET SOUTH OF THE BNSF RAILROAD, IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. Z10-2012-67)**

Mayor Houston opened the Public Hearing and John Taylor presented the Item explaining that over 70% of the subject property is currently zoned as a Residential Three (R3) District. The Planning and Zoning Commission unanimously approved the rezoning request at its May 21 meeting. Councilmember Sibley moved to close the Public Hearing. Motion was seconded by Councilmember Rodgers. With no public input received, Councilmember Sibley moved to approve Item 2013-229 as presented. Motion was seconded by Councilmember Miller and carried unanimously (5-0).

**2013-230 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 that was continued from the May 14 Council meeting. John Taylor gave a presentation on frequently asked questions that gave answers to questions that had been received from the public via the City's website and Facebook page on the proposed development.

Mike Adams gave a presentation addressing how the proposed development would impact the City's thoroughfares and infrastructure and also the current and long-range plans that the City has developed to address those issues.

Bill Nabors, President of ECOM Real Estate, 13760 Noel Road, Suite 500, Dallas, TX, spoke about the need to master plan the approximately 1,200 acres as one Planned Development to ensure certainty and continuity of the development; i.e., streets, landscaping and the imposition of consistent development standards. Mr. Nabors also addressed the need to widen and improve Walnut Grove Road and how the proposed municipal management district would help to fund that project.

Matthew Alexander of Dowdey Anderson & Associates, 5225 Village Creek Dr. #200, Plano, TX gave an overview presentation of the proposed Diamond J development.

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

|                    |                       |                          |
|--------------------|-----------------------|--------------------------|
| Justin Doughty     | Brent Edminster       | Wendy King               |
| 3 Atlantic Avenue  | 241 Parks Street      | 3520 Judy Court          |
| Jerome Stewart     | Paula Baucum          | Wanda Wilkerson          |
| 3510 Swan Lake Dr. | 1738 Creek Bend Drive | 280 S. Walnut Grove Road |

The following individuals registered as non-speakers in opposition to the proposed development:

- |  |   |  |
|--|---|--|
| Hal Shaffer<br>7231 Hamilton Drive<br>Susan Fogle<br>6430 Fox Run Drive<br>Preston Adkins<br>3721 Baron Drive<br>Mandy Tanner<br>720 Royal Lane<br>David W. & Sandy Bundrick, II<br>111 Crestbrook Court<br>Robert Jenvey<br>6230 Vicney Lane<br>Stephanie Shaffer<br>7231 Hamilton Drive<br>Ashley Sellers<br>1508 Yucca St.<br>Elisabeth Espinoza<br>533 Westminster<br>Virginia Russell<br>5411 Shiloh Forest Dr.<br>Tina Gage<br>717 Buck Horn Court<br>Evelyn Day<br>218 Blake Lane<br>Lisa Burnham<br>1651 W. Pleasant Dr. | Stacey New<br>3 Atlantic Avenue<br>Patricia Johnson<br>3226 Canary Lane<br>Christopher & Tracy Bradley<br>2813 Mediterranean Ave.<br>Robert & Jamie Haver<br>514 Westminster Drive<br>Diana Standifer<br>1630 Plum Creek Dr.<br>Danetta Countryman<br>309 Blake<br>Bill & Pam Shelley<br>706 Buck Horn Court<br>Sam & Gina Raybourn<br>2021 Clearview<br>Gary & Linda Rowland<br>830 Sheparkon Drive<br>Mike & Alice Smith<br>9 Vermont St.<br>Chris Johnson<br>3022 Blue Jay Lane<br>Kaysey Doscocil<br>711 Allen Lane<br>Jennifer Johnson<br>3022 Blue Jay Lane | Angela New<br>6430 Fox Run Drive<br>Cathy Edminster<br>241 Parks St.<br>Jonathan Barnett<br>1824 Sunbeam Court<br>Gretchen DeLuca<br>5441 Twin Creeks<br>Tom Hill<br>4060 Walnut Lane<br>William Vennell<br>4405 Oak Hollow Drive<br>Matt & Laura Emmons<br>1010 S. Clinton Lane<br>Linda Blake<br>202 Stiles Drive<br>Robert A. Nelson<br>5411 Shiloh Forest Dr.<br>Ryan Rodriguez<br>711 Allen Lane<br>Jeff Francis<br>251 Masters Lane<br>Charlotte Bailey<br>1647 Alexis<br>Zane & Kristen Swanson<br>1000 Baltic Ave. |
|--|---|--|

Mayor Houston moved to table Item 2013-230 to a future undetermined date and to direct staff to work with the developer to address the various issues and concerns raised during the public hearing. Motion was seconded by Mayor pro tem Frizzell and carried unanimously (5-0).

*Council moved to Executive Session at 8:40 p.m. for the purpose of discussing Items 1 and 2 with the following present: Mayor Houston, Mayor pro tem Frizzell, Councilmembers Sibley, Rodgers, Kyle, Henley, Miller; City Manager, City Attorney and Terry Morgan, attorney (via conference call).*

**EXECUTIVE SESSION**

- |    |                            |  |
|----|----------------------------|--|
| 1. | <b>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>                  |
| 2. | <b>SECTION<br/>551.087</b> | <b>DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS</b>  |
| 3. | <b>SECTION<br/>551.072</b> | <b>REAL ESTATE: DELIBERATE AND CONSIDER THE ACQUISITION OF REAL PROPERTY AND EASEMENTS</b>   |
| 4. | <b>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> |
| 5. | <b>SECTION<br/>551.071</b> | <b>LEGAL: CONSULTATION WITH ATTORNEY BASED ON AN ETHICAL DUTY TO ADVISE REGARDING POTENTIAL LITIGATION</b>   |

*Council reconvened in Regular Session at 9:50 p.m. with no action taken in Executive Session.*

**REGULAR AGENDA**

**2013-231 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: TEXAS  
CENTRAL BUSINESS LINES**

No action taken following Executive Session.

**2013-232 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: ECONOMIC  
DEVELOPMENT**

No action taken following Executive Session.

**2013-233 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: REAL  
ESTATE**

No discussion; no action

**2013-234 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: ECOM**

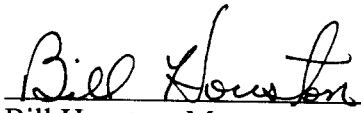
No discussion; no action

**2013-235 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #5:  
CONTEMPLATED LITIGATION**

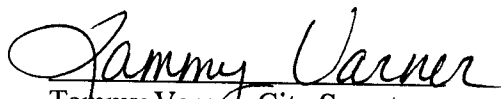
No discussion; no action

**2013-236 ADJOURN**

With there being no further business to discuss, Mayor Houston adjourned the meeting at 9:50p.m.

  
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Bill Houston, Mayor

ATTEST:

  
\_\_\_\_\_  
Tammy Varner, City Secretary