

**MINUTES
REGULAR COUNCIL MEETING
SEPTEMBER 10, 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
Jimmie L. McClure	§	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. Mayor pro tem Frizzell gave the invocation and led in the pledges.

2013-356 ANNOUNCEMENTS/PRESENTATIONS

a. Community Affairs calendar

Every Saturday 8 a.m.-12 p.m. Midlothian Downtown Farmers Market at Heritage Park

September 16th 8 a.m. Wildflower & Bird Walk at Mockingbird Nature Park

September 21st Buie's Superkicks Karate Open House with a tournament and demonstrations and featuring a free bully-proof workshop at 1:30 p.m. and a free women's self defense workshop at 2:30 p.m.

Midlothian Downtown Business Association is now accepting registrations for the Scarecrow Contest

b. Administrative announcements related to personnel

None were received

2013-357 CITIZENS TO BE HEARD

None to be heard

2013-358 RECEIVE AN UPDATE ON VARIOUS CITY BOARD AND COMMISSION MEETINGS AND ACTIVITIES

None were received

CONSENT AGENDA

2013-359 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETINGS OF AUGUST 20, AUGUST 26 AND AUGUST 27, 2013

2013-360 CONSIDER AND ACT UPON APPROVAL OF A ONE-YEAR CONTRACT WITH ELLIS COUNTY EMERGENCY SERVICES DISTRICT NO. 2 (ESD) TO PROVIDE FIRE AND EMS RESPONSE

2013-361 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING "FINISH STRONG WITH A SPLASH" HOSTED BY THE MOVEMENT TOWARDS A FUTURE, SCHEDULED FOR SATURDAY, NOVEMBER 2, 2013, IN ACCORDANCE WITH A SPECIAL EVENT PERMIT AS ESTABLISHED BY THE CITY OF MIDLOTHIAN ZONING ORDINANCE, SECTION 2.04 (CASE NO. RES19-2012-114)

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

Mayor Houston moved to Item 2013-369 as the next Item to be considered.

REGULAR AGENDA

2013-369 CONSIDER AND ACT UPON RECOMMENDATIONS OF THE CITY COUNCIL NOMINATION SUBCOMMITTEE FOR APPOINTMENTS TO VARIOUS CITY BOARDS AND COMMISSIONS

The following Board and Commission appointments were presented: Vicki Collins, James Koehler, Robert Seeds, and Ross Weaver to the Planning & Zoning Commission; Jim Rodgers to the Midlothian Housing Authority/Industrial Development Corporation; Micah Conrad, Danny Hemphill, and Dave Lowrey to the Zoning Board of Adjustment; Tim Tobey, Danny Rodgers, Glen Carlisle and Cathy Altman to Midlothian Economic Development; George Kent and Paula Baucum to Mid-Way Airport Board; Maurice Osborn, Donald Miller, Jarrett Greer, and Justin Reese to the Utility Advisory Board; and Mike Cobb to the Library Board. Councilmember Sibley moved to approve the appointments as presented. Motion was seconded by Mayor pro tem Frizzell and carried unanimously (7-0).

Mayor Houston returned to the agenda order beginning with Item 2013-362.

PUBLIC HEARINGS

2013-362 CONDUCT A PUBLIC HEARING AND ACT UPON AN ORDINANCE FOR THE PROPOSED FY 2013-2014 ANNUAL OPERATING BUDGET/SERVICE AND ASSESSMENT PLAN FOR THE CITY OF MIDLOTHIAN PUBLIC IMPROVEMENT DISTRICT NUMBER ONE (MIDTOWNE PID), AS ESTABLISHED BY ORDINANCE 2008-28, AS AUTHORIZED BY CHAPTER 372 OF THE TEXAS LOCAL GOVERNMENT CODE (CASE NO. M11-2012-109)

Mayor Houston opened the Public Hearing and Alberto Mares presented the Item, providing a brief revenue and expenditure summary of the proposed PID budget. With no public input received, Councilmember Sibley moved to close the Public Hearing. Motion was seconded by Councilmember McClure and carried unanimously (7-0). Councilmember Henley moved to approve the PID #1 budget as presented. Motion was seconded by Councilmember Rodgers and carried unanimously (7-0).

2013-363 CONDUCT A PUBLIC HEARING REGARDING THE PROPOSED FY 2013-2014 ANNUAL OPERATING BUDGET FOR THE CITY OF MIDLOTHIAN AND TAKE A RECORD VOTE TO ADOPT THE FY 2013-2014 ANNUAL OPERATING BUDGET AND PLAN FOR MUNICIPAL SERVICES FOR THE ENSUING FISCAL YEAR BEGINNING OCTOBER 1, 2013 AND ENDING SEPTEMBER 30, 2014, IN ACCORDANCE WITH LOCAL GOVERNMENT CODE §102; APPROPRIATING MONEY TO A SINKING FUND TO PAY INTEREST AND PRINCIPAL ON THE CITY'S INDEBTEDNESS; APPROPRIATING THE VARIOUS AMOUNTS THEREOF; REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS; INCLUDING A SEVERABILITY CLAUSE AND ESTABLISHING AN EFFECTIVE DATE

Mayor Houston opened the Public Hearing and Chris Dick presented the budget for approval. With no public input received, Mayor pro tem Frizzell moved to close the Public Hearing. Motion was seconded by Councilmember Sibley. Mayor Houston moved to approve Item 2013-363 as presented. Motion was seconded by Councilmember Sibley and carried unanimously by a record vote of 7-0 as follows:

Councilmember Sibley	Aye	Councilmember Rodgers	Aye
Councilmember McClure	Aye	Mayor Houston	Aye
Mayor pro tem Frizzell	Aye	Councilmember Henley	Aye
Councilmember Miller	Aye		

REGULAR AGENDA

2013-364 CONSIDER AND ACT UPON AN ORDINANCE, BY RECORD VOTE OF THE CITY COUNCIL OF THE CITY OF MIDLOTHIAN, TEXAS, LEVYING AND ASSESSING MUNICIPAL AD VALOREM TAXES FOR THE CITY OF MIDLOTHIAN, FOR THE FISCAL YEAR 2013-2014, AT \$0.294816 FOR MAINTENANCE AND OPERATIONS AND \$0.363428 FOR INTEREST AND SINKING FUNDS, FOR A TOTAL OF \$0.658244, SPECIFICALLY FOR THE PURPOSE FOR WHICH SAID TAXES MAY BE EXPENDED AND DIRECTING THE ASSESSMENT AND COLLECTION THEREOF; REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS; INCLUDING A SEVERABILITY CLAUSE AND ESTABLISHING AN EFFECTIVE DATE

Chris Dick presented the Item setting the tax rate for FY 2013-2014. With no public input received, Mayor pro tem Frizzell moved to close the Public Hearing. Motion was seconded by Councilmember Sibley and carried unanimously (7-0). Mayor Houston moved that the property tax rate be increased by the adoption of a tax rate of \$0.658244, which is effectively a 5.06004 percent increase in the tax rate. Motion was seconded by Councilmember Sibley and carried unanimously by a record vote of 7-0 as follows:

Councilmember Sibley	Aye	Councilmember Rodgers	Aye
Councilmember McClure	Aye	Mayor Houston	Aye
Mayor pro tem Frizzell	Aye	Councilmember Henley	Aye
Councilmember Miller	Aye		

2013-365 CONSIDER AND TAKE A SEPARATE VOTE TO RATIFY A PROPERTY TAX REVENUE INCREASE AS REFLECTED IN THE FY 2013-2014 ANNUAL OPERATING BUDGET WHEN COMPARED TO THE FY 2012-2013 ANNUAL OPERATING BUDGET; THIS BUDGET WILL RAISE MORE TOTAL PROPERTY TAXES THAN LAST YEAR'S BUDGET BY \$577,900 WHICH IS A 4.438% INCREASE FROM LAST YEAR'S BUDGET AND, OF THAT AMOUNT, \$215,466 IS TAX REVENUE TO BE RAISED FROM NEW PROPERTY ADDED TO THE TAX ROLL THIS YEAR

Councilmember Sibley moved to approve Item 2013-365 as presented. Motion was seconded by Councilmember Henley and carried unanimously (7-0).

2013-366 CONSIDER AND ACT UPON AN ORDINANCE OF THE CITY OF MIDLOTHIAN, TEXAS, PROVIDING FOR A SEVENTY THOUSAND DOLLAR (\$70,000) RESIDENTIAL HOMESTEAD EXEMPTION FOR PERSONS SIXTY-FIVE YEARS OF AGE OR OLDER FROM ALL AD VALOREM TAXES HEREAFTER LEVIED AND PROVIDING AN EXEMPTION FOR DISABLED VETERANS BASED UPON THE DEGREE OF THEIR DISABILITY; REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS; INCLUDING A SEVERABILITY CLAUSE AND ESTABLISHING AN EFFECTIVE DATE

Councilmember Sibley moved to approve Item 2013-366 as presented. Motion was seconded by Councilmember Rodgers and carried unanimously by a vote of (7-0).

2013-367 CONSIDER AND ACT UPON AN ORDINANCE REPEALING ORDINANCE NOS. 2000-50, 2005-49, 2007-35, 2008-45, 2011-03 AND 2013-06 IN THEIR ENTIRETY AND ADOPTING AN ORDINANCE BY ESTABLISHING RULES AND REGULATIONS FOR THE COLLECTION OF SOLID WASTE COLLECTION AND DISPOSAL, RESIDENTIAL RECYCLING AND BRUSH COLLECTION PICK-UP; LEVY OF FEES TO CUSTOMERS FOR GARBAGE/REFUSE AND RECYCLING COLLECTION SERVICE, AND PROVIDING FOR PAYMENT THEREOF; PROHIBITING THE DUMPING AND ACCUMULATION OF GARBAGE AND REFUSE ON ANY PUBLIC OR PRIVATE PROPERTY IN SAID CITY; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A PENALTY THAT ANY VIOLATION OF THE TERMS OF THIS ORDINANCE IS DECLARED TO BE A MISDEMEANOR, AND ANY PERSON FOUND TO BE GUILTY THEREOF SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED TWO THOUSAND DOLLARS (\$2,000.00); EACH DAY THAT SUCH VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE AND SHALL BE PUNISHABLE ACCORDINGLY; PROVIDING FOR A SEVERABILITY CLAUSE; AND SETTING AN EFFECTIVE DATE

Adam Mergener presented the Item adopting new rules and regulations for the collection of garbage/refuse and solid waste. It was noted that the new ordinance does not contain a rate fee amendment, all current rates will remain the same. The ad hoc Midlothian Litter Control Committee recommended that all garbage and refuse be placed in a bag, with the exception of branches, tree trimmings and brush. Mary Chiles, 3029 Glenbrook, Midlothian, addressed Council stating that while she does not oppose the bagging requirement in the proposed ordinance, she encouraged the Council to pass a stronger ordinance requiring automated trash pickup. After further discussion by Council, Councilmember Sibley moved to approve Item 2013-367 as presented. Motion was seconded by Councilmember Rodgers and carried by a vote of 4-3 with Councilmembers McClure, Henley and Miller voting in opposition.

2013-368 CONSIDER AND ACT UPON A DEVELOPER'S AGREEMENT TO ENTER INTO A COST-SHARING AGREEMENT WITH CORRY TURLEY FOR THE PAVEMENT/REHABILITATION OF AN ALLEY LOCATED SOUTH OF HAWKINS ADDITION, BLOCK 8 LOTS 9R, 10R AND 11R, IN AN AMOUNT NOT TO EXCEED \$24,000 (CASE NO. RES18-2012-86

Alberto Mares presented the cost-sharing agreement for the alley rehabilitation, explaining that the proposed concrete alleys are necessary for resident entry due to TxDOT not allowing driveway cuts on FM1387. It was further noted that during the construction the existing sewer and water main will be completely replaced with new sewer taps installed. Mayor Houston moved to approve Item 2013-368 as presented. Motion was seconded by Councilmember Sibley and carried by a vote of 6-1 with Councilmember Rodgers voting in opposition.

Council moved to Executive Session at 7:29 p.m. for the purpose of discussing Items 2 and 5 with the following present: Mayor Houston, Mayor pro tem Frizzell, Councilmembers Sibley, Rodgers, McClure, Henley, Miller; City Manager, Assistant City Manager, City Attorney, City Engineer and Public Works Director.

EXECUTIVE SESSION	
--------------------------	--

- | | |
|-----------------------|--|
| 1. SECTION
551.087 | DELIBERATION REGARDING ECONOMIC DEVELOPMENT
NEGOTIATIONS |
| 2. SECTION
551.072 | REAL ESTATE: DELIBERATE AND CONSIDER THE
ACQUISITION OF REAL PROPERTY AND EASEMENTS |

3. 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.
4. SECTION 551.071 LEGAL: CONSULTATION WITH ATTORNEY BASED ON AN ETHICAL DUTY TO ADVISE REGARDING POTENTIAL LITIGATION
5. SECTION 551.074 PERSONNEL MATTERS: (A)(1) TO DELIBERATE THE DUTIES AND/OR PERFORMANCE OF A PUBLIC OFFICER OR EMPLOYEE

Council reconvened in Regular Session at 8:12 p.m. with no action taken in Executive Session.

REGULAR AGENDA

2013-370 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: ECONOMIC DEVELOPMENT

The Item was not discussed during Executive Session.

2013-371 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: REAL ESTATE

Mike Adams and Adam Mergener were present in Executive Session; no action taken following Executive Session.

2013-372 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: ECOM

The Item was not discussed during Executive Session.

2013-373 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: CONTEMPLATED LITIGATION

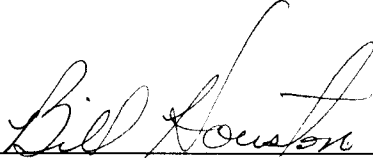
The Item was not discussed during Executive Session.

2013-374 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #5: PERSONNEL MATTERS

No action taken following Executive Session.

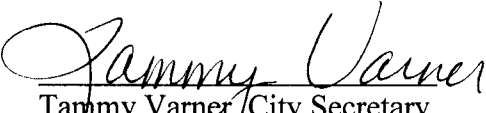
2013-375 ADJOURN

With there being no further business to discuss, Mayor Houston adjourned the meeting at 8:12p.m.



Bill Houston, Mayor

ATTEST:



Tammy Varner, City Secretary