

**MINUTES
REGULAR COUNCIL MEETING
MARCH 13, 2012**

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 VTCA, 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
Hank Miller	§	Councilmember Place 5
Steve Massey	§	Councilmember Place 6

REGULAR AGENDA – 6:00 P.M.

Mayor Houston called the meeting to order at 6:00 p.m. with notice of the meeting duly posted and the full Council present. Councilmember Sibley gave the invocation and led in the pledges.

2012-79 ANNOUNCEMENTS/PRESENTATIONS

a. Community Affairs calendar

March 22 – MISD Health Fair; March 24 – Experience Midlothian Expo; March 31 – annual Easter Egg Hunt; April 14 – Spring Clean-Up Day

b. Draw for order of candidate names on May 12 City Council election ballot

Place 5 – T.J. Henley (unopposed); Place 6 – Randall D. “Randy” Smith, Theodore “Ted” Miller, Marty Giesecke

c. Presentation of DeMolay proclamation

Mayor pro tem Frizzell presented a Proclamation recognizing the character building organization.

d. Administrative announcements related to personnel

None were received.

CONSENT AGENDA

2012-80 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETING OF FEBRUARY 28, 2012

2012-81 CONSIDER AND ACT UPON A RESOLUTION REQUESTING THAT THE TEXAS DEPARTMENT OF TRANSPORTATION DECLARE PROPERTY LOCATED OUT OF THE JOHN CHAMBLEE SURVEY, ABSTRACT 192, ELLIS COUNTY, TEXAS, BEING A PORTION OF OLD U.S. HIGHWAY 287, MORE SPECIFICALLY DESCRIBED IN EXHIBIT “A” AND SHOWN IN EXHIBIT “B”, AS SURPLUS AND EXECUTE A QUITCLAIM DEED TO THE CITY OF MIDLOTHIAN; AND PROVIDING FOR AN EFFECTIVE DATE

Item 2012-81 was moved to the Regular Agenda at the request of Councilmember Miller.

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

REGULAR AGENDA

2012-81 CONSIDER AND ACT UPON A RESOLUTION REQUESTING THAT THE TEXAS DEPARTMENT OF TRANSPORTATION DECLARE PROPERTY LOCATED OUT OF THE JOHN CHAMBLEE SURVEY, ABSTRACT 192, ELLIS COUNTY, TEXAS, BEING A PORTION OF OLD U.S. HIGHWAY 287, MORE SPECIFICALLY DESCRIBED IN EXHIBIT “A” AND SHOWN IN EXHIBIT “B”,

2012-81 AS SURPLUS AND EXECUTE A QUITCLAIM DEED TO THE CITY OF (cont'd) MIDLOTHIAN; AND PROVIDING FOR AN EFFECTIVE DATE

Mike Adams responded to questions regarding updated property ownership.

Councilmember Kyle moved to approve Item 2012-81 as presented. Motion was seconded by Councilmember Miller and carried unanimously (7-0).

PUBLIC HEARINGS

2012-82 CONTINUING A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE TO REZONE 114 SOUTH 5TH STREET (ORIGINAL TOWN LOT 7 AND PART OF LOT 8, BLOCK 29) FROM ITS CURRENT RESIDENTIAL THREE (R3) DISTRICT TO A PROPOSED URBAN VILLAGE PLANNED DEVELOPMENT (UVPD) DISTRICT FOR PROFESSIONAL OFFICE USES. PROPERTY CONTAINS ± 0.29757 ACRES AND IS LOCATED EAST OF SOUTH 5TH STREET AND ± 122 FEET SOUTH OF WEST MAIN STREET, IN THE CITY OF MIDLOTHIAN, TEXAS. (CASE NO. Z01-2011-10)

Mayor Houston opened the Public Hearing and Mr. Garfield presented the request unanimously recommended for approval by P&Z on March 6, subject to nine conditions.

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 2012-82 subject to the conditions recommended by P&Z and staff. Motion was seconded by Councilmember Sibley and carried by a vote of 5-2 with Councilmembers Rodgers and Miller opposed.

REGULAR AGENDA

2012-83 CITIZENS TO BE HEARD

Randall Pittman, 430 Brandi Ridge, and Michael Taylor, 4633 Hunter Ridge, expressed concern regarding RV parking restrictions in their neighborhood and requested amendments to allow RV parking on large lots. Council directed the City Manager to contact the residents to discuss the issue.

2012-84 CONSIDER AND ACT UPON AN INTERLOCAL AGREEMENT WITH THE MIDLOTHIAN INDEPENDENT SCHOOL DISTRICT ("MISD") FOR THE INSTALLATION OF CERTAIN PUBLIC IMPROVEMENTS AND FACILITIES FOR MISD'S PROPERTY LOCATED AT THE INTERSECTION OF FM 1387 AND WALNUT GROVE ROAD, KNOWN AS "HIGH SCHOOL NO. 2 PROPERTY"

Mike Adams presented the agreement to be cost shared at a rate of 63% for MISD and 37% for the City, and with TxDOT absorbing fee costs.

Councilmember Sibley moved to approve Item 2012-84 as presented. Motion was seconded by Councilmember Kyle and carried unanimously (7-0).

2012-85 CONSIDER AND ACT UPON AN ORDINANCE ESTABLISHING REQUIREMENTS FOR THE PLACEMENT OF MAILBOX ASSEMBLIES WITHIN PUBLIC RIGHTS-OF-WAY IN THE CITY OF MIDLOTHIAN, ATTACHED HERETO AS EXHIBIT "A"; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING FOR A SEVERABILITY 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 ONE THOUSAND DOLLARS (\$1,000), AND EACH DAY THAT SUCH VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE AND SHALL BE PUNISHABLE ACCORDINGLY; AND PROVIDING AN EFFECTIVE DATE

Mike Adams presented the request continued from February 28th and reviewed changes directed by Council at that meeting.

Councilmember Sibley moved to approve Item 2012-85 as presented. Motion was seconded by Councilmember Miller and carried unanimously (7-0).

2012-86 CONSIDER AND ACT UPON A RESOLUTION TO APPROVE THE CITY OF MIDLOTHIAN AND THE ECONOMIC DEVELOPMENT OF MIDLOTHIAN (CEDM), COMMERCIAL/RETAIL AREA INFRASTRUCTURE INVESTMENTS STRATEGIES PROGRAM (CASE # RES07-2011-23)

Mr. Garfield presented the two-year trial program to incentivize commercial and retail development during the current economic recession, and with costs to be shared between the City, CEDM and developer/landowner.

Councilmember Kyle moved to approve Item 2012-86 as presented. Motion was seconded by Councilmember Miller and carried unanimously (7-0).

2012-87 CONSIDER AND ACT UPON A COMPREHENSIVE COMPENSATION AND BENEFITS STUDY TO BE PERFORMED BY RAY & ASSOCIATES

Katherine Ray presented a project overview and described elements of the survey and study.

Councilmember Sibley moved to approve Item 2012-87 with Burleson, Wylie, Waxahachie, DeSoto, Duncanville, Red Oak, Mansfield, Cedar Hill, Lancaster, Grand Prairie, Cleburne, and Mesquite to be used as benchmark survey cities and with salary lead/lag objectives to be decided at the conclusion of the study. Motion was seconded by Mayor Houston and carried by a vote of 6-1 with Councilmember Miller opposed.

Council moved to Executive Session at 8:44 p.m. for the purpose of discussing Items 3, 5, 6, 7, and 8, with the following present: Mayor Houston, Mayor pro tem Frizzell, Councilmembers Sibley, Rodgers, Kyle, Miller, Massey; City Manager, and City Attorney

EXECUTIVE SESSION

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| 1. | SECTION 551.071 | LEGAL: CONSULTATION WITH ATTORNEY REGARDING CITY OF MIDLOTHIAN V. RANDALL DENTON, MIDTEXAS INTERNATIONAL CENTER, INC., TEXAS PROPERTIES TRUST AND TRADE ZONE OPERATIONS, INC. |
| 2. | SECTION 551.071 | LEGAL: CONSULTATION WITH ATTORNEY REGARDING CAUSE NO. 3-07-CV-1351-N, TEXAS CENTRAL BUSINESS LINES CORPORATION V. CITY OF MIDLOTHIAN |
| 3. | SECTION 551.087 | DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS |
| 4. | SECTION 551.074 | PERSONNEL MATTERS: (A)(1) TO DELIBERATE THE APPOINTMENT, EMPLOYMENT OR DUTIES OF AN ECONOMIC DEVELOPMENT EXECUTIVE DIRECTOR FOR THE CITY OF MIDLOTHIAN |
| 5. | SECTION 551.074 | PERSONNEL MATTERS: (A)(1) TO DELIBERATE THE APPOINTMENT, EMPLOYMENT OR DUTIES OF A CITY SECRETARY FOR THE CITY OF MIDLOTHIAN |
| 6. | SECTION 551.072 | REAL ESTATE: DELIBERATE AND CONSIDER THE ACQUISITION OF REAL PROPERTY NECESSARY FOR ROADWAY AND PARKS IMPROVEMENT PROJECTS |
| 7. | SECTION 551.072 | REAL ESTATE: DELIBERATION REGARDING REAL PROPERTY - TO DELIBERATE THE PURCHASE, EXCHANGE, LEASE OR VALUE OF REAL PROPERTY |
| 8. | SECTION 551.071 | LEGAL: CONSULTATION WITH ATTORNEY REGARDING CONTEMPLATED LITIGATION (CONSTRUCTION CONTRACT) |

**9. SECTION LEGAL: CONSULTATION WITH ATTORNEY REGARDING
551.071 CONTEMPLATED LITIGATION (REAL ESTATE TRANSACTION)**

As authorized by Section 551.071(2) of the Texas Government Code, this meeting may be convened into closed Executive Session for the purpose of seeking confidential legal advice from the City Attorney on any agenda item listed herein.

Council reconvened in Regular Session at 10:41 p.m. with no action taken in Executive Session.

REGULAR AGENDA

2012-88 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: RANDALL DENTON, ET AL

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

2012-89 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: TEXAS CENTRAL BUSINESS LINES

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

2012-90 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: ECONOMIC DEVELOPMENT

Participating in discussion was Kevin Blankenship, Sharon Welhouse, and Chris Dick. No action was taken following Executive Session.

2012-91 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: PERSONNEL – ECONOMIC DEVELOPMENT EXECUTIVE DIRECTOR

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

2012-92 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #5: PERSONNEL – CITY SECRETARY

Mayor pro tem Frizzell moved to appoint Tammy Varner as *City Secretary in Transition*, with a 10% increase in salary effective immediately, and further, to appoint Tammy Varner as City Secretary effective August 1, with a related salary increase designated in the PARF to be submitted to Human Resources, said salary to become effective October 1. Motion was seconded by Councilmember Rodgers and carried unanimously (6-0) with Councilmember Miller momentarily away from the dais.

2012-93 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #6: REAL ESTATE

Participating in discussion was the City Engineer and Planning Director. No action was taken following Executive Session.

2012-94 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #7: REAL ESTATE

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

2012-95 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #8: CONTEMPLATED LITIGATION (CONSTRUCTION)

Participating in discussion was the City Engineer, Ben Wilson, and Ray Cason. No action was taken following Executive Session.

2012-96 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #9: CONTEMPLATED LITIGATION (REAL ESTATE)

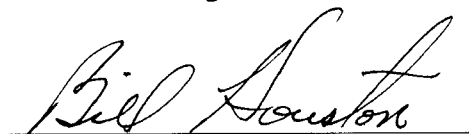
The Item was not discussed in Executive Session nor was action taken.


2012-97 ACTION RESULTING FROM EXECUTIVE SESSION RELATED TO SECTION 551.071(2)

No additional Items were discussed in Executive Session nor was action taken.

2012-98 ADJOURN

With there being no further business to discuss, Mayor Houston adjourned the meeting at 10:45 p.m.


Bill Houston, Mayor

ATTEST:

Lou Jameson, City Secretary