

**MINUTES
REGULAR COUNCIL MEETING
MARCH 27, 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 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
Hank Miller	§	Councilmember Place 5
Steve Massey	§	Councilmember Place 6

Absent: Councilmember Kyle due to family emergency

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 a quorum present. Councilmember Rodgers gave the invocation and led in the pledges.

2012-99 ANNOUNCEMENTS/PRESENTATIONS

a. Community Affairs calendar

Excellent attendance was reported at the March 24th Experience Midlothian Expo; March 31st – Easter Egg Hunt at Kimmel Park; April 14th – Spring Clean-Up Day; April 14th – Kid’s Fishing Derby

b. Administer oaths to Fire Department personnel

Mayor Houston administered Oaths to newly promoted Engineers: Glenn Coultas, Anthony Ivey, Shawn McGonagill, James Long, Mark Widman, Robert Messenger, and Ryan Hudson. Absent but achieving Engineer rank were Stacy Rosser and Caleb Coleman. Mayor Houston administered the Oath to Firefighter/Paramedics completing probation: Justin Lampman, Justin Sullivan, Charles Smith, and Cody Oates.

c. Administrative announcements related to personnel

Chamber of Commerce staff was commended for the hugely successful Expo and appreciation was extended to Parks, Police, and Water Treatment Plant personnel for their representation at the Expo.

CONSENT AGENDA

2012-100 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETING OF MARCH 13, 2012

2012-101 CONSIDER AND ACT UPON A RESOLUTION TO AUTHORIZE A DOWNTOWN FARMERS MARKET TO BE HOSTED BY THE MIDLOTHIAN DOWNTOWN BUSINESS ASSOCIATION TO BE HELD JUNE 2, 2012 THROUGH OCTOBER 20, 2012, ON ALTERNATE SATURDAYS, 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. RES06-2011-22)

2012-102 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE ANNUAL “HEAD FOR THE HILLS” BICYCLE RALLY ROUTED THROUGH THE CITY OF MIDLOTHIAN AND HOSTED BY THE CEDAR HILL ROTARY CLUB ON SATURDAY, MAY 12, 2012, IN ACCORDANCE WITH ZONING REQUIREMENTS FOR THIS TYPE OF EVENT AS ESTABLISHED BY THE CITY OF MIDLOTHIAN ZONING ORDINANCE 89-13, AS AMENDED, SECTION 4.4 (CASE NO. RES08-2011-32)

- 2012-103 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE ANNUAL SPRING FLING ARTS & CRAFTS FAIR, INCLUDING THE TEMPORARY CLOSURE OF WEST AVENUE F (BETWEEN NORTH 8TH STREET AND PLAZA DRIVE). THIS EVENT IS HOSTED BY THE MIDLOTHIAN CHAMBER OF COMMERCE AND SCHEDULED FOR SATURDAY, APRIL 28, 2012, IN ACCORDANCE WITH THE ZONING REQUIREMENTS FOR THIS TYPE OF EVENT, AS ESTABLISHED BY THE CITY OF MIDLOTHIAN ZONING ORDINANCE 89-13, AS AMENDED, SECTION 4.4 (CASE NO. RES09-2011-33)**

Councilmember Sibley moved to approve the Consent Agenda as presented. Motion was seconded by Councilmember Miller and carried unanimously (6-0).

REGULAR AGENDA

2012-104 CITIZENS TO BE HEARD

None were received.

- 2012-105 CONSIDER AND ACT UPON A NON-EXCLUSIVE CONTRACT FOR WATER AND SANITARY SEWER MAINTENANCE SUPPLIES WITH MUNICIPAL WATER WORKS SUPPLY, LP AND WITH BRITTON METER SUPPLY, INC.**

Adam Mergener cited a positive working experience and history with both companies and recommended the bid award as presented.

Councilmember Miller moved to approve Item 2012-105 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (6-0).

- 2012-106 CONSIDER AND ACT UPON A PETITION ACCORDING TO TEXAS LOCAL GOVERNMENT CODE, SECTION 43.28, FOR THE VOLUNTARY ANNEXATION OF ± 6.277 ACRES OF LAND, KNOWN AS WATSON ADDITION, LOT 2, GENERALLY LOCATED ± 2,829 FEET NORTH OF FM 1387 AND EAST OF BRYSON LANE, IN ELLIS COUNTY, TEXAS; AND, IF THE PETITION IS GRANTED, ADOPT AN ORDINANCE TO ANNEX THE AREA LYING WITHIN THE EXTRATERRITORIAL JURISDICTION (ETJ) OF THE CITY OF MIDLOTHIAN. THE PETITION WAS FILED WITH THE CITY ON MARCH 6, 2012, ACCORDING TO TEXAS LOCAL GOVERNMENT CODE, SECTION 43.028 AND IS CONTIGUOUS AND ADJACENT TO THE PRESENT BOUNDARIES OF THE CITY OF MIDLOTHIAN. (CASE NO. AX01-2011-28)**

Ryan Spencer presented the request to annex the sparsely populated area; the landowner's petition was in compliance with the Texas Local Government Code and the City's Future Land Use Plan.

Mayor pro tem Frizzell moved to approve Item 2012-106 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (6-0).

- 2012-107 CONSIDER AND ACT UPON AN ORDINANCE ACCORDING TO TEXAS LOCAL GOVERNMENT CODE, SECTION 43.028 EXTENDING THE MUNICIPAL BOUNDARY LIMITS OF THE CITY OF MIDLOTHIAN, TEXAS, BY VOLUNTARY ANNEXATION OF ± 6.277 ACRES OF LAND, KNOWN AS WATSON ADDITION, LOT 2, GENERALLY LOCATED ± 2,829 FEET NORTH OF FM 1387 AND EAST OF BRYSON LANE, IN ELLIS COUNTY, TEXAS; AND, ADJOINING THE PRESENT BOUNDARY LIMITS OF THE CITY OF MIDLOTHIAN; PROVIDING THAT THE ANNEXED PROPERTY SHALL BE SUBJECT TO THE AD VALOREM TAXES LEVIED BY THE CITY OF MIDLOTHIAN AND THAT THE INHABITANTS OF THE ANNEXED PROPERTY SHALL BE ENTITLED TO ALL RIGHTS AND PRIVILEGES OF ALL THE REGULATIONS OF THE CITY OF MIDLOTHIAN NOW IN EFFECT AND HEREINAFTER ADOPTED; PROPOSED ANNEXATION BEING FULLY DESCRIBED IN THE EXHIBIT "A" OF ATTACHED ORDINANCE HERETO**

2012-107 (cont'd) AND MADE A PART OF FOR ALL PURPOSES OF VOLUNTARY ANNEXATION PROCEDURES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR PUBLICATION OF THE CAPTION OF THIS ORDINANCE (CASE NO. AX01-2011-28)

Ryan Spencer presented the second step in the voluntary annexation process.

Councilmember Miller moved to approve Item 2012-107 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (6-0).

2012-108 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE USE OF A TEMPORARY CONCRETE BATCH PLANT IN ROSEBUD ADDITION, PHASE 3, 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. RES10-2011-34)

Mr. Garfield presented the request recommended for approval by staff, subject to 14 conditions.

Councilmember Miller moved to approve Item 2012-108 as presented. Motion was seconded by Councilmember Massey and carried unanimously (6-0).

2012-109 CONSIDER AND ACT UPON A RESOLUTION IN SUPPORT OF A TAX ABATEMENT FOR ASH GROVE L.P. FOR PLANNED PLANTS IMPROVEMENTS IN SUPPORT OF RETAINING JOBS AND PROTECTING BUSINESS INVESTMENTS IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. RES10-2011-34)

Discussion and action was delayed until after Executive Session.

2012-110 CONSIDER AND ACT UPON THE ADOPTION OF THE 2009 INTERNATIONAL PROPERTY MAINTENANCE CODE (IPMC) AND AMENDMENTS

Item 2012-110 was removed from consideration by staff.

2012-111 CONSIDER AND ACT UPON A PURCHASE AGREEMENT WITH WATCH GUARD DIGITAL IN-CAR VIDEO FOR 11 COMPLETE AUDIO/VIDEO SYSTEMS FOR MIDLOTHIAN PATROL FLEET AND 15 COPVU CAMERAS WHICH ARE WORN INDIVIDUALLY BY OFFICERS TO SUPPLEMENT AUDIO AND VIDEO OUTSIDE THE VIEW OF FIXED CAMERA SYSTEMS INSIDE MPD PATROL VEHICLES

Chief Smith presented the technology upgrade request funded in the amount of \$74,043 by a grant from the Criminal Justice Division of the Office of the Governor and \$25,215 by the City.

Mayor pro tem Frizzell moved to approve Item 2012-111 as presented. Motion was seconded by Councilmember Miller and carried unanimously (6-0).

2012-112 CONSIDER AND ACT UPON THE RESTATED CERTIFICATE OF FORMATION OF THE CORPORATION FOR ECONOMIC DEVELOPMENT OF MIDLOTHIAN(CEDM)

CEDM President Danny Rodgers presented the change from five voting members to nine, name change to Type A Corporation and compliance with other updated laws and statutes.

Mayor pro tem Frizzell moved to approve Item 2012-112 as presented. Motion was seconded by Councilmember Miller and carried unanimously (6-0).

2012-113 CONSIDER AND ACT UPON THE AMENDED BYLAWS OF THE CORPORATION FOR ECONOMIC DEVELOPMENT (CEDM)

CEDM President Danny Rodgers presented updates initiated to reflect changes in State law.

Councilmember Miller moved to approve Item 2012-113 with an amendment to increase from \$25,000 to \$50,000 the purchasing threshold that requires Council approval. Motion was seconded by Mayor pro tem Frizzell and carried unanimously (6-0).

2012-114 RECEIVE REPORT FROM THE CORPORATION FOR ECONOMIC DEVELOPMENT (CEDM) REGARDING THE EXECUTIVE DIRECTOR SEARCH AND SELECTION PROCESS

CEDM President Danny Rodgers summarized the process conducted by the Strategic Government Resources firm in the nationwide search for a Director. The candidate selected was Larry Barnett from Gulfport, Mississippi. Pending Council approval, Mr. Barnett is expected to begin work on April 9.

Council moved to Executive Session at 6:58 p.m. for the purpose of discussing Items 3, 4, and 7 with the following present: Mayor Houston, Mayor pro tem Frizzell, Councilmembers Sibley, Rodgers, Miller, Massey; City Manager, City Attorney

EXECUTIVE SESSION

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 551.072 REAL ESTATE: DELIBERATE AND CONSIDER THE ACQUISITION OF REAL PROPERTY NECESSARY FOR ROADWAY AND PARKS IMPROVEMENT PROJECTS**
6. **SECTION 551.072 REAL ESTATE: DELIBERATION REGARDING REAL PROPERTY - TO DELIBERATE THE PURCHASE, EXCHANGE, LEASE OR VALUE OF REAL PROPERTY**
7. **SECTION 551.071 LEGAL: CONSULTATION WITH ATTORNEY REGARDING CONTEMPLATED LITIGATION (CONSTRUCTION CONTRACT)**
8. **SECTION 551.071 LEGAL: CONSULTATION WITH ATTORNEY REGARDING 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 7:58 p.m. with no action taken in Executive Session

REGULAR AGENDA

Council returned to Item 2012-109 for action

- 2012-109 CONSIDER AND ACT UPON A RESOLUTION IN SUPPORT OF A TAX ABATEMENT FOR ASH GROVE L.P. FOR PLANNED PLANTS IMPROVEMENTS IN SUPPORT OF RETAINING JOBS AND PROTECTING BUSINESS INVESTMENTS IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. RES10-2011-34)**

Councilmember Miller moved to approve Item 2012-109 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (6-0).

2012-115 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: RANDALL DENTON, ET AL

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

2012-116 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: TEXAS CENTRAL BUSINESS LINES

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

2012-117 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: ECONOMIC DEVELOPMENT

Danny Rodgers and Kevin Blankenship participated in discussion. No action was taken following Executive Session.

2012-118 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: PERSONNEL – ECONOMIC DEVELOPMENT EXECUTIVE DIRECTOR

Danny Rodgers participated in discussion. Mayor pro tem Frizzell moved to accept the March 2, 2012 CEDM letter of commitment between Larry Barnett and Danny Rodgers, acting on behalf of CEDM. Motion was seconded by Councilmember Sibley and carried unanimously (6-0).

2012-119 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #5: REAL ESTATE

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

2012-120 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #6: REAL ESTATE

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

2012-121 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #7: CONTEMPLATED LITIGATION (CONSTRUCTION)

City Engineer Mike Adams participated in discussion. No action was taken following Executive Session.

2012-122 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #8: CONTEMPLATED LITIGATION (REAL ESTATE)

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

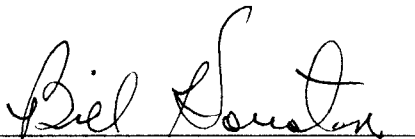
2012-123 ACTION RESULTING FROM EXECUTIVE SESSION RELATED TO SECTION 551.071(2)

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

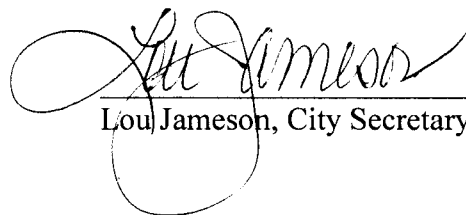
2012-124 ADJOURN

With there being no further business to discuss, Mayor Houston adjourned the meeting at 8:01 p.m.

ATTEST:



Bill Houston, Mayor



Lou Jameson, City Secretary