

**MINUTES
REGULAR COUNCIL MEETING
MAY 8, 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
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 6:01 p.m. with notice of the meeting duly posted and the full Council present. Councilmember Massey gave the invocation and led in the pledges.

2012-167 ANNOUNCEMENTS/PRESENTATIONS

a. Community Affairs calendar

May 12 – Election Day; May 12 – Movies in the Park featuring Happy Feet Two; May 15 – Police Memorial Ceremony; May 18 – Police Memorial Candlelight Vigil; May 19 – Annual Victims of Fire 5K Fun Run; May 19 – 8th Street Dance; May 21 – Council reception honoring outgoing Councilmembers Massey and Miller and welcoming newly elected Councilmembers

b. Proclamation recognizing May 13 through 19 as Police Week

Mayor Houston read a Proclamation recognizing peace officers for safeguarding life, liberty, and property and honoring those who lost their lives in the performance of their duty.

c. Proclamation recognizing Midlothian ISD Middle School Problem Solvers

Mayor Houston read a Proclamation recognizing Problem Solvers Harvey Cornell, Aaron Davis, Haley DeSelle, Michelle Espinosa, Michael Jones II, Samantha McDonald, Will Stewart, Yoselin Reynaga and Coach Christina McDaniel for their accomplishments. The group earned the Texas Champion At-Large Award, the first-ever Most Innovative Award, ranked as one of the Top 30 finalists for the nationwide Christopher Columbus Grant competition, were one of only two schools in Texas to win the ECO Schools USA Silver Flag Award, and are advancing to the International Competition at Indiana University.

d. Administrative announcements related to personnel

Mr. Hastings announced the retirement of Planning Director John Garfield at the end of May.

CONSENT AGENDA

2012-168 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETING OF APRIL 24, 2012

2012-169 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE 4TH ANNUAL VICTIMS OF FIRE 5K FUN RUN/WALK HOSTED BY THE MIDLOTHIAN FIREFIGHTER'S ASSOCIATION SCHEDULED FOR SATURDAY, MAY 19, 2012, 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. RES13-2011-49)

- 2012-170 **CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING A DOWNTOWN STREET DANCE, PRESENTED BY THE CITY OF MIDLOTHIAN PARKS DEPARTMENT ON SATURDAY, MAY 19, 2012 IN ACCORDANCE WITH ZONING REQUIREMENTS ESTABLISHED FOR CITY EVENTS REQUIRING STREET CLOSURE (CASE NUMBER RES14-2011-50)**
- 2012-171 **CONSIDER AND ACT UPON AN INTERLOCAL AGREEMENT BETWEEN THE MIDLOTHIAN INDEPENDENT SCHOOL DISTRICT (MISD) AND THE CITY OF MIDLOTHIAN, TEXAS FOR THE ASSIGNMENT OF A CITY OF MIDLOTHIAN POLICE OFFICER TO MISD DURING THE 2012-13 SCHOOL YEAR**
- 2012-172 **CONSIDER AND ACT UPON A RESOLUTION OF THE CITY OF MIDLOTHIAN DENYING ATMOS ENERGY CORP., MID-TEX DIVISION'S ("ATMOS MID-TEX") REQUESTED RATE CHANGE; REQUIRING THE COMPANY TO REIMBURSE THE CITY'S REASONABLE RATEMAKING EXPENSES; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND ACSC'S LEGAL COUNSEL**

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

REGULAR AGENDA

2012-173 CITIZENS TO BE HEARD

Carl Britton, 4060 Clancey Lane, spoke against annexation of his subdivision. He stated that, of 20 neighbors he spoke with, 19 were strongly opposed and that if annexation were to be imposed, they would become voting citizens and vote everyone out of office that initiated annexation.

Derlow Wilson, 4090 Walnut Lane, stated his opposition to annexation and his opposition to governmental limitations placed on annexed properties.

2012-174 CONSIDER AND ACT UPON AN AMENDMENT TO THE RETAIL WATER SERVICE AREA AGREEMENT WITH MOUNTAIN PEAK SPECIAL UTILITY DISTRICT FOR THE TRANSFER OF CERTAIN CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) AREAS

Mike Adams presented the amendment resulting from a meeting with Mountain Peak SUD on April 19 and unanimously recommended for Council action by the UAB on April 26.

Mayor pro tem Frizzell moved to approve Item 2012-174 contingent upon Mountain Peak approving the agreement in its current form. Motion was seconded by Councilmember Miller and carried unanimously (7-0).

2012-175 CONSIDER AND ACT UPON AN ADVANCE FUNDING AGREEMENT FOR VOLUNTARY LOCAL GOVERNMENT CONTRIBUTIONS TO TRANSPORTATION IMPROVEMENT PROJECTS WITH NO REQUIRED MATCH WITH THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) FOR THE FM 1387 ROADWAY IMPROVEMENT PROJECT AT WALNUT GROVE ROAD

Mike Adams presented the agreement authorizing TxDOT to cover all costs associated with the review of plans and documents, project letting, construction oversight, and inspections (total estimated cost of \$711,104) for the FM 1387 roadway improvement project.

Councilmember Sibley moved to approve Item 2012-175 as presented. Motion was seconded by Councilmember Kyle and carried unanimously (7-0).

2012-176 CONSIDER AND ACT UPON A REQUEST FOR APPROVAL OF A LETTER OF INTENT BETWEEN ASH GROVE TEXAS LP ("COMPANY") AND THE CORPORATION FOR ECONOMIC DEVELOPMENT OF MIDLOTHIAN ("CEDM") FOR A SALES TAX GRANT FOR A PORTION OF SALES TAXES PAID ON CONSTRUCTION MATERIALS USED FOR IMPROVEMENTS TO PROPERTY LOCATED AT 900 GIFCO ROAD, IN ASH GROVE ADDITION, BLOCK 1, LOT 1R OF THE NORTHWEST TAX ABATEMENT REINVESTMENT ZONE, CITY OF MIDLOTHIAN, TEXAS

CEDM Director Larry Barnett related the agency's desire to provide the grant as a job retention and property improvement incentive.

Councilmember Kyle moved to approve Item 2012-176 as presented. Motion was seconded by Councilmember Miller and carried unanimously (7-0).

2012-177 CONSIDER AND ACT UPON AN AMENDED RESOLUTION REGARDING THE SALE OF LAND TO MCDC FOR A FUTURE HOTEL SITE

Mr. Hastings presented the request to approve the land sale originally acted upon at the Joint Meeting on March 26. Documents included minor changes to identify a hotel as a public use.

Councilmember Sibley moved to approve Item 2012-177 as presented. Motion was seconded by Councilmember Miller and carried unanimously (7-0).

2012-178 CONSIDER AND ACT UPON A PROPOSED LEASE AGREEMENT BETWEEN THE CITY OF MIDLOTHIAN AND ELLIS COUNTY FOR OFFICE SPACE FOR THE ELLIS COUNTY CONSTABLE, PRECINCT 4, AND JUSTICE OF THE PEACE, PRECINCT 4 AT THE MIDLOTHIAN JUSTICE CENTER

Mr. Hastings presented the proposed lease extended for an additional two years with an increase in the annual lease amount from \$12,000 to \$18,000.

Councilmember Sibley moved to approve Item 2012-178 as presented. Motion was seconded by Councilmember Miller and carried unanimously (7-0).

Council moved to Executive Session at 6:48 p.m. for the purpose of discussing Items 1 and 7, and with the following present: Mayor Houston, Mayor pro tem Frizzell, Councilmembers Sibley, Rodgers, Kyle, Miller, Massey; City Manager, 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 551.072 | REAL ESTATE: DELIBERATE AND CONSIDER THE ACQUISITION OF REAL PROPERTY NECESSARY FOR ROADWAY AND PARKS IMPROVEMENT PROJECTS |

- 5. SECTION 551.072 REAL ESTATE: DELIBERATION REGARDING REAL PROPERTY - TO DELIBERATE THE PURCHASE, EXCHANGE, LEASE OR VALUE OF REAL PROPERTY
- 6. SECTION 551.071 LEGAL: CONSULTATION WITH ATTORNEY REGARDING CONTEMPLATED LITIGATION (CONSTRUCTION CONTRACT)
- 7. SECTION 551.071 LEGAL: CONSULTATION WITH ATTORNEY BASED ON AN ETHICAL DUTY TO ADVISE REGARDING POTENTIAL LITIGATION

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 7:55 p.m. with no action taken in Executive Session.

REGULAR AGENDA

2012-179 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: RANDALL DENTON, ET AL

Land-use attorney Terry Morgan participated in discussion. Councilmember Miller moved to approve all settlement documents to resolve the lawsuit and to authorize the Mayor to execute said documents. Motion was seconded by Councilmember Massey and carried unanimously (7-0).

2012-180 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: TEXAS CENTRAL BUSINESS LINES

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

2012-181 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: ECONOMIC DEVELOPMENT

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

2012-182 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: REAL ESTATE

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

2012-183 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #5: REAL ESTATE

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

2012-184 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #6: CONTEMPLATED LITIGATION (CONSTRUCTION)

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

2012-185 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #7: CONTEMPLATED LITIGATION

No action was taken following Executive Session.

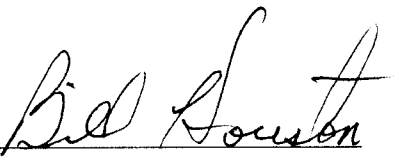
2012-186 ACTION RESULTING FROM EXECUTIVE SESSION RELATED TO SECTION 551.071(2)

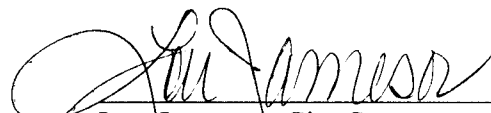
No additional Items were moved to Executive Session for discussion.

2012-187 ADJOURN

With there being no further business to discuss, Mayor Houston adjourned the meeting at 7:55 p.m.

ATTEST:


 Bill Houston, Mayor


 Lou Jameson, City Secretary