

**MINUTES  
REGULAR COUNCIL MEETING  
JUNE 26, 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
T. J. Henley	§	Councilmember Place 5
Ted Miller	§	Councilmember Place 6

**REGULAR AGENDA – 6:00 P.M.**

Mayor Houston called the meeting to order at 6:03 p.m. with notice of the meeting duly posted and the full Council present. Councilmember Sibley gave the invocation and led in the pledges.

**2012-233 ANNOUNCEMENTS/PRESENTATIONS**

**a. Community Affairs calendar**

June 30 – Downtown Farmers Market, Larkin Newton cabin open for tours; July 3 – Fireworks at MISD Stadium; July 4 – Independence Day Parade; Burn Ban reinstated by Commissioners Court

**b. Proclamation recognizing July as Park and Recreation Month**

Mayor Houston presented a Proclamation to Billy King, Interim Parks Manager, Craig Railsback, Parks Superintendent, and Gina Moore, Events Coordinator, recognizing the value of community parks

**c. Administrative announcements related to personnel**

Water Treatment Plant personnel Ray Cason, Sandra Binkley, Cynthia Day, and alternate Mark Love were recognized for placing 8<sup>th</sup> at the national level of Top Ops Competition.

**CONSENT AGENDA**

**2012-234 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETINGS OF JUNE 12 AND JUNE 18, 2012**

**2012-235 CONSIDER AND TAKE ACTION UPON A RESOLUTION TO APPROVE THE CITY OF MIDLOTHIAN, THE CORPORATION FOR THE ECONOMIC DEVELOPMENT OF MIDLOTHIAN (CEDM), THE MIDLOTHIAN COMMUNITY DEVELOPMENT CORPORATION (MCDC), AND THE MIDLOTHIAN DEVELOPMENT AUTHORITY'S (MDA) INVESTMENT POLICIES**

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

**PUBLIC HEARINGS**

**2012-236 CONDUCT A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE FOR A SPECIFIC USE PERMIT (SUP), TO ALLOW A TRUCK TIRE SHOP ON PROPERTY ZONED COMMERCIAL (C) DISTRICT. PROPERTY IS ADDRESSED 1501 W. HIGHWAY 287, CONTAINING ± 6.360 ACRES AND IS LOCATED NORTH OF W. HIGHWAY 287 AND WEST OF US HIGHWAY 67, IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. SUP04-2011-47)**

Mayor Houston opened the Public Hearing and Mr. Mares presented the request unanimously recommended for approval by P&Z on May 15, subject to nine conditions.

Representative for the applicant Maxwell Fisher responded to questions and spoke in support of the zoning request.

Mayor pro tem Frizzell moved to close the Public Hearing. Motion was seconded by Councilmember Sibley and carried unanimously (7-0). Mayor pro tem Frizzell moved to approve Item 2012-236 with an amendment to recommendation #9 to allow landscape tree planting to be extended and finalized by November 1. Motion was seconded by Councilmember Sibley and carried unanimously (7-0).

<b>REGULAR AGENDA</b>
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**2012-237 CITIZENS TO BE HEARD**

None were received.

**2012-238 RECEIVE AN UPDATE ON VARIOUS CITY BOARD AND COMMISSION MEETINGS AND ACTIVITIES**

None were received.

**2012-239 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE USE OF A TEMPORARY CONCRETE BATCH PLANT IN MEADOWS AT LONG-BRANCH, PHASE 4, 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. RES17-2011-58)**

Mr. Mares presented the request, confirmed compliance with state guidelines, successful acquisition of an air quality control permit, and recommended approval subject to eleven conditions.

Councilmember Sibley moved to approve Item 2012-239 subject to the proposed eleven conditions. Motion was seconded by Councilmember Henley and carried unanimously (7-0).

**2012-240 RECEIVE AN UPDATE ON AN ORDINANCE AMENDING SECTION 7.4-8.3 (SIGNS LOCATED IN THE GENERAL PROFESSIONAL (GP), COMMUNITY RETAIL (CR) OR COMMERCIAL (C) DISTRICT), INCORPORATING CHANGES TO VARIOUS, ARTICLES, SECTIONS AND SUBSECTIONS; PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE (CASE NO. OZ03-2011-60)**

Council agreed by consensus to the following:

- (a) electronic messaging sign cannot take up more than 55% of the total sign area
- (b) eliminate the 500-foot perimeter requirement of placement from an existing electronic message sign
- (c) electronic messaging signs that are a minimum of 200 feet apart from an existing one, has a maximum electronic sign area of 55% and static for 20 seconds shall be approved by staff; any message sign that fails to meet this criteria can apply for a Specific Use Permit (SUP)
- (d) electronic sign messages are to remain static for a minimum of 20 seconds
- (e) any border or framing placed around the sign shall not count toward the overall sign area
- (f) accept all other provisions as approved by the Planning & Zoning Commission (that do not conflict with the recommended changes)

**2012-241 CONSIDER AND ACT UPON THE PROPOSED STRATEGIC GUIDE (CAPITAL PROJECTS), A LONG-RANGE PLANNING DOCUMENT TO BE UTILIZED BY CITY OF MIDLOTHIAN STAFF, BOARDS AND COMMISSIONS TO ASSIST WITH DECISION-MAKING (CASE NO. M07-2011-44)**

Item 2012-241 was removed from consideration by staff.

**2012-242 CONSIDER AND ACT UPON AN ORDINANCE TO REPEAL ORDINANCE NO. 2005-59 AND APPROVE ADOPTING THE 2009 EDITIONS OF THE INTERNATIONAL BUILDING CODE, THE INTERNATIONAL MECHANICAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS, THE INTERNATIONAL ENERGY CODE, THE INTERNATIONAL FUEL AND GAS CODE, THE INTERNATIONAL EXISTING BUILDING CODE, INCLUDING AMENDMENTS TO ANY OF THE AFOREMENTIONED CODES; THE 2011 NATIONAL ELECTRIC CODE INCLUDING AMENDMENTS; AND THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS (COG) AMENDMENTS; VIOLATIONS DECLARED A NUISANCE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING FOR A CUMULATIVE EFFECT; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR A PENALTY THAT ANY VIOLATION OF THE TERMS OF THIS ORDINANCE AND ANY OF SAID CODE IS FURTHER 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 DAY VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE AND SHALL BE PUNISHABLE ACCORDINGLY; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE**

Chief Building Official Tim Littlejohn reported that the proposed Codes were adopted by the state of Texas in January. Planning & Zoning reviewed the Codes in April and recommended approval; staff concurred with the recommendation.

Councilmember Sibley moved to approve Item 2012-242 as presented. Motion was seconded by Mayor pro tem Frizzell and carried unanimously (7-0).

**2012-243 CONSIDER AND ACT UPON AN ORDINANCE ADOPTING THE 2009 EDITION OF THE INTERNATIONAL FIRE CODE; AMENDING CERTAIN SECTIONS; ESTABLISHING DISTRICTS IN WHICH THE STORAGE OF CERTAIN HAZARDOUS MATERIALS IS RESTRICTED OR PROHIBITED; APPEALS; PROVIDING FOR A PENALTY THAT ANY VIOLATION OF THE TERMS OF THIS ORDINANCE AND ANY OF SAID CODE IS FURTHER DECLARED TO BE A MISDEMEANOR, AND ANY PERSON FOUND TO BE GUILTY THEREOF SHALL BE PUNISHABLE BY A FINE NOT TO EXCEED \$1,000, AND EACH DAY THAT SUCH VIOLATION CONTINUES SHALL CONSTITUTE A SEPARATE OFFENSE AND SHALL BE PUNISHABLE ACCORDINGLY; APPLICATION OF THE ABOVE PENALTY SHALL NOT BE HELD TO PREVENT THE ENFORCED REMOVAL OF PROHIBITED CONDITIONS; REPEALING ORDINANCE 2005-60 AND ANY OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; SEVERABILITY; AND DECLARING AN EFFECTIVE DATE**

Chief Schrodtt recommended approval to maintain continuity with Codes adopted in Item 2012-242.

Councilmember Miller moved to approve Item 2012-243 as presented. Motion was seconded by Councilmember Henley and carried unanimously (7-0).

*Council moved to Executive Session at 7:23 p.m. for the purpose of discussing Items 2 and 5, and with the following present: Mayor Houston, Mayor pro tem Frizzell, Councilmembers Sibley, Rodgers, Kyle, Henley, and Miller; City Manager and City Attorney*

#### EXECUTIVE SESSION

1. SECTION LEGAL: CONSULTATION WITH ATTORNEY REGARDING CAUSE NO. 551.071 3-07-CV-1351-N, TEXAS CENTRAL BUSINESS LINES CORPORATION V. CITY OF MIDLOTHIAN

2. SECTION DELIBERATION REGARDING ECONOMIC DEVELOPMENT  
551.087 NEGOTIATIONS
3. SECTION REAL ESTATE: DELIBERATE AND CONSIDER THE ACQUISITION OF  
551.072 REAL PROPERTY NECESSARY FOR ROADWAY AND PARKS  
IMPROVEMENT PROJECTS
4. SECTION LEGAL: CONSULTATION WITH ATTORNEY REGARDING CITY OF  
551.071 MIDLOTHIAN V. RANDALL DENTON, MIDTEXAS INTERNATIONAL  
CENTER, INC., TEXAS PROPERTIES TRUST AND TRADE ZONE  
OPERATIONS, INC.
5. SECTION LEGAL: CONSULTATION WITH ATTORNEY REGARDING  
551.071 CONTEMPLATED LITIGATION (CONSTRUCTION CONTRACT)
6. SECTION LEGAL: CONSULTATION WITH ATTORNEY BASED ON AN ETHICAL  
551.071 DUTY TO ADVISE REGARDING POTENTIAL LITIGATION

*This meeting will be conducted pursuant to the Texas government code section 551.001 et seq. At any time during the meeting the council reserves the right to adjourn into executive session on any of the above posted agenda items in accordance with the sections 551.071 (litigation and certain consultation with attorney), 551.072 (acquisition of interest in real property), 551.073 (contract for gift to city), 551.074 (certain personnel deliberations) or 551.076 (deployment/implementation of security personnel or devices).*

*Council reconvened in Regular Session at 8:10 p.m. with no action taken in Executive Session.*

<b>REGULAR AGENDA</b>
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**2012-244 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: TEXAS  
CENTRAL BUSINESS LINES**

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

**2012-245 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: ECONOMIC  
DEVELOPMENT**

Finance Director Chris Dick was present in Executive Session; no action was taken.

**2012-246 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: REAL  
ESTATE**

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

**2012-247 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: DENTON**

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

**2012-248 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #5:  
CONTEMPLATED LITIGATION (CONSTRUCTION)**

City Engineer Mike Adams was present in Executive Session. Councilmember Kyle moved to approve the final settlement and comprehensive general mutual agreement with Gracon Construction, Inc., and to authorize the City Manager to execute all documents to effectuate that settlement. Motion was seconded by Councilmember Henley and carried unanimously (7-0).

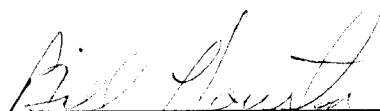
**2012-249 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #6:  
CONTEMPLATED LITIGATION**

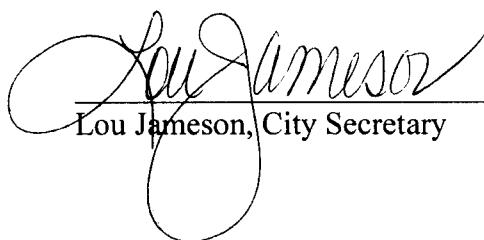
The Item was not discussed in Executive Session nor was action taken.

**2012-250 ADJOURN**

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

ATTEST:

  
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Bill Houston, Mayor

  
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Lou Jameson, City Secretary