

**MINUTES
REGULAR COUNCIL MEETING
NOVEMBER 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
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

Absent: Wayne Sibley due to recent surgery

REGULAR AGENDA

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

2012-440 ANNOUNCEMENTS/PRESENTATIONS

a. Community Affairs calendar

December 1 – Southern Star Christmas celebration at Heritage Park

December 2 – Southern Star Christmas celebration Community Worship at Midlothian Conference Center

December 9 – 28th annual Ellis County Toy Run motorcycle parade

b. Loop 9 presentation by NCTCOG representative

Brian Clark of the Atkins Global Engineering firm provided an overview of the revised draft footprint of the Loop 9 Project.

c. Administrative announcements related to personnel

The City Manager introduced longtime City water/wastewater consultant Dan Jackson who spoke about his recently published novel *“The Forgotten Men”* in which a portion of the story is set in Midlothian.

CONSENT AGENDA

2012-441 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETINGS OF NOVEMBER 5 AND 13, 2012

2012-442 CONSIDER AND ACT UPON APPROVAL OF A RESOLUTION AUTHORIZING THE ELLIS COUNTY TOY RUN MOTORCYCLE PARADE. THE EVENT WILL BE HOSTED BY THE GRYPHON MOTORCYCLE CLUB OF ELLIS COUNTY ON SUNDAY, DECEMBER 9, 2012, 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. RES05-2012-22)

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

PUBLIC HEARINGS

2012-443 CONDUCT A PUBLIC HEARING AND ACT UPON AN ORDINANCE REGARDING AMENDMENTS TO THE CITY OF MIDLOTHIAN COMPREHENSIVE PLAN ORDINANCE 2007-15, AS AMENDED, SPECIFICALLY TO AMEND BY ADDING AND REVISING CERTAIN ROAD SEGMENTS ON THE THOROUGHFARE PLAN MAP, INCLUDING BUT NOT LIMITED TO: (1) THE RECLASSIFICATION OF 14TH STREET, (2) THE DELETION OF THE EXTENSION OF WEST HIGHLAND ROAD, (3) THE DELETION OF DOVE DRIVE, (4) THE DELETION OF BLUEBIRD LANE, (5) THE DELETION OF AN UNNAMED MINOR COLLECTOR, AND (6) THE REALIGNMENT OF WEST HIGHLAND ROAD AND MAGGIE LANE; OR ANY OTHER REVISIONS OR DELETIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE (CASE NO. CP01-2012-04)

Mayor Houston opened the Public Hearing and John Taylor presented the six requested amendments that were recommended for approval by the City Council Planning Subcommittee and unanimously approved by the Planning and Zoning Commission on October 16, 2012. With no public input received Mayor pro tem Frizzell moved to close the public hearing. Motion was seconded by Councilmember Rodgers and carried unanimously (6-0). Councilmember Kyle moved to approve Item 2012-443 as presented. Motion was seconded by Councilmember Rodgers and carried unanimously (6-0).

REGULAR AGENDA

The following two items were taken out of order as a courtesy to those in attendance

2012-457 CONSIDER AND DISCUSS THE FENCE ISSUE ON SOUTH FIFTH STREET AND PROVIDE STAFF DIRECTION ON SUGGESTED ALTERNATIVES

John Taylor gave a brief summary of the fence issues that have occurred on the subject property located at 416 W. Avenue I since the reconstruction and widening of So. 5th Street in 1995 and ending with the most recent incident when a car traveling on So. 5th Street hit and destroyed a large portion of the fence. Carolyn Wellborn Meacham, 416 W. Avenue I, Midlothian, addressed the Council and read a statement addressing her concerns regarding replacement of the fence, the quality of fence materials that will be used to replace the fence and costs associated with same. City Council directed staff to evaluate and compare pricing between masonry and cedar fencing and bring back to Council at its December 11 meeting.

2012-458 CONSIDER A PARTNERSHIP WITH THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENT (NCTCOG) TO HOST A CASA WX RADAR FACILITY AND DIRECT STAFF AS NECESSARY TO PROCESS A SITE QUESTIONNAIRE THAT WILL EVALUATE SITE FEASIBILITY. PENDING IDENTIFICATION OF A SUITABLE MIDLOTHIAN SITE, A HOST AGREEMENT WOULD BE SUBSEQUENTLY DRAFTED FOR CITY COUNCIL ACTION THAT WOULD PROVIDE FOR A CASA RADAR SITE; FUNDING SUFFICIENT TO INSTALL THE RADAR SYSTEM; INTERNET CONNECTIVITY OF SUFFICIENT BANDWIDTH; ELECTRIC SERVICE; AND, OTHER TERMS OF UNDERSTANDING WITH THE NCTCOG

Mike Weiss provided a brief synopsis of the CASA WX weather radar and introduced Amanda Everly with NCTCOG who expanded further on the matter. Eight site locations are needed in the North Texas area, four sites have been identified with four more sites needed. Discussion was had regarding the cost to implement the project and how much accessibility the general public would have to information during the course of a severe weather event. Mayor pro tem Frizzell moved to submit as many site questionnaires as deemed advisable by staff for site feasibility to NCTCOG. Motion was seconded by Councilmember Miller and carried unanimously (6-0). It was also noted that Mayor pro tem Frizzell will work with staff to determine the most suitable Midlothian area sites.

2012-444 CITIZENS TO BE HEARD

None to be heard.

2012-445 RECEIVE AN UPDATE ON VARIOUS CITY BOARD AND COMMISSION MEETINGS AND ACTIVITIES

None received.

2012-446 CONSIDER AND ACT UPON A THIRTY-SIX (36) MONTH FAIR MARKET VALUE LEASE WITH DELL COMPUTERS FOR 11 LAPTOPS AND 29 DESKTOPS. THE LEASE IS PART OF THE CITY'S COMPUTER REPLACEMENT PROGRAM AS APPROVED IN THE CAPITAL EQUIPMENT PROGRAM AND THE FY 2012-2013 BUDGET

Mike Weiss presented the annual request which would replace approximately one-third of the City's computers. Mayor pro tem Frizzell moved to approve Item 2012-446 as presented. Motion was seconded by Councilmember Rodgers and carried unanimously (5-0) with Councilmember Kyle temporarily absent from the Council chambers.

2012-447 CONSIDER AND ACT UPON A CONTRACT WITH KNIGHT SECURITY TO INSTALL THE VIDEO AND DOOR SECURITY SYSTEM AT WATER TREATMENT PLANT 2 AND INTEGRATE WITH THE CITY'S EXISTING DOOR AND VIDEO SECURITY SYSTEM IN THE AMOUNT OF \$82,307.15

Mike Weiss presented the request for door and video security at Water Treatment Plant #2 which will integrate with the City's existing network-based video and door security system and allow monitoring of the site from various locations in the City. Mayor Houston moved to approve Item 2012-447 as presented. Motion was seconded by Councilmember Rodgers and carried unanimously (6-0).

2012-448 CONSIDER AND ACT UPON AWARDING A CONTRACT WITH AA APPLICATORS OF DALLAS, TEXAS, FOR THE REPAIR OF THE CITY HALL ROOF IN AN AMOUNT NOT TO EXCEED \$38,650

Adam Mergener reported that four bids were received for the repair to the City Hall roof which sustained damage during a hail storm on June 13, 2012. AA Applicators of Dallas, Inc. was the low bidder at \$38,650 and after performing reference checks, staff recommends awarding the contract to AA Applicators. Councilmember Kyle moved to approve Item 2012-448 as presented. Motion was seconded by Councilmember Henley and carried unanimously (6-0).

2012-449 CONSIDER AND ACT UPON AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH SIEMENS INDUSTRY, INC. FOR SUPPLYING THE NECESSARY EQUIPMENT, CHEMICALS, PREVENTATIVE MAINTENANCE AND MONITORING SERVICES FOR THE GENERATION OF CHLORINE DIOXIDE WHICH WILL BE USED IN THE TREATMENT PROCESS AT WATER TREATMENT PLANT NO. 2

Ben Wilson presented the request for chemicals and equipment needed for generation of chlorine dioxide at Water Treatment Plant No. 2. Councilmember Kyle moved to approve Item 2012-449 as presented. Motion was seconded by Councilmember Rodgers and carried unanimously (6-0).

2012-450 CONSIDER AND ACT UPON A RESOLUTION APPROVING AN EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED TWENTY THOUSAND AND 00/100 (\$20,000.00) DOLLARS, TO BE AWARDED BY THE MIDLOTHIAN COMMUNITY DEVELOPMENT CORPORATION (MCDC OR 4B) TO THE CITY OF MIDLOTHIAN TO FUND IMPROVEMENTS AT THE MIDLOTHIAN CONFERENCE CENTER

Chris Dick reported to Council that the Midlothian Community Development Corporation unanimously approved the funding request by the Conference Center to assist in the purchase of new carpet during its November 15 meeting. Mayor pro tem Frizzell moved to approve Item 2012-450 as presented. Motion was seconded by Councilmember Miller and carried unanimously (6-0).

2012-451 CONSIDER AND ACT UPON AN ORDINANCE AMENDING THE FY 2012-2013 GENERAL FUND BUDGET APPROPRIATIONS IN THE AMOUNT OF \$66,518 FROM THE GENERAL FUND UNRESERVED FUND BALANCE FOR EXPENDITURES ENCUMBERED BUT NOT YET EXPENDED FROM THE FY 2011-2012 GENERAL FUND BUDGET; IN ACCORDANCE WITH CHAPTER 102, LOCAL GOVERNMENT CODE; APPROPRIATING VARIOUS AMOUNTS THEREOF; REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS; INCLUDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

Councilmember Henley moved to approve Item 2012-451 as presented. Motion was seconded by Councilmember Kyle and carried unanimously (6-0).

2012-452 CONSIDER AND ACT UPON AN ORDINANCE AMENDING THE FY 2012-2013 UTILITY FUND BUDGET APPROPRIATIONS IN THE AMOUNT OF \$30,788.52 FROM THE UTILITY FUND UNRESERVED FUND BALANCE FOR EXPENDITURES ENCUMBERED BUT NOT YET EXPENDED FROM THE FY 2011-2012 UTILITY FUND BUDGET; IN ACCORDANCE WITH CHAPTER 102, LOCAL GOVERNMENT CODE; APPROPRIATING VARIOUS AMOUNTS THEREOF; REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS; INCLUDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

Councilmember Kyle moved to approve Item 2012-452 as presented. Motion was seconded by Councilmember Henley and carried unanimously (6-0).

2012-453 CONSIDER AND ACT UPON AN ORDINANCE AMENDING THE FY 2012-2013 GENERAL FUND BUDGET APPROPRIATIONS IN THE AMOUNT OF \$76,159 FROM THE GENERAL FUND UNRESERVED FUND BALANCE FOR EXPENDITURES NOT ENCUMBERED NOR EXPENDED FROM THE FY 2011-2012 GENERAL FUND BUDGET; IN ACCORDANCE WITH CHAPTER 102, LOCAL GOVERNMENT CODE; APPROPRIATING VARIOUS AMOUNTS THEREOF; REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS; INCLUDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

Councilmember Rodgers moved to approve Item 2012-453 as presented. Motion was seconded by Councilmember Miller and carried unanimously (6-0).

2012-454 CONSIDER AND ACT UPON AN ORDINANCE AMENDING THE FY 2012-2013 UTILITY FUND BUDGET APPROPRIATIONS IN THE AMOUNT OF \$505,094 FROM THE UTILITY FUND UNRESERVED FUND BALANCE FOR EXPENDITURES NOT ENCUMBERED NOR EXPENDED FROM THE FY 2011-2012 UTILITY FUND BUDGET; IN ACCORDANCE WITH CHAPTER 102, LOCAL GOVERNMENT CODE; APPROPRIATING VARIOUS AMOUNTS THEREOF; REPEALING CONFLICTING ORDINANCES AND RESOLUTIONS; INCLUDING A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE

Mayor pro tem Frizzell moved to approve Item 2012-454 as presented. Motion was seconded by Councilmember Rodgers and carried unanimously (6-0).

2012-455 CONSIDER AND ACT UPON A BID AWARD TO CIRCLE H CONTRACTORS, L.P. FOR THE OVERLOOK ESTATES – CHAPEL CREEK DRIVE EXTENSION PROJECT IN A TOTAL BASE BID AMOUNT NOT TO EXCEED \$85,195 AND CHANGE ORDER NUMBER ONE IN AN ADDITIVE AMOUNT OF \$12,205 FOR A REVISED TOTAL CONTRACT AMOUNT NOT TO EXCEED \$97,400

Mike Adams reported that one bid was received for the project, Circle H Contractors, L.P. in the amount of \$85,195 with a change order in the amount of \$12,205 which represents an increase in paving quantities. Mayor pro tem Frizzell moved to approve Item 2012-455 as presented. Motion was seconded by Councilmember Henley and carried by a vote of 5-1 with Councilmember Kyle voting in opposition.

2012-456 CONSIDER AND ACT UPON AUTHORIZING ENFORCEMENT OF TEXAS TRANSPORTATION CODE SECTION 545.425 TO PROHIBIT THE USE OF WIRELESS COMMUNICATION DEVICES WITHIN THE CITY OF MIDLOTHIAN OR TO RESTRICT THE ENFORCEMENT OF THIS STATUTE TO ACTIVE SCHOOL ZONES

Carl Smith reported that on September 1, 2009, the 82nd state legislature approved prohibiting the use of wireless devices while driving in a school zone when properly posted. The Public Safety Subcommittee has also reviewed the matter. Council discussed concerns regarding child safety and enforcing the policy within school zones only or within the entire municipality. Councilmember Kyle moved to approve enforcement of prohibiting wireless communication devices within school zones only. Motion was seconded by Mayor Houston and carried unanimously (6-0).

Council moved to Executive Session at 9:02 p.m. for the purpose of discussing Items 3 and 5, with the following present: Mayor Houston, Mayor pro tem Frizzell, Councilmembers Rodgers, Kyle, Henley, Miller; City Manager, City Attorney MidWay Airport Board President Paula Baucum.

EXECUTIVE SESSION	
1. SECTION 551.071	LEGAL: CONSULTATION WITH ATTORNEY REGARDING CAUSE NO. 3-07-CV-1351-N, TEXAS CENTRAL BUSINESS LINES CORPORATION V. CITY OF MIDLOTHIAN
2. SECTION 551.087	DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS
3. SECTION 551.072	REAL ESTATE: DELIBERATE AND CONSIDER THE ACQUISITION OF REAL PROPERTY AND EASEMENTS NECESSARY FOR ROADWAY, UTILITY AND PARKS IMPROVEMENT PROJECTS
4. 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.

**5. SECTION LEGAL: CONSULTATION WITH ATTORNEY BASED ON AN
551.071 ETHICAL 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 9:30 p.m. with no action taken in Executive Session.

REGULAR AGENDA

**2012-459 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: TEXAS
CENTRAL BUSINESS LINES**

The Item was not discussed during Executive Session.

**2012-460 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: ECONOMIC
DEVELOPMENT**

The Item was not discussed during Executive Session.

**2012-461 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: REAL
ESTATE**

No action taken following Executive Session.

2012-462 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: DENTON

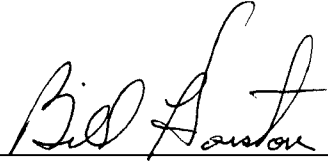
The Item was not discussed during Executive Session.

**2012-463 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #5:
CONTEMPLATED LITIGATION**

No action taken following Executive Session.

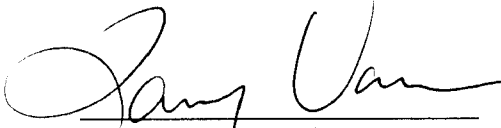
2012-464 ADJOURN

With there being no further business to discuss, Mayor Houston adjourned the meeting at 9:30 p.m.



 Bill Houston, Mayor

ATTEST:



 Tammy Varner, City Secretary