

**MINUTES
REGULAR COUNCIL MEETING
JANUARY 8, 2013**

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 6:01 p.m. with notice of the meeting duly posted and a quorum present. Councilmember Rodgers gave the invocation and led in the pledges.

2013-01 ANNOUNCEMENTS/PRESENTATIONS

a. Community Affairs calendar

Keep Midlothian Beautiful Christmas Tree Recycling: **Weekdays through January 11, 2013**, 7:30am – 3:00pm at the Ellis County Precinct 4 Barn, 1011 Eastgate Dr.

January 31, 2013 - National Weather Service storm spotting class at Midlothian Conference Center from 7-9 p.m.

February 2, 2013 – 1st Annual Midlothian Plaza Chili Cook Off and Blood Drive 11am-2pm, 1000 E. Main St. Proceeds benefit the Midlothian Firefighters Association

b. Administrative announcements related to personnel

City Manager thanked Public Works crews for road sanding and prompt response and repair to major water line break performed during holiday break.

PUBLIC HEARINGS

2013-02 CONDUCT A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE TO REZONE ± 0.3844 ACRES FROM MULTI-FAMILY (MF) DISTRICT TO A COMMERCIAL (C) DISTRICT AT 402 E. MAIN STREET. PROPERTY IS LOCATED ON THE SOUTH SIDE OF E. MAIN STREET AND ± 478 FEET SOUTHEAST OF 11TH STREET, IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. Z02-2012-16)

Mayor Houston opened the public hearing and John Taylor presented the rezoning request. The subject property has been zoned multi-family since 1989, but has operated as a restaurant since the early 1970s. The Planning and Zoning Commission recommended approval of the rezoning request at its November 20, 2012 meeting. Due to the unique nature of this request, Mr. Taylor recommended waiving the zoning fee. Mayor pro tem Frizzell moved to close the public hearing. Motion was seconded by Councilmember Miller and carried unanimously (6-0). Mayor pro tem Frizzell moved to approve the zoning request as presented and waiving the zoning fee. Motion was seconded by Councilmember Kyle and carried unanimously (6-0).

- 2013-03 CONDUCT A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE TO REZONE ± 18.373 ACRES FROM THE CURRENT AGRICULTURAL (A) DISTRICT TO A SINGLE FAMILY FOUR (SF-4). PROPERTY IS IN THE W.M. RAWLS SURVEY, ABSTRACT NO. 915 AND LOCATED WEST OF FM 663 AND ± 670 FEET SOUTH OF HARVEST HILL, IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. Z03-2012-25) NOTE: THIS ZONING CASE HAS BEEN WITHDRAWN BY THE APPLICANT VIA WRITTEN REQUEST**

Mayor Houston opened the public hearing and noted that the applicant has requested the zoning case be withdrawn. Mayor pro tem Frizzell moved to close the public hearing. Motion was seconded by Councilmember Henley and carried unanimously (6-0). No further action was taken by Council.

- 2013-04 CONDUCT A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE AMENDING ORDINANCE NO. 2007-14, AS AMENDED, THE MIDTOWNE PLANNED DEVELOPMENT ORDINANCE (PD-42), TO ALLOW A SKILLED NURSING FACILITY, MEMORY CARE, AND ASSISTED CARE LIVING FACILITY ON APPROXIMATELY ± 6.08 ACRES PROPERTY IS LOCATED AT THE SOUTHEAST INTERSECTION OF GEORGE HOPPER ROAD AND FM 663 (CASE NO. Z01-2012-08)**

Mayor Houston opened the public hearing and John Taylor presented the request to amend the planned development ordinance to allow a skilled nursing facility, memory care and an assisted care living facility. Monte Anderson, 134 N. Main Street, Duncanville, TX, addressed Council concerns regarding the location of the proposed facility on behalf of the applicant, Alan Naul and Mark Donica. Mayor Houston moved to continue the public hearing to February 12. Motion was seconded by Councilmember Rodgers and carried unanimously (6-0).

REGULAR AGENDA

- 2013-05 CITIZENS TO BE HEARD**

None to be heard.

- 2013-06 RECEIVE AN UPDATE ON VARIOUS CITY BOARD AND COMMISSION MEETINGS AND ACTIVITIES**

None were received.

- 2013-07 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETINGS OF DECEMBER 10 AND 11, 2012**

Mayor pro tem Frizzell moved to approve the minutes as presented. Motion was seconded by Councilmember Henley and carried unanimously (6-0).

- 2013-08 CONSIDER AND ACT UPON A BID AWARD TO CIRCLE H CONTRACTORS, L.P. FOR THE FM 1387 – HIGH SCHOOL NO. 2 WATER LINE RELOCATION AND SANITARY SEWER PROJECT IN A TOTAL ALTERNATE BID AMOUNT OF \$750,997.50 AND CHANGE ORDER NUMBER ONE IN A DEDUCTIVE AMOUNT OF \$31,457.50, FOR A REVISED TOTAL CONTRACT AMOUNT NOT TO EXCEED \$719,540.00**

Adam Mergener reported that six bids were received and opened on December 6, 2012, with Circle H Contractors being the low bidder. Revisions to the scope of work occurred after receipt of the bids which resulted in a cost reduction change order. Councilmember Rodgers moved to approve Item 2013-08 as presented. Motion was seconded by Councilmember Miller and carried unanimously (6-0).

- 2013-09 CONSIDER AND ACT UPON A RESOLUTION DIRECTING CITY STAFF AND CONSULTANTS TO PROCEED WITH PREPARATION OF DOCUMENTS FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS, SERIES 2013, AND TAX NOTES, SERIES 2013**

Chris Dick presented the Item which authorizes staff and consultants to begin the issuance process. The terms of the sale of the bonds and the tax note will still be subject to the final approval of Council and execution of ordinances. Councilmember Kyle moved to approve Item 2013-09 as presented. Motion was seconded by Councilmember Henley and carried unanimously (6-0).

2013-10 CONSIDER AND PROVIDE STAFF DIRECTION ON FENCE MATERIALS TO BE USED ON THE PROPOSED RIDGEVIEW PARK IMPROVEMENT PROJECT

Billy King presented three fence replacement options with varying price ranges for Council consideration. Mayor Houston moved to approve Option #2, consisting of 510 feet of 6' black vinyl coated commercial-grade chain link fencing at a cost of \$7,140. Motion was seconded by Councilmember Miller. The motion failed with a tie vote of 3-3. Mayor pro tem Frizzell moved to approve Option #3, consisting of 330 feet of 6' ornamental commercial-grade steel fencing and 180 feet of black vinyl coated commercial-grade chain link fencing at a cost of \$12,750 with no financial contribution from Greg and Marty Durston. The motion was seconded by Councilmember Rodgers and carried by a vote of 5-1, with Councilmember Miller voting in opposition. It was noted for the record that the ownership and responsibility for maintenance of the fence shall solely belong to the City of Midlothian.

Council moved to Executive Session at 7:51 p.m. for the purpose of discussing Items 1, 3 and 6, with the following present: Mayor Houston, Mayor pro tem Frizzell, Councilmembers Rodgers, Kyle, Henley, Miller; City Manager, and City Attorney.

EXECUTIVE SESSION

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| 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 |
| 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 551.071 | LEGAL: CONSULTATION WITH ATTORNEY BASED ON AN ETHICAL DUTY TO ADVISE REGARDING POTENTIAL LITIGATION |
| 6. | SECTION 551.074 | PERSONNEL: PERSONNEL MATTERS: (A)(1) CITY SECRETARY ANNUAL EVALUATION |

This meeting will be conducted pursuant to the Open Meetings Act, Texas Government Code Chapter 551. 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 §551.071 (litigation and certain consultation with attorney), §551.072 (value, transfer or acquisition of interest in real property), §551.073 (gift or donation to city), §551.074 (certain personnel deliberations), §551.076 (deployment/implementation of security personnel or devices), §551.087 (economic development negotiations) or §418.183(f) (certain information regarding emergencies and disasters).

Council reconvened in Regular Session at 8:35 p.m. with no action taken in Executive Session.

REGULAR AGENDA

- 2013-11 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: TEXAS CENTRAL BUSINESS LINES**

No action taken following Executive Session.

2013-12 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: ECONOMIC DEVELOPMENT

The Item was not discussed in Executive Session.

2013-13 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: REAL ESTATE

No action taken following Executive Session.

2013-14 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: DENTON

The Item was not discussed in Executive Session.

2013-15 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #5: CONTEMPLATED LITIGATION

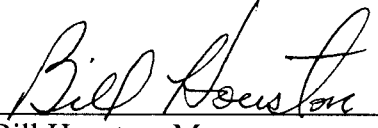
The Item was not discussed in Executive Session.

2013-16 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #6: PERSONNEL – CITY SECRETARY

No action taken following Executive Session.

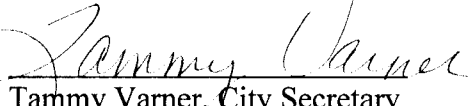
2013-17 ADJOURN

With there being no further business to discuss, Mayor Houston adjourned the meeting at 8:35 p.m.



Bill Houston, Mayor

ATTEST:



Tammy Varner, City Secretary