

**MINUTES  
REGULAR COUNCIL MEETING  
MAY 28, 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
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**

Mayor Houston called the meeting to order at 6:02 p.m. with notice of the meeting duly posted and a quorum present. Councilmember Kyle gave the invocation and led in the pledges.

**2013-190 ANNOUNCEMENTS/PRESENTATIONS**

**A. Community Affairs Calendar**

May 28<sup>th</sup> – 31<sup>st</sup> 8am-5pm & June 3<sup>rd</sup>-4<sup>th</sup> 7am-7pm Early Voting for Place 3 Runoff Election at Midlothian Conference Center

May 31<sup>st</sup> – 5:30pm Punt, Pass & Kick Classic at the MISD Multi-Purpose Stadium

June 1<sup>st</sup> – 8am-11am Pancake Breakfast & Fly-In at Mid-Way Regional Airport

June 1<sup>st</sup> – 8am-12pm Midlothian Downtown Farmers Market at Heritage Park

June 3<sup>rd</sup> – 9am Wildflower & Bird Walk at Mockingbird Nature Park

**B. Administrative announcements related to personnel**

None were received.

**2013-191 RECEIVE QUARTERLY INVESTMENT REPORT FROM LINDA PATTERSON & ASSOCIATES**

Linda Patterson presented the quarterly investment report for the second quarter of FY 2012-2013

**2013-192 CITIZENS TO BE HEARD**

None to be heard

**2013-193 RECEIVE AN UPDATE ON VARIOUS CITY BOARD AND COMMISSION MEETINGS AND ACTIVITIES**

None were received.

**CONSENT AGENDA**

**2013-194 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETINGS OF MAY 7 AND MAY 14, 2013**

**2013-195 CONSIDER AND ACT UPON A RESOLUTION AMENDING THE AUTHORIZED REPRESENTATIVES FOR TEXPOOL AND DESIGNATING INVESTMENT OFFICERS**

**2013-196 CONSIDER AND ACT UPON AN EMPLOYEE WELLNESS PROGRAM AGREEMENT BETWEEN THE CITY OF MIDLOTHIAN AND METHODIST HEALTH SYSTEM AND MEDHEALTH FOR MEDICAL EVALUATION SERVICES FOR THE FIRE DEPARTMENT.**

- 2013-197 CONSIDER AND ACT UPON AN AMENDMENT TO OUR MEDICAL CONTROL SERVICES AGREEMENT BETWEEN THE CITY OF MIDLOTHIAN AND DR. ROY YAMADA**
- 2013-198 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE 5TH ANNUAL VICTIMS OF FIRE 5K FUN RUN/WALK HOSTED BY THE MIDLOTHIAN FIREFIGHTER'S ASSOCIATION SCHEDULED FOR SATURDAY, JUNE 8, 2013, 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. RES16-2012-69)**
- 2013-199 CONSIDER AND ACT UPON REQUEST FOR APPROVAL OF MIDLOTHIAN ECONOMIC DEVELOPMENT BYLAW CHANGES RELATED TO CORPORATE NAME CHANGE AND THE NUMBER OF BOARD MEMBERS.**

At the request of Councilmember Kyle, Item 2013-198 was moved to the Regular Agenda for discussion. Mayor pro tem Frizzell moved to approve the Consent Agenda as presented. Motion was seconded by Councilmember Sibley and carried unanimously (7-0).

<b>REGULAR AGENDA</b>
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- 2013-198 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE 5TH ANNUAL VICTIMS OF FIRE 5K FUN RUN/WALK HOSTED BY THE MIDLOTHIAN FIREFIGHTER'S ASSOCIATION SCHEDULED FOR SATURDAY, JUNE 8, 2013, 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. RES16-2012-69)**

Councilmember Kyle asked for clarification regarding the expense to the City for staff and police presence at various events that occur within the City. Chief Smith reported that volunteer organizations such as CERT are utilized for traffic control and organizations from out of town that hold events that require police presence and/or traffic control are billed for personnel time and related expenses. Councilmember Kyle moved to approve Item 2013-198 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (7-0).

- 2013-200 CONSIDER AND ACT UPON APPROVING AN AGREEMENT BETWEEN THE MIDLOTHIAN DEVELOPMENT AUTHORITY AND THE MIDLOTHIAN INDEPENDENT SCHOOL DISTRICT REGARDING THE SUPPLEMENTAL PAYMENTS MADE PURSUANT TO SECTION 41.010 OF THE TEXAS EDUCATION CODE**

Chris Dick presented the Item, reporting that due to significantly reduced funding to school districts, the MISD has requested to receive a portion of the Hold Harmless Funds from the Texas Education Agency that are remitted to the Midlothian Development Authority pursuant to the amended TIRZ Project and Financing Plan. The proposed agreement is for a term of five years and will be considered on an annual basis after that time. The Midlothian Development Authority Board and TXI has recommended approval of MISD's request to receive the funds. Councilmember Sibley moved to approve Item 2013-200 as presented. Motion was seconded by Mayor pro tem Frizzell and carried unanimously (7-0).

- 2013-201 CONSIDER AND ACT UPON A CONTRACT FROM AMERICAN RAMP COMPANY FOR THE INSTALLATION OF A SKATE PARK TO BE LOCATED AT HAWKINS SPRING PARK IN AN AMOUNT NOT TO EXCEED \$79,793.17**

Billy King presented the contract for approval, noting that the price indicates a 25% discount. Councilmember Kyle moved to approve Item 2013-201 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (7-0).

2013-202 CONSIDER A RESOLUTION AUTHORIZING THE CITY ATTORNEY, ACTING ON BEHALF OF THE CITY OF MIDLOTHIAN, TO INSTITUTE EMINENT DOMAIN PROCEEDINGS AGAINST DAVID EUGENE GENTRY AND WIFE, LINDA PAULINE TODD GENTRY, AND ALL OTHER APPROPRIATE PARTIES, FOR THE ACQUISITION OF A WATER LINE AND SANITARY SEWER EASEMENT, DESCRIBED AS 0.072 ACRES/3,146 SQUARE FEET, AND TWO TEMPORARY CONSTRUCTION EASEMENTS, DESCRIBED IN TOTAL AS 0.192 ACRES/8,388 SQUARE FEET, LOCATED IN THE J.L. BLANTON SURVEY, ABSTRACT NO. 1284, MIDLOTHIAN, ELLIS COUNTY, TEXAS, AS SHOWN ON THE ATTACHED EXHIBITS, SAID EASEMENTS ARE FOR PUBLIC USE AND IN PARTICULAR AND INITIALLY FOR THE HIGH SCHOOL NO. 2 SANITARY SEWER PROJECT IN THE CITY OF MIDLOTHIAN, ELLIS COUNTY, TEXAS, AND ORDERING THE CONDEMNATIONS OF SAID PROPERTIES TO PROCEED. SAID PARCELS ARE FULLY DESCRIBED IN THE PROPOSED RESOLUTION.

Don Hastings presented the Item, reporting that a final offer had been made to the property owners with no response received. The Item was tabled for further discussion until after Executive Session. *Council moved to Executive Session at 6:45 p.m. for the purpose of discussing Items 1, 2, 3 and 4 with the following present: Mayor Houston, Mayor pro tem Frizzell, Councilmembers Sibley, Rodgers, Kyle, Henley, Miller; City Manager, City Attorney, Terry Morgan, attorney and Kevin Laughlin, attorney, each for their respective Items.*

<b>EXECUTIVE SESSION</b>
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| 1. SECTION<br>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<br>551.087 | DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS  |
| 3. SECTION<br>551.072 | REAL ESTATE: DELIBERATE AND CONSIDER THE ACQUISITION OF REAL PROPERTY AND EASEMENTS   |
| 4. SECTION<br>551.071 | LEGAL: CONSULTATION WITH ATTORNEY REGARDING SUPREME COURT OF TEXAS CAUSE NO. 10-0150, ECOM REAL ESTATE MANAGEMENT, INC. V. CITY OF MIDLOTHIAN, TEXAS. |
| 5. SECTION<br>551.071 | LEGAL: CONSULTATION WITH ATTORNEY BASED ON AN ETHICAL DUTY TO ADVISE REGARDING POTENTIAL LITIGATION   |

*Council reconvened in Regular Session at 8:58 p.m. with no action taken in Executive Session.*

<b>REGULAR AGENDA</b>
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**2013-202 CONSIDER A RESOLUTION AUTHORIZING THE CITY ATTORNEY, ACTING ON BEHALF OF THE CITY OF MIDLOTHIAN, TO INSTITUTE EMINENT DOMAIN PROCEEDINGS AGAINST DAVID EUGENE GENTRY AND WIFE, LINDA PAULINE TODD GENTRY, AND ALL OTHER APPROPRIATE PARTIES, FOR THE ACQUISITION OF A WATERLINE AND SANITARY SEWER EASEMENT, DESCRIBED AS 0.072 ACRES/3,146 SQUARE FEET, AND TWO TEMPORARY CONSTRUCTION EASEMENTS, DESCRIBED IN TOTAL AS 0.192 ACRES/8,388 SQUARE FEET, LOCATED IN THE J.L. BLANTON SURVEY, ABSTRACT NO. 1284, MIDLOTHIAN, ELLIS COUNTY, TEXAS, AS SHOWN ON THE ATTACHED EXHIBITS, SAID EASEMENTS ARE FOR PUBLIC USE AND IN PARTICULAR AND INITIALLY FOR THE HIGH SCHOOL NO. 2 SANITARY SEWER PROJECT IN THE CITY OF MIDLOTHIAN, ELLIS COUNTY, TEXAS, AND ORDERING THE CONDEMNATIONS OF SAID PROPERTIES TO PROCEED. SAID PARCELS ARE FULLY DESCRIBED IN THE PROPOSED RESOLUTION.**

Councilmember Kyle moved to approve Item 2013-202 as presented. Motion was seconded by Mayor pro tem Frizzell and by record vote taken, carried unanimously (7-0).

**2013-203 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: TEXAS CENTRAL BUSINESS LINES**

Mayor pro tem Frizzell moved to approve an agreed final judgment with Texas Central Business Lines subject to conditions and provisions being fairly stipulated by City's attorney of record. Motion was seconded by Councilmember Kyle and carried unanimously (7-0).

**2013-204 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: ECONOMIC DEVELOPMENT**

No action taken following Executive Session.

**2013-205 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: REAL ESTATE**

No action taken following Executive Session, with the exception of Item 2012-202 as set out herein.

**2013-206 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: ECOM**

No action taken following Executive Session.

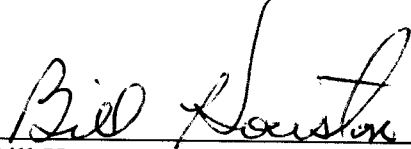
**2013-207 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #5: CONTEMPLATED LITIGATION**

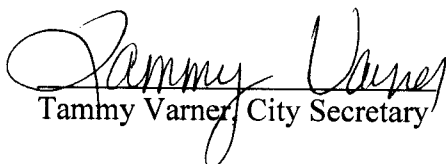
No discussion; no action

**2013-208 ADJOURN**

With there being no further business to discuss, Mayor Houston adjourned the meeting at 9:02 p.m.

ATTEST:

  
 Bill Houston, Mayor

  
 Tammy Varner, City Secretary