

**MINUTES
REGULAR COUNCIL MEETING
JULY 9, 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
Jimmie L. McClure	§	Councilmember Place 3
Joe Frizzell	§	Mayor Pro Tem Place 4
T. J. Henley	§	Councilmember Place 5
Ted Miller	§	Councilmember Place 6

Absent: Mike Rodgers due to family illness

REGULAR AGENDA

Mayor Houston called the meeting to order at 6:04 p.m. with notice of the meeting duly posted and a quorum present. Pastor Demetrius McClendon of One Church Midlothian gave the invocation and Mayor pro tem Frizzell led in the pledges.

2013-264 ANNOUNCEMENTS/PRESENTATIONS

a. Community Affairs calendar

Farmers Market at Heritage Park - Every Saturday from 8 a.m.-12 p.m.
 July 13 Movie in the Park – “The Lorax” – Hawkins Spring Park at dusk
 July 15 Wildflower & Bird Walk at Mockingbird Nature Park at 9:00 a.m.
 July 20 Night Hike at Mockingbird Nature Park at 8:30 p. m.
 July 19 & 20 2013 Quilt Show at the Midlothian Conference Center

b. Administrative announcements related to personnel

None were received

2013-265 CITIZENS TO BE HEARD

None to be heard

2013-266 RECEIVE AN UPDATE ON VARIOUS CITY BOARD AND COMMISSION MEETINGS AND ACTIVITIES

None were received

CONSENT AGENDA

2013-267 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETING OF JUNE 25, 2013

2013-268 CONSIDER AND ACT UPON A RESOLUTION APPROVING THE INVESTMENT POLICY FOR EACH OF THE FOLLOWING ENTITIES: CITY OF MIDLOTHIAN, MIDLOTHIAN ECONOMIC DEVELOPMENT (“MED” AKA “4A”), MIDLOTHIAN COMMUNITY DEVELOPMENT CORPORATION (“MCDC” AKA “4B”), AND MIDLOTHIAN DEVELOPMENT AUTHORITY (“MDA”)

2013-269 CONSIDER AND ACT UPON AWARDED A CONTRACT TO GENERAL CHEMICAL PERFORMANCE PRODUCTS, LLC FOR BULK ALUMINUM SULFATE FOR USE AT BOTH WATER TREATMENT PLANTS, BASED ON AN INITIAL UNIT PRICE BID OF \$209.97 PER DRY TON

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

PUBLIC HEARINGS

2013-270 CONTINUE A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE FOR A REVISED ZONING ORDINANCE TO REPLACE THE CURRENT ORDINANCE 89-13, AS AMENDED, TO REFORMAT AND REORGANIZE THE EXISTING ZONING ORDINANCE BY CREATING NEW SECTIONS AND SUBSECTIONS, AND INCLUDING ILLUSTRATIONS (CASE NO. OZ03-2012-43)

Mayor Houston opened the Public Hearing and John Taylor presented the Item that creates a new structure for the existing Zoning Ordinance intended to simplify and create ease of use for the general public. With no public input received, Councilmember Sibley moved to close the public hearing. Motion was seconded by Mayor pro tem Frizzell and carried unanimously (6-0). Mayor pro tem Frizzell moved to approve Item 2013-270 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (6-0).

2013-271 CONDUCT A PUBLIC HEARING AND ACT UPON AN ORDINANCE REQUESTING TO REZONE ± 12 ACRES FROM MEDIUM INDUSTRIAL (MI) AND AGRICULTURAL (A) TO HEAVY INDUSTRIAL (HI) DISTRICT. PROPERTY IS LOCATED IN J.E. HAWKINS SURVEY, ABSTRACT 461 AND THE JOHN W. BURKS SURVEY, ABSTRACT 113 AND IS LOCATED ± 2,475 FEET NORTHEAST FROM THE EASTERN END OF KEMP RANCH CROSSING, IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. Z11-2012-72)

Mayor Houston opened the Public Hearing and John Taylor presented the Item that will ultimately allow a petroleum storage facility on the subject property. On June 18, 2013, the Planning and Zoning Commission unanimously recommended approval of the rezoning request. With no public input received, Councilmember Sibley moved to close the public hearing. Motion was seconded by Mayor pro tem Frizzell and carried unanimously (6-0). Councilmember Sibley moved to approve Item 2013-271 as presented. Motion was seconded by Mayor pro tem Frizzell and carried unanimously (6-0).

2013-272 CONDUCT A PUBLIC HEARING AND ACT UPON AN ORDINANCE FOR A SPECIFIC USE PERMIT TO ALLOW A PETROLEUM STORAGE FACILITY ON ± 12 ACRES ON PROPERTY ZONED HEAVY INDUSTRIAL (HI). PROPERTY IS LOCATED IN J.E. HAWKINS SURVEY, ABSTRACT 461 AND THE JOHN W. BURKS SURVEY, ABSTRACT 113 AND IS LOCATED ± 2,475 FEET NORTHEAST FROM THE EASTERN END OF KEMP RANCH CROSSING, IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. SUP06-2012-73)

Mayor Houston opened the Public Hearing and John Taylor presented the Item that will allow Buckley Oil to operate a petroleum storage facility on this site. The Planning and Zoning Commission unanimously recommended approval of the SUP on June 18, 2013. With no public input received, Councilmember Sibley moved to close the public hearing. Motion was seconded by Mayor pro tem Frizzell and carried unanimously (6-0). Councilmember Henley moved to approve Item 2013-272 as presented. Motion was seconded by Councilmember Miller and carried unanimously (6-0).

2013-273 CONDUCT A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE DESIGNATING A CERTAIN AREA AS A REINVESTMENT ZONE FOR COMMERCIAL-INDUSTRIAL TAX ABATEMENT IN THE CITY OF MIDLOTHIAN, TEXAS TO BE KNOWN AS THE TEXAS RAILPORT COMMERCIAL-INDUSTRIAL TAX ABATEMENT REINVESTMENT ZONE NO. 6, CITY OF MIDLOTHIAN, TEXAS; ESTABLISHING THE BOUNDARIES THEREOF; AND PROVIDING FOR AN EFFECTIVE DATE

Mayor Houston opened the Public Hearing and Larry Barnett presented the Item requesting the creation of the reinvestment zone. With no public input received, Councilmember McClure moved to close the public hearing. Motion was seconded by Councilmember Henley and carried unanimously (6-0). Councilmember Henley moved to approve Item 2013-273 as presented. Motion was seconded by Councilmember McClure and carried unanimously (6-0).

REGULAR AGENDA

2013-274 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING EXECUTION OF AN AD VALOREM TAX ABATEMENT AGREEMENT WITH BUCKLEY PROPERTY COMPANY

Larry Barnett presented the tax abatement agreement on behalf of Buckley Oil Company aka Buckley Property Company. The proposed tax abatement will be for eight years, with a 55% abatement for year one and 50% abatement for years two through eight. The first year of the tax abatement would begin January 1 after construction is complete and a certificate of occupancy is issued by the City of Midlothian. Councilmember McClure moved to approve Item 2013-274 as presented. Motion was seconded by Councilmember Henley and carried unanimously (6-0).

2013-275 CONSIDER AND ACT UPON A LOAN AGREEMENT BETWEEN BUCKLEY PROPERTY COMPANY AND MIDLOTHIAN ECONOMIC DEVELOPMENT AMOUNTING TO \$200,000, WITH AN EIGHT (8) YEAR TERM, AND WITH TWELVE AND ONE-HALF PERCENT (12.5%) OF THE ORIGINAL LOAN AMOUNT BEING FORGIVEN YEARLY, UP TO THE LOAN MATURITY DATE, PROVIDED CERTAIN CRITERIA ARE CERTIFIED AS MET, YEARLY, BY THE COMPANY

Larry Barnett presented the loan agreement that was approved by the Midlothian Economic Development Board of Directors on June 17, 2013. Mr. Barnett explained that this type of loan agreement has been utilized with other businesses that have located in Midlothian, such as Target, Toys R Us and SWFA as a means of stimulating investment in the local economy. Councilmember Sibley moved to approve Item 2013-275 as presented. Motion was seconded by Councilmember McClure and carried by a vote of 5-1 with Councilmember Miller voting in opposition.

2013-276 CONSIDER AND ACT UPON A PUBLIC IMPROVEMENT PARTICIPATION AGREEMENT BETWEEN THE CITY OF MIDLOTHIAN AND KG SABLE DEVELOPMENT, LLC FOR THE ALLEN STREET LIFT STATION AND FM 663 CORRIDOR SANITARY SEWER MAIN CONSTRUCTION IN AN AMOUNT NOT TO EXCEED \$450,000 AND FOR THE EXTENSION OF BELMONT DRIVE TO S. 14TH STREET

Mike Adams presented the agreement for approval. Councilmember Miller moved to approve Item 2013-276 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (6-0).

2013-277 CONSIDER AND ACT UPON AUTHORIZING DON HASTINGS, CITY MANAGER, ACTING ON BEHALF OF THE CITY OF MIDLOTHIAN, TO EXECUTE THE "DOVE LANE REALIGNMENT AGREEMENT BETWEEN THE CITY OF MIDLOTHIAN AND ASH GROVE CEMENT COMPANY," FOR THE SEGMENT OF DOVE LANE BETWEEN US HIGHWAY 67 AND N. 9TH STREET

Mike Adams presented the request for the realignment which will enable Ash Grove to have access to future limestone reserves. Ash Grove will convey new right-of-way to the City within 30 days after the effective date of the realignment agreement. Mayor pro tem Frizzell moved to approve Item 2013-277 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (6-0).

2013-278 CONSIDER AND ACT UPON A BID AWARD TO XIT PAVING AND CONSTRUCTION, INC. FOR THE JUSTICE CENTER ACCESS DRIVEWAY IN A TOTAL ALTERNATE BID AMOUNT OF \$164,774.29 AND CHANGE ORDER NO. 1 IN A DEDUCTIVE AMOUNT OF \$25,339.52, FOR A REVISED TOTAL CONTRACT AMOUNT NOT TO EXCEED \$139,434.77

This Item was tabled at the request of staff.

2013-279 CONSIDER AND ACT UPON THE ESTABLISHMENT OF CONTRACTUAL USAGE WITHIN THE CITY OF MIDLOTHIAN PARKS AND RECREATION FACILITIES, SETTING THE GENERAL GUIDELINES, FEE SCHEDULE AND CONTRACT INSTRUCTOR AGREEMENT

Billy King presented the Item allowing contract instructors to utilize City parks to offer supplemental programs to the community. Councilmember Sibley moved to approve Item 2013-279 as presented. Motion was seconded by Councilmember Henley and carried unanimously (6-0).

2013-280 CONDUCT AND ACT UPON A RESOLUTION INITIATING PROCEEDINGS TO ANNEX 4 SEPARATE TRACTS CONTAINING A TOTAL OF APPROXIMATELY 43.019 ACRES OF LAND AS DESCRIBED BY THE ATTACHED MAPS, BY SETTING THE DATE AND LOCATION FOR 2 PUBLIC HEARINGS AND DIRECTING STAFF TO PREPARE REQUIRED SERVICE PLANS (CASE NO. RES06-2012-33)

John Taylor presented the Item initiating annexation proceedings and setting two public hearings, scheduled for August 13 and August 27, 2013. Councilmember Sibley moved to approve Item 2013-280 as presented. Motion was seconded by Councilmember Henley and carried unanimously (6-0).

2013-281 CONSIDER AND ACT UPON THE SITE PLAN, BUILDING ELEVATIONS, AND LANDSCAPE PLANS FOR A MIDTOWNE ASSISTED LIVING AND MEMORY CARE FACILITY, CONTAINING ± 3.5 ACRES, LOCATED ON THE EAST SIDE OF SOUTH 9TH STREET AND APPROXIMATELY 150 FEET SOUTH OF GEORGE HOPPER ROAD, IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. SP03-2012-60)

John Taylor presented the proposed site plan that was approved by the Planning and Zoning Commission on June 18, 2013. Councilmember Sibley moved to approve Item 2013-281 subject to the following amendments and conditions:

1. A minimum five-foot (5') landscaping strip to be required along the north side of subject property. Landscaping on the southside of the development to be deferred until the south side develops, pending the location of drive cuts.
2. The north side of the development will be curbed and access will not be provided to property located on north side of development until such time as property, which is currently a parking for First Methodist Church, is developed.
3. Concrete walkways on front side of development may be stamped concrete and walkways located at rear of development, between development and senior housing facility, are to be smooth concrete.

Motion was seconded by Mayor pro tem Frizzell and carried unanimously (6-0).

**2013-282 CONSIDER AND ACT UPON APPOINTMENTS TO COUNCIL
SUBCOMMITTEES**

Mayor Houston submitted the following recommendations for subcommittee appointments:

Planning/Economic Development

Mike Rodgers, Chair
Jimmie McClure
Bill Houston

Transportation/Public Safety

Joe Frizzell, Chair
Ted Miller
Bill Houston

Utility

Wayne Sibley, Chair
T. J. Henley
Bill Houston

Nomination

Bill Houston, Chair
T. J. Henley
Jimmie McClure

Board Liaisons

Midlothian Economic Development (4A)
Planning & Zoning Commission
Midlothian Community Development (4B)
Parks Board

Joe Frizzell
Mike Rodgers
Ted Miller
Bill Houston

Executive Session was not conducted.

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
4. SECTION 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 551.071 LEGAL: CONSULTATION WITH ATTORNEY BASED ON AN ETHICAL DUTY TO ADVISE REGARDING POTENTIAL LITIGATION

REGULAR AGENDA

2013-283 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: TEXAS CENTRAL BUSINESS LINES

Executive Session was not conducted.

2013-284 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: ECONOMIC DEVELOPMENT

Executive Session was not conducted.

2013-285 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: REAL ESTATE

Executive Session was not conducted.

2013-286 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: ECOM

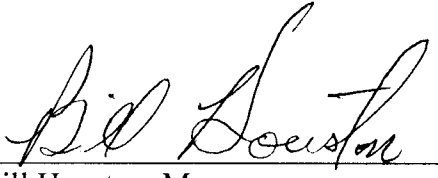
Executive Session was not conducted.

**2013-287 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #5:
CONTEMPLATED LITIGATION**

Executive Session was not conducted.

2013-288 ADJOURN

With there being no further business to discuss, Mayor Houston adjourned the meeting at 7:40 p.m.



Bill Houston, Mayor

ATTEST:


Tammy Varner, City Secretary