

**MINUTES
REGULAR MEETING
AUGUST 13, 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
Jimmie L. McClure	§	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 6:03 p.m. with notice of the meeting duly posted and a quorum present. Councilmember Sibley gave the invocation and led in the pledges.

2013-311 ANNOUNCEMENTS/PRESENTATIONS

a. Community Affairs calendar

Every Saturday – 8am-12pm Midlothian Downtown Farmers Market at Heritage Park
August 19th at 9 a.m. Wildflower & Bird Walk at Mockingbird Nature Park

b. Presentation to Police Department by Cedar Hill Rotary Club

Cedar Hill Rotary Club representatives Pat Bonds and Angie Hammonds presented Lt. Garland Wolf with a plaque expressing their appreciation for the Midlothian Police Department's assistance with the Head for the Hills Bike Rally event over the past seven years.

c. Administrative announcements related to personnel

None were received.

2013-312 CITIZENS TO BE HEARD

None to be heard.

2013-313 RECEIVE AN UPDATE ON VARIOUS CITY BOARD AND COMMISSION MEETINGS AND ACTIVITIES

None were received.

WORKSHOP: BUDGET

2013-314 REVIEW AND DISCUSS CITY OF MIDLOTHIAN DRAFT BUDGET FOR FY 2013-14

a. Agency budget presentations and funding requests

Funding requests for the upcoming year were received from agency representatives of MidWay Airport, Meadows Library, CASA, Gingerbread House and REACH.

b. Draft FY 2013-2014 Annual Operating Budgets and related financial matters

Discussion included adjustments and revisions made to the proposed budget thus far. The next budget workshop is scheduled for August 20th at 5 p.m.

PUBLIC HEARINGS

2013-315 CONDUCT A PUBLIC HEARING OF CASE NO. AX02-2012-88, THE FIRST OF 2 PUBLIC HEARINGS FOR A PROPOSED ANNEXATION AND PROPOSED SERVICE PLAN FOR THE PROVISION OF PUBLIC SERVICES. THE FOUR (4) PROPOSED ANNEXATION TRACTS CONTAIN A TOTAL OF ± 43.019 ACRES OF LAND LYING WITHIN THE EXTRATERRITORIAL JURISDICTION (ETJ) OF THE CITY OF MIDLOTHIAN AND ADJOINING THE PRESENT CITY LIMIT BOUNDARY LINES. THE PROPOSED ANNEXATION AND SERVICE PLAN BEING FULLY DESCRIBED IN ATTACHMENTS 1, 2 & 5 ATTACHED HERETO AND MADE A PART HEREOF FOR ALL PURPOSES OF THE ANNEXATION PROCEDURES, IN ACCORDANCE WITH CHAPTER 43 OF THE TEXAS LOCAL GOVERNMENT CODE

Mayor Houston opened the Public Hearing and Alberto Mares presented an overview of the proposed annexation tracts and the proposed service plan. With no public input received, Mayor pro tem Frizzell moved to close the Public Hearing. Motion was seconded by Councilmember Miller and carried by a vote of 5-0-1 with Councilmember Sibley abstaining. The second public hearing date will be August 27, 2013.

2013-316 CONDUCT A PUBLIC HEARING AND ACT UPON AN ORDINANCE FOR A SPECIFIC USE PERMIT TO ALLOW A LIQUID NATURAL GAS PROCESSING FACILITY ON +/-31.219 ACRES OF PROPERTY ZONED HEAVY INDUSTRIAL (HI). PROPERTY IS KNOWN AS RAILPORT BUSINESS PARK LOT 2, BLOCK 3 AND IS LOCATED SOUTHWEST OF BROOKHOLLOW DRIVE AND ± 1,721 FEET FROM POWER WAY, IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. SUP07-2012-80)

Mayor Houston opened the Public Hearing and Alberto Mares presented the special use permit request that was approved by the Planning and Zoning Commission on July 16, 2013. With no public input received, Councilmember Sibley moved to close the public hearing. Motion was seconded by Councilmember McClure and carried unanimously (7-0). Councilmember Sibley moved to approve Item 2013-316 as presented, subject to the eight conditions as set out in the staff report and also recommended by the Planning and Zoning Commission. Motion was seconded by Mayor pro tem Frizzell and carried unanimously (7-0).

2013-317 CONDUCT A PUBLIC HEARING AND ACT UPON AN ORDINANCE TO REZONE ±264 ACRES FROM MEDIUM INDUSTRIAL (MI) & HEAVY INDUSTRIAL (HI) TO HEAVY INDUSTRIAL (HI) DISTRICT. PROPERTY IS LOCATED IN THE RAILPORT BUSINESS PARK ADDITION, LOTS 5 AND 6, BLOCK 1 AND RAILPORT BUSINESS PARK, LOTS 9, 10, & 11, BLOCK 2. SUBJECT PROPERTY IS LOCATED ± 3,070 FEET SOUTHEAST OF U.S HWY 67 ON RAILPORT PARKWAY, IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. Z12-2012-84)

Mayor Houston opened the Public Hearing and Alberto Mares presented the rezoning request by the City intended to clean up zoning boundaries within RailPort Business Park. With no public input received, 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 2013-317 as presented. Motion was seconded by Councilmember Rodgers and carried unanimously (7-0).

2013-318 CONDUCT A PUBLIC HEARING AND ACT UPON AN AMENDMENT TO THE ZONING ORDINANCE TO INCREASE STANDARDS FOR RESIDENTIAL DEVELOPMENT, SPECIFICALLY AMENDING SECTIONS 3.200 (SINGLE FAMILY ONE), 3.300 (SINGLE FAMILY TWO), 3.400 (SINGLE FAMILY THREE), 3.500 (SINGLE FAMILY FOUR), 3.5500 (RESIDENTIAL MASONRY, ARCHITECTURE, AND BUILDING STANDARDS), 3.5600 (RESIDENTIAL PARKING AND GARAGE STANDARDS) AND SECTION 100 (DEFINITIONS) (CASE NO. OZ05-2012-85)

Mayor Houston opened the Public Hearing and Alberto Mares requested that Council consider tabling the Item to a future date to allow staff to coordinate a round table discussion with area builders and developers. With no public input received, Councilmember Henley moved to table Item 2013-318 to a future date. Motion was seconded by Councilmember Miller and carried unanimously (7-0).

REGULAR AGENDA

2013-319 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETINGS OF JULY 23 AND JULY 26, 2013

Councilmember Sibley moved to approve Item 2013-319 as presented. Motion was seconded by Councilmember Rodgers and carried unanimously (7-0).

2013-320 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING T. SCOTT BRYAN, TXDOT AVIATION DIVISION OF TXDOT, ACTING ON BEHALF OF THE CITIES OF MIDLOTHIAN AND WAXAHACHIE, TO MAKE AN INITIAL FORMAL OFFER TO KENNETH M. THOMPSON IN THE AMOUNT OF \$71,200.00 FOR THE ACQUISITION OF A PARCEL OF LAND IN FEE SIMPLE, FOR DRAINAGE AND OTHER PUBLIC USES FOR THE MIDWAY REGIONAL AIRPORT LOCATED IN THE J.R. LEATH SURVEY, ABSTRACT NO. A-634, LOCATED IN ELLIS COUNTY, TEXAS DESCRIBED AS 7.118 ACRES AS DESCRIBED IN EXHIBIT "A" AND SHOWN IN EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF FOR ALL PURPOSES, SAID REAL PROPERTY ARE FULLY DESCRIBED IN THE PROPOSED RESOLUTION

City Attorney Don Stout, presented the Item explaining that the property is needed for drainage purposes related to the apron expansion at the airport. Chris Dick also explained that the funding for this acquisition is being funded by a 90% grant from TxDOT Aviation with the Cities of Midlothian and Waxahachie each contributing 5%. Councilmember Sibley moved to approve Item 2013-320 as presented. Motion was seconded by Councilmember Henley and carried unanimously (7-0).

2013-321 CONSIDER, DISCUSS AND TAKE A RECORD VOTE TO PROPOSE AN AD VALOREM TAX RATE OF \$0.659821 AND SCHEDULE TWO PUBLIC HEARINGS REGARDING THE PROPOSED AD VALOREM TAX RATE INCREASE FOR AUGUST 27, 2013 AND SEPTEMBER 3, 2013

Chris Dick reported that the Ellis County Tax Office notified him today of an error in their tax rate calculations. The rollback tax rate is actually 0.658244 instead of 0.659823. After discussion by Council, Councilmember Henley moved to propose a tax rate of 0.658244 for the FY 2013-2014 budget and set two public hearing dates of August 27 and September 3, 2013. Motion was seconded by Councilmember McClure and carried unanimously by a record vote of 7-0 as follows:

Councilmember Sibley	Aye	Councilmember Rodgers	Aye
Councilmember McClure	Aye	Mayor Houston	Aye
Mayor pro tem Frizzell	Aye	Councilmember Henley	Aye
Councilmember Miller	Aye		

2013-322 CONSIDER AND ACT UPON AN AMENDMENT TO ORDINANCE 2012-16; ADOPTION OF THE 2009 EDITION OF THE INTERNATIONAL RESIDENTIAL CODE, SPECIFICALLY AMENDING SECTIONS R803 (ROOF SHEATHING) & R905 (REQUIREMENTS FOR ROOF COVERING)

Chief Building Official Tim Littlejohn presented the Item explaining the two proposed amendments which would require radiant barrier roofing on all residential homes and a 30-pound felt for houses. Don Hastings recommended Council consider delaying action on the 30-pound felt requirement and take the matter up at the proposed round table discussion for residential development standards. Councilmember Miller moved to approve adoption of the radiant barrier portion of Item 2013-322 only. Motion was seconded by Councilmember Henley and carried unanimously (7-0).

2013-323 CONSIDER AND ACT UPON A REQUEST TO ALLOW RIGHT-OF-WAY ENCROACHMENT FOR 10 PARKING SPACES AT JIMMY'S RESTAURANT LOCATED AT 300 N. 8TH STREET. PROPERTY IS GENERALLY LOCATED AT THE NORTHEAST CORNER OF NORTH 8TH STREET AND WEST AVENUE E IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. M09-2012-87)

Alberto Mares presented the Item which was continued from the July 23, 2013 Council meeting. Lydia Lushaj representing Jimmy's Restaurant addressed Council in support of the 10 parking spaces as opposed the five parallel spaces proposed by City staff. After further discussion by Council, Mayor pro tem Frizzell moved to table the Item until the August 27th Council meeting. Motion was seconded by Councilmember Miller and carried unanimously (7-0).

Council moved to Executive Session at 8:02 p.m. for the purpose of discussing Item 5 with the following present: Mayor Houston, Mayor pro tem Frizzell, Councilmembers Sibley, Rodgers, McClure, Henley, Miller; City Manager, City Attorney and Interim Planning Director Alberto Mares.

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 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 |

Council reconvened in Regular Session at 9:12 p.m. with no action taken in Executive Session.

REGULAR AGENDA

2013-324 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: TEXAS CENTRAL BUSINESS LINES

The Item was not discussed in Executive Session; no action was taken.

2013-325 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: ECONOMIC DEVELOPMENT

The Item was not discussed in Executive Session; no action was taken.

2013-326 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: REAL ESTATE

The Item was not discussed in Executive Session; no action was taken.

2013-327 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: ECOM


The Item was not discussed in Executive Session; no action was taken.

**2013-328 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #5:
CONTEMPLATED LITIGATION**

No action taken following Executive Session.

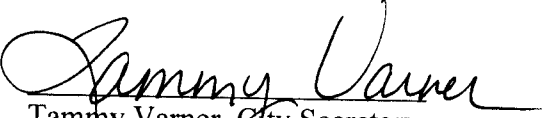
2013-329 ADJOURN

With there being no further business to discuss, Mayor Houston adjourned the meeting at 9:12 p.m.



Bill Houston, Mayor

ATTEST:



Tammy Varner, City Secretary