

**MINUTES  
REGULAR COUNCIL MEETING  
SEPTEMBER 24, 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
Ted Miller	§	Councilmember Place 6

*Absent: T. J. Henley due to planned vacation*

**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 Sibley gave the invocation and led in the pledges.

**2013-390 ANNOUNCEMENTS/PRESENTATIONS**

**a. Community Affairs calendar**

Every Saturday through October 12th – 8 a.m.-12 p.m. Midlothian Downtown Farmers Market at Heritage Park

September 27<sup>th</sup> - Midlothian Downtown Business Association Scarecrow Contest registration deadline.

October 4, 2013 9 a.m. - 12 p.m. Community Gardening Day at Ridgeview Park

**b. Administrative announcements related to personnel**

Public Works staff introduced and recognized for their efforts in repairing a 16-inch water line break at RailPort

**c. Presentation of TCEQ Water Quality Awards**

TCEQ five-year and ten-year awards presented to Water Treatment Plant staff

**d. Receive quarterly investment report from Patterson & Associates**

Quarterly investment report presented by Linda Patterson

**2013-391 CITIZENS TO BE HEARD**

Jeff Francis, 251 Masters Lane, addressed Council with concerns regarding organized youth sports practice occurring on residential property

**2013-392 RECEIVE AN UPDATE ON VARIOUS CITY BOARD AND COMMISSION MEETINGS AND ACTIVITIES**

None were received.

**CONSENT AGENDA**

**2013-393 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETINGS OF SEPTEMBER 3 AND SEPTEMBER 10, 2013**

**2013-394 CONSIDER AND ACT UPON AUTHORIZING THE MAYOR TO EXECUTE A CERTIFICATION LETTER TO THE TEXAS ATTORNEY GENERAL STATING THAT THE CITY OF MIDLOTHIAN IMPACT FEE PROGRAM IS IN COMPLIANCE WITH TEXAS LOCAL GOVERNMENT CODE, CHAPTER 395 (CASE NO. M15-2012-117)**

**2013-395 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE MIDLOTHIAN INDEPENDENT SCHOOL DISTRICT ("MISD") 2013 HOMECOMING PARADE, AN EVENT HOSTED BY THE MISD, SCHEDULED FOR FRIDAY, SEPTEMBER 27, 2013, IN ACCORDANCE WITH A SPECIAL EVENT PERMIT AS ESTABLISHED BY THE CITY OF MIDLOTHIAN ZONING ORDINANCE 2013-24 AS AMENDED, SECTION 2.04 (CASE NO. RES20-2012-118)**

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

**PUBLIC HEARINGS**

**2013-396 CONTINUE A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE TO REZONE ± 68.371 ACRES FROM THE CURRENT AGRICULTURAL (A) DISTRICT TO A PLANNED DEVELOPMENT (PD) WITH MINIMUM LOT SIZES RANGING FROM 8,400 TO 19,500 + SQUARE FEET. PROPERTY IS IN THE W. W. 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)**

Mayor Houston opened the Public Hearing and Alberto Mares presented the revised site plan. Minimum lot size is 80'x120', with 170 total lots ranging in size from 8,400 square feet to 30,000 square feet, averaging 2.67 homes per acre. Don Dykstra, President of Bloomfield Homes gave a brief overview of the development and answered Council questions.

Speaking in support of the Item:

Allen Byrd  
2451 FM 663  
Midlothian, TX

Dean Thomas  
990 King Arthur Dr.  
Midlothian, TX

Jamie Wickliffe  
1600 Creekwood Dr.  
Midlothian, TX

Speaking in opposition of the Item:

Tina Gage  
717 Buckhorn Ct.  
Midlothian, TX

Pam Shelley  
706 Buckhorn Ct.  
Midlothian, TX

Casey Mattingly  
218 Ashlawn Dr.  
Midlothian, TX

Gregory Flores  
5422 LaMarque Ct.  
Midlothian, TX

Betty Peck  
2205 Goose Down Ct.  
Midlothian, TX

Calvin Cheatham  
702 Buckhorn Ct.  
Midlothian, TX

Non-speakers in opposition of the Item:

Robert Jenrey  
6230 Vicney  
Midlothian, TX

Brian Ellsworth/Bandi Lundberg  
710 Buck Horn Ct.  
Midlothian, TX

Brent/Rachel Staalsen  
2621 Starwashed Dr.  
Midlothian, TX

David Gross  
910 Elk Horn Dr.  
Midlothian, TX

Lawrence/Angie Branscum  
1810 Grey Duck Ct.  
Midlothian, TX

Cathy Mitchell  
920 Pimlico Dr.  
Midlothian, TX

Councilmember Sibley moved to close the Public Hearing. Motion was seconded by Councilmember Miller and carried unanimously (6-0).

Mike Adams addressed Council questions regarding thoroughfares and infrastructure. Ted Miller moved to approve Item 2013-396 as presented with the following additional conditions:

1. Construction of an 8' stained wooden fence with metal posts, in compliance with the City of Midlothian fence specifications, along the north and west boundaries of the Development
2. A secondary point of access to F.M. 663 prior to initiation of construction of Phases II and III.

Motion was seconded by Councilmember Sibley and carried unanimously (6-0).

**2013-397 CONDUCT A PUBLIC HEARING AND ACT UPON AN ORDINANCE TO REZONE ± 3.43 ACRES FROM AGRICULTURAL (A) DISTRICT TO COMMERCIAL (C) DISTRICT. PROPERTY IS LOCATED IN THE M BRENAN SURVEY, ABSTRACT 43, AND IS LOCATED AT THE SOUTHERN INTERSECTION OF APPLE LANE AND FM 663, IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. Z15-2012-99)**

Mayor Houston opened the Public Hearing and Alberto Mares presented the rezoning request which will allow expansion of an existing mini-warehouse site. With no public input received, Mayor pro tem Frizzell moved to close the Public Hearing. Motion was seconded by Councilmember Sibley and carried unanimously (6-0). Mayor pro tem Frizzell moved to approve Item 2013-397 as presented. Motion was seconded by Councilmember Rodgers and carried unanimously (6-0).

**2013-398 CONDUCT A PUBLIC HEARING AND ACT UPON AN ORDINANCE FOR A SPECIFIC USE PERMIT (SUP) TO ALLOW MINI-WAREHOUSES ON ± 3.43 ACRES OF PROPERTY CURRENTLY ZONED COMMERCIAL (C) DISTRICT (3851 FM 663). PROPERTY IS LOCATED IN THE M. BRENAN SURVEY, ABSTRACT 43, AND IS LOCATED AT THE SOUTHWEST INTERSECTION OF APPLE LANE AND FM 663, IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. SUP09-2012-100)**

Mayor Houston opened the Public Hearing and Alberto Mares presented the SUP request to allow construction of approximately 15 to 20 mini-warehouse storage units. With no public input received, Mayor pro tem Frizzell moved to close the Public Hearing. Motion was seconded by Councilmember Sibley and carried unanimously (6-0). Councilmember Sibley moved to approve Item 2013-398 as presented. Motion was seconded by Councilmember Miller and carried unanimously (6-0).

**2013-399 CONDUCT A PUBLIC HEARING AND ACT UPON AN ORDINANCE REGARDING AMENDMENTS TO THE CITY'S ADOPTED COMPREHENSIVE PLAN, ORDINANCE 2007-15, AS AMENDED, SPECIFICALLY AMENDING THE THOROUGHFARE PLAN MAP, INCLUDING BUT NOT LIMITED TO: (1) ADDING A NEW THOROUGHFARE CLASSIFICATION; (2) THE RECLASSIFICATION OF THE EXTENSION OF HAYES ROAD EAST OF LONGBRANCH ROAD, (3) THE RECLASSIFICATION OF THE LEDGESTONE LANE SOUTH OF PLAINVIEW ROAD, AND (4) THE REALIGNMENT AND RECLASSIFICATION OF SOUTH 14<sup>TH</sup> STREET FROM ASHFORD LANE TO FM 875; (5) THE DELETION OF SOUTH 14<sup>TH</sup> STREET SOUTH OF MCALPIN ROAD TO FM 875; (6) THE ADDITION OF A NEW THOROUGHFARE FROM MCALPIN ROAD TO FM 875; (7) THE DELETION OF AN EAST-WEST ROAD CONNECTING S. 14<sup>TH</sup> STREET AND S. 9<sup>TH</sup> STREET; AND, (8) THE RECLASSIFICATION AND REALIGNMENT OF A PROPOSED EAST-WEST ROAD SOUTH OF FM1387 AND WEST OF WALNUT GROVE ROAD AND ANY OTHER REVISIONS OR DELETIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE (CASE NO. CP03-2012-101)**

Mayor Houston opened the Public Hearing and Alberto Mares recommended that the Item be tabled to allow Council to conduct a workshop for additional discussion prior to taking a vote. Boyce Whatley, 836 Neuces Trail, Midlothian, TX spoke encouraging Council to take more time to study and analyze the potential impact of the proposed Thoroughfare Plan. Mayor pro tem Frizzell moved to continue the Public Hearing indefinitely. Motion was seconded by Councilmember McClure and carried unanimously (6-0).

**2013-400 CONDUCT A PUBLIC HEARING AND ACT UPON AN ORDINANCE FOR A SPECIFIC USE PERMIT (SUP) TO ALLOW CAR SALES ON PROPERTY CURRENTLY ZONED LIGHT INDUSTRIAL DISTRICT. PROPERTY CONTAINS ± 2.06 ACRES IN THE NORTH MIDLOTHIAN INDUSTRIAL PARK, BLOCK 1, AND LOCATED ON THE EAST SIDE OF US HIGHWAY 67 SERVICE ROAD AND NORTH OF GIFCO ROAD, IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. SUP10-2012-102)**

Mayor Houston opened the Public Hearing and Alberto Mares presented the SUP request to allow car sales. The applicant, Charles Hackworth, 110 Clinton Lane, Midlothian, TX addressed the Council requesting approval of the request. Councilmember Sibley moved to close the Public Hearing. Motion was seconded by Councilmember Miller and carried unanimously (6-0). Councilmember Sibley moved to approve Item 2013-400 subject to conditions recommended by the Planning and Zoning Commission and set out in staff report. Motion was seconded by Councilmember Miller and carried by a vote of 5-1 with Councilmember McClure voting in opposition.

#### **REGULAR AGENDA**

**2013-401 CONSIDER AND ACT UPON A PETITION FOR DISANNEXATION OF ± 1.147 ACRES OF LAND FROM HOWARD AND TAMMY ROBERTS, UNDER TO TEXAS LOCAL GOVERNMENT CODE, CHAPTER 43.141, FOR FAILURE TO PROVIDE SERVICES. PROPERTY IS GENERALLY LOCATED IN THE JOHN CRANE SURVEY, ABSTRACT 246 AND GENERALLY LOCATED ± 1,050 FEET NORTH OF THE INTERSECTION OF WALNUT GROVE ROAD AND SHILOH ROAD, JUST SOUTH OF OLD FARMHOUSE ESTATES, IN THE CITY OF MIDLOTHIAN, TEXAS; AND, IF THE PETITION IS GRANTED, ADOPT AN ORDINANCE TO DISANNEKX THE AREA LYING WITHIN THE CITY OF MIDLOTHIAN INTO ITS EXTRATERRITORIAL JURISDICTION (ETJ). (CASE NO. DX01-2012-104)**

Alberto Mares reported that the Applicant has requested the Item be tabled to the October 8 Council meeting. Mayor pro tem Frizzell moved to table Item 2013-401 until October 8. Motion was seconded by Councilmember Rodgers and carried unanimously (6-0).

**2013-402 CONSIDER AND ACT UPON A RESOLUTION TO NOMINATE CANDIDATES TO THE 2014-2015 BOARD OF DIRECTORS FOR THE ELLIS APPRAISAL DISTRICT**

Don Hastings explained that the City of Midlothian is allotted 284 votes to cast in the Ellis Appraisal District Board election, which occurs every two years. The first step in the process is to pass a resolution nominating a candidate(s). Current EAD boardmember, Phil Lynch, 316 Shadow Wood Trail, Ovilla, TX addressed Council requesting support and renomination to the EAD Board. Mayor pro tem Frizzell moved to nominate Phil Lynch to the Ellis Appraisal District Board of Directors. Motion was seconded by Councilmember Sibley and carried unanimously (6-0).

**2013-403 CONSIDER AND ACT UPON AN AGREEMENT BETWEEN MIDLOTHIAN ECONOMIC DEVELOPMENT (MED), MIDLOTHIAN COMMUNITY DEVELOPMENT CORPORATION (MCDC) AND JAY GARNER, GARNER ECONOMICS LLC TO DEVELOP A STRATEGIC PLAN FOR ECONOMIC DEVELOPMENT IN MIDLOTHIAN**

Item presented by Larry Barnett who reported that Garner Economics had been selected out of a field of eight applicants. Mayor pro tem Frizzell moved to approve Item 2013-403 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (6-0).

With there being no reports to receive, Executive Session was cancelled.

#### **EXECUTIVE SESSION**

1. SECTION 551.087 DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS
2. SECTION 551.072 REAL ESTATE: DELIBERATE AND CONSIDER THE ACQUISITION OF REAL PROPERTY AND EASEMENTS
3. 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.
4. SECTION 551.071 LEGAL: CONSULTATION WITH ATTORNEY BASED ON AN ETHICAL DUTY TO ADVISE REGARDING POTENTIAL LITIGATION
5. SECTION 551.074 PERSONNEL MATTERS: (A)(1) TO DELIBERATE THE DUTIES AND/OR PERFORMANCE OF A PUBLIC OFFICER OR EMPLOYEE

#### **REGULAR AGENDA**

**2013-403 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: ECONOMIC DEVELOPMENT**

Executive Session was not conducted.

**2013-404 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: REAL ESTATE**

Executive Session was not conducted.

**2013-405 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: ECOM**

Executive Session was not conducted.

**2013-406 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: CONTEMPLATED LITIGATION**

Executive Session was not conducted.

**2013-407 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #5: PERSONNEL MATTERS**

Executive Session was not conducted.

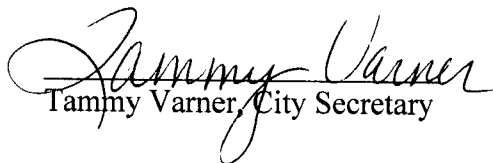
**2013-408 ADJOURN**

With there being no further business to discuss, Mayor Houston adjourned the meeting at 9:20 p.m.



Bill Houston, Mayor

ATTEST:



Tammy Varner, City Secretary