

**MINUTES
REGULAR COUNCIL MEETING
OCTOBER 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
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. Mayor pro tem Frizzell gave the invocation and led in the pledges.

2013-416 ANNOUNCEMENTS/PRESENTATIONS

a. Community Affairs calendar

October 12 – Farmer’s Market at Heritage Park

b. Administrative announcements related to personnel

None were received

c. Proclamation designating October as Breast Cancer Awareness Month

Mayor Houston presented the proclamation to Dalaine Fletcher, Monica Ferrell and Bill Davidson

2013-417 CITIZENS TO BE HEARD

None to be heard

2013-418 RECEIVE AN UPDATE ON VARIOUS CITY BOARD AND COMMISSION MEETINGS AND ACTIVITIES

None were received.

CONSENT AGENDA

2013-419 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETINGS OF SEPTEMBER 17 AND SEPTEMBER 24, 2013

2013-420 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE JOG FOR DOG’S 5K RUN/WALK/JOG, AN EVENT HOSTED BY WARREN RETRIEVERS AND SCHEDULED FOR SATURDAY, NOVEMBER 9, 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. SEP02-2013)

- 2013-421 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE MIDLOTHIAN CHAMBER OF COMMERCE FALL FESTIVAL/CHRISTELLE MOSER MEMORIAL 5K RUN/WALK, AN EVENT HOSTED BY THE MIDLOTHIAN CHAMBER OF COMMERCE AND SCHEDULED FOR SATURDAY, OCTOBER 19, 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. SEP01-2013)**
- 2013-422 CONSIDER AND ACT UPON AN ADMINISTRATIVE SERVICES CONTRACT WITH MIDLOTHIAN COMMUNITY DEVELOPMENT CORPORATION**
- 2013-423 CONSIDER AND ACT UPON AN ADMINISTRATIVE SERVICES CONTRACT WITH MIDLOTHIAN ECONOMIC DEVELOPMENT**

Item 2013-419 was moved to the Regular Agenda at the request of Councilmember McClure. Mayor pro tem Frizzell moved to approve the amended Consent Agenda as presented. Motion was seconded by Councilmember Sibley and carried unanimously (7-0).

REGULAR AGENDA

- 2013-419 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETINGS OF SEPTEMBER 17 AND SEPTEMBER 24, 2013**

The number of approved lots in the Autumn Run Planned Development was incorrectly stated on the September 24, 2013 minutes. Alberto Mares confirmed that the final number of residential lots for the proposed planned development approved by City Council is 170. Mayor Houston moved to approve Item 2013-419 as amended. Motion was seconded by Councilmember Rodgers and carried unanimously (7-0).

PUBLIC HEARINGS

- 2013-424 CONDUCT A PUBLIC HEARING AND ACT UPON AN ORDINANCE TO AMEND ORDINANCE 2011-23, ADDING A NEW ROAD SPECIFICALLY THE EXTENSION OF S. 14TH STREET FROM ASHFORD LANE TO MCALPIN ROAD, TO THE CITY'S ROADWAY IMPACT FEE-CAPITAL IMPROVEMENT PROJECT (IF-CIP) (CASE NO. M13-2012-113)**

Mayor Houston opened the Public Hearing and Alberto Mares presented the ordinance amendment. During the FY 2013-2014 budgeting process, City Council expressed its desire to add the extension of South 14th Street from Ashford Lane to McAlpin Road to the City's Impact Fee-Capital Improvement Project. 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 2013-424 as presented. Motion was seconded by Councilmember McClure and carried unanimously (7-0).

- 2013-425 CONDUCT A PUBLIC HEARING AND ACT UPON AN ORDINANCE TO REZONE ± 70 ACRES FROM THE CURRENT AGRICULTURAL (A) DISTRICT TO A PLANNED DEVELOPMENT DISTRICT (PD) FOR RESIDENTIAL USES (SINGLE FAMILY LOTS RANGING FROM 8,000 SF TO 14,000 SF +) AND OPEN SPACES. PROPERTY IS GENERALLY LOCATED WEST OF WALNUT GROVE ROAD AND ± 900 FT. SOUTH OF FM 1387, IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. Z16-2012-105)**

Mayor Houston opened the Public Hearing and Alberto Mares presented the rezoning request as approved by the Planning and Zoning Commission on September 17, 2013. Project Engineer, Duane Hill, 1810 Plum Creek, Midlothian, Texas addressed Council safety concerns regarding a proposed alley running adjacent to a public park. With no further public input received, Mayor pro tem Frizzell moved to close the Public Hearing. Motion was seconded by Councilmember Sibley and carried unanimously (7-0). Councilmember Sibley moved to approve Item 2013-425 as presented, subject to the additional following conditions:

- The right-of-way for Yorkshire Boulevard shall be 70 feet. No alleys shall be provided in this development
- Additional access points to the interior park site shall be required along Lots 3 & 4 adjacent to Wellwood Street and shall provide a minimum 8-10 head-in parking spaces.

Motion was seconded by Councilmember Miller and carried unanimously (7-0).

REGULAR AGENDA

2013-426 CONSIDER AND ACT UPON THE PURCHASE OF A 289D COMPACT CONSTRUCTION EQUIPMENT SKID STEER FROM HOLT CATERPILLAR OF FORT WORTH, TEXAS, IN AN AMOUNT NOT TO EXCEED \$61,700

Item presented by Adam Mergener. Mayor pro tem Frizzell moved to approve Item 2013-426 as presented. Motion was seconded by Councilmember Miller and carried by a vote of 6-0-1 with Councilmember Sibley abstaining due to a potential conflict of interest.

2013-427 CONSIDER AND ACT UPON A THREE-YEAR LEASE/PURCHASE AGREEMENT WITH CATERPILLAR FINANCIAL SERVICE CORPORATION FOR 924K QC WHEEL LOADER, IN AN AMOUNT NOT TO EXCEED \$139,881.24, INCLUDING FINANCE CHARGES

Item presented by Adam Mergener. Councilmember McClure moved to approve Item 2013-427 as presented. Motion was seconded by Councilmember Henley and carried by a vote of 6-0-1 with Councilmember Sibley abstaining due to a potential conflict of interest.

2013-428 CONSIDER AND ACT UPON APPROVAL OF THE REMOUNTING AND REFURBISHING OF A FRAZER TYPE I 12' GENERATOR POWERED MODULE, E-1839 AMBULANCE THROUGH H-GAC IN THE AMOUNT OF \$89,650.00

Item presented by David Schrodt. Mayor pro tem Frizzell moved to approve Item 2013-428 as presented. Motion was seconded by Councilmember Rodgers and carried unanimously (7-0).

2013-429 CONSIDER AND ACT UPON APPROVAL OF THE PURCHASE OF A 2014 CHEVROLET TAHOE, INCLUDING UP-FIT, FROM RELIABLE CHEVROLET THROUGH THE STATE OF TEXAS CONTRACT FOR \$45,975.94

Item presented by David Schrodt. Councilmember Sibley moved to approve Item 2013-429 as presented. Motion was seconded by Councilmember Rodgers and carried unanimously (7-0).

2013-430 CONSIDER AND ACT UPON A SIXTY (60) MONTH LEASE FOR A CISCO UNIFIED COMMUNICATIONS PHONE SYSTEM, INCLUDING ALL SERVERS, LICENSING, HANDSETS AND ACCESSORIES, WITH A BUYOUT COST OF \$1 IN AN AMOUNT NOT TO EXCEED A TOTAL OF \$150,000

IT Director, Mike Weiss gave an overview of the proposed phone system. After discussion by Council, Councilmember Sibley moved to approve Item 2013-430 as presented. Motion was seconded by Councilmember Rodgers and carried unanimously (7-0).

2013-431 CONSIDER AND ACT UPON A PETITION FOR DISANNEXATION OF ± 1.147 ACRES OF LAND FROM HOWARD AND TAMMY ROBERTS, UNDER 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 DISANNEX THE AREA LYING WITHIN THE CITY OF MIDLOTHIAN INTO ITS EXTRATERRITORIAL JURISDICTION (ETJ). (CASE NO. DX01-2012-104)

Alberto Mares presented the Item for disannexation. Property owners, Howard and Tammy Roberts, 4039 Shiloh Road, Midlothian, TX addressed Council regarding their desire to be disannexed due to a lack of City services being provided to the subject property which was voluntarily annexed by previous property owners in September, 2010. Councilmember Henley moved to deny Item 2013-431 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (7-0).

2013-432 CONSIDER AND ACT UPON AN ORDINANCE APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORP., MID-TEX DIVISION (THE "COMPANY") REGARDING THE COMPANY'S 2013 ANNUAL RATE REVIEW MECHANISM FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATEMAKING EXPENSES; REPEALING CONFLICTING RESOLUTIONS OR ORDINANCES; DETERMINING THAT THIS ORDINANCE WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; DECLARING AN EFFECTIVE DATE; PROVIDING A MOST FAVORED NATIONS CLAUSE; AND REQUIRING DELIVERY OF THIS ORDINANCE TO THE COMPANY AND THE STEERING COMMITTEE'S LEGAL COUNSEL

Item presented by Chris Dick. Mayor pro tem Frizzell moved to approve Item 2013-432 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (7-0).

2013-433 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 A FINAL 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 for the final offer to Kenneth M. Thompson, explaining that the property owner has 14 days to accept or reject the Cities' offer. Councilmember Sibley moved to approve Item 2013-433 as presented. Motion was seconded by Councilmember McClure and carried unanimously (7-0).

Council moved to Executive Session at 7:51 p.m. for the purpose of discussing Item One with the following present: Mayor Houston, Mayor pro tem Frizzell, Councilmembers Sibley, Rodgers, McClure, Henley, Miller; City Manager, Assistant City Manager, City Attorney, and MED President, Larry Barnett.

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**

Council reconvened in Regular Session at 8:20 p.m. with no action taken in Executive Session.

REGULAR AGENDA

2013-434 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: ECONOMIC DEVELOPMENT

No action taken following Executive Session.

2013-435 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: REAL ESTATE

The Item was not discussed during Executive Session.

2013-436 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: ECOM


The Item was not discussed during Executive Session.

2013-437 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: CONTEMPLATED LITIGATION

The Item was not discussed during Executive Session.

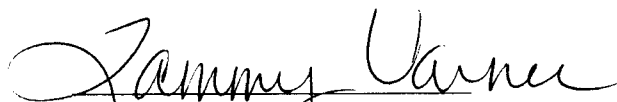
2013-438 ADJOURN

With there being no further business to discuss, Mayor Houston adjourned the meeting at 8:20 p.m.



Bill Houston, Mayor

ATTEST:


Tammy Varner, City Secretary