

**MINUTES
REGULAR COUNCIL MEETING
APRIL 8, 2014**

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
Joe Frizzell	§	Mayor Pro Tem Place 4
T. J. Henley	§	Councilmember Place 5
Ted Miller	§	Councilmember Place 6

Absent: Jimmie McClure due to family commitment

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. Mayor pro tem Frizzell gave the invocation and led in the pledges.

2014-126 ANNOUNCEMENTS/PRESENTATIONS

a. Community Affairs calendar

April 12, 2014 – Kids Fishing Derby
April 12, 2014 - Citywide Spring Cleanup Event
April 19, 2014 – Community Easter Egg Hunt
April 26, 2014 – Chamber of Commerce Spring Fling

b. Administrative announcements related to personnel

None were received.

2014-127 CITIZENS TO BE HEARD

None to be heard.

CONSENT AGENDA

2014-128 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETING OF MARCH 25, 2014

2014-129 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE HEROES OF MIDLOTHIAN 5K RUN AND FESTIVAL BENEFITTING MIDLOTHIAN VETERANS AND THEIR FAMILIES, HOSTED BY THE HEROES OF MIDLOTHIAN FOUNDATION, SCHEDULED FOR SATURDAY, MAY 17, 2014 IN ACCORDANCE WITH A SPECIAL EVENT PERMIT AS ESTABLISHED BY THE CITY OF MIDLOTHIAN ZONING ORDINANCE 2013-24 AS AMENDED, SECTION 2.04 (USE TABLE) (CASE NO. SEP12-2013)

2014-130 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE ANNUAL HEAD FOR THE HILLS BICYCLE RALLY ROUTED THROUGH THE CITY OF MIDLOTHIAN AND HOSTED BY THE CEDAR HILL ROTARY CLUB ON SATURDAY, MAY 10, 2014, IN ACCORDANCE WITH A SPECIAL EVENT PERMIT AS ESTABLISHED BY THE CITY OF MIDLOTHIAN ZONING ORDINANCE 2013-24 AS AMENDED, SECTION 2.04 (USE TABLE) (CASE NO. SEP16-2013)

2014-131 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE MIDLOTHIAN DOWNTOWN FARMERS MARKET, AN EVENT HOSTED BY THE MIDLOTHIAN DOWNTOWN BUSINESS ASSOCIATION AND SCHEDULED ON EACH SATURDAY BEGINNING, MAY 3, 2014 THROUGH OCTOBER 4, 2014, IN ACCORDANCE WITH A SPECIAL EVENT PERMIT AS ESTABLISHED BY THE CITY OF MIDLOTHIAN ZONING ORDINANCE 2013-24, AS AMENDED, SECTION 2.04 (USE TABLE) (CASE NO. SEP17-2013)

2014-132 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING AN ANNUAL COMMUNITY EASTER EGG HUNT. THE EVENT WILL BE HOSTED BY THE CITY OF MIDLOTHIAN ON SATURDAY, APRIL 19, 2014, IN ACCORDANCE WITH A SPECIAL EVENT PERMIT AS ESTABLISHED BY THE CITY OF MIDLOTHIAN ZONING ORDINANCE 2013-24, AS AMENDED, SECTION 2.04 (USE TABLE) (CASE NO. SEP18-2013)

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

PUBLIC HEARINGS

Mayor Houston took the Public Hearing Items in the following order:

2014-135 CONDUCT A PUBLIC HEARING AND ACT UPON AN ORDINANCE REPEALING THE CURRENT UNIFORM HOUSING CODE AND ADOPTING THE INTERNATIONAL PROPERTY MAINTENANCE CODE TO ENSURE THE SAFETY OF RESIDENTS AND CONSTITUTE MINIMUM STANDARDS FOR PREMISES AND STRUCTURES; TO ENSURE PUBLIC HEALTH, SAFETY AND WELFARE INSOFAR AS THEY ARE AFFECTED BY THE OCCUPANCY AND MAINTENANCE OF STRUCTURES AND PREMISES

Carl Smith and Debbie Lubke gave an overview and comparison presentation of the current regulatory procedures, the 1997 Uniform Housing Code and the proposed International Property Maintenance Code (the "IPMC"). Joe Gorfida, of Nichols, Jackson, Dillard, Hager & Smith, and Tim Littlejohn, Building Official, also addressed Council concerns and questions.

The following spoke in support of the Item:

Sherry Reed	Randy Reed	Bobby Parrott
1390 Apple Lane	1390 Apple Lane	1310 Apple Lane

The following in opposition of the Item:

Kenneth Lundberg	Bill Steddum	Wanda Wilkerson
2830 Clearview Drive	5801 Hidden Lake Trail	280 S. Walnut Grove Road

The following registered as non-speaks in opposition of the Item:

Kent Bush	Ann Weaver	Jamie Wickliffe
721 Reindeer Dr.	5081 Hidden Lake Trail	1600 Creekwood Drive

Beverly Woodruff	Doug Allen	Wendy Keasler
430 Ashford Lane	3211 Mindy Lane	121 N. 8 th St.

Haleigh Bush	Debbie Clanton	Janet Calvert
721 Reindeer Dr.	4421 Sir Lancelot Circle	1860 E. FM 875

Councilmember Rodgers moved to close the Public Hearing. Motion was seconded by Councilmember Miller and carried unanimously (6-0). Councilmember Rodgers moved to deny 2014-135 as presented and to prohibit the Item from being brought to City Council for consideration until the City of Midlothian has reached a population of 30,000. Motion died for lack of a second.

City Attorney, Don Stout, advised against attempts to determine future City Council agendas and actions. Councilmember Rodgers moved to deny 2014-135 as presented. Motion was seconded by Councilmember Miller and carried by a vote of 4-2, with Councilmembers Sibley and Henley voting in opposition. Staff was instructed by Council to schedule a workshop and bring a proposed amendment to the existing ordinance regarding dilapidated structures for consideration within the next 45-60 days.

2014-136 CONDUCT A PUBLIC HEARING AND ACT UPON AN ORDINANCE AMENDING CHAPTER 3 BUILDING REGULATIONS BY ADDING PROVISIONS FOR THE MUNICIPAL COURT REGARDING SUBSTANDARD BUILDINGS; TO ESTABLISH HEARING PROCEDURES FOR THE REPAIR, REHABILITATION, VACATION, SECURING OR DEMOLITION AS RELATED TO SUBSTANDARD STRUCTURES

Councilmember Henley moved to table Item 2014-136 until the June 9 City Council meeting. Motion was seconded by Councilmember Sibley and carried unanimously (6-0).

2014-133 CONDUCT A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE AMENDING THE CITY OF MIDLOTHIAN ZONING ORDINANCE 2013-24, AS AMENDED, TO REZONE ± 1.0 ACRES FROM THE CURRENT SINGLE FAMILY FOUR (SF-4) DISTRICT TO AN URBAN VILLAGE PLANNED DEVELOPMENT (UVPD) DISTRICT FOR RESIDENTIAL AND PROFESSIONAL OFFICE USES. PROPERTY IS ADDRESSED AS 508 SOUTH 9TH STREET, BEING LOCATED EAST OF 9TH STREET AND ± 1,025 FEET NORTH OF GEORGE HOPPER ROAD, IN THE CITY OF MIDLOTHIAN, TEXAS. (CASE NO.Z08-2013-41)

Mayor Houston opened the Public Hearing and Kevin Lasher presented the rezoning request. Applicant, Stephen Hidlebaugh, addressed Council regarding his intent for the property to be used as an attorney's office with tenant living quarters. 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 2014-133 as presented, subject to the striking of "owner-occupied" out of Section 2 of the proposed ordinance. Motion was seconded by Mayor Houston and carried unanimously (6-0).

2014-134 CONSIDER AND ACT UPON AN ORDINANCE AMENDING ORDINANCE NO. 2013-24 AS AMENDED, THE ZONING ORDINANCE OF THE CITY OF MIDLOTHIAN, TEXAS, BY REZONING ± 249.298 ACRES FROM AGRICULTURAL (A) DISTRICT TO A PLANNED DEVELOPMENT (PD) DISTRICT FOR ALL USES ALLOWED IN THE SINGLE FAMILY – ONE (SF-1) DISTRICT WITH AMENDMENTS, SAID ACREAGE BEING SITUATED IN THE E.A. BRALY SURVEY, ABSTRACT 284, THE J.P. SURVEY, ABSTRACT 881, THE J. POINDEXTER SURVEY, ABSTRACT 882 AND THE E. SULLIVAN SURVEY, ABSTRACT 1012, BEING LOCATED SOUTH OF MCALPIN ROAD AND 950 FEET WEST OF KOLTER LANE, IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. Z09-2013-45)

Mayor Houston opened the Public Hearing and Kevin Lasher presented the rezoning request. Adjacent property owner, John Shields, 2890 McAlpin Road, addressed Council regarding his concerns with traffic, water runoff and aesthetic issues. Staff was directed to contact Mr. Shields regarding his concerns. Mayor pro tem Frizzell moved to close the Public Hearing. Motion was seconded by Councilmember Henley and carried unanimously (6-0). Mayor pro tem Frizzell moved to approve Item 2014-134 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (6-0).

REGULAR AGENDA

2014-137 CONSIDER AND TAKE ACTION TO AWARD THE BANKING SERVICES CONTRACT TO WELLS FARGO BANK, AND AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT FOR THREE YEARS, WITH TWO POSSIBLE ONE-YEAR EXTENSIONS AT THE SAME COST

The Item was presented by Chris Dick. Linda Patterson of Patterson & Associates gave a brief analysis of the three proposals that were received in response to the request for bids. The recommendation was to award the banking contract to Wells Fargo Bank. Councilmember Sibley moved to approve awarding the banking contract to Wells Fargo Bank for a term of three years, with two possible one-year extensions at the same cost levels. Motion was seconded by Mayor pro tem Frizzell and carried unanimously (6-0).

2014-138 CONSIDER AND ACT UPON AN EXTENSION OF THE INITIAL PERIOD STUDY FOR AN ADDITIONAL 60 DAYS WITH HOTEL DEVELOPER, GATEHOUSE CAPITAL, TO DEVELOP FINANCING STRUCTURES AND ALTERNATIVES, RESIDUAL AND INDIRECT ECONOMIC IMPACTS OF THE HOTEL, AND INVESTMENT STRUCTURES AND ALTERNATIVES

Larry Barnett presented the Item on behalf of the Midlothian Community Development Corporation, which would extend the existing contract with Gatehouse Capital for an additional 60 days at a cost of \$25,000 per month, to be paid with MCDC funds. After discussion by Council, Mayor pro tem Frizzell moved to approve Item 2014-138 as presented. Motion was seconded by Councilmember Henley and carried unanimously (6-0).

2014-139 CONSIDER AND ACT UPON A RECOMMENDATION FROM THE MIDLOTHIAN ECONOMIC DEVELOPMENT BOARD OF DIRECTORS TO ACCEPT THE THIRD ADDENDUM TO COMMERCIAL UNIMPROVED PROPERTY EARNEST MONEY CONTRACT FOR THE PURCHASE OF PROPERTY FROM ELLIS 1270, LLC, WHERE THE SELLER AGREES TO PLACE \$100,000 IN ESCROW WITH THE TITLE COMPANY AT CLOSING, AS CONSIDERATION, UNTIL CERTAIN EASEMENT RELEASES ARE OBTAINED

Larry Barnett presented the Item, expressing confidence that certain easements can be released or a document can be filed with the Ellis County Clerk's office stating that the easements do not affect the subject property. Councilmember Sibley moved to approve Item 2014-139 as presented. Motion was seconded by Councilmember Henley and carried unanimously (6-0).

2014-140 CONSIDER AND ACT UPON A RECOMMENDATION FROM THE MIDLOTHIAN ECONOMIC DEVELOPMENT BOARD OF DIRECTORS TO SELECT CITIZENS NATIONAL BANK OF TEXAS TO PROVIDE FINANCING FOR THE PURCHASE OF PROPERTY FROM ELLIS 1270, LLC AND EXECUTE BANK DOCUMENTS TO SECURE THE LOAN

Larry Barnett reported that a Request for Proposal was sent to five banks that have a local presence in Midlothian. Three proposals were received for review by the MED Board, with Citizens National Bank being selected by that Board. Mayor pro tem Frizzell moved to approve Item 2014-140 as presented. Motion was seconded by Councilmember Rodgers and carried unanimously (6-0).

2014-141 REVIEW AND APPROVE A DRAFT AGENDA FOR THE MAY 6TH CITY COUNCIL WORKSHOP AND DIRECT STAFF AS NECESSARY

It was the consensus of Council to discuss Mt. Peak Water items (CCN, Community Park, proposed business park) and City board and commissions appointment process at the May 6 workshop to begin at 6 p.m. Additionally, Mayor Houston requested Council consensus to allow himself, Mayor pro tem Frizzell, one other councilmember and the City Manager to meet with representatives of Mt. Peak Water on April 10 at 4 p.m. prior to the workshop meeting to hear Mt. Peak's proposals regarding the aforementioned issues. Councilmember Henley was selected as the third council member to attend the meeting.

2014-142 REVIEW AS APPROPRIATE MAJOR ISSUE AREAS AS PRIORITIZED BY THE CITY COUNCIL AT THE APRIL 1, 2014 COUNCIL WORKSHOP

The Item was not discussed.

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: DELIBERATION REGARDING REAL PROPERTY - TO DELIBERATE THE PURCHASE, EXCHANGE, LEASE OR VALUE OF REAL PROPERTY
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

REGULAR AGENDA

2014-143 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: ECONOMIC DEVELOPMENT

Executive Session was not conducted.

2014-144 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: REAL ESTATE

Executive Session was not conducted.

2014-145 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: ECOM

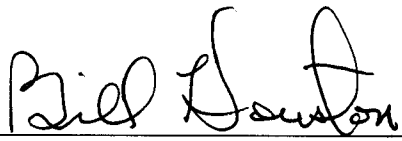
Executive Session was not conducted.

2014-146 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: CONTEMPLATED LITIGATION

Executive Session was not conducted.

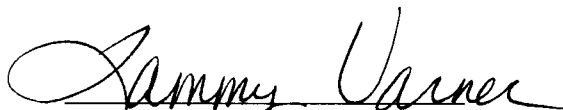
2014-147 ADJOURN

With there being no further business to discuss, Mayor Houston adjourned the meeting at 9:30 p.m.



Bill Houston, Mayor

ATTEST:



Tammy Varner, City Secretary