

MINUTES REGULAR COUNCIL MEETING MAY 13, 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	
Jimmie L. McClure	§	Councilmember Place 3	
Joe Frizzell	§	Mayor Pro Tem Place 4	
T. J. Henley	§	Councilmember Place 5	@ 6:22 p.m.
Ted Miller	§	Councilmember Place 6	

REGULAR AGENDA

Mayor Houston called the meeting to order at 6:07 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.

2014-173 ANNOUNCEMENTS/PRESENTATIONS

a. Administer Oath of Office to the Mayor and Councilmembers Place 1 and 2

Hon. Steve Egan, Justice of the Peace #4 administered the oaths of office to Mayor Houston and Councilmembers Sibley and Rodgers

b. Elect Mayor pro tem

Mayor Houston moved to nominate Joe Frizzell as Mayor pro tem. Motion was seconded by Councilmember McClure and carried unanimously (6-0).

c. Community Affairs calendar

May 17th, 24th & 31st – Downtown Farmer’s Market from 8:00am-1:00pm at Heritage Park
 May 17th - 8th Street Dance featuring the Midtown Playboys Band at 6:00 p.m.

d. Proclamation designating May 15 as Police Officers Memorial Day

Mayor Houston presented the proclamation to Police Chief Carl Smith

e. Recognition of Midlothian Community Emergency Response Team (“CERT”) for community service and support

Mayor Houston presented CERT representative Marilyn Jones with a plaque of recognition

f. Recognition of Leadership Midlothian Class of 2014 for its downtown beautification project “Midlothian in Bloom”

Mayor Houston presented representatives of the Leadership Midlothian Class of 2014 with a plaque of recognition

g. Administrative announcements related to personnel

None were received

2014-174 CITIZENS TO BE HEARD

None to be heard

CONSENT AGENDA

2014-175 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETING OF APRIL 22 AND MAY 6, 2014

- 2014-176 **CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE CHAMBER OF COMMERCE WINE WALK HOSTED BY THE MIDLOTHIAN CHAMBER OF COMMERCE SCHEDULED FOR THURSDAY, MAY 22, 2014, IN ACCORDANCE WITH THE ZONING REQUIREMENTS FOR SPECIAL EVENTS AS ESTABLISHED BY THE CITY OF MIDLOTHIAN ZONING ORDINANCE 2013-24, AS AMENDED, SECTION 2.04 (USE TABLE) (CASE NO. SEP21-2013)**
- 2014-177 **CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE MIDLOTHIAN MEADOWS V & VI HOA BLOCK PARTY, LOCATED AND HOSTED BY PROPERTY OWNERS IN A SECTION OF MIDLOTHIAN MEADOWS, SCHEDULED FOR SUNDAY, MAY 18, 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. SEP22-2013)**
- 2014-178 **CONSIDER AND ACT UPON THREE INTERLOCAL AGREEMENTS BETWEEN THE MIDLOTHIAN INDEPENDENT SCHOOL DISTRICT AND THE CITY OF MIDLOTHIAN, TEXAS FOR THE ASSIGNMENT OF A POLICE SERGEANT AND TWO POLICE OFFICERS TO MISD FOR THE 2014-15 SCHOOL YEAR**
- 2014-179 **CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE USE OF A TEMPORARY CONCRETE BATCH PLANT IN WINDERMERE ESTATES, PHASE ONE AND TWO, FOR THE PURPOSE OF DEVELOPING A NEW SUBDIVISION OF SINGLE-FAMILY HOMES, INCLUDING STREETS, WITHIN A RESIDENTIAL DISTRICT AND PROVIDING FOR PROCEDURES ESTABLISHED BY THE TEXAS LOCAL GOVERNMENT CODE AND CITY ORDINANCE; PROVIDING FOR CONDITIONS AND EXEMPTIONS; AND SETTING AN EFFECTIVE DATE AND TERMINATION DATE (CASE NO. M10-2013-63)**
- 2014-180 **CONSIDER AND ACT UPON A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MIDLOTHIAN, TEXAS, DENYING THE RATE INCREASE REQUESTED BY ATMOS ENERGY CORP., MID-TEX DIVISION UNDER THE COMPANY'S 2014 ANNUAL RATE REVIEW MECHANISM FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATEMAKING EXPENSES PERTAINING TO REVIEW OF THE RRM; AUTHORIZING THE CITY'S PARTICIPATION WITH ATMOS CITIES STEERING COMMITTEE IN ANY APPEAL FILED AT THE RAILROAD COMMISSION OF TEXAS BY THE COMPANY; REQUIRING THE COMPANY TO REIMBURSE CITIES' REASONABLE RATEMAKING EXPENSES IN ANY SUCH APPEAL TO THE RAILROAD COMMISSION; DETERMINING THAT THIS RESOLUTION WAS PASSED IN ACCORDANCE WITH THE REQUIREMENTS OF THE TEXAS OPEN MEETINGS ACT; ADOPTING A SAVINGS CLAUSE; AND REQUIRING DELIVERY OF THIS RESOLUTION TO THE COMPANY AND THE STEERING COMMITTEE'S LEGAL COUNSEL**

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

PUBLIC HEARINGS

- 2014-181 **CONDUCT A PUBLIC HEARING REGARDING THE MIDLOTHIAN COMMUNITY PARK WATER ASSESSMENT, AS PREPARED BY FREESE AND NICHOLS, INC., AND DIRECT STAFF AS APPROPRIATE**

Mayor Houston opened the Public Hearing and Mike Adams presented the Community Park Water Assessment. 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 Option 1 of the water assessment study as presented (utilization of the City of Midlothian's water supply system to serve the irrigation needs of the Community Park.) Motion was seconded by Councilmember McClure and carried unanimously (6-0).

Councilmember Henley arrived at 6:22 p.m.

REGULAR AGENDA

2014-182 CONSIDER AND ACT UPON AN ORDINANCE AMENDING ORDINANCE NO. 2014-12, ADOPTED ON APRIL 22, 2014, AFFECTING ARTICLE 10, IMPACT FEES, OF THE CITY OF MIDLOTHIAN SUBDIVISION REGULATIONS ORDINANCE 88-14, AS AMENDED, AS ESTABLISHED BY ORDINANCE NO. 99-12, AS AMENDED, SPECIFICALLY AMENDING *IMPACT FEE SCHEDULE 2 - RESIDENTIAL*, TO CONSIDER AN IMPLEMENTATION SCHEDULE FOR THE ASSESSMENT OF REVISED IMPACT FEES FOR RESIDENTIAL ROADWAYS. (CASE NO. M12-2013-72)

Kevin Lasher explained that the Item is being revisited in order to determine the effective date of the ordinance that was approved by Council on April 22. Mayor Houston moved to bring the Item back as a public hearing, in order to allow local builders and developers an opportunity to express their viewpoints regarding the effective date of the ordinance amendment. Motion died for lack of a second. After further discussion, Mayor pro tem Frizzell moved to table Item 2014-182, reset the Item for a public hearing to correct the effective date of Ordinance 2014-12 passed by City Council on April 22, 2014 and in the interim period, retain the existing residential roadway impact fee schedule. Motion was seconded by T. J. Henley and carried unanimously (7-0). Terry Weaver, 815 W. Main St, addressed Council and requested consideration be given to allow submitted planned developments with approved preliminary plats that will be final platted within 12 months, to be grandfathered in under the current impact fee schedule.

2014-183 CONSIDER AND ACT UPON A PETITION FOR THE VOLUNTARY ANNEXATION OF ±1.4109 ACRES OF LAND, ACCORDING TO TEXAS LOCAL GOVERNMENT CODE, SECTION 43.028. SUBJECT PROPERTY IS LOTS 16-19, BLOCK 5 IN THE SKYLINE ACRES ADDITION, BEING LOCATED NORTH OF TAYMAN DRIVE AND ±249 FEET EAST OF MELVIN STREET, IN THE EXTRATERRITORIAL JURISDICTION (ETJ) OF THE CITY OF MIDLOTHIAN, TEXAS; AND, IF THE PETITION IS GRANTED, ADOPT AN ORDINANCE TO ANNEX THE AREA LYING WITHIN THE EXTRATERRITORIAL JURISDICTION (ETJ) OF THE CITY OF MIDLOTHIAN THAT IS CONTIGUOUS AND ADJACENT TO THE PRESENT BOUNDARIES OF THE CITY OF MIDLOTHIAN, TEXAS. (CASE NO. AX05-2013-62)

Kevin Lasher presented the petition for voluntary annexation. Ted Miller moved to approve Item 2014-183 as presented. Motion was seconded by Mike Rodgers and carried unanimously (7-0).

2014-184 CONSIDER AND ACT UPON AN ORDINANCE EXTENDING THE MUNICIPAL BOUNDARY LIMITS OF THE CITY OF MIDLOTHIAN, TEXAS, BY VOLUNTARY ANNEXATION OF ± 1.4109 ACRES OF LAND (THE ANNEXATION AREA) IN ACCORDANCE TO CHAPTER 43.028 OF THE TEXAS LOCAL GOVERNMENT CODE. SAID ANNEXATION AREA IS LOTS 16-19, BLOCK 5 IN THE SKYLINE ACRES ADDITION, BEING LOCATED NORTH OF TAYMAN DRIVE AND 249 FEET EAST OF MELVIN STREET, IN THE EXTRATERRITORIAL JURISDICTION (ETJ) OF THE CITY OF MIDLOTHIAN, TEXAS AND ADJOINING THE PRESENT BOUNDARY LIMITS; PROVIDING THAT THE ANNEXED PROPERTY SHALL BE SUBJECT TO THE AD VALOREM TAXES LEVIED BY THE CITY OF MIDLOTHIAN AND THAT THE INHABITANTS OF THE ANNEXED PROPERTY SHALL BE ENTITLED TO ALL RIGHTS AND PRIVILEGES OF ALL THE REGULATIONS OF THE CITY OF MIDLOTHIAN NOW IN EFFECT AND HEREINAFTER ADOPTED; ANNEXATION AREA BEING FULLY DESCRIBED IN THE EXHIBITS "A & B" ATTACHED HERETO AND MADE A PART OF THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE (CASE NO. AX05-2013-62)

Mayor pro tem Frizzell moved to approve Item 2014-184 as presented. Motion was seconded by Councilmember Sibley and carried unanimously (7-0).

2014-185 CONSIDER AND ACT UPON A RECOMMENDATION FROM THE MIDLOTHIAN ECONOMIC DEVELOPMENT BOARD OF DIRECTORS ON APPROVAL OF THE DEVELOPMENT BUDGET FOR THE NEW BUSINESS PARK TO BE BUILT ON LAND PURCHASED BY MIDLOTHIAN ECONOMIC DEVELOPMENT AT THE NW CORNER OF MILLER ROAD AND HIGHWAY 67

Larry Barnett provided a brief summary of the proposed \$4,800,000 budget for development of utilities and roads for Phase I of the proposed industrial park and an additional \$450,000 for Miller Road engineering and improvements, as approved by the Midlothian Economic Development Board. Mayor Houston moved to approve the proposed budget, subject to the removal of the \$100,000 contribution by the City of Midlothian for the development of Miller Road and a waiver of the 3% construction inspection fees. Motion was seconded by Mike Rodgers and carried unanimously (7-0).

2014-186 CONSIDER AND ACT UPON A RECOMMENDATION FROM THE MIDLOTHIAN ECONOMIC DEVELOPMENT BOARD OF DIRECTORS TO APPROVE A "DEVELOPMENT AGREEMENT" AND "AMENDMENT TO DEVELOPMENT AGREEMENT" WITH UNITED PROPERTIES SOUTHWEST, LLC AS PROJECT MANAGER FOR MIDLOTHIAN BUSINESS PARK

Larry Barnett presented the Development Agreement dated December 17, 2013 and the related amendment dated April 18, 2014 executed by and between Midlothian Economic Development and United Properties Southwest, LLC. Mayor pro tem Frizzell moved to approve Item 2014-186 as presented, subject to clarification that any reference to "Midlothian Business Park" shall be known as "Midlothian Industrial Park." Motion was seconded by Councilmember Rodgers and carried unanimously (7-0).

2014-187 CONSIDER AND ACT UPON A RECOMMENDATION FROM THE MIDLOTHIAN ECONOMIC DEVELOPMENT BOARD OF DIRECTORS TO APPROVE AN AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES WITH PACHECO KOCH TO PROVIDE CIVIL ENGINEERING AND RELATED SERVICES FOR MIDLOTHIAN BUSINESS PARK

Larry Barnett presented the contract and scope of services agreement executed by and between Midlothian Economic Development and Pacheco Koch, LLC, dated May 5, 2014. Mayor Houston moved to approve Item 2014-187 as presented. Motion was seconded by Councilmember McClure and carried unanimously (7-0).

2014-188 REVIEW AND APPROVE A DRAFT AGENDA FOR THE JUNE 3RD CITY COUNCIL WORKSHOP; REVIEW CITY COUNCIL PRIORITIZED ISSUES/PROJECTS LIST; AND DIRECT STAFF AS NECESSARY

Don Hastings recommended and it was the consensus of City Council to delay the Capital Improvements Plan topic originally scheduled for June 3 to the July 1 workshop, and the topics for the June 3 workshop to include potential Uniform Housing Code amendment and Comprehensive Plan Steering Committee selection.

With there being no updates 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

2014-189 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: ECONOMIC DEVELOPMENT

Executive Session was cancelled.

2014-190 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: REAL ESTATE

Executive Session was cancelled.

2014-191 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: ECOM

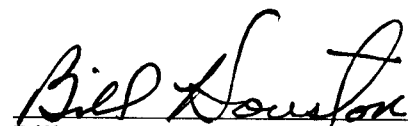
Executive Session was cancelled.

2014-192 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: CONTEMPLATED LITIGATION

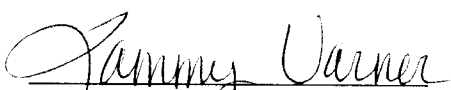
Executive Session was cancelled.

2014-193 ADJOURN

With there being no further business to discuss, Mayor Houston adjourned the meeting at 7:30 p.m.


Bill Houston, Mayor

ATTEST:


Tammy Varner, City Secretary