

**NOTICE OF A REGULAR MEETING
OF THE GOVERNING BODY
OF THE CITY OF MIDLOTHIAN, TEXAS
Tuesday, October 22, 2013
6:00 p.m.**

Pursuant to the provisions of Chapter 551 VTCA Government Code, notice is hereby given of a Regular Meeting of the Midlothian City Council, to be held in the City Council Chambers at Midlothian City Hall, 104 West Avenue E, Midlothian, Texas

REGULAR AGENDA

Call to Order, Invocation and Pledge of Allegiance

2013-439 Announcements/Presentations

- a. Community Affairs calendar
- b. Proclamation recognizing November as National Hospice Month
- c. Proclamation recognizing Red Ribbon Week
- d. Introduction of 2013 Citizens Academy class
- e. Administrative announcements related to personnel

2013-440 Citizens to be heard

CONSENT AGENDA

All matters listed under Consent Agenda are considered to be routine by the City Council and will be enacted by one motion without separate discussion. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

2013-441 Consider and act upon minutes from City Council meetings of October 1 and October 8, 2013

2013-442 Consider and act upon an amendment to Ordinance 2010-03, amending the City of Midlothian Parks Advisory Board Bylaws and the City of Midlothian Code of Ordinances, Section 1.08.032, Members (to decrease membership from nine (9) to seven (7) members); Section 1.08.033, Terms of Office (to decrease terms from three (3) years to two (2) years and providing for the staggering of existing terms to accomplish such terms lengths); and Section 1.08.035, Meetings and Quorums (to decrease quorum requirements from five (5) Board Members to four (4) Board Members), providing for the amendment of such ordinance; and providing a conflicts clause; providing a severability clause; and providing for an effective date

PUBLIC HEARINGS

2013-443 Continue 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)

- 2013-444 Continue 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: adding a new thoroughfare classification; (1) the realignment and reclassification of South 14th Street from Ashford Lane to FM 875; (2) the deletion of South 14th Street south of McAlpin Road to FM 875 and the addition of a new thoroughfare from McAlpin Road to FM 875; (3) the deletion of an east-west road connecting S. 14th Street and S. 9th Street; and, (4) 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)

REGULAR AGENDA

- 2013-445 Consider and act upon approval of a Commercial Unimproved Property Earnest Money Contract between Midlothian Economic Development as Buyer to purchase land, described as approximately 212 gross acres with approximately 160 net acres located on U. S. Highway 67 at the northwest corner of Miller Road, from Ellis 1270, LLC, a Texas Limited Liability Company, as Seller for the purpose of developing an industrial park, in the amount of \$2,060,000
- 2013-446 Consider and act upon a resolution of votes cast to elect directors for the Ellis Appraisal District for the years 2014-2015

EXECUTIVE SESSION

Executive Session items are discussed in closed session but any and all action is taken in regular open session. Executive Session is not open to the public because there is a compelling need of confidentiality (e.g., certain real estate, litigation, or personnel matters).

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

This meeting will be conducted pursuant to the Texas Government Code Section 551.001 et seq. At any time during the meeting the Council reserves the right to adjourn into Executive Session on any of the above posted agenda items in accordance with the Sections 551.071 (litigation and certain consultation with attorney), 551.072 (acquisition of interest in real property), 551.073 (contract for gift to city), 551.074 (certain personnel deliberations), 551.076 (deployment/implementation of security personnel or devices) or 551.087 (economic development negotiations).

REGULAR AGENDA

- 2013-447 Action resulting from Executive Session, Item #1: Economic Development
- 2013-448 Action resulting from Executive Session, Item #2: Real Estate
- 2013-449 Action resulting from Executive Session, Item #3: ECOM
- 2013-450 Action resulting from Executive Session, Item #4: Contemplated litigation
- 2013-451 Adjourn

I, Tammy Varner, City Secretary of the City of Midlothian, Texas, do hereby certify that this Notice of Meeting was posted on the front window of City Hall, 104 West Avenue E, Midlothian, Texas, at a place readily accessible to the general public at all times, no later than the 18th day of October, 2013 at or before 5:00 p.m.


Tammy Varner, City Secretary

**This facility is wheelchair accessible and accessible parking spaces are available.
Requests for reasonable accommodations must be made 48 hours prior to this meeting.
Please contact the City Secretary at 775-3481 for further information.**



AGENDA ITEM 2013-440

AGENDA CAPTION:

Citizens to be Heard

ITEM SUMMARY/BACKGROUND:

Citizens who have registered with the City Secretary may address Council with comments and/or concerns.

SPECIAL CONSIDERATION:

N/A

FINANCIAL IMPACT/FUNDING SOURCE:

N/A

ATTACHMENTS:

N/A

ALTERNATIVES:

N/A

RECOMMENDATION:

N/A



AGENDA ITEM 2013-441

AGENDA CAPTION:

Consider and act upon minutes from City Council meetings of October 1 and October 8, 2013

ITEM SUMMARY/BACKGROUND:

Minutes from the October 1 and October 8, 2013 Council meetings are submitted for approval or correction.

SPECIAL CONSIDERATION:

N/A

FINANCIAL IMPACT/FUNDING SOURCE:

N/A

ATTACHMENTS:

1. Minutes from the workshop meeting of October 1, 2013
2. Minutes from the regular Council meeting of October 8, 2013

ALTERNATIVES:

Approve or correct

RECOMMENDATION:

Approve as submitted

SUBMITTED AND TO BE PRESENTED BY:

Tammy Varner, City Secretary, for the October 22, 2013 City Council Meeting


Tammy Varner, City Secretary

APPROVED BY:


Don Hastings, City Manager

**MINUTES OF A CALLED MEETING/WORK SESSION
OCTOBER 1, 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 | @ 5:06 p.m. |
| Ted Miller | § | Councilmember Place 6 | |

REGULAR AGENDA

2013-409 CALL TO ORDER

Mayor Houston called the meeting to order at 5:03 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.

2013-410 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING CREEKSIDE MANOR, AN EVENT HOSTED BY MATT PRESSNELL AND SCHEDULED FOR FRIDAYS AND SATURDAYS IN OCTOBER, AND INCLUDING OCTOBER 31, 2013 FOR A TOTAL OF 11 DAYS, 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)

Alberto Mares presented the special event permit request. Councilmember Sibley moved to approve Item 2013-410 as presented. Motion was seconded by Mayor pro tem Frizzell and carried unanimously (6-0).

Council moved to Executive Session at 5:06 p.m. for the purpose of discussing Items 1 with the following present: Mayor Houston, Mayor pro tem Frizzell, Councilmembers Sibley, Rodgers, McClure, Henley, Miller; City Manager and City Attorney.

EXECUTIVE SESSION

1. SECTI PERSONNEL MATTERS: (A)(1) TO DELIBERATE THE APPOINTMENT, ON EMPLOYMENT, EVALUATION, REASSIGNMENT, DUTIES, 551.074 DISCIPLINE, OR DISMISSAL OF A PUBLIC OFFICER OR EMPLOYEE – PLANNING DIRECTOR

Council reconvened in Regular Session at 5:20 p.m. with the no action taken in Executive Session.

REGULAR AGENDA

**2013-414 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1:
PERSONNEL MATTERS-PLANNING DIRECTOR**

Mayor pro tem Frizzell moved to approve the employment of Kevin Lasher as Planning Director. Motion was seconded by Councilmember McClure and carried unanimously (7-0).

With there being no further business to discuss, Mayor Houston adjourned the called council meeting at 5:21p.m.

WORK SESSION AGENDA

**2013-411 RECEIVE A REPORT ON THE PROPOSED THOROUGHFARE PLAN
AMENDMENTS AND DIRECT STAFF ACCORDINGLY (CASE NO. CP03-
2012-101)**

Mayor Houston called the workshop to order at 5:30 p.m. and staff presented the eight proposed amendments to the existing Thoroughfare Plan. Council recommended three of the proposed amendments be given priority: the proposed realignment of South 14th Street, the deletion of a planned east-to-west road connecting So. 14th St. and So. 9th St., and the reclassification and realignment of an east-west road south of FM 1387.

**2013-412 CONSIDER AND DISCUSS POTENTIAL ANNEXATION AREAS AND
DIRECT STAFF ACCORDINGLY**

Various low and high-density proposed annexation areas were reviewed and discussed by Council. It was the consensus of Council to proceed with the low-density annexation.

2013-413 DISCUSS FUTURE WORKSHOP ITEMS

The next workshop will be at City Hall on November 5 at 5 p.m. With there being no further business to discuss, Mayor Houston adjourned the meeting at 6:55 p.m.

Bill Houston, Mayor

ATTEST:

Tammy Varner, City Secretary

**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

AGENDA ITEM 2013-442

AGENDA CAPTION:

Consider and act upon an amendment to Ordinance 2010-03, amending the City of Midlothian Parks Advisory Board Bylaws and the City of Midlothian Code of Ordinances, Section 1.08.032, Members (to decrease membership from nine (9) to seven (7) members); Section 1.08.033, Terms of Office (to decrease terms from three (3) years to two (2) years and providing for the staggering of existing terms to accomplish such terms lengths); and Section 1.08.035, Meetings and Quorums (to decrease quorum requirements from five (5) Board Members to four (4) Board Members), providing for the amendment of such ordinance; and providing a conflicts clause; providing a severability clause; and providing for an effective date

BACKGROUND SUMMARY:

At its October 14, 2013 meeting, the Parks Advisory Board voted unanimously to approve the changes as follows:

- Reduce the number of board members from nine (9) members to seven (7), decrease the terms of office from three (3) years to two (2) years, and, reduce the number of board members necessary to constitute a quorum from five (5) members to four (4), and to require board members to be residents of the City of Midlothian. These amendments will be consistent with the majority of other advisory boards within the City.

ATTACHMENTS:

1. Proposed Ordinance
2. Redlined Parks Advisory Board Bylaws with proposed amendments

ALTERNATIVES:

Approve, Deny or Table

RECOMMENDATION:

Staff recommends approval as presented.

PRESENTED BY: Billy King Parks and Recreation Manager
Tuesday, October 22, 2013 City Council Meeting


Parks & Recreation Manager

REVIEWED BY:


Kevin Lasher, Planning Director


Tammy Varner, City Secretary

APPROVED BY:


Don Hastings, City Manager

ORDINANCE NO. 2013-

AN ORDINANCE AMENDING ORDINANCE 2010-03, AMENDING THE CITY OF MIDLOTHIAN PARKS ADVISORY BOARD BYLAWS AND THE CITY OF MIDLOTHIAN CODE OF ORDINANCES, SECTION 1.08.032 PARKS ADVISORY BOARD MEMBERS (TO DECREASE MEMBERSHIP FROM NINE (9) TO SEVEN (7)) MEMBERS; SECTION 1.08.033 TERMS OF OFFICE (TO DECREASE TERMS FROM THREE (3) YEARS TO TWO (2) YEARS AND PROVIDING FOR THE STAGGERING OF EXISTING TERMS TO ACCOMPLISH SUCH TERMS LENGTHS); AND SECTION 1.08.035 MEETINGS AND QUORUMS (TO DECREASE QUORUM REQUIREMENTS FROM FIVE (5) (TO FOUR (4)), PROVIDING FOR THE AMENDMENT OF SUCH CODE; AND PROVIDING A CONFLICTS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Midlothian, hereinafter called “City” is a Home Rule City with a Charter approved by the voters of the City pursuant to Article II, Section 5 of the Texas Constitution; and,

WHEREAS, the City established the Parks Advisory Board on November 7, 1989 to make recommendations to the City Council regarding the management of and improvements to the City park system and facilities; and,

WHEREAS, the City desires to promote the sound maintenance and growth of the City parks and recreation system through dedicated Park Board member attendance and participation; and,

WHEREAS, for public representation, it is recommended that the Parks Advisory Board shall reduce the number of board members from nine (9) members to seven (7) members, each with two (2) year staggered terms; and,

WHEREAS, four (4) members will constitute a meeting quorum; and,

WHEREAS, City Council finds and concludes that amending the City of Midlothian Code of Ordinance is in the best interest of the public and in support of the health, safety, morals and general welfare of the City,

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MIDLOTHIAN, TEXAS:

Section 1. That all of the above premises are found to be true and correct and are incorporated into the body of this ordinance as if copied in their entirety.

Section 2. SECTION 1.08.032 of the City of Midlothian Code of Ordinance is amended to read as follows:

The Park Board will consist of seven (7) members who shall be appointed by the City Council.

Section 3. SECTION 1.08.033 of the City of Midlothian Code of Ordinance is amended to read as follows:

1. Term of Board Members shall be staggered with 4 (four) member’s terms beginning in one 2-year cycle and the remaining three (3) members beginning in another 2-year cycle the following year. Appointment and reappointment to this Board is approved by the City Council. These new terms shall begin upon reappointment of an existing member or when a new member is appointed.

Section 4. SECTION 1.08.035 of the City of Midlothian Code of Ordinance is amended to read as follows:

The Board shall hold at least twelve (12) regular meetings per year in the city on dates fixed by rule of the Board. The Board shall make rules providing for the holding of special meetings. Four (4) members of the Board shall constitute a quorum for the transaction of business. All meetings of the Board shall be open to the public and posted in accordance with the state law.

Section 5. If any section, article, paragraph, sentence, clause, phrase or word in this ordinance, or application thereto any person or circumstances is held invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance; and the City Council hereby declares it would have passed such remaining portions of the ordinance despite such invalidity, which remaining portions shall remain in full force and effect.

Section 6. This ordinance shall become effective from and after the date of its passage, and it is accordingly so ordained.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MIDLOTHIAN, TEXAS ON THIS THE 22ND DAY OF OCTOBER 2013.

Bill Houston, Mayor

ATTEST:

Tammy Varner, City Secretary

APPROVED AS TO FORM:

Don Stout, City Attorney

BYLAWS
OF THE PARKS ADVISORY BOARD
OF THE CITY OF MIDLOTHIAN, TX

In addition to these bylaws, the Board shall be governed by the City Charter and Code of Ordinances of the City of Midlothian, Texas.

ARTICLE I: RULES OF THE BOARD

Section I. Purpose and Duties

The "Midlothian Parks Advisory Board" hereinafter referred to as the Board, shall have the following duties:

1. Advise and recommend to the City Council on all matters to the establishment, maintenance improvement, and operation of parks and recreation facilities and programs for the City of Midlothian and its inhabitants.
2. Study and recommend establishment of additional land and sites for recreational facilities.
3. Carry out other duties as may be assigned by the City Council.

Section II. Appointment and Tenure

1. The Board is composed of ~~nine (9)~~ seven (7) members appointed by the City Council.
2. A member serves at the pleasure of the City Council.
3. Board members serve for a term of ~~three (3)~~ two (2) years beginning with the first scheduled meeting in January of the year of appointment
4. Board members must reside within the ~~Midlothian ISD boundary~~ City limits.
5. An individual Board member may not act in an official capacity except through the action of the Board.
6. Any appointed member of the Board who fails to attend three (3) regular meetings in succession without notifying the chair in advance or who does not attend at least sixty (60) percent of the regularly scheduled Board meetings within a twelve-month period will be considered to have automatically resigned from the Board.
7. A board member who seeks to resign from the Board shall submit a written resignation to the chair of the Board, the staff liaison, or the City Secretary. If possible, the resignation should allow for a thirty (30) day notice so the City Council can appoint a replacement.

Section III. Organization

Said Board is authorized to establish its own constitution and bylaws as may be deemed proper, not inconsistent with the ordinances and the Charter of the City and laws of the

State of Texas; and shall provide for regular and special meetings necessary to carry on its own business, separate and apart from the City of Midlothian, except as herein provided.

Section IV. Limitations

The Board shall not be authorized to incur on behalf of the City of Midlothian any expense incident to the operation of said parks and recreation programs, unless expressly authorized to do so by City Council. The Board shall not knowingly conduct business that has been assigned by ordinance to any other governing or advisory body of the City of Midlothian.

ARTICLE II. MEETINGS

Section I. Regular Meetings

The regular meeting shall be held on the second Monday of each month, at the hour of 6:30 p.m. at a place designated in the call.

Section II. Notice of Meetings

1. Notice of all regular Board meetings shall be e-mailed, hand-delivered, or deposited in the mail to each board member at least seventy-two (72) hours prior to each meeting.
2. Notice of all meetings shall be posted at City Hall, in compliance with state and local laws.

Section III. Special Meetings

Special meetings may be called at any time by the chair of the Board or by three (3) Board members.

Section IV. Place of Meeting

The place of regular meetings shall be at Midlothian City Hall unless otherwise stated in the call.

Section V. Quorum

A quorum is a majority of the entire voting membership of the Board (being four (4) voting board members). A quorum shall be present for the conduct of official business of the Board. A majority vote of the voting members of the Board who are present at a meeting at which a quorum is in attendance shall constitute the act of the Board.

~~A majority of the currently appointed members of the Board shall constitute a quorum.~~

Section VI. Rules of Order

General parliamentary rules, as given in Robert's Rules of Order, as modified by the rules and regulations of the Board shall be observed in conducting meetings of the Board.

Section VII. Order of Business

The following shall be the Order of Business of the Board, but the rules of order may be suspended and any matters considered or postponed by the action of the Board.

1. Call to order
2. Updates, presentations and recognitions
3. Citizens to be heard
4. Consideration of minutes of last regular meeting and any special meeting held subsequently and their approval or amendment
5. Discussion and action items
6. Staff liaison report
7. Board member comments
8. Adjournment

ARTICLE III. OFFICERS

Section I. Appointment of Officers

The Board shall elect from its members a Chair and Vice-Chair from among its membership and each officer shall hold office for two (2) years beginning the first scheduled meeting in January or until replaced by a simple majority vote of the Board.

Section II. Duties of Chair of the Board

The Chair of the Board shall preside at the meetings of the Board, represent the Board at ceremonial functions, approve each final meeting agenda and shall perform the other duties ordinarily performed by that officer.

Section III. Duties of the Vice-Chair

The Vice-Chair of the Board, in the absence of the Chair, shall perform all duties of the Chair of the Board. In the absence of both the Chair and Vice-Chair, ~~the Board shall elect a Chair Pro Tern who shall perform the duties as Chair.~~ **the most senior member of the Board shall perform the duties as Chair.**

Section IV. Duties of the Staff Liaison

The staff liaison shall not be a member of the Board. The liaison shall attend all regular meetings and will be responsible for preparing the agenda and minutes for regular and special meetings.

ARTICLE IV. COMMITTEES OF THE BOARD

Section I. Appointment of Special Subcommittees

1. Special subcommittees shall be appointed by the Chair for consideration and study of any matter not covered by the Board during regular and special meetings.
2. The Board can determine the size of the special subcommittee, but the number of board members serving on the special subcommittee must be less than a quorum of the Board.
3. The special subcommittee shall report their findings to the Board.

ARTICLE V. AMENDMENTS

Section I. Amendments

The bylaws may be amended at any regular meeting of the Board by a majority vote of the members present, provided previous notice of the nature of any proposed amendment shall have been given at least one regular meeting before the action thereon shall be taken. The bylaws shall be automatically amended by any future ordinances passed by the City Council dealing with matters relating to or applicable to the Parks Advisory Board.