

**NOTICE OF A REGULAR MEETING  
OF THE GOVERNING BODY  
OF THE CITY OF MIDLOTHIAN, TEXAS**

**Tuesday, February 12, 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 Council Chambers of City Hall, 104 West Avenue E, Midlothian, Texas

**REGULAR AGENDA**

Call to Order, Invocation and Pledge of Allegiance

- 2013-41 Announcements/Presentations
- a. Community Affairs calendar
  - b. Administrative announcements related to personnel

**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.*

- 2013-42 Consider and act upon minutes from City Council meeting of January 22, 2013
- 2013-43 Consider and act upon a resolution designating the election judge and providing for clerical personnel in the May 11, 2013 City Council election
- 2013-44 Consider and act upon awarding a contract to various vendors for the purchase of chemicals for Water Treatment Plant Number Two

**PUBLIC HEARINGS**

- 2013-45 Continue a public hearing to consider and act upon an ordinance amending Ordinance No. 2007-14, as amended, the MidTowne Planned Development Ordinance (PD-42), to allow a skilled nursing facility, memory care, and assisted care living facility on approximately ± 6.08 acres Property is located at the southeast intersection of George Hopper Road and FM 663 (Case No. Z01-2012-08)

**REGULAR AGENDA**

- 2013-46 Citizens to be heard
- 2013-47 Receive an update on various City Board and Commission meetings and activities
- 2013-48 Consider and act upon the City of Midlothian's current certification pay plan schedule.
- 2013-49 Consider and act upon a Professional Services Agreement with Dunkin, Sims, Stoffels, Inc. for the Community Park Project Phase 1, Scope of Services. The scope of services will consist of geotechnical services in the amount of \$21,100; topographical survey in the amount of \$141,380; the total amount for this service shall not exceed \$162,480
- 2013-50 Consider and act upon recommendations of the City Council Nomination Subcommittee for appointments to various City boards and commissions
- 2013-51 Consider and act upon a resolution authorizing Don Hastings, City Manager, acting on behalf of the City of Midlothian, to make a formal offer to Linda Pauline Todd Gentry in the amount of \$1,457 for the acquisition of a water line and sanitary sewer easement described as 0.072 acres/3,146 square feet and two temporary construction easements described in total as 0.192 acres/8,388 square feet, located in the J.L. Blanton Survey, Abstract No. 1284, Midlothian, Ellis County, Texas, as described in Exhibit "A" and shown in Exhibit "B" attached hereto and made a part hereof for all purposes, said easements are fully described in the proposed resolution

## 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).*

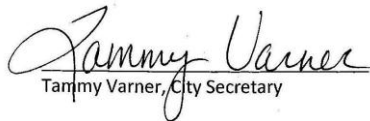
1. Section 551.071 Legal: Consultation with attorney regarding Cause No. 3-07-CV-1351-N, Texas Central Business Lines Corporation v. City of Midlothian
2. Section 551.087 Deliberation regarding economic development negotiations
3. Section 551.072 Real Estate: Deliberate and consider the acquisition of real property and easements
4. Section 551.071 Legal: Consultation with attorney regarding City of Midlothian v. Randall Denton, MidTexas International Center, Inc., Texas Properties Trust and Trade Zone Operations, Inc.
5. Section 551.071 Legal: Consultation with attorney based on an ethical duty to advise regarding potential litigation
6. Section 551.074 Personnel: Personnel matters (a) (1) Deliberate the duties of the City Manager

*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) or 551.076 (deployment/implementation of security personnel or devices).*

## REGULAR AGENDA

- 2013-52 Action resulting from Executive Session, Item #1: Texas Central Business Lines
- 2013-53 Action resulting from Executive Session, Item #2: Economic Development
- 2013-54 Action resulting from Executive Session, Item #3: Real Estate
- 2013-55 Action resulting from Executive Session, Item #4: Denton
- 2013-56 Action resulting from Executive Session, Item #5: Contemplated litigation
- 2013-57 Action resulting from Executive Session, Item #6: City Manager duties
- 2013-58 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 8<sup>th</sup> day of February, 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 2013-42

**AGENDA CAPTION:**

Consider and act upon minutes from City Council meeting of January 22, 2013

**ITEM SUMMARY/BACKGROUND:**

Minutes from the January 22, 2013 Council meeting are submitted for approval or correction.

**SPECIAL CONSIDERATION:**

N/A

**FINANCIAL IMPACT/FUNDING SOURCE:**

N/A

**ATTACHMENTS:**

1. Minutes from Regular Council meeting of January 22, 2013

**ALTERNATIVES:**

Approve or correct

**RECOMMENDATION:**

Approve as submitted

**SUBMITTED AND TO BE PRESENTED BY:**

Tammy Varner, City Secretary, for the February 12, 2013 City Council Meeting

Tammy Varner, City Secretary

**APPROVED BY:**

Don Hastings, City Manager

**MINUTES  
REGULAR COUNCIL MEETING  
JANUARY 22, 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
Mike Rodgers	§	Councilmember Place 2
Jason Kyle	§	Councilmember Place 3
Joe Frizzell	§	Mayor Pro Tem Place 4
T. J. Henley	§	Councilmember Place 5
Ted Miller	§	Councilmember Place 6

*Absent: Wayne Sibley due to recent surgery*

**WORK SESSION AGENDA**

**2013-18 REVIEW OF DRAFT CONSTRUCTION DETAILS**

Mayor Houston called the work session to order at 5:04 p.m. Mike Adams presented proposed amendments to the City's current Standard Construction Details

**2013-19 DISCUSSION OF SINGLE FAMILY DEVELOPMENT INCENTIVES**

John Taylor gave a brief presentation on current zoning districts and suggestions for development incentives for large lot development

**2013-20 REVIEW AND DISCUSSION OF REGULAR AGENDA ITEMS.**

No discussion was had on this item. The work session was adjourned at 5:55 p.m.

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

**2013-21 ANNOUNCEMENTS/PRESENTATIONS**

**a. Community Affairs calendar**

**February 2** – 1<sup>st</sup> Annual Midlothian Plaza Chili Cook Off and Blood Drive. Proceeds benefit the Midlothian Firefighters Association

**February 5** – Midlothian Area Historical Society Meeting at Midlothian Civic Center, 7:00 p.m.

**b. Administrative announcements related to personnel**

None were received

**CONSENT AGENDA**

**2013-22 CONSIDER AND ACT UPON MINUTES FROM CITY COUNCIL MEETING OF JANUARY 8, 2013**

**2013-23 CONSIDER AND ACT UPON A RESOLUTION PROVIDING FOR AN ELECTION TO BE HELD TO ELECT TWO COUNCILMEMBERS IN THE CITY OF MIDLOTHIAN; DEFINING THE TERM OF OFFICE; DESIGNATING THE POLLING LOCATION; DESIGNATING THE ELECTION JUDGE AND PROVIDING FOR CLERICAL PERSONNEL; DESIGNATING THE TIME AND PLACE; PROVIDING FOR A RUN-OFF ELECTION; AND PROVIDING FOR THE FILING OF APPLICATIONS FOR THE OFFICIAL BALLOTS FOR SAID ELECTION**

**2013-24 CONSIDER AND ACT UPON A JOINT ELECTION AGREEMENT WITH THE MIDLOTHIAN INDEPENDENT SCHOOL DISTRICT**

- 2013-25 CONSIDER AND ACT UPON AN AMENDMENT TO THE INTERJURISDICTIONAL AGREEMENT FOR MUTUAL AID IN DISASTER ASSISTANCE WITH ELLIS DALLAS UNIFIED COOPERATIVE TEAM (“EDUCT”)**
- 2013-26 CONSIDER AND ACT UPON A RESOLUTION AUTHORIZING THE MIDLOTHIAN PLAZA CHILI COOK-OFF AND BLOOD DRIVE BENEFITING THE MIDLOTHIAN FIREFIGHTER’S ASSOCIATION, TO BE HELD IN THE PARKING LOT AT 1000 EAST MAIN STREET, AND SCHEDULED FOR SATURDAY, FEBRUARY 2, 2013, IN ACCORDANCE WITH A SPECIAL EVENT PERMIT AS ESTABLISHED BY THE CITY OF MIDLOTHIAN ZONING ORDINANCE 89-13 AS AMENDED, SECTION 4.4 (CASE NO. RES07-2012-35)**

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

**PUBLIC HEARINGS**

- 2013-27 CONDUCT A PUBLIC HEARING TO CONSIDER AND ACT UPON AN ORDINANCE FOR A SPECIFIC USE PERMIT (SUP) TO ALLOW A SECONDARY DWELLING UNIT ON 1450 MT. ZION ROAD. PROPERTY IS LOCATED IN THE AGRICULTURAL (A) DISTRICT, CONTAINS ± 13.745 ACRES AND GENERALLY LOCATED SOUTH OF MT. ZION ROAD AND ± 595 FEET EAST OF S. MIDLOTHIAN PARKWAY IN THE CITY OF MIDLOTHIAN, TEXAS (CASE NO. SUP01-2012-24)**

Mayor Houston opened the Public Hearing and John Taylor presented the request for a secondary dwelling unit. The Planning and Zoning Commission recommended approval on December 18, 2012, subject to certain conditions. Mayor pro tem Frizzell moved to close the Public Hearing. Motion was seconded by Councilmember Miller and carried unanimously (6-0). Mayor pro tem Frizzell moved to approve Item 2013-27 as presented, subject to the conditions specified by the Planning and Zoning Commission. Motion was seconded by Councilmember Rodgers and carried unanimously (6-0).

**REGULAR AGENDA**

**2013-28 CITIZENS TO BE HEARD**

Wayne Nance, 326 Skye Lane, addressed Council regarding his issues and concerns with the MidTowne Development.

**2013-29 RECEIVE AN UPDATE ON VARIOUS CITY BOARD AND COMMISSION MEETINGS AND ACTIVITIES**

None were received.

**2013-30 CONSIDER AND ACT UPON THE REPEAL OF THE CURRENT SOLICITOR ORDINANCE AND ADOPTION OF A NEW SOLICITOR ORDINANCE TO ENSURE THE SAFETY AND PRIVACY OF ITS RESIDENTS; SET REASONABLE TIME FRAMES FOR SOLICITING AND REQUIRE APPROPRIATE PERMITS**

Debbie Lubke, Code Enforcement officer, gave a presentation outlining the proposed revisions to the current Solicitor Ordinance, which has not been updated since its inception in 1987. After discussion by Council, Councilmember Kyle moved to approve the repeal of the current solicitor ordinance and adopt the proposed ordinance as presented with the following three amendments: 1 - Section 12(4) Mobile food vendors may begin operations at 6:00 a.m. Monday through Friday; 2 - Section 14(2) strike “anonymous” from the phrase “political speech”; and 3 - Section 14(3) revise “Charitable purpose” to “Non-Profit purpose.” Motion was seconded by Councilmember Henley and carried unanimously (6-0).

**2013-31 CONSIDER AND ACT UPON A RESOLUTION DECLARING INTENTION TO REIMBURSE CERTAIN EXPENDITURES WITH PROCEEDS FROM DEBT**

Chris Dick explained that the City will incur project-related expenditures prior to the funding date of the General Obligation Bonds and Tax Note previously approved by Council. This Item will allow the City to reimburse itself when funding does occur. Councilmember Henley moved to approve Item 2013-31 as presented. Motion was seconded by Councilmember Kyle and carried unanimously (6-0).

**2013-32 CONSIDER AND ACT UPON A LAND LEASE AGREEMENT WITH DALLAS MTA, L.P. D/B/A VERIZON WIRELESS, FOR THE INSTALLATION OF A TOWER AND RADIO COMMUNICATION EQUIPMENT TO BE LOCATED AT THE CITY'S PUBLIC WORKS SERVICE CENTER YARD LOCATED AT 1050 N. US HIGHWAY 67**

Adam Mergener presented the five-year lease agreement with Verizon Wireless that will expand and improve Verizon's wireless service in the community. Verizon representative, Latham Jones, reported that the project is anticipated to take approximately seven months to complete. Councilmember Miller moved to approve Item 2013-32 as presented. Motion was seconded by Councilmember Kyle and carried unanimously (6-0).

**2013-33 CONDUCT AND ACT UPON A RESOLUTION INITIATING PROCEEDINGS TO ANNEX FOUR (4) SEPARATE TRACTS CONTAINING A TOTAL OF APPROXIMATELY 43.019 ACRES OF LAND AS DESCRIBED BY THE ATTACHED MAPS, BY SETTING THE DATE AND LOCATION FOR 2 PUBLIC HEARINGS AND DIRECTING STAFF TO PREPARE REQUIRED SERVICE PLANS (CASE NO. RES06-2012-33)**

John Taylor presented the Item that will authorize staff to initiate annexation proceedings, call two public hearings and proceed with preparation of a service plan. Councilmember Kyle moved to approve Item 2013-33 as presented. Motion was seconded by Mayor Houston and carried unanimously (6-0).

*Council moved to Executive Session at 7:15 p.m. for the purpose of discussing Items 1,3 and 6 with the following present: Mayor Houston, Mayor pro tem Frizzell, Councilmembers Rodgers, Kyle, Henley, Miller; City Manager, City Attorney, City Engineer and Terry Morgan, Attorney.*

**EXECUTIVE SESSION**

- |                           |  |
|---------------------------|--|
| <b>1. SECTION 551.071</b> | <b>LEGAL: CONSULTATION WITH ATTORNEY REGARDING CAUSE NO. 3-07-CV-1351-N, TEXAS CENTRAL BUSINESS LINES CORPORATION V. CITY OF MIDLOTHIAN</b>  |
| <b>2. SECTION 551.087</b> | <b>DELIBERATION REGARDING ECONOMIC DEVELOPMENT NEGOTIATIONS</b>  |
| <b>3. SECTION 551.072</b> | <b>REAL ESTATE: DELIBERATE AND CONSIDER THE ACQUISITION OF REAL PROPERTY AND EASEMENTS</b>   |
| <b>4. SECTION 551.071</b> | <b>LEGAL: CONSULTATION WITH ATTORNEY REGARDING CITY OF MIDLOTHIAN V. RANDALL DENTON, MIDTEXAS INTERNATIONAL CENTER, INC., TEXAS PROPERTIES TRUST AND TRADE ZONE OPERATIONS, INC.</b> |
| <b>5. SECTION 551.071</b> | <b>LEGAL: CONSULTATION WITH ATTORNEY BASED ON AN ETHICAL DUTY TO ADVISE REGARDING POTENTIAL LITIGATION</b>   |
| <b>6. SECTION 551.074</b> | <b>PERSONNEL: PERSONNEL MATTERS: (A)(1) CITY ATTORNEY ANNUAL EVALUATION</b>  |

*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) or 551.076 (deployment/implementation of security personnel or devices).*

**REGULAR AGENDA**

**2013-34 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #1: TEXAS CENTRAL BUSINESS LINES**

No action taken following Executive Session.

**2013-35 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #2: ECONOMIC DEVELOPMENT**

The Item was not discussed during Executive Session.

**2013-36 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #3: REAL ESTATE**

Councilmember Kyle moved to authorize staff to purchase .071 acre permanent easement for \$3,184 and obtain 2 temporary construction easements (.169 acre) from Raymond and Rebecca Reitz. Motion was seconded by Councilmember Henley and carried unanimously (6-0).

**2013-37 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #4: DENTON**

The Item was not discussed during Executive Session.

**2013-38 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #5: CONTEMPLATED LITIGATION**

The Item was not discussed during Executive Session.

**2013-39 ACTION RESULTING FROM EXECUTIVE SESSION, ITEM #6: CITY ATTORNEY EVALUATION**

No action taken following Executive Session.

**2013-40 ADJOURN**

With there being no further business to discuss, Mayor Houston adjourned the meeting at 8:49 p.m.

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Bill Houston, Mayor

ATTEST:

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Tammy Varner, City Secretary



## AGENDA ITEM 2013-43

**AGENDA CAPTION:**

Consider and act upon a resolution designating the election judge and providing for clerical personnel in the May 11, 2013 City Council election

**ITEM SUMMARY/BACKGROUND:**

Councilmember Places 3 and 4 will be on the ballot for this year's City Council election to be held May 11, 2013. On January 22, Council called for the election to be held, designating the early voting dates and times, polling places and appointing the election judge, Jimmie L. McClure. Ms. McClure filed a candidate application on January 31, rendering her ineligible to continue to serve as election judge.

**SPECIAL CONSIDERATION:**

N/A

**FINANCIAL IMPACT/FUNDING SOURCE:**

N/A

**ATTACHMENTS:**

Proposed Resolution

**ALTERNATIVES:**

Approve, deny, table or amend the proposed resolution

**RECOMMENDATION:**

Approve as submitted.

**SUBMITTED AND TO BE PRESENTED BY:** Tammy Varner, City Secretary  
For the February 12, 2013 City Council Meeting

A handwritten signature in black ink that reads 'Tammy Varner'.

Tammy Varner, City Secretary

**APPROVED BY:**A handwritten signature in black ink that reads 'Don Hastings'.

Don Hastings, City Manager



RESOLUTION 2013-

A RESOLUTION DESIGNATING THE ELECTION JUDGE AND PROVIDING FOR CLERICAL PERSONNEL FOR SAID ELECTION.

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

SECTION 1. Election of Councilmembers. That an election be held on the second Saturday in May 2013, being May 11, 2013, under and by virtue of the provisions of the Charter of the City of Midlothian, Texas and the laws of the State of Texas, for the purpose of electing Councilmembers for Places Three and Four. Each shall serve for a term of three (3) years, their terms expiring in May 2016.

SECTION 2. Election Judge and Clerical Personnel. Lou R. Jameson is hereby designated as Presiding Election Judge and the Presiding Judge is authorized and directed to employ sufficient clerical personnel to efficiently conduct said election.

SECTION 3. Early Voting Ballot Board. Lou R. Jameson and designated election clerks are hereby appointed to serve as the Early Voting Ballot Board for the election to be held on Saturday, May 11, 2013.

SECTION 4. Time and Place of Election. That said election shall be held at the Midlothian Conference Center, #1 Community Circle, Midlothian, Texas for all city precincts and the time of the election shall be from 7:00 a.m. to 7:00 p.m. on Saturday, May 11, 2013.

SECTION 5. Run-Off Election. Providing for a Run-Off Election if necessary and designating the date as Saturday, June 8, 2013, with the location being the Midlothian Conference Center, #1 Community Circle, 7:00 a.m. to 7:00 p.m., and designating the Presiding Election Judge as Lou R. Jameson.

PASSED, APPROVED, AND ADOPTED on this the 12<sup>th</sup> day of February 2013.

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Bill Houston, Mayor

ATTEST:

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Tammy Varner, City Secretary