



**REGULAR CITY COUNCIL MEETING AGENDA**  
**OCTOBER 10, 2017**  
**5:00 PM**  
**CITY HALL COUNCIL CHAMBERS**  
**10 NORTH ROBINSON STREET**

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**I. ROLL CALL AND CALL TO ORDER BY MAYOR**

**City Council:**

- ✓ Scott Cain, Mayor
- ✓ Dr. Bob Kelly, Mayor Pro Tem
- ✓ Gayle White, SMD 2
- ✓ Dale Sturgeon, SMD 3
- ✓ John Warren, SMD 4

**Administration:**

- ✓ Steve Polasek, City Manager
- ✓ Shelly Doty, City Secretary
- ✓ Fritz Quast, City Attorney

**II. INVOCATION** by Pastor Kenny Rigoulot, United Presbyterian Church

**III. PLEDGE OF ALLEGIANCE**

**IV. COMMUNITY INTEREST MATTERS, ANNOUNCEMENTS & PRESENTATIONS**

- ☆ Presentation – Guardian Program – Rob Severance, Police Department

**V. CITY SECRETARY READS THE GUIDELINES TO SPEAK BEFORE COUNCIL**

**VI. CITIZENS COMMENTS**

An opportunity for the public to make comments or address concerns not posted on the agenda.

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**CONSENT ITEMS**

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All of the following items on the Consent Agenda are considered to be routine and self-explanatory by the Council and will be enacted with one motion. There will be no separate discussion of these items unless a Council Member or citizen so requests. For a citizen to request removal of an item, a speaker card must be filled out and submitted to the City Secretary prior to the beginning of the meeting.

**M1. APPROVAL OF MINUTES FOR THE SEPTEMBER 26, 2017 COUNCIL MEETING.**

**RS1. A RESOLUTION AUTHORIZING A LOCAL AGREEMENT WITH THE DISTRICT ATTORNEY'S OFFICE OF JOHNSON & SOMERVELL COUNTIES PURSUANT TO THE PROVISIONS OF CHAPTER 59 OF THE TEXAS CODE OF CRIMINAL PROCEDURE PERTAINING TO FORFEITURE OF CONTRABAND.**

Person presenting this item: Rob Severance, Chief of Police

**BRIEF:** Under Chapter 59 of the Texas Code of Criminal Procedure, such agreements are necessary in order to avoid forfeiture of proceeds to the State Treasury. This agreement insures that proceeds from forfeited contraband awarded to the District Attorney's Office will remain under the control of Johnson County and proceeds awarded to the Cleburne Police Department will remain under the control of the Cleburne Police Department, so long as such use is in compliance with Chapter 59. The previous agreement was signed in 1997. Johnson County is requesting we sign an updated agreement.

**RS2. A RESOLUTION AUTHORIZING APPLICATION AND ACCEPTANCE OF FUNDS FROM THE OFFICE OF THE GOVERNOR - CRIMINAL JUSTICE DIVISION FOR TACTICAL VEST UPGRADES FOR THE CLEBURNE POLICE DEPARTMENT.**

Person presenting this item: Rob Severance, Chief of Police

**BRIEF:** Consider Rifle Resistant Body Armor Grant Program application to the Office of the Governor - Criminal Justice Division for \$9,333 to purchase 17 rifle-resistant vests. The tactical vest upgrades will provide additional Level IV vests for officers. No match is required.

**RS3. A RESOLUTION AUTHORIZING THE CITY MANAGER TO CONSENT TO THE ADA IMPROVEMENTS AT THE CLEBURNE RAIL STATION AS PROPOSED BY THE NATIONAL RAILROAD PASSENGER CORPORATION ("AMTRAK").**

Person presenting this item: Denise Jones, Senior Assistant to the City Manager

**BRIEF:** The City received a written request along with design plans for ADA improvements to the Cleburne rail station (Cletran site) from Amtrak. Amtrak is currently in the process of reviewing and upgrading all of the rail stations that it serves to ensure full compliance with the Americans with Disabilities Act of 1990. The improvements occur on city property and consist primarily of walkways, curb ramps, signage and lighting. The proposed improvements are to be constructed in whole by Amtrak should the city consent to the project. Further, if approved, the city would be responsible for any future maintenance and repair, agree not to remove the improvements and allow Amtrak access and use of these improvements so long as they provide or intend to provide service at the Cleburne rail station. Presently, there is no timeframe for construction to begin; however, Amtrak has expressed their intent to move aggressively with their ADA improvement plans.

**OC1. APPROVE FINAL PLAT OF LOT 1, BLOCK 1, EPIFANIO ESTATES, (BEING A 1.456 ACRE TRACT LOCATED IN THE CITY'S ETJ, B.F. CHILDRESS SURVEY,**

**ABSTRACT NO. 184), AS REQUESTED BY EPIFANIO & FAUSTA GONZALEZ.**

Person presenting this item: Shane Pace, Community Development Director

**BRIEF:** The Planning and Zoning Commission considered this at their September 25, 2017 meeting. The purpose for this final plat is to create one residential lot in the extra territorial jurisdiction. The Comprehensive Land Use Plan shows this area to be in the Traditional Neighborhoods District. P&Z recommended approval with a vote of 7-0.

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**RESOLUTIONS**

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**RS4. A RESOLUTION AFFIRMING NOMINATIONS FOR CANDIDATE(S) FOR THE 2018-2019 CENTRAL APPRAISAL DISTRICT OF JOHNSON COUNTY BOARD OF DIRECTORS.**

Person presenting this item: Shelly Doty, City Secretary

**BRIEF:** The Johnson County Appraisal District has offered the Council the ability to nominate candidates to be considered for board membership of the District. The Council may offer up to five candidates or not offer any as it chooses. All taxing entities are offered the chance to nominate candidates and an election will be conducted in the near future. The City of Cleburne is entitled to 309 of the 5,000 votes and requires approximately 834 votes to secure a nominee. Kent Williams is currently the only Cleburne resident on the Board of Directors.

The current Board Members include Byron Black-Chairman, Bob Spurlin-Vice Chairman, Kent Williams-Secretary, Toby Ford and Larry Woolley. All members are eligible to serve another term and have expressed an interest in doing so with the exception of Bob Spurlin who no longer wishes to serve.

**RS5. A RESOLUTION AUTHORIZING AN ECONOMIC DEVELOPMENT INCENTIVE PROGRAM FAÇADE IMPROVEMENT AGREEMENT WITH DUDLEY REALTY LLC FOR PROPERTY LOCATED AT 201 S MAIN ST.**

Person presenting this item: Grady Easdon, Economic Development Manager

**BRIEF:** Dudley Realty, LLC has submitted an application under the terms of the City's Façade Improvement program seeking to repair, re-paint, and stabilize the mural on the building facing the Wright Plaza parking lot on South Main. Recently, a large section of the mural separated from the wall due to water seepage behind the stucco on the building and fell off the building and onto the parking lot. Due to the urgency in making required repairs prior to re-painting the damaged section of the mural wall, Mr. Dudley did not have the necessary time to solicit the two repair quotes called for under the terms of the Façade Improvement Incentive Program guidelines. This step was taken in order to prevent further damage to the mural wall and possibility for injury to pedestrians and automobiles in the area. The project scope includes re-plastering the damaged section of the wall, stabilization of other areas of the mural through the use of lag bolts, re-painting the damaged section, and clear-coating to lessen the possibility of future damage to the mural. Project costs are \$11,000 for the stucco repairs and \$14,000 for re-painting, stabilization, and clear-coating the mural wall for a total of \$25,000. Under the terms of the policy and agreement, \$5,000 of the cost for re-painting the mural would be reimbursable.

Funding for the Façade Improvement Economic Development Incentive Program was approved during the September 12, 2017 meeting of the City Council. Total funding for this program for Fiscal Year 2018 is \$30,000.

**RS6. A RESOLUTION APPROVING REQUEST BY WASTE CONNECTIONS (DBA PROGRESSIVE WASTE SOLUTIONS) FOR 2017 RATE ADJUSTMENT FOR COMMERCIAL SOLID WASTE SERVICES.**

Person presenting this item: Keith Fisher, Director of Public Works

**BRIEF:** The Cleburne City Council approved a contract with Waste Connections (dba Progressive Waste Solutions) on June 10, 2014. The company has not requested a rate increase since the execution of the contract. According to Section 8 of the approved contract, a yearly price increase based on the Consumer Price Index (CPI) can be requested on the anniversary date of the contract. City staff received the rate increase request three weeks after the anniversary date.

Waste Connection of Texas is requesting an increase of 1.85% on both the commercial refuse collection rate and the rate paid by the City to remove solid waste from the transfer station.

Staff is recommending, if approved, that the rates take effect on January 1, 2018.

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**ORDINANCES**

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**OR1. \*PUBLIC HEARING\* AN ORDINANCE REZONING 3634 N MAIN ST (BEING 24.39 ACRES, LOT 1, BLOCK 1, WALKER BUSINESS PARK) FROM C3 (COMMERCIAL DISTRICT) TO C3/SUP (COMMERCIAL DISTRICT WITH A SPECIFIC USE PERMIT FOR AN OIL & GAS SUPPLY YARD); AS REQUESTED BY J.R. WALKER CO. REPRESENTED BY JANIE HONEA.**

Person presenting this item: Shane Pace, Community Development Director

**BRIEF:** The Planning and Zoning Commission considered this at their September 25, 2017 meeting. This is a request for a Specific Use Permit (SUP) for an Oil & Gas Supply Yard at 3634 N. Main Street. Per the City Ordinance, an Oil & Gas Supply Yard requires specific conditions be met. In addition, no construction or occupancy may commence until all of the required conditions have been met. The following describes the conditions under which an Oil/Gas Supply Yard may be permitted in the C3 zoning district.

**§155.30 (B)(34) Oil/Gas Supply Yard:**

- (1) A landscape buffer, with live material reaching a height of ten feet at the time of maturity, shall be located along any residentially zoned property line.
- (2) All parking surfaces shall be all-weather, dust-free surfaces. Alternative surfaces for drive lanes located in storage areas may be permitted by special exception, upon the approval of the City Engineer.
- (3) No storage of oil/gas equipment, machinery or vehicles may be located in any front yard area.
- (4) All security lighting and parking lot lighting shall be fully shielded and directed away from any adjoining or adjacent residentially zoned property.

- (5) Storage of any equipment shall be located a minimum of 50 feet from any residentially zoned property, and shall not exceed ten feet in height within 150 feet of any residentially zoned property.

The subject property is bordered by residentially zoned property to the east. The applicant is requesting the SUP with the exception of the first requirement, a landscape buffer. The existing structure is approximately 200 feet from the east property line and there is currently a natural landscape boundary along the east property line. The houses in the residentially zoned property front Dove Creek Road with the closest existing structure approximately 800 feet from the west property line that borders the subject property. This SUP will be specific to the existing commercial site of approximately 1 (one) acre that will be occupied by Flowco Production Solutions, LLC. The Comprehensive Land Use Plan designates the subject property and surrounding area as the Approach Corridor District. P&Z recommended approval of the Specific Use Permit with a vote of 7 to 0 with the following conditions:

- **A waiver to the required landscape buffer shall be granted, and the existing vegetation shall remain and serve as the natural landscape buffer;**
- **The conditions of the lease agreement shall be included along with the conditions of the SUP;**
- **The SUP applies to the specific applicant Flowco Production Solutions, LLC.**

**OR2. AN ORDINANCE AUTHORIZING THE RELEASE OF INTEREST DUE ON LIENS FILED AGAINST PROPERTY LOCATED AT 102 AND 104 COLORADO, LOTS 3 AND 4, BLOCK 315, ORIGINAL CLEBURNE, AS REQUESTED BY MICHAEL HOLLAND WITH WAREHOUSE 413 MINISTRIES, INC.**

Person presenting this item: Shelly Doty, City Secretary

**BRIEF:** On September 15, 2004, Michael Holland in the interest of Warehouse 413 Ministries, a non-profit organization, purchased a piece of property located at 102 Colorado St, Lot 4 Block 315, at a constable's tax sale. Mowing liens filed pre-judgement (April 4, 2003) are considered inferior and have been released. There is one mowing lien filed post judgement which remains yet unpaid. The outstanding mowing lien was filed on March 2, 2005, Book 3483 Page 886. Total payoff of this lien at this time is \$6,025.78. Principal is \$1,800.00 with interest being \$4,225.78 having accumulated over a 12½-year period.

On June 14, 2004, Michael Holland in the interest of Warehouse 413 Ministries, a non-profit organization, purchased a piece of property located at 104 Colorado St, Lot 3 Block 315, at a constable's tax sale. Mowing liens filed pre-judgement (February 20, 2003) are considered inferior and have been released. There is one mowing lien filed post judgement which remains yet unpaid. The outstanding mowing lien was filed on January 22, 2004, Book 3220 Page 587. Total payoff on this lien at this time is \$5,288.45. Principal is \$1,425.00 with interest being \$3,863.45 having accumulated over a 13-year period.

The total amount due is more than the value of the property therefore, Mr. Holland would like to petition the Council to release the interest due on the liens so that he may sell the property. Total interest due is \$8,089.20. Principal will be paid at the time of the sale at which time the City will release the liens.

**OR3. AN ORDINANCE AMENDING TITLE XV: LAND USAGE, CHAPTER 150: BUILDING REGULATIONS, SECTIONS 150.090-150.105 MOVING OF BUILDINGS.**

Person presenting this item: Keith Fisher, Director of Public Works

**BRIEF:** Moving of structures into or within the City of Cleburne is a problem that contributes to lower property values and does not improve the sustainability of properties within the City. Property value metrics of recent moved properties into and within the City have demonstrated moving and renovation of structures produces a lower quality final product and results in an average market value that is 53% less than the median property value for the City of Cleburne. To encourage property owners and developers to construct quality housing and commercial structures in Cleburne, staff recommends banning moving existing structures into and within the City. The Council may still approve the movement and renovation of structures into and within the City that have historic significance.

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**EXECUTIVE SESSION**

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Pursuant to the Open Meetings Act, Chapter 551, Texas Government Code, Sec. 551.071, Sec. 551.072, Sec. 551.073, Sec. 551.074, Sec. 551.076, Sec. 551.087 and Sec. 418.0183(f) of the Texas Government Code (Texas Disaster Act). Refer to posted list attached hereto and incorporated herein. **Executive Session may be held, under these exceptions, at any time during the meeting that a need arises for the City Council to seek advice from the City Attorney as to the posted subject matter of this City Council Meeting.**

**A. § 551.072. Deliberation Regarding Real Property; Closed Meeting** A governmental body may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third person.

1. Discuss value of property located at 512 North Brazos Avenue

**B. § 551.071. Consultation with Attorney; Closed Meeting** A governmental body may not conduct a private consultation with its attorney except: (1) when the governmental body seeks the advice of its attorney about: (A) pending or contemplated litigation; or (B) a settlement offer; or (2) on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.

1. Potential litigation and settlement offer related to City's contested gas well royalties claim and operational issues with TEP Barnett, Chesapeake Exploration and respective affiliates
2. Pending litigation: *Nadia Fuller v. City of Cleburne*, Cause No. DC-C201700524 in the 249<sup>th</sup> District Court of Johnson County

Reconvene into open session for possible action resulting from any items posted and legally

discussed in Executive Session.

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**ADJOURNMENT**

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**ADJOURNED AT:**