



REGULAR CITY COUNCIL MEETING AGENDA

MARCH 13, 2018

5:00 PM

CITY HALL COUNCIL CHAMBERS

10 NORTH ROBINSON STREET

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 Bro Dominic Valero, Open Heart Ministries

III. PLEDGE OF ALLEGIANCE

IV. COMMUNITY INTEREST MATTERS, ANNOUNCEMENTS & PRESENTATIONS

- ☆ Proclamation – [March for Meals](#)
- ☆ Presentation – Life Savings Awards – Fire Department
- ☆ Presentation – STARS Award for January 2018 – Terry Broumley, Fire 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.

CONSENT ITEMS

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 [FEBRUARY 27, 2018](#) COUNCIL MEETING.

RS1. A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT WITH FREESE AND NICHOLS FOR ENVIRONMENTAL MONITORING OF THE CITY LANDFILL IN AN AMOUNT NOT TO EXCEED \$61,900.

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

BRIEF: This is an agreement between the City of Cleburne and Freese and Nichols for environmental monitoring for the City of Cleburne landfill. These services are necessary to comply with the environmental monitoring requirements specified within our landfills operating permit. F&N has been doing our monitoring and they are very familiar with our site and has always done an excellent job for the City on what is specified and any other issues in which we need direction or assistance. This is a two year agreement with year one (2018) in the amount of \$61,900 and an option for year two (2019) in the amount of \$56,000

OR1. AN ORDINANCE AMENDING THE ANNUAL BUDGET FOR FISCAL YEAR OCTOBER 1, 2017 TO SEPTEMBER 30, 2018 (#5) BY APPROVING CITY MANAGER'S LINE ITEM BUDGET TRANSFERS.

Person presenting this item: Terry Leake, Director of Finance

BRIEF: Section 8.2 of the City of Cleburne Charter (Transfer of Appropriations) states "The City Manager may at any time with the approval of the City Council transfer any unencumbered appropriation balance or portion thereof between general classifications of expenditures within an office, department, or agency. At the request of the City Manager, the Council may by resolution transfer any unencumbered appropriation balance or portion thereof from one office, department, or agency to another." At the June 13, 2017 City Council meeting, Council approved a resolution providing for the following process to improve budgetary control and operational effectiveness within a department and meet the above charter requirements:

- City Council authorizes the City Manager to make transfers within budget line items that are within a department, as deemed appropriate by the City Manager.
- The City Manager will provide to the City Council a monthly statement of these intradepartmental line item budget transfers as a Consent agenda item.

Attached is the list of intradepartmental transfers with supporting the Departmental Line Item Budget Transfer Request form for the month of March 2018 deemed appropriate to be made by the City Manager for City Council approval.

OR2. 2nd Consideration: AN ORDINANCE GRANTING TO ATMOS ENERGY CORPORATION, A TEXAS AND VIRGINIA CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO CONSTRUCT, MAINTAIN, AND OPERATE PIPELINES AND EQUIPMENT IN THE CITY OF CLEBURNE, JOHNSON COUNTY TEXAS, FOR THE TRANSPORTATION, DELIVERY, SALE, AND DISTRIBUTION OF GAS IN, OUT OF, AND THROUGH SAID TOWN; PROVIDING FOR THE PAYMENT OF A FEE OR CHARGE FOR THE USE OF THE PUBLIC RIGHTS-OF-WAY; AND PROVIDING THAT SUCH FEE SHALL BE IN LIEU OF CERTAIN OTHER FEES AND CHARGES.

Person presenting this item: Steve Polasek, City Manager

BRIEF: Atmos Energy currently provides natural gas service to residential and commercial customers within the City of Cleburne. The most current franchise agreement allowing Atmos to utilize city rights-of-way in the provision of such service was approved on July 10, 2007. The agreement expired on December 31, 2016; however, the City and Atmos have continued to operate under the terms of the agreement until such time as a new franchise is adopted. Please note, this proposed franchise agreement does not cover portions of our industrial area that is governed under a separate agreement approved by the City in April of 2009 and set to expire on December 31, 2019.

The proposed ordinance is modeled after recent franchise agreements from area cities and has been updated to contain conditions that are more favorable to the City, where available. The initial term of

this Franchise shall expire at midnight on December 31, 2027. Unless written notice of its intent to renegotiate is provided by either the City or Atmos at least ninety (90) days prior to the expiration of the term, the Franchise shall be extended for up to two (2) additional terms of five (5) years each on the same terms and conditions. The proposed franchise fee is adjusted from four (4) to five (5) percent of gross revenues in line with the majority of our benchmark communities and cities in the north Texas region (see Exhibit A). This revision will result in an increase of approximately 0.50¢ per month for the average residential customer and generate an estimated \$45,000 annually.

Per our City Charter, Section 10.3 FRANCHISES AND SPECIAL PRIVILEGES (B) - *No franchise shall ever be granted until it has been approved by a majority of the City Council, after having been considered at three (3) regular meetings of the City Council, nor shall any such franchise, grant or privilege ever be made unless it provides for adequate compensation or consideration therefore to be paid to the City.* This shall be the first of three readings, with the second and third readings planned for consideration at the regular City Council meetings scheduled in March of 2018.

ITEMS PULLED FROM CONSENT AGENDA

ORDINANCES

OR3. AMEND SECTION TWO OF ORDINANCE OR09-2017-45 OF THE FISCAL YEAR 2018 GENERAL FUND BUDGET (#6) IN THE AMOUNT OF \$20,000 TO PROVIDE AN APPROPRIATION FOR THE FAÇADE GRANT PROGRAM.

Person presenting this item: Terry Leake, Director of Finance

BRIEF In order to promote renovation and development in the downtown area, the City of Cleburne has allocated funds in the Fiscal Year 2018 budget for the Façade Improvement Matching Incentive Program in the Cleburne Historical Downtown Commercial District and the Main and Henderson Street travel and retail corridors. There is \$30,000 allocated in the Fiscal Year 2018 Economic Development Department's budget for the Façade Improvement Matching Incentive Program, where up to 50% of eligible project costs are reimbursable up to a maximum of \$5,000. This has proven to be an extremely successful program, as \$25,000 has been committed to five façade improvement projects in the first five months of the fiscal year, and an additional façade improvement program application request for \$5,000 will be considered by City Council at the March 13, 2018 meeting. This will exhaust all Fiscal Year 2018 funding for the program. To continue the momentum for the program, it is proposed to amend the Fiscal Year 2018 General Fund budget in the amount of \$20,000 to provide funding for the Façade Improvement Matching Incentive Program in the Economic Development Department's Other Services line item budget (Account #0140-8699).

The proposed General Fund budget amendment will revise the total adopted General Fund budget of \$36,038,450 (Ordinance OR09-2017-45) to \$36,058,450. Anticipated funding source for the \$20,000 addition to the Façade Improvement Matching Incentive Program is General Fund sales tax receipts that are exceeding projected budget performance by 2.4%.

RESOLUTIONS

RS2. A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A 380 ECONOMIC DEVELOPMENT PROGRAM AGREEMENT WITH EDENWAY BIRTH CENTER, LOCATED AT 805 N. MAIN STREET, FOR A FAÇADE

IMPROVEMENT MATCHING INCENTIVE PROGRAM REIMBURSEMENT FOR AN AMOUNT NOT TO EXCEED \$5,000.00.

Person presenting this item: Grady Easdon, Economic Development Manager

BRIEF: Edenway Birth Center has submitted an application under the terms of the City's Façade Improvement program seeking to perform upgrades and enhancements to exterior street-facing facades on their property located at 805 N. Main St. Repairs and upgrades include replacement of deteriorating trim boards and railings, rebuild front porch, replace siding, and painting. Under the terms of the Façade Improvement Incentive Program, up to 50% of eligible project costs are reimbursable up to a maximum of \$5,000. Total cost of this project for improvements is \$11,000.00; therefore \$5,000 would be the maximum match by the City

RS3. A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A 380 ECONOMIC DEVELOPMENT PROGRAM AGREEMENT WITH BURKETT PROPERTIES FOR PROPERTY LOCATED AT 207 EAST HENDERSON, FOR A FAÇADE IMPROVEMENT MATCHING INCENTIVE PROGRAM REIMBURSEMENT FOR AN AMOUNT NOT TO EXCEED \$5,000.00.

Person presenting this item: Grady Eason, Economic Development Manager

BRIEF: Tom Burkett has submitted an application under the terms of the City's Façade Improvement program seeking to perform upgrades and enhancements to exterior street-facing facades on his property located at 207 E. Henderson St. Repairs and upgrades include removal of existing corrugated metal façade covering, repair & replace underlying brick as needed, install electrical and install new sign and lighting fixtures. Under the terms of the Façade Improvement Incentive Program, up to 50% of eligible project costs are reimbursable up to a maximum of \$5,000. Total cost of this project for improvements is approximately \$13,000.00; therefore \$5,000 would be the maximum match by the City. Approval of this request would be subject to Council approval of a budget amendment to add \$20,000 to the program line item, bringing the annual budget to \$50,000 from \$30,000 as originally approved.

RS4. A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN ECONOMIC DEVELOPMENT AGREEMENT WITH GARZA GROUP, LLC, FOR BUILDING REHABILITATION IMPROVEMENTS TO PROPERTY LOCATED AT 214 EAST CHAMBERS STREET, FOR AN AMOUNT NOT TO EXCEED \$4,133.00.

Person presenting this item: Grady Easdon, Economic Development Manager

BRIEF: Garza Group, LLC has submitted an application seeking funds available under the Downtown Building Rehabilitation Matching Incentive Program ("Program") in the amount of \$4,133.00 to be used toward the cost of installing a new HVAC system in their building located at 214 E. Chambers St. Total cost of this project is \$12,915.00. Under the terms of the Program, matching funds of 50% of total project cost or \$25,000, whichever is less, would normally be available if the application is approved. In this case, however, only \$4,133.00 remains in the budget for this program so that is the maximum reimbursement amount available for this fiscal year

**RS5. RS03-2018-
A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR THE REPAIR AND CONSTRUCTION OF ROADS ANNEXED INTO THE CITY OF CLEBURNE.**

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

BRIEF: City staff has been in discussion with Commissioner Rick Bailey, Precinct # 1, in regard to providing funding for the repair of roads within his district and within the City of Cleburne city limits. Repairs will include pothole repairs, chip seal of roadways and reconstruction of areas as approved by the Director of Public Works and Commissioner Bailey. The amount requested is \$40,000 for this fiscal year. The City has received several complaints in this area and this agreement will help with the improvement of the area.

RS6. RS03-2018-

A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT AND AWARD A BID TO DON SMITH CONCRETE FOR THE YELLOW JACKET DRIVE SIDEWALK PROJECT IN AN AMOUNT NOT TO EXCEED \$147,029.30.

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

BRIEF: Sealed bids were solicited for the completion of necessary sidewalk improvements. The project consists of approximately 12,203 sq. ft. of 4-inch concrete sidewalk along the west side of Yellow Jacket Drive between Harlin Drive and Nolan River Road, handicap ramps, and reinforced concrete box culverts crossings with handrails. Bids were received from seven (7) vendors. Childress Engineers reviewed the bids and verified references. The lowest, most responsible bid was received from Don Smith Concrete in the amount of \$147,029.30, which includes a base bid of \$133,633.00 and a contingency of \$13,366.30 (10% of the project).

ORDINANCES

OR4. AN ORDINANCE RESCINDING SECTION 1(A)5 OF OR03-1974-14, REMOVING NO PARKING AND LOADING ZONE DESIGNATIONS ON NORTH ROBINSON STREET.

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

BRIEF: On March 12, 1974, the City Council of the City of Cleburne passed an ordinance requiring placement of “no parking” and “loading zone” signs on North Robinson Street across from City Hall. Due to changed usage of said portion of North Robinson Street, the “no parking zone” and “loading zone” are no longer useful or necessary to the public. The Public Works Director recommends that said signs be removed and the no parking and loading zones be eliminated.

****OPEN PUBLIC HEARING****

OR5. OR03-2018-

AN ORDINANCE REZONING 0.615 ACRES BEING LOT 4, BLOCK 54, ORIGINAL CLEBURNE, LOCATED AT 713 N. ANGLIN ST FROM C3 (COMMERCIAL DISTRICT) TO SF-4 (SINGLE-FAMILY DWELLING DISTRICT), AS REQUESTED BY MARTHA MIRANDA.

Person presenting this item: Shane Pace, Director of Community Development

BRIEF: The applicant has requested to rezone approximately 0.615 acres from C3 (Commercial District) to SF-4 (Single-Family Dwelling District) for an existing residential home on the subject property. The Comprehensive Land Use Plan designates the subject property as Central Corridor and Preservation District. The proposed land use is an appropriate use in the Preservation District but not in the Central Corridor District. The Planning and Zoning Commission considered this request at their February 26, 2018 meeting and recommended approval by a vote of 4-0.

****OPEN PUBLIC HEARING****

OR6. OR03-2018-

AN ORDINANCE REZONING 0.2793 ACRES BEING LOTS 4A & 5A, BLOCK 668, ORIGINAL CLEBURNE, LOCATED AT 1601 N. BRAZOS AVE FROM M1 (LIGHT INDUSTRIAL DISTRICT) TO SF-4 (SINGLE-FAMILY DWELLING DISTRICT), AS REQUESTED BY CESAR SANCHEZ.

Person presenting this item: Shane Pace, Director of Community Development

BRIEF: The applicant has requested to rezone approximately 0.2793 acres from M1 (Light Industrial District) to SF-4 (Single-Family Dwelling District) for an existing residential home on the subject property. The Comprehensive Land Use Plan designates the subject property as Transportation and Industry District and the proposed land use is not an appropriate use in this District. The Planning and Zoning Commission considered this request at their February 26, 2018 meeting and recommended approval by a vote of 4-0.

****CLOSE PUBLIC HEARING****

OR7. OR03-2018-

AN ORDINANCE AUTHORIZING THE RELEASE OF INTEREST DUE ON LIENS FILED AGAINST THE PROPERTY LOCATED AT 808 BARBER, AS REQUESTED BY JUANA FACUNDO.

Person presenting this item: Shelly Doty, City Secretary

BRIEF: Between 2003 and 2008 the City filed 5 mowing liens and 1 demolition lien against property located at 808 Barber, aka Lot 4 Block 683, Original Cleburne, owned by Juana Facundo. Total principal for these liens is \$7,244.00. Total interest accumulated during the subsequent 15 years since the filing totals \$17,503.49 bringing the total payoff to \$24,747.49. Ms. Facundo has petitioned the Council to waive the interest charges accumulated in order to make arrangements to pay the liens including but not limited to selling the property. Property taxes are current.

OR8. OR03-2018-

AN ORDINANCE AMENDING THE FISCAL YEAR 2018 BUDGET (#7) BY PROVIDING AUTHORIZATION TO RECORD REIMBURSEMENT FUNDS RECEIVED FROM THE TEXAS DEPARTMENT OF EMERGENCY MANAGEMENT FOR THE USE OF A STRUCTURE FIRE ENGINE AID IN THE HURRICANE HARVEY RELIEF EFFORTS TO VEHICLE REPLACEMENT FUND TO OFFSET THE COST OF FUTURE FIRE ENGINE REPLACEMENT.

Person presenting this item: Terry Leake, Director of Finance

BRIEF: At the September 12, 2017 meeting, City Council adopted Resolution RS09-2017-66 supporting the Hurricane Harvey relief efforts and authorized the City Manager to allocate City resources and assistance to the City of Ingleside, Texas and other coastal communities. The Fire Department sent firefighters and an engine to aid in the relief efforts, and a Fiscal Year 2017 budget amendment in the amount of \$272,612 was adopted for salaries, benefits and travel expenditures of those participating firefighters, with an anticipated reimbursement for those expenditures from the State of Texas. A reimbursement request was filed with Texas Department of Emergency Management, and included in the request was a total of \$112,795 for the use of a structure fire engine for a period of eight weeks. The City has received a portion of reimbursement for the expenditures, and it is anticipated that additional reimbursement will be received in the future. It is requested that authorization be given to record any reimbursement revenue received for the use of the fire engine into the Vehicle Replacement Fund (Fund 3) to aid in funding future fire engine replacement. All other funds reimbursement funds received for

firefighters salaries, benefits and travel expenses will be recorded as revenue in the General Fund.

OTHER COUNCIL MATTERS

OC1.

ACCEPTING THE ANNUAL AUDIT FISCAL YEAR ENDED SEPTEMBER 30, 2017.

Person presenting this item: Terry Leake, Director of Finance

BRIEF: Section 8.12 of the City of Cleburne Charter states that an independent firm of certified public accountants will perform the annual audit and present the results to the City Council. On Monday, March 6, 2018, the Audit Committee met with John Manning, the audit engagement partner with the City's audit firm, Pattillo, Brown and Hill LLP, to review the results of the annual audit for Fiscal Year ended September 30, 2017 and the Statement on Auditing Standards 114 audit management letter. The City received an unmodified opinion (Independent Auditor's Report), which is the most favorable audit opinion an entity can receive. John Manning of Pattillo, Brown and Hill LLP, will be present to give a brief presentation regarding the annual audit. The Comprehensive Annual Financial Report (CAFR) for Fiscal Year ended September 30, 2017 is an exhibit to the staff report. A public copy of the CAFR is also available for review in the Finance Department, City Secretary's Office and Library. The CAFR will also be available on the City's website after acceptance by City Council.

EXECUTIVE SESSION

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.**

Reconvene into open session for possible action resulting from any items posted and legally discussed in Executive Session.

ADJOURNMENT

ADJOURNED AT:



City Hall is wheelchair accessible. Access to the building and special parking are available at the southeast entrance facing Chambers Street. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's Office at 817/645-0908 or by FAX 817/556-8848 at least two (2) working days prior to the meeting so that appropriate arrangements can be made.