



REGULAR CITY COUNCIL MEETING AGENDA

JUNE 12, 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
- ✓ Fritz Quast, City Attorney

II. INVOCATION by Pastor Jeremy Johnson, The Heights Church

III. PLEDGE OF ALLEGIANCE

IV. COMMUNITY INTEREST MATTERS, ANNOUNCEMENTS & PRESENTATIONS

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 MAY 22, 2018 COUNCIL MEETING.

RS1. A RESOLUTION AUTHORIZING AN EXTENSION OF THE BANK DEPOSITORY AGREEMENT WITH FIRST FINANCIAL BANK THROUGH JUNE 30,

2019.

Person presenting this item: Terry Leake, Director of Finance

BRIEF: The depository contract was awarded to First Financial Bank in June 2014 for two years with the option of three one-year extensions. This would be the third and final one-year option to extend. First Financial Bank has continued to provide excellent service to the City during prior and current contract periods.

OR1. AN ORDINANCE AMENDING THE FY 2018 ANNUAL BUDGET (#10) 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.

These transfers are deemed appropriate to be made by the City Manager for City Council approval and the June 2018 transfers are described as follows:

- City County Transportation (0859) to transfer funds for repairs of the office safe, printing costs for rack card brochures information to be placed in health care facilities regarding transportation services, update to diagnostic scanning equipment for recently acquired buses (\$2,600).
- The Depot (1769) to transfer funds for various inspection fees and registration for elevators and wheelchair lifts, fire alarm, and landscaping (\$2,829).

OR2. AN ORDINANCE APPROVING THE APPOINTMENT OF RITA PAPAJOHN AND DARLA PEEVEY AS ASSOCIATE MUNICIPAL COURT JUDGES.

Person presenting this item: Terry Leake, Director of Finance

BRIEF: The City of Cleburne's Municipal Court became a Court of Record in 2013 with the adoption of Ordinance 03-2013-11. Included in the Ordinance is the provision for appointment by the City Council of an Associate Judge(s), and below is an excerpt from the Code of Ordinances:

§ 30.16 MUNICIPAL COURT JUDGE; VACANCIES; ASSOCIATE JUDGE.

(B) If a vacancy occurs in the office of a Municipal Judge of a court of record, the City Council shall by ordinance appoint a qualified person to fill the office for the remainder of the unexpired term. The City Council may appoint one or more qualified persons as an Associate Judge to be available to serve for a Municipal Judge who is temporarily absent due to illness, family death, continuing legal or judicial education programs, or any other reason. The Municipal Judge shall select one of the qualified persons appointed by the City Council to serve during the absence of the Municipal Judge. The Associate Judge, while serving as a Municipal Judge, has all the powers and shall discharge all the duties of a Municipal Judge. An Associate Judge must meet the qualifications prescribed for the Municipal Judge. The City Council shall set the compensation for the Associate Judge.

On May 24, 2018, City Council reappointed Michael Kurmes as Municipal Court Judge through

May 31, 2020. Judge Kurmes has requested that City Council appoint Rita Papajohn and Darla Peevey as Associate Judges to cover for when he is unavailable for court of magistrate duties. The term of both Associate Judges would be through May 31, 2020 and if their services are needed due to Judge Kurmes' absence, an Associate shall be compensated at a rate of \$150.00 per hour.

RESOLUTIONS

RS2. A RESOLUTION AUTHORIZING THE ADOPTION OF A REVISED TAX ABATEMENT POLICY.

Person presenting this item: Grady Easdon, Economic Development Manager

BRIEF: Tax Abatements have been shown to be an effective and oftentimes necessary tool in the recruitment and retention of commercial and industrial business due to the highly-competitive environment in attracting new business to Cleburne. The current policy was last updated in July 2015, and Section 312.002 of the Tax Code requires renewal and adoption every two years. Staff enlisted EDT Best Practices, LLC to analyze, review, and make recommendations for revisions to the policy. That review has been completed and suggested revisions have been made for Council consideration with the primary changes being:

- 1) Objectives of the Policy are more clearly defined and expanded
- 2) A general reorganization of Policy topics was performed in order to create a more logical flow to the document
- 3) A "No Obligation Clause" has been added, which more clearly explains that City is under no obligation to offer incentives to any applicant
- 4) A section devoted to "Business Retention" has been added, which expands upon reasoning for offering incentives for retention and expansion of existing businesses
- 5) Definitions within the Tax Abatement Tables have been updated to more clearly define what the percentages being abated are based upon
- 6) The "Definitions" section has been expanded, and some definitions have been refined (e.g. "FTE's, or "Full Time Equivalent Employees" in place of "Jobs")
- 7) An "Administrative Procedures" section has been added, that more fully outlines the application and review process
- 8) A "General Provisions" section has been added, which covers the topics of Policy Expiration and Amendments to the Policy

RS3. A RESOLUTION AUTHORIZING A DEVELOPMENT AGREEMENT WITH DILLER'S BARBER SHOP, 202 EAST CHAMBERS STREET, UNDER THE TERMS OF THE FAÇADE IMPROVEMENT INCENTIVE PROGRAM.

Person presenting this item: Grady Easdon, Economic Development Manager

BRIEF: Diller's Barber Shop, located at 202 East Chambers Street, has submitted an application under the terms of the City's Façade Improvement Program seeking funds to repaint the side of their building (facing Anglin Street) to match the front. Under the terms of the Program, up to 50% of eligible project costs are reimbursable up to a maximum of \$5,000. Total cost of this project is \$1,400; therefore \$700 would be the maximum match by the City.

RS4. A RESOLUTION ESTABLISHING A WORKING COMMITTEE TO REVIEW AND MAKE RECOMMENDATION TO THE CITY COUNCIL REGARDING THE

CITY'S LOGO AND TAG LINE; AND APPOINTING A COUNCIL MEMBER TO SERVE ON THE COMMITTEE.

Person presenting this item: Steve Polasek, City Manager

BRIEF: The City currently has a logo and tag line that was developed several years ago and is used in conjunction with the Chamber of Commerce. While the logo may still be viable, the Council may wish to have a working committee review the current offerings and develop additional options for consideration. The reasoning behind this effort is to ensure that the city's "brand" going forward accurately represents the community by not only reflecting on our past, but also projecting an image of our future. All initial work would be completed in-house by the committee and assigned staff.

If approved as proposed, the working committee would consist of the following members:

1. Mayor – Committee Chair
2. City Council Member
3. Cleburne Chamber of Commerce Board Representative
4. Cleburne Chamber of Commerce Staff Representative
5. Cleburne ISD Board Representative
6. Cleburne ISD Staff Representative
7. Community Representative
8. City staff member (Committee liaison / non-voting)
9. City staff member (Committee liaison / non-voting)

The committee would be charged with the following:

Using a variety of participation and input methods, the Committee shall engage in a formal process to develop and bring forth to the full City Council no less than two logo designs with corresponding tag lines that identify Cleburne's past while pointing to our future. The logo should be recognizable as representing "Cleburne" and have the ability to be easily transferable in a variety of uses to include, but not limited to, vehicles, street signs, water towers, wayfaring signs, letterhead, etc. The design should be one that can be applied throughout the city with the intent of creating a formal brand that is easily identifiable and projects a positive image of our community.

The recommendations of the Committee shall be finalized and ready to be presented to the City Council by no later than September 11, 2018. The term for the Committee members ends on September 30, 2018 or on another date as may be determined by City Council.

RS5. A RESOLUTION AUTHORIZING APPLICATION AND ACCEPTANCE OF FUNDS FOR REPORT MANAGEMENT SYSTEM UPGRADES FOR CLEBURNE POLICE DEPT FROM THE OFFICE OF THE GOVERNOR, CRIMINAL JUSTICE DIVISION – NIMS ROUND III SOLICITATION.

Person presenting this item: Rob Severance, Chief of Police

BRIEF: Consider grant application to the Office of the Governor - Criminal Justice Division for \$126,510 to upgrade to a new Report Management System to improve NIBRS reporting capabilities and communication between partner agencies in Johnson County. Transitioning to a new system and joining a county-wide RMS consortium will improve Cleburne's NIBRS reporting capabilities, bring consortium partners into NIBRS compliance, and improve information sharing and regional cooperation between law enforcement agencies in Johnson County. While there is no grant match required, there are additional funds required to complete the project that are not covered by the grant. The grant will not cover the costs associated with training and implementation for the new system (\$77,600), installation of fiber optic line to establish connectivity (\$41,920), or the fees associated with the consortium (\$30,766.)

There are additional costs associated with the implementation of this project that have been requested through the budget process \$77,600 associated with training and implementation costs. On

6/4/18 CPD was notified by CJD that the installation of the fiber line would not be a grant eligible expense, in the amount of \$41,920. There will be recurring costs associated with the fiber line to connect to the system as well as the annual fees to participate in the consortium. The expected annual costs after implementation should not exceed \$56,183.92. For reference, we pay our current provider \$109,000 annually.

ORDINANCES

OR3. AN ORDINANCE APPROVING PETITION FOR VOLUNTARY ANNEXATION OF APPROXIMATELY 43 ACRES LOCATED IN THE C CHANEY SURVEY (6 ACRES IN TRACT 13A, ABSTRACT 124 AND 36.99 ACRES IN TRACT 25, ABSTRACT 124) GENERALLY LOCATED NORTH OF 1601 EAST HENDERSON STREET, SOUTH OF CR 805 AND WEST OF FERGASON ROAD AND SAID TRACTS ARE CONTIGUOUS TO THE CITY LIMITS AND EXCLUSIVELY IN THE CITY'S ETJ; AS REQUESTED BY TOLBERT MAYFIELD OF MAYFIELD FAMILY REAL ESTATE LP.

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

BRIEF: A petition for voluntary annexation has been filed with the City by the owners of an approximately 43-acre tract of land, generally located north of 1601 E. Henderson St., south of C.R. 805, and west of Fergason Rd., contiguous to the City of Cleburne. The applicant is requesting that the property be annexed and become part of the City pursuant to Section 43.028 of the Texas Local Government Code. Pursuant to Section 43.063 of the Texas Local Government Code, the City Council is required to hold two public hearings before it may initiate annexation proceedings for the property and said public hearings were held during regular council meetings on May 8, and May 22, 2018.

OR4. *PUBLIC HEARING* AN ORDINANCE APPROVING PETITION FOR VOLUNTARY ANNEXATION OF APPROXIMATELY 100 ACRES LOCATED IN THE P.W. BREWER SURVEY (BEING 99.221 ACRES IN TRACT 1, ABSTRACT 38) GENERALLY LOCATED NORTH OF OLD FOAMY ROAD, EAST OF SOUTH NOLAN RIVER ROAD, AND SOUTH OF BROWNING LANE AND SAID TRACT IS CONTIGUOUS TO THE CITY LIMITS AND EXCLUSIVELY IN THE CITY'S ETJ; AS REQUESTED BY SAM KERBEL OF KERBEL GROUP, LLC.

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

BRIEF: A petition for voluntary annexation has been filed with the City by the owners of an approximately 100-acre tract of land, generally located north of Old Foamy Road, east of South Nolan River Road, and south of Browning Lane, contiguous to the City of Cleburne. The applicant is requesting that the property be annexed and become part of the City pursuant to Section 43.028 of the Texas Local Government Code. Pursuant to Section 43.063 of the Texas Local Government Code, the City Council is required to hold two public hearings before it may initiate annexation proceedings for the property. The public hearings will be held on June 12th and June 19th, with the adoption of the annexation ordinance scheduled for July 10, 2018.

The applicant has indicated the intent to develop a residential subdivision on the subject property. The subject property is located within the Sustainable Community district, and single-family residential uses are considered appropriate. The adjacent property to the north is currently developed with single-family residential homes, making the proposed land use consistent with the surrounding development patterns. The subject property appears to be adequately served by City water and sewer

service.

OR5. AN ORDINANCE APPROVING AN APPLICATION FOR A SPECIAL EXCEPTION USE PERMIT FOR THE REDUCTION IN REQUIRED PARKING SPACES AT 2012 WEATHERFORD HWY, AS REQUESTED BY BORAL RESOURCES, LLC, REPRESENTED BY TY KOELKER.

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

BRIEF: Section 155.16 to the Code of Ordinances permits an applicant to submit a request for a Special Exception Use Permit, to reduce the required number of parking spaces on commercial or industrial property. Such request has been received from Boral Resources, LLC, for the property located at 2012 Weatherford Highway, the future location of a proposed fly ash storage facility. Per City Ordinance, 35 parking spaces are required for the 30,000 square foot storage building and 920 square foot office space. The applicant is requesting a reduction of 23 spaces to provide a maximum of 12 parking spaces on the subject property. The applicant has indicated that the total number of employees on site at any given time will be three (3). The requested reduction in parking should not adversely impact the operation of the proposed business, nor to the surrounding properties.

The proposed facility will contain two storage silos at a height of approximately 167 feet tall. Given the location and height of the proposed silos, and the proximity to the Depot at Cleburne Station, the applicant has proposed to include logos for both the City of Cleburne and Cleburne ISD on the largest silo. The inclusion of the logos will provide branding for the City and Cleburne ISD, and potentially improve the visual aesthetics of the silos.

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.**

A. § 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. *Carlos E. Casas v. City of Cleburne, et al.*, Civil Action No. 3:16-CV-00675' in the United States District Court for the Northern District of Texas, Dallas Division; *Carlos E. Casas v. City of Cleburne*, Case No. 11352 in the U.S. Fifth Circuit Court of Appeals.
2. *Carlos E. Casas v. City of Cleburne, et al.*, Cause No. DC-C201500816 in the 18th District Court of Johnson County, Texas.
3. *City of Cleburne v. Alden Nellis*, Cause No. DC-C201600306 in the 18th District Court of Johnson County, Texas.

4. *Alden Nellis v. City of Cleburne, et al.*, Cause No. DC-C201800361 in the 249th District Court of Johnson County, Texas.

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.