



**REGULAR CITY COUNCIL MEETING AGENDA**  
**OCTOBER 23, 2018**  
**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, SMD 1
- ✓ Gayle White, SMD 2
- ✓ Dale Sturgeon, Mayor Pro Tem
- ✓ John Warren, SMD 4

Administration:

- ✓ Steve Polasek, City Manager
- ✓ Fritz Quast, City Attorney

**II. INVOCATION** by Pastor Clyde Slimp, Westhill Church of Christ

**III. PLEDGE OF ALLEGIANCE**

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

- ☆ Proclamation – Honor Our American Military Veterans Days, November 10-12, 2018
- ☆ Proclamation – National American Indian Heritage Month, November 2018
- ☆ Presentation – Certificate of Achievement for Excellence in Financial Reporting

**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 OCTOBER 9, 2018 COUNCIL MEETING.**

**BQ1. APPROVE PURCHASE OF TWO SCAG TURF TIGER II MOWERS FROM TOP EQUIPMENT (BUYBOARD CONTRACT #529-17) FOR AN AMOUNT NOT TO EXCEED \$21,868.80 TO BE USED AT THE CLEBURNE SPORTS COMPLEX, AS RECOMMENDED BY THE 4B ECONOMIC DEVELOPMENT BOARD OF DIRECTORS.**

Person presenting this item: Aaron Dobson, Parks and Recreation Director

**BRIEF:** The purpose of this item is to replace two (2) 61" zero turn mowers purchased in 2012 for the Sports Complex. The current mowers are exclusively used at the Sports Complex and are nearing the end of their life span. They require more maintenance each year which decreases their in-service time. The City of Cleburne staff have found Buy Board pricing for the replacement mowers and the total purchase will be \$21,868.80. The 4B Economic Development Board considered and approved this purchase at their meeting on October 15, 2018.

**RS1. A RESOLUTION AUTHORIZING AN ENTERPRISE SERVICE AGREEMENT WITH CHARTER COMMUNICATIONS OPERATING, LLC (SPECTRUM IS OPERATING SUBSIDIARY) FOR FIBER INTERNET CONNECTION BETWEEN CITY OF CLEBURNE AND CITY OF BURLESON POLICE DEPARTMENT BUILDINGS FOR AN AMOUNT NOT TO EXCEED \$96,000.**

Person presenting this item: David Raybuck, IT Director

**BRIEF:** The City Council recently authorized an interlocal agreement with the City of Burleson for access to the shared public safety software used by many law enforcement agencies in Johnson County that participate in the consortium. This requires a 1Gb wired fiber internet connection between the Cleburne and Burleson police department buildings. A request for proposal was issued to meet competitive purchasing requirements, and recommend the five-year contract to Charter Communications Operating, LLC. This is a monthly recurring cost of \$1,400 with an estimated start date of February 1, 2019.

**RS2. A RESOLUTION AUTHORIZING AMENDMENT TO INTERLOCAL AGREEMENT WITH JOHNSON COUNTY SPECIAL UTILITY DISTRICT FOR SEWER BILLING SERVICES.**

Person presenting this item: Terry Leake, Director of Finance

**BRIEF:** Within the Cleburne city limits, there are currently active water accounts (13 accounts) that receive water service from Johnson County Special Utility District (JCSUD) and sewer service from the City of Cleburne. On November 8, 2016, City Council approved an interlocal agreement whereby JCSUD bills the City charges for sewer on the JCSUD water bill and remits the City's portion back to the City after customer payment on the account. The existing interlocal agreement also contains the provision to bill for additional services such as the drainage utility fee and refuse service fees currently billed with the sewer charges.

The purpose for the existing interlocal agreement was that in the event that a customer is delinquent, JCSUD has the ability to shut off water service on the customer account until the bill is paid for both JCSUD water and City sewer. As there is no shut-off valve for sewer service, the City's only recourse on delinquent sewer accounts was to file a lien on the property.

Due to projected growth, JCSUD has requested an amendment to the existing interlocal agreement. Currently, the City pays JCSUD a \$5.00 monthly billing fee per account. JCSUD is proposing the following per account fee structure in the new agreement as shown in the table below:

JCSUD's billing service rates/customer	
Number of Customers	Rate/Customer
10 to 50	\$5.00
51 to 299	\$3.00
300 to 599	\$2.00
600 +	\$1.50

While this would not have an effect in lowering the cost per customer currently, as more homes and businesses are built in the area served by JCSUD, the City's monthly cost would be lower than the cost in the existing agreement.

**RS3. A RESOLUTION AUTHORIZING AMENDMENT TO COMMUNICATION SYSTEM AGREEMENT WITH JOHNSON COUNTY ALLOWING THE CITY TO OPERATE RADIOS ON COUNTY-OWNED SYSTEM.**

Person presenting this item: Rob Severance, Chief of Police

**BRIEF:** The County has determined the fee needs to be increased to offset increases by the County in the operation and management of the system from \$16.95 per month per radio to \$19.35 per month per radio, effective October 1, 2018. The difference is approximately \$3,428 more for the City of Cleburne. Funding for the agreement has been provided in the Fiscal Year 2019 General Fund Police Department Budget.

**OC1. APPROVE ACCOUNTS PAYABLE FOR THE MONTH OF SEPTEMBER 2018.**

Person presenting this item: Terry Leake, Director of Finance

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**RESOLUTIONS**

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**RS4. A RESOLUTION AUTHORIZING 380 AGREEMENT WITH GARZA GROUP LLC FOR DOWNTOWN BUILDING REHABILITATION REIMBURSEMENT GRANT FOR PROPERTY LOCATED AT 114 E CHAMBERS ST.**

Person presenting this item: Grady Easdon, Economic Development Manager

**BRIEF:** Colby Garza with Garza Group, LLC, has submitted an application seeking funds available under the Downtown Building Rehabilitation Matching Incentive Program ("Program") to be used toward the cost of installing a new HVAC system, constructing two restrooms, installation of new flooring, and other interior upgrades and repairs to the second floor of their building located at 114 E. Chambers St, which is the home of the former Yaya's restaurant. Total cost of this project is \$30,728.00. Under the terms of the Program, matching funds of 50% of total project cost (or \$15,364.00), are available if the application is approved.

**RS5. A RESOLUTION RESCINDING RESOLUTION RS03-2018-20 AND TERMINATING 380 AGREEMENT WITH GARZA GROUP LLC FOR DOWNTOWN BUILDING REHABILITATION REIMBURSEMENT GRANT FOR PROPERTY LOCATED AT 214 E CHAMBERS ST.**

Person presenting this item: Grady Easdon, Economic Development Manager

**BRIEF:** On March 13, 2018, Council approved a 380 Agreement with Garza Group for improvements to be made to property located at 214 E. Chambers St. under the terms of the Downtown Building Rehabilitation Matching Incentive Program. The grant was for installation of a new HVAC system and the work has not yet been performed. Under the Program guidelines, the applicant has one year from date of contract execution to complete the work requested. Garza Group has requested that this Agreement be terminated in anticipation of replacing it with another agreement that includes other construction work in addition to the new HVAC system.

**RS6. A RESOLUTION AUTHORIZING CHANGE ORDER #1 WITH CIRCLE H CONTRACTORS FOR THE SH 174 SOUTH SANITARY SEWER PROJECT FOR AN INCREASE OF \$65,685.22.**

Person presenting this item: Cheryl Taylor, Director of Engineering Services

**BRIEF:** The contract with Circle H Contractors, LP was awarded on October 24, 2017 for an amount not to exceed \$545,194.77 (base bid of \$495,631.61 with 10% contingency of \$49,563). This change order in the amount of \$65,685.22 would bring the total contract amount to \$561,316.83, exceeding the prior contract's maximum approved amount. The change order was needed because the original contract

anticipated open cut installation and boring without encasement would be feasible for the pipe installation. Field conditions made boring without encasement unachievable due to unforeseen obstructions and unstable ground conditions, thereby requiring boring with steel encasement, which is a more costly installation, but was necessary to complete construction. The change order also includes additional quantities of asphalt paving that exceeded the original contract quantity, but was needed to restore the existing streets and private parking lots to like to better condition. Staff recommends approval of this change order, as these items have been performed by the contractor.

The total contract amount for this project, including this change order, is \$561,316.83. Funding for the change order will be from the Series 2015 Water and Sewer Revenue Bonds, as this project was listed on that bond sale.

**RS7. A RESOLUTION AUTHORIZING A LICENSE AGREEMENT WITH UNITE PRIVATE NETWORKS TO CONSTRUCT FIBER FACILITIES IN THE CITY RIGHT-OF-WAY FOR CLEBURNE ISD.**

Person presenting this item: Cheryl Taylor, Director of Engineering Services

**BRIEF:** This license agreement allows Unite Private Network to install and maintain facilities for the Cleburne Independent School District within city right of way. The agreement outlines construction, permitting, insurance and bonding requirements, as well as repair and restoration of the right of way after installation or maintenance work. The request from Unite Private Network is for a term of 20 years solely for work for CISD, and does not allow Unite Private Network to sell service to other entities outside of the school district without approval from the City Council.

**RS8. A RESOLUTION AUTHORIZING THE ASSIGNMENT OF THE STADIUM LEASE AGREEMENT FROM CLEBURNE RAILROADERS BASEBALL, LLC TO CLEBURNE BASEBALL, LLC, APPROVING AN ESTOPPEL CERTIFICATE RELATING TO SAME.**

Person presenting this item: Steve Polasek, City Manager

**BRIEF:** The Cleburne Railroaders baseball team is in the process of being sold by Neltex and Cleburne Railroaders Baseball, LLC to Cleburne Baseball, LLC, a group led by New Era Partners. As part of the sale, the City must consider and approve the transfer of the stadium lease. On October 3, 2018, Cleburne Baseball, LLC, was approved as a member of the American Association of Independent Professional Baseball and has entered into a league affiliation agreement. Pending approval of the transfer of the lease agreement, the parties involved anticipate finalizing the sale of the team within the coming week.

The proposed lease agreement has been reviewed by the City Attorney and updated to address current conditions and provide for minor clarifications. It remains relatively unchanged with the exception of the following substantive alterations:

1. Article II, Sec. 2.1, Term – Revises the expiration date from December 31, 2027 to December 31, 2029, essentially providing new Tenant with the same ten year time frame as afforded in the initial lease.
2. Article II, Sec. 2.4 Annual Lease and Marketing – Revises the rent payment schedule as follows and requires minimum annual marketing expenditures. In return for the reduction in annual rent, the Tenant shall expend a minimum of \$25,000 annually for years one through five (2019-2023) of this Agreement on marketing the Demised Premises, the baseball team, and programs, events and activities occurring on the Demised Premises. Marketing is an area with opportunity for significant growth and can provide positive benefits for the community as a whole.

	<i>Current</i>	<i>Proposed</i>	<i>Marketing</i>
2017	\$0	\$0	
2018	\$0	\$0	
2019	\$25,000	\$0	\$25,000
2020	\$50,000	\$25,000	\$25,000
2021	\$75,000	\$50,000	\$25,000

2022	\$100,000	\$75,000\$25,000
2023	\$100,000	\$75,000\$25,000
2024	\$100,000	\$100,000
2025	\$100,000	\$100,000
2026	\$100,000	\$100,000
2027	\$100,000	\$100,000
2028	\$100,000	\$100,000
2029	\$100,000	\$100,000
<b>Total</b>	<b>\$950,000</b>	<b>\$825,000 + \$125,000 = \$950,000</b>

Tenant shall provide to Landlord quarterly financial statements for marketing expenditures. Failure by the Tenant to expend \$25,000 annually in any given calendar year between 2019 and 2023 shall require the Tenant to pay to the Landlord the difference between the actual expenditures that calendar year and the required \$25,000. Such payment shall be due from the Tenant to the Landlord within sixty days following the end of a calendar year.

3. Article II, Sec. 2.5, Renewal Options – would extend the renewal term from five years to ten years.
4. Article X, Sec. 10.3, Electrical Services – The city may permit the stadium electrical services to be placed under the city’s electrical services contract. This will allow the Tenant to obtain lower electrical rates than what they currently receive. The Tenant would be required to first deposit \$25,000 in an account controlled by the city. The Tenant would be billed directly by the city and be solely responsible for all electrical costs related to the stadium. Additionally, the Tenant shall pay an administrative fee of \$5,000 per year for the privilege of being placed under the city’s electrical services contract.
5. Article XVIII, Sec. 18.14, Proceeds from Sale of Baseball Team – Provides language to more clearly define “gain on sale” and adds wording to the affect that Sec. 18.14 shall not apply so long as the Tenant is not in default, a minor league baseball team continues to play in the stadium and the first five years of the lease term have occurred. To clarify, if at any time the team is sold and leaves the stadium void of minor league baseball the city would retain its rights to receive proceeds from the sale of the team.

With regard to Article XVIII, Sec. 18.14, Proceeds from Sale of Baseball Team, as it pertains to the original/current ownership group (Neltex), they have agreed to escrow funds in the amount of \$200,000.00 at the time of closing. This allows council consideration of assignment of the stadium lease agreement to proceed while giving the city time to perform our review and due diligence to determine what, if any, proceeds are due the city because of the team’s sale. It should be noted, the current agreement does allow, and the city continues to retain, the ability to receive up to \$250,000.00 from the proceeds of the sale regardless of the escrow amount.

The Estoppel Certificate has been reviewed by the City Attorney and is essentially a signed statement by the City and Neltex/Cleburne Railroaders Baseball, LLC, certifying for the buyer’s benefit that certain facts are correct, a stadium lease exists, that there are no defaults, and that Tenant and Landlord are current on their obligations to a certain date.

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## ORDINANCES

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**OR1. \*PUBLIC HEARING\* AN ORDINANCE REZONING 207 W SMITH ST (BEING 0.11 ACRES) FROM C1 TO C3/SUP FOR A PLUMBING SHOP; AS REQUESTED BY JEFF & AMBERLY HADLEY.**

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

**BRIEF:** The applicant has requested to rezone approximately 0.11 acres from C1 (local business district) to C3/SUP (commercial district with a specific use permit for a plumbing shop). The applicant has requested to rezone the subject property to permit indoor storage of materials and equipment associated

with an existing plumbing business. The applicant proposes to continue use of the existing structure located on the subject property. No additional structures or outdoor storage are being requested. The Comprehensive Land Use Plan designates the subject property as Downtown TDA (Targeted Development Area) District. The proposed land use is an appropriate use in this District. The Planning and Zoning Commission considered this request at their October 8, 2018 meeting and recommended approval by a vote of 7-0.

**OR2. \*PUBLIC HEARING\* AN ORDINANCE REZONING 659 WOODARD AVE AND 1102 WILLIAMS AVE (BEING 3.08 ACRES) FROM SF4 AND C0 TO PD; AS REQUESTED BY FORRESTER CUSTOM HOMES, INC.**

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

**BRIEF:** This is a request to rezone the property located at 659 Woodard Ave. from the SF-4 (Single-Family Dwelling District) and C0 (Non-retail District) to PD (Planned Development District). The applicant is proposing to construct fourteen (14) duplexes and one (1) office/maintenance building. The proposal includes twenty-eight (28) individual units, each with two (2) single-car, attached garages.

The Comprehensive Land Use Plan shows this area to be primarily located within the City Center North District. Multi-Family uses are not considered appropriate in this district. A small portion of the property is located within the Traditional Neighborhoods District. Multi-Family land uses may be considered in this district as a Specially Permitted Use.

A PD allows for flexible project design by a developer, while meeting the overall community density and land use goals for the City. This is achieved by allowing the developer to propose customized zoning standards which may vary from the typical standards in a specific zoning district. A PD will typically include tradeoffs between the developer and the City with the goal and end result being a development that exceeds the minimum standards of a given zoning district. PDs are commonly used in residential developments. The advantages of a PD are increased control and discretion by the City, and assurances of the product delivered to the community. The ordinance adopted along with a PD codifies the agreed upon standards for the development, and often times includes great levels of detail.

The applicant has provided a Development Plan (attached) which includes detailed development standards, building elevations, aesthetic features, landscaping, conceptual site plan, and conceptual utility plan. As proposed, the current site plan meets all of the requirements of the zoning ordinance and no deviations are being requested.

The applicant is proposing to create two (2) multiple-family residential lots, 48,167 square feet, and 134,165 square feet respectively. The table below details the current minimum standards for the MF (Multiple-Family Housing District) and the D (Duplex or Two-Family Dwelling District) as compared to the proposed PD Development Standards. Items in bold exceed the minimum standards.

<b>PD Development Standards</b>			
Description	MF – Minimum Standards	D – Minimum Standards	PD – Proposed Standards
Minimum Lot Area (SF)	6,000	3,500	<b>48,167</b>
Minimum Lot Width	NA	NA	<b>92 ft</b>
Minimum Lot Depth	NA	NA	NA
Front Yard Setback	30 ft	30 ft	30 ft
Rear Yard Setback	20 ft	20 ft	20 ft
Side Yard Setback	7 ft	7 ft	<b>10 ft</b>
Side Yard - Adjacent to Street	NA	15 ft	NA
Minimum Living Area (SF)	800	850	<b>1,150</b>

**Proposed PD Standards Exceeding the Minimum MF and D Requirements:**

Community Architectural Standards – The MF and D zoning districts do not contain residential design



standards for development within these districts. The proposed PD standards include detailed residential design standards to ensure a specific quality product is constructed within this development. These standards include a minimum of 100 percent masonry or cementitious construction, with the front, left, and right exteriors being 100 percent brick veneer. The proposed building elevations are included in the agenda packet.

Open Space – The MF and D zoning districts do not require open space with new residential developments. The proposed development contains one (1) open space/common area approximately 4,400 square feet, (or 130' x 34').

Community Amenities – The applicant has proposed to include a small rock feature within the open/commons space for visual interest.

Landscaping – The MF and D zoning districts do not require landscaping with new residential developments. The proposed PD standards include planting of approximately fifty (50) trees ranging in size from one-inch to two-inch in diameter at the time of planting.

Perimeter Fencing/Screening – The MF and D zoning districts do not require perimeter fencing or screening. The applicant has proposed a six (6) foot wood fence with brick columns along Woodard Avenue. The applicant has also proposed installation of a six (6) foot wood fence along the west, and northern portion of the subject property.

Decorative Street Lighting – The applicant has proposed installation of decorative street lighting throughout the development.

Homeowners Association – The applicant has proposed the creation of a Homeowners Association which will maintain any common areas, landscaping, irrigation, and perimeter fencing.

The Planning and Zoning Commission considered this request at their October 8, 2018 meeting and recommended approval by a vote of 7-0, with the following conditions:

1. Sidewalks shall be installed along Woodard Ave and Williams Ave;
2. All utilities shall be underground; and
3. Formation of an HOA to maintain the property shall be required.

**OR3. \*PUBLIC HEARING\* AN ORDINANCE REZONING LOT 7, BLOCK 15R, TOWN NORTH ESTATES (BEING 3.33 ACRES LOCATED AT SE CORNER OF KILPATRICK AVE AND BROOKHAVEN DR; AS REQUESTED BY SVENDSEN PROPERTIES, LLC.**

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

BRIEF: This is a request to rezone the property located at the southeast corner of Kilpatrick Ave. and Brookhaven Dr. from C3 (commercial district) to PD (planned development district). The applicant is proposing to construct ten (10) single-family attached dwelling units. The proposal includes twenty (20) individual units, each with two (2) single-car, attached garages.

The Comprehensive Land Use Plan shows this area to be primarily located within the Traditional Neighborhoods District. Single-Family uses are considered appropriate in this district, and Multi-Family uses are considered a Specially Permitted Use.

The applicant has provided a Development Plan (attached) which includes detailed development standards, conceptual building elevations, landscaping, and a conceptual site plan.

The applicant has requested a Planned Development (PD) to allow deviations from the standard SF-A Single-Family Attached zoning district regulations. The table below details the current minimum standards for the SF-A (Single-Family Attached Dwelling District) as compared to the proposed PD Development Standards. Items in red fall below the minimum standards and items in bold exceed the minimum standards.

Description	SF-A – Minimum Standards	PD – Proposed Standards
Minimum Lot Area (SF)	3,500	3,500
Minimum Lot Width	30	NA
Minimum Lot Depth	NA	NA

Front Yard Setback	30 ft	20 ft
Rear Yard Setback	20 ft	20 ft
Side Yard Setback	7 ft	5 ft
Side Yard - Adjacent to Street	15 ft	15 ft
Minimum Living Area (SF)	850	1,229

**Proposed PD Standards Exceeding the Minimum SF-A Requirements:**

Community Architectural Standards – The SF-A zoning district does not contain residential design standards for development within this district. The proposed PD standards include residential design standards to ensure a quality product is constructed within this development. These standards include a minimum of 80-90 percent brick, and 10-15 percent stone with 30-year composition shingles. The proposed building elevations are included in the agenda packet.

Landscaping – The SF-A zoning district does not require landscaping with new residential development. The proposed PD standards include planting of one (1) tree in each front yard, landscaping in front of each structure, and irrigation throughout.

Perimeter Fencing/Screening – The SF-A zoning district does not require perimeter fencing or screening. The applicant has proposed a six (6) foot wood fence along Kilpatrick Road.

The Planning and Zoning Commission considered this request at their October 8, 2018 meeting and recommended approval by a vote of 6-1.

**OR4. AN ORDINANCE ACCEPTING BIDS FROM SECOND HIGHEST BIDDER AND APPROVING SALE OF REAL PROPERTY LOCATED AT 715 TURNER ST AND 913 PHILLIPS ST ACQUIRED AT DELINQUENT TAX SALE AND RESCINDING ORDINANCES OR05-2018-37 & OR05-2018-38.**

Person presenting this item: Shelly Doty, City Secretary

BRIEF: The City of Cleburne, for itself and the use and benefit of Johnson County, Hill College and the Cleburne ISD acquired title to the following properties at a Sheriff's sale:

- **715 Turner Street**, Lots 11A and 12, Block 111 College Heights, acquired on September 6, 2016, Cause No. DC-T201500230, Cleburne ISD vs. Tire Assets LLC
- **913 Phillips Street**, Lot 8 Block 4, A&S Addition, acquired on May 3, 2016, Cause No. T201300189, Cleburne ISD vs. Chris W. Stacks

On May 8, 2018, the Council awarded the sale of the above listed properties to the highest bidder, T. D. Curlee, by ordinances OR05-2018-37 (715 Turner St) and OR05-2018-38 (913 Phillips St). The City's delinquent tax attorney notified Mr. Curlee by certified letter dated October 1, 2018, that he had until October 15, 2018 to submit payment for these two properties or be in default on the bid. Mr. Curlee has not responded, therefore, staff would like to rescind both offers and offer these properties to the next highest bidder. Garza Group, LLC submitted bids for both properties: \$7,000 for 715 Turner St and \$7,500 for 913 Phillips St.

If approved and at time of sale, the City will receive \$2,376.58 for maintenance costs and \$1,013.72 in back taxes for 715 Turner St and \$2,206.68 for maintenance costs and \$1,055.03 for back taxes for 913 Phillips St.

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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.**



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:**