



## REGULAR CITY COUNCIL MEETING AGENDA

**JUNE 11, 2019**

**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
- ✓ Chris Boedeker, SMD 2
- ✓ Mike Mann, SMD 3
- ✓ John Warren, Mayor Pro Tem

#### **Administration:**

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

### **II. INVOCATION by Rev. Mike Mizell, Bethel Temple Assembly of God**

### **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.

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### **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 28, 2019 COUNCIL MEETING.**

#### **RS1. A RESOLUTION AUTHORIZING A CONTRACT WITH FIRST FINANCIAL BANK FOR BANKING DEPOSITORY SERVICES.**

Person presenting this item: Troy Lestina, Director of Finance

**BRIEF:** The City advertised for depository and banking services on April 27<sup>th</sup> and May 4<sup>th</sup>. The City received one proposal which was evaluated by members of the Finance staff. Staff recommends that the City Manager be granted the authority to negotiate and execute a contract with First Financial Bank for the City's depository and banking services. First Financial Bank currently provides these services to the City and through their proposal have indicated their desire to continue to provide the necessary banking services at the lowest, most responsible cost.

**OR1. AN ORDINANCE AMENDING THE ANNUAL BUDGET FOR FISCAL YEAR 2019 (#7), 4B SALES TAX CORPORATION BUDGET IN THE AMOUNT OF \$14,658 TO REVISE THE APPROPRIATION FOR REPLACEMENT OF THE COMPETITIVE POOL DIVING BOARD BASE AT SPLASH STATION.**

Person presenting this item: Troy Lestina, Director of Finance

**BRIEF:** The competition pool diving board base at Splash Station was discovered to need removal and replacement. On this evening's Council agenda is an agenda item for approval of a proposal in the amount of \$14,658 to Sunbelt Pools for the removal and replacement of the competition pool diving board. As the proposal is \$14,658 greater than the amount budgeted for the project, it is requested that the Fiscal Year 2019 4B Sales Tax Corporation Fund Budget Splash Station Department line item account number 0956-8419 be amended from \$143,984 to \$158,642 to provide the necessary funding for the proposal. This proposed budget amendment was discussed with the 4B Economic Development Corporation Board at their May 16, 2019 meeting. It was approved unanimously, and recommended to be presented to City Council for their approval

The proposed 4B Corporation Fund budget amendment in the amount of \$14,658 will revise the total adopted 4B Corporation Fund budget of \$3,246,776 (Ordinance OR09-2018-64) to \$3,261,434. Anticipated funding source for the budget amendment is the Corporation's ½ cent sales tax receipts which are exceeding projected budget performance by 6.1% or \$169,636.00.

**OR2. AN ORDINANCE ESTABLISHING THE CLASSIFICATION AND NUMBER OF POSITIONS OF FIREFIGHTERS AND POLICE OFFICERS FOR THE CITY OF CLEBURNE, PURSUANT TO CHAPTER 143 OF THE TEXAS LOCAL GOVERNMENT CODE.**

Person presenting this item: Debra Powledge, Director of Human Services

**BRIEF:** The City of Cleburne is a Civil Service City, which means we are regulated by Section 143 of the Texas Local Government Code. Section 143.021 of the Texas Local Government Code requires the municipality's governing body to establish classifications by ordinance. The governing body shall prescribe the number of positions in each classification. We refer to this as the "Strength of Force Ordinance".

There is a Corporal retiring at the end of June. It has been the intent of Council to eliminate the Corporal positions through attrition and replace them with Officer positions. The proposed ordinance increases the Police Officer by 1 to 39 officers, leaving only 1 Corporal position with a total department of 55 positions.

No changes are being requested to the Fire Department staffing levels. Staff recommends passage of this ordinance as presented.

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## RESOLUTIONS

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**RS2. A RESOLUTION AUTHORIZING A CONTRACT RENEWAL WITH PATTILLO, BROWN & HILL LLP FOR AUDITING SERVICES FOR FISCAL YEAR ENDING SEPTEMBER 30, 2019 FOR AN AMOUNT NOT TO EXCEED \$56,700.**

Person presenting this item: Troy Lestina, Director of Finance

**BRIEF:** On June 13, 2017, the City Council approved a contract with Pattillo, Brown & Hill L.L.P. to provide audit services over a term of five years. This is the third year of the five-year audit engagement contract and the cost of audit services would be increased 3% annually, per the terms of the resolution. Included in the audit engagement contract is auditing of all City funds, audit services for federally required single audit programs, Texas Commission on Environmental Quality computation assurances, issuance of a HUD SAS29 letter at a cost of \$51,700, and preparation and printing of the Comprehensive Annual Financial Report by the firm at an annual cost of \$5,000.

The audit engagement letter for Fiscal Year 2019 is included in the backup. Incorporated into the engagement letter is a copy of Pattillo, Brown & Hill, L.L.P.'s most recent peer review. Peer Review is a periodic outside review, performed by another accounting firm, of a firm's quality control system in accounting and/or auditing. Peer reviews maintain and improve the quality of the auditing services performed by firms. The firm received a peer review of pass, which is the highest rating that a firm can receive.

**RS3. CONSIDER A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN ELECTRICITY CONTRACT AGREEMENT FOR THE CITY.**

Person presenting this item: Troy Lestina, Director of Finance

**BRIEF:** In August of 2015, City staff reviewed offerings from several energy advisory companies and "5" was selected due to offering far more service options to assist the City with various cost saving strategies. Prior to working with "5", the City procured its electrical supply from TCAP. The contract with TCAP ended in December 2017. The rate paid at that time was \$0.07445 per kWh. "5" assisted the City in securing a contract with GLO at a rate of \$0.04438 per kWh. This has resulted in significant savings over the previous contract. "5" provides the City with regular electricity market updates. Our current agreement expires in approximately three (3) years.

Due to historic low rates in out years, City staff in collaboration with "5's" advice recommends authorizing the City Manager to enter into a future contract with an electricity supplier now in order to take advantage of this market opportunity. The ability to enter into an agreement would allow the city to lock in rates for future years closer to \$0.03 per kWh upon the

expiration of our existing agreement.

Section 252.022 of the Local Purchasing Code exempts procurement of utility services from the formal bidding process; so all competitive purchasing requirement have been met.

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## ORDINANCES

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**OR3. \*PUBLIC HEARING\* AN ORDINANCE AMENDING TITLE XV: LAND USAGE, CHAPTER 154: SUBDIVISIONS, BY ADDING SECTION 154.028: ROUGH PROPORTIONALITY, REPEALING SECTION 154.064: PERIMETER STREETS, AND AMENDING SECTION 154.089: IMPROVEMENTS TO EXISTING OFF-SITE STREETS; PROVIDING FOR ROUGH PROPORTIONALITY DETERMINATIONS FOR ALL PLAT AND DEVELOPMENT APPLICATIONS.**

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

**BRIEF:** This ordinance makes several amendments to the subdivision ordinance (Chapter 154 of the Cleburne City Code). Specifically, the ordinance adds a new section 154.028 which creates a procedure for developers to appeal city-engineer determinations when they believe a development requirement amounts to an exaction-type taking. An exaction taking is a type of regulatory taking. An exaction is where a government conditions granting a permit, plat or other approval, on an exacting something from the approval-seeking landowner. Exactions are not limited to dedications of real property, and can occur when the property owner is forced to pay fees for future public improvements or spend money to improve existing public improvements.

The ordinance addresses or avoids unconstitutional exactions in the context of requiring developers to construct or repair off-site streets as a condition of plat approval. All developers must provide access to the development, but must also evaluate the adequacy of existing roads. For developments of a certain size, the developer must submit a traffic impact analysis to help the city engineer evaluate the new development's impact on existing streets, and also provide the basis for the proportion to be applied to any street costs or dedications.

Also, the ordinance deletes section 154.064 which had a less-flexible rule which required most perimeter streets surrounding a development to be improved, including installing curb and gutter, absent a waiver of the requirement by the city council.

The City Attorney's Office has reviewed and approved the proposed amendment

**OR4. AN ORDINANCE APPROVING THE RESALE OF CERTAIN REAL PROPERTY ACQUIRED AT DELINQUENT TAX SALES AND AWARDED HIGH BIDS RECEIVED ON MAY 10, 2019; AUTHORIZING THE MAYOR TO EXECUTE DEEDS AND AUTHORIZING THE RELEASE OF ALL LIENS AND ENCUMBRANCES HELD BY THE CITY AGAINST SAID PROPERTIES.**

Person presenting this item: Ivy Peterson, 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 certain tracts of real estate at Sheriffs' sales. It is in the best interest of the City and its taxpayers to return these properties to a productive use. Therefore, staff requested Perdue Brandon Fielder Collins & Mott, LLP to conduct a "Tax Resale" event allowing bids to be received for these struck-off properties. Received bids were opened on May

10, 2019 and the results are as follows:

- **1001 N Border St**, Lot 9, Block 125, Original Town Cleburne. Cause #T200900422 received on December 17, 2014; high bidder, G & G Investment Properties, LLC \$6,000.00 City to receive \$1,781.33 in maintenance fees, \$828.38 in back property taxes upon completion of resale.
- **1003 N Border St**, Lot 10, Block 125, Original Cleburne, Cause #T200900422 received on December 17, 2014; high bidder, G & G Investment Properties, LLC \$6,000.00. City to receive \$1,781.33 in maintenance fees, \$828.39 in back property taxes, upon completion of resale.
- **785 Chase Ave**, Lot 2 Block 190, Original Cleburne, Cause #T201200124 received on December 29, 2019, high bidder Garza Group, \$7,500.00. City to receive \$854.81 in maintenance fees, \$889.37 in back property taxes, and \$741.82 in excess funds upon completion of resale.
- **787 Chase Ave**, Lot 1 Block 190, Original Cleburne, Cause #T201200124 received on December 29, 2017, high bidder Garza Group, \$12,500.00. City to receive \$854.81 in maintenance fees, \$889.37 in back property taxes, and \$2,186.94 in excess funds upon completion of resale.
- **1012 N Robinson St**, Lot 5 Block 126, Original Cleburne, Cause #T201400376 received on November 20, 2015, high bidder Homes MX2, LLC., \$15,000. City to receive \$1,859.62 in maintenance fees, \$1,163.41 in back property taxes and \$3,159.47 in excess funds.
- **1307 N Robinson St**, Lot 15, Block 145, Original Town Cleburne Cause #T201100364 received on November 19, 2014, high bidder, Garza Group, \$11,500. City to receive \$5,086.02 in maintenance fees, \$867.13 in back property taxes, and \$579.62 in excess funds upon completion of resale.

As detailed above, the total amount to be received by the City is \$12,217.92 in maintenance fees, \$5,466.05 in back taxes and \$6,667.85 in excess funds upon completion of these resales.

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## OTHER COUNCIL MATTERS

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### **OC1. APPOINTMENT OF COUNCIL MEMBERS TO THE TYPE A ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS.**

Person presenting this item: Ivy Peterson, City Secretary

**BRIEF:** The Type A EDC was created in 2015 to act on behalf of the City to develop, implement and manage development of the Cleburne Station project. According to the Certificate of Formation, the Board is composed of five (5) persons serving two-year terms and are eligible for reappointment. Terms begin July 1st of each year, with alternating appointments in odd and even years as shown below.

Place	Current Directors	Term Expires	Action	New Term Expires
1	Scott Cain	2019	Reappointment	2021
2	Robert Kelly	2020	No action	
3	Gayle White	2019	Appointment	2021

4	Dale Sturgeon	2020	Appointment	2020 (unexpired term)
5	John Warren	2019	Reappointment	2021

Staff presents this item for the consideration of persons serving in Places 1, 3, 4, and 5: reappointment Mayor Cain and Mayor Pro Tem Warren for a two-year term; appointment Councilman Boedeker for a two-year term and Councilman Mann one-year to fill an unexpired term. The Board meets on an as-needed basis at 4:30pm at City Hall and is typically scheduled preceding a regular council meeting.

**OC2. APPOINTMENT OF COUNCIL MEMBERS TO THE 4B ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS.**

Person presenting this item: Ivy Peterson, City Secretary

**BRIEF:** The 4B EDC was created in 2001 to act on behalf of the City to develop, implement, provide, and finance projects under Section 4B of the Development Corporation Act. The Board is composed of seven (7) members serving two-year terms, three (3) councilmembers and four (4) residents at-large. Terms begin/expire in September of each year, with alternating appointments in odd and even years.

Current Directors	Term Expires	Action	New Term Expires
Gayle White	2019	Appointment	2021
Dale Sturgeon	2019	Appointment	2021

Staff presents this item for consideration for filling two vacant positions. Both appointments are for a two-year term. The Board meets on the third Thursday at 5:00pm on an as-needed basis.

**OC3. APPOINTMENT OF COUNCIL MEMBERS TO THE TAX INCREMENT FINANCING REINVESTMENT ZONE BOARD OF DIRECTORS FOR DISTRICTS ONE, TWO AND THREE.**

Person presenting this item: Ivy Peterson, City Secretary

**BRIEF:** : Councilmembers' terms on the three TIF boards either expire this month or a vacancy was created due to newly elected officials. The appointments to consider are as follows:

Board	Current Directors	Term Expires	Action	New Term Expires
TIF #1	Gayle White	Jun 2019	Appointment	Jun 2021
	John Warren	Jun 2019	Reappointment	Jun 2021
TIF #2	Robert Kelly	Jun 2020	No Action	
	Dale Sturgeon	Dec 2019	Appointment	Dec 2019 (unexp. term)
TIF #3	Gayle White	Jun 2019	Appointment	Jun 2021
	Dale Sturgeon	June 2019	Appointment	Jun 2021

Staff presents this item for consideration for the reappointment of Mayor Pro Tem Warren on the

TIF#1 Board and appointment of Councilmembers to fill the vacancies listed above.

These boards work with staff concerning the project and finance plan for the area encompassed by the boundaries of the TIF Zone: TIF #1 – Industrial Park, TIF #2 – Downtown and TIF #3 – Chisholm Trail Parkway. The Board meetings are held on an as-needed basis, usually during the lunch hour.

**OC4. APPOINTMENT OF A COUNCIL MEMBER TO THE CEMETERY ADVISORY BOARD TO FILL AN UNEXPIRED TERM.**

Person presenting this item: Ivy Peterson, City Secretary

**BRIEF:** The Cemetery Advisory Board was created for the purpose of providing support to the Cemetery Department and its services. This board consists of five (5) members being three (3) residents, one (1) funeral home director and one (1) Councilmember.

Current Director	Term Expires	Action	New Term Expires
Gayle White	2020	Appointment	2020 (unexpired term)

Staff presents this item for consideration to appoint a Councilmember to fill the unexpired term left by former Councilwoman White. Meetings are held quarterly or as needed at the Cemetery Office, 405 Watters Street.

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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. § 551.071. 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. 614 North Brazos Avenue, Ovation Service, LLC v Lindell Wright, etal
2. Discuss status of property located at 515 Santa Fe Street

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:**



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.