



## REGULAR CITY COUNCIL MEETING AGENDA

**AUGUST 27, 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/SMD 4

#### **Administration:**

- ✓ Steve Polasek, City Manager
- ✓ Fritz Quast, City Attorney
- ✓ Ivy Peterson, City Secretary

### **II. INVOCATION by Pastor Tom McNutt, First Church of the Nazarene**

### **III. PLEDGE OF ALLEGIANCE**

### **IV. CITY SECRETARY READS THE GUIDELINES TO SPEAK BEFORE COUNCIL**

### **V. CITIZENS COMMENTS**

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

### **VI. COMMUNITY INTEREST MATTERS, ANNOUNCEMENTS & PRESENTATIONS**

- ☆ Presentation – July All Star to Jeremy Hill, Sanitation Department
- ☆ Presentation – Quarterly Economic Development Update, Grady Easdon, Economic Development Manager

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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. CONSIDER MINUTES FOR THE AUGUST 13, 2019 COUNCIL MEETING.****RS1. CONSIDER A RESOLUTION AUTHORIZING RENEWAL OF THE INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR THEIR ANNUAL CONTRIBUTION TO CITY/COUNTY TRANSPORTATION.**

Person presenting this item: Troy Lestina, Director of Finance

**BRIEF:** City/County Transportation wishes to renew its annual Interlocal Agreement with Johnson County for their annual contribution to the program. The County requested in December 2011 to enter into an Interlocal Agreement with the City of Cleburne each year, since the annual contribution is based on population and is subject to fluctuate due to population changes. Each year, Johnson County contributes funds to the daily operation of City/County Transportation. These funds assist City/County Transportation with the local match portion that is required by our federal grant funds. Johnson County's annual contribution for Fiscal Year 2020 will be \$59,889.00. Upon approval by City Council, the signed Interlocal Agreement will be submitted to Johnson County Commissioners' Court for inclusion on their agenda for approval and execution at the next Commissioners' Court meeting immediately following their receipt of the signed Agreement.

**OR1. CONSIDER AN ORDINANCE AMENDING FY2019 BUDGET (#10) BY APPROVING THE CITY MANAGER'S LINE ITEM BUDGET TRANSFERS FOR THE MONTH OF AUGUST 2019.**

Person presenting this item: Troy Lestina, 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.

Included in the backup are the Departmental Line Item Budget Transfer Request forms for the month of August 2019. These transfers are deemed appropriate to be made by the City Manager for City Council approval.

**OC1. CONSIDER ACCOUNTS PAYABLE FOR THE MONTH OF JULY 2019.**

Person presenting this item: Troy Lestina, Director of Finance

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**RESOLUTIONS**

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**RS2. CONSIDER A RESOLUTION AUTHORIZING A CONTRACT WITH BAR CONSTRUCTORS, INC. FOR THE CONSTRUCTION OF THE WATER TREATMENT PLANT CLARIFIER NO. 2 LAUNDER REPLACEMENT PROJECT, FOR AN AMOUNT NOT TO EXCEED \$381,000.**

Person presenting this item: Jeremy Hutt, Director of Public Works

**BRIEF:** Sealed bids were solicited for the construction of the Water Treatment Plant Clarifier No. 2 Launder Replacement Project. Bids were received from four (4) contractors. Freese and Nichols, the project engineer, reviewed the bids and verified references. The lowest, most responsible bid was received from BAR Constructors, Inc., in the amount of \$381,000.

**RS3. CONSIDER A RESOLUTION AUTHORIZING THE APPLICATION FOR A HISTORIC USE PERMIT FROM PRAIRIELANDS GROUNDWATER CONSERVATION DISTRICT FOR THE CITY OWNED WATER WELLS.**

Person presenting this item: Jeremy Hutt, Director of Public Works

**BRIEF:** The Prairielands Groundwater Conservation District (“District”) was created by the 81st Texas Legislature in 2009 and has been delegated the responsibility of conserving, preserving, protecting, and recharging the groundwater in Ellis, Hill, Johnson, and Somervell counties under the authority of Chapter 36 of the Texas Water Code. State law requires the District to implement a permitting system for water wells.

The District is now accepting applications for Historic Use Permits from well owners and operators in Ellis, Hill, Johnson, and Somervell counties. Well owners must file an application for a Historic Use Permit with the District by September 1, 2019, or risk losing your right to be protected as a historic user. According to the District, “The Historic Use Permit is the best way to ensure that the District may protect your rights and your investment in your well against future well owners and operators is to obtain a Historic Use Permit.”

The City received notice of the implementation of the Historic Use Permit on July 31, 2019 and have been working to complete and submit the application prior the September 1, 2019 deadline. The City of Cleburne owns and operates seven (7) water wells throughout the City. These water wells are currently used for irrigation purposes and provide a limited emergency water supply.

If the City fails to apply for a Historic Use Permit on or before September 1, 2019, the City shall forfeit their right to make any future claim or application to the District for a Historic Use Permit. The City also has ability to apply for an Operating Permit from the District that authorizes production from the groundwater wells in addition to the Historic Use Permit.

The District is also changing their billing policy, meaning that the City will be responsible for payment of the permitted volumes regardless of the actual use of the groundwater versus the previous District billing policy of paying for only the groundwater that was used. This policy shift will require payment for the permitted volume, regardless of actual use.

Staff is suggesting that the Historical Use Permit level be established at the 2014 volume of 13,246,072 gallons, the highest use in the past five years. This will allow for continued

irrigation purposes and provide a limited emergency water supply. Any groundwater used beyond the permitted level is subject to the Fee and Penalty Schedule for the District.

**RS4. CONSIDER A RESOLUTION APPROVING 2019 RATE ADJUSTMENT OF 1.5% ACCORDING TO THE CONSUMER PRICE INDEX FOR COMMERCIAL SOLID WASTE SERVICES; AS REQUESTED BY WASTE CONNECTIONS (DBA PROGRESSIVE WASTE SOLUTIONS).**

Person presenting this item: Jeremy Hutt, Director of Public Works

**BRIEF:** The Cleburne City Council approved a contract with Waste Connections (dba Progressive Waste Solutions) on June 10, 2014. The term of the agreement is for a period of ten (10) years, concluding on August 31, 2024. According to Section 8 of the approved contract, a yearly price increase based on the Consumer Price Index (CPI) as well as an Operating Cost Adjustment can be requested by the service provider. The service provider previously requested and was granted a rate increase based on the CPI in 2017, which went into effect on January 1, 2018. No other rate increases have been implemented since 2014.

City staff received a notice of a rate increase based on the CPI for a total of 1.5%. If approved, that the rates take effect on October 1, 2019.

**RS5. CONSIDER A RESOLUTION APPROVING AN OPERATING COST ADJUSTMENT OF 3.0% FOR COMMERCIAL SOLID WASTE SERVICES; AS REQUESTED BY WASTE CONNECTIONS (DBA PROGRESSIVE WASTE SOLUTIONS).**

Person presenting this item: Jeremy Hutt, Director of Public Works

**BRIEF:** The Cleburne City Council approved a contract with Waste Connections (dba Progressive Waste Solutions) on June 10, 2014 for a period of ten (10) years, concluding on August 31, 2024. According to Section 8 of the approved contract, a yearly price increase based on the Consumer Price Index (CPI) as well as an Operating Cost Adjustment can be requested by the service provider. The service provider previously requested and was granted a rate increase based on the CPI in 2017, which went into effect on January 1, 2018. No other rate increases have been implemented since 2014.

City staff received a rate increase request on July 8, 2019 for 3.0% in addition to the Consumer Price Index (CPI) increase. If approved, the new rates take effect on October 1, 2019.

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## ORDINANCES

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**OR2. CONSIDER AN ORDINANCE AMENDING TITLE XV: LAND USAGE, CHAPTER 154: SUBDIVISIONS OF THE CODE OF ORDINANCES, IN ACCORDANCE WITH NEW LEGISLATION (HB3167) RELATING TO THE PLATTING PROCESS.**

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

**BRIEF:** The 86<sup>th</sup> Legislative Session produced many bills that affect municipal governments, impeding local control, and ultimately placing greater burdens on city resources. One of the most

significant bills to affect Cleburne's development process is House Bill 3167. HB 3167 was approved and signed into law on June 14, 2019 and becomes effective September 1, 2019. The bill has been referred to as the "Shot Clock" bill, due to the requirements for cities to take action on plats and plans within 30 days. Although HB 3167 is a large and ambiguous bill, the substantive provisions are as follows:

- Adds and defines "plan" to the section. Previously the section only referred to plats.
- Action must be taken within 30 days of the plat or plan being filed.
- Actions the approving body may take include:
  - Approve
  - Approve with Conditions
  - Disapprove
- Approval with conditions, or disapproval require specific ordinance citations defining the deficiency. Upon resubmittal, the applicant is only required to correct the deficiencies detailed in the original approval with conditions or disapproval letter.
- Cities may not establish a deadline for resubmittals following approval with conditions, or disapproval.
- Following an action of approval with conditions, or disapproval, and upon receipt of revised plans, cities must "take action" within 15 days from the date of receipt.
- No waivers to the "shot clock" are permitted.
- Allows for one 30-day extension, only at the request of the applicant.
- Removes the requirement for public hearings for replats

HB 3167 fundamentally changes the development process and the way cities do business regarding plats and related plans. Cities across Texas have been working diligently to revise processes and procedures, amend ordinances, and develop a reasonable plan of action in light of the new legislation. City staff has been working closely with the City Attorney to develop the necessary ordinance amendments, and have worked internally on updates to processes and procedures.

Staff anticipates the changes will create a process that complies with HB 3167, with a minimal amount of disruption to the development process. However, there will be some significant procedural changes in response to HB 3167. One change worth noting is that incomplete applications will no longer be accepted; this is only one of the unintended consequences of the bill. HB 3167 limits a city's ability to work with the development community during the platting process. Prior to HB 3167, if an applicant arrived at the front counter to submit an application and the applicant was missing a piece of information, staff would accept the application and work with the applicant to collect any missing documents during the review process. This will no longer be the practice following the passage of HB 3167.

In response to HB 3167 staff has developed, or is working on the following ordinance amendments, and process changes to comply with the new law. Ordinance amendments are attached for your review.

**Ordinance Amendments:**

- Amend Section 154.005 – Sequence of Events - to require approved civil construction plans prior to acceptance of Final Plat application. Where civil construction plans are not required, the City Engineer will provide a letter stating as such.
- Amend Section 154.006 – Exceptions to Sequence - Amend the flow chart to reflect the process change outlined in 154.005.

- Amend Section 154.027 - Minor Plats – This section will be revised to comply with state law.
- Add a New Section 154.029 - Amending Plats – Language will be added to reflect the provisions of state law.

**Internal Process Updates:**

- Update submittal schedule for plats to comply with state law
- Create/revise necessary forms and checklists
- Add completeness check at front counter prior to acceptance of applications
- Create self-service kiosk in Community Development Department to assist customers
- Disseminate information to applicants, surveyors, engineers, etc.
- Update website with new processes and procedures.

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**OTHER COUNCIL MATTERS**

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**OC2. \*PUBLIC HEARING\*** CONSIDER REPLAT OF LOT 7R AND LOTS 9-18, BLOCK 15R, TOWNE NORTH ESTATES, PHASE 2, SECTION 1, BEING ±3.323 ACRES, LOCATED AT THE SOUTHEAST CORNER OF WEST KILPATRICK AVENUE AND BROOKHAVEN DRIVE; AS REQUESTED BY HANSEN DEVELOPMENT SERIES, LLC, REPRESENTED BY THOMAS ROYCE HANSEN.

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

**BRIEF:** The request is for approval of a replat for Lot 7R and Lots 9-18, Block 15R of Towne North Estates, Phase 2, Section 1, for ten (10) lots. The Future Land Use Plan designates this property to be located within the Traditional Neighborhoods District. The replat meets the intent of the Future Land Use Plan and meets all of the minimum requirements as outlined in Chapter 154 of the Code of Ordinances and the Planned Development Ordinance No. OR10-2018-83. The Planning and Zoning Commission considered this request at their August 12, 2019 meeting and recommended approval by a vote of 7-0.

**OC3. \*PUBLIC HEARING\*** HOLD FIRST OF TWO PUBLIC HEARINGS FOR PUBLIC INPUT ON THE 2019 PROPOSED TAX RATE OF \$0.773206 PER HUNDRED DOLLARS OF VALUATION AS REQUIRED BY CHAPTER 26 OF THE TEXAS TAX CODE.

Person presenting this item: Troy Lestina, Director of Finance

**BRIEF:** Chapter 26, Texas Property Tax Code requires taxing units to comply with “Truth-in – Taxation” laws in setting tax rates. The calculated FY 2020 (Tax Year 2019) effective tax rate is \$0.727714. The proposed rate for Fiscal Year 2020 is \$0.773206 per \$100 of valuation. On August 13, 2019, the City Council adopted a resolution stating its intent to adopt a tax rate of \$0.773206. This rate has been lowered from Fiscal Year 2019. As this current and proposed tax rate of \$0.773206 is higher than the effective tax rate of \$0.727714, legislation requires that the City Council hold two public hearings to provide the public the opportunity to speak on the proposed tax rate. This is the first of the two public meetings on the proposed tax rate, prior to the meeting to adopt the tax rate. The second meeting will be held on Tuesday September 3,

2019 at 5:00pm, during a special called council meeting. As required by law, the City published the “Notice of 2019 Tax Year Proposed Property Tax Rate for the City of Cleburne” on August 20, 2019 in the Cleburne Times-Review.

As a point of reference, the effective tax rate sets the interest and sinking rate (Debt Service rate) at \$0.140235. The remainder of the tax rate of \$0.632971 will be allocated to operations and maintenance (General Fund rate). The ordinance adopting the Fiscal Year 2020 tax rate will reflect these rates, as required by the effective tax rate calculation. The proposed FY 2020 tax rate is scheduled for City Council adoption at the regularly scheduled council meeting on September 10, 2019 at 5:00 p.m.

#### **OC4. CONSIDER APPOINTMENT OF MEMBERS TO THE CLEBURNE AUDIT COMMITTEE.**

Person presenting this item: Troy Lestina, Director of Finance

**BRIEF:** In 2011, the City Council created an Audit Committee and on April 28, 2015 revised the membership of the Audit Committee to include the Mayor, a City Council Member, and the City Manager for a two year term. There is an Audit Committee Policy that was adopted administratively by staff that contained the following: responsibilities, membership composition, term of membership, and selection process of the Committee:

- Serve as a communications link between the City’s external auditors and the City Council.
- Meet as needed with the external auditors to establish the scope of the annual audit, complete the annual audit and plan for subsequent annual audits.
- Ensure the external auditors are provided an independent reporting structure
- Ensure that the City utilizes the services of auditors that are both independent and competent.
- Review management letter and ensure staff is taking corrective measures
- Members to be selected by the City Council and serve for a period of two years.
- The Mayor, City Manager and a Council member make up the membership of the Committee.
- The Mayor will be appointed as Chairperson of the Audit Committee.

Staff is seeking that City Council appoint the following members of the Audit Committee as provided for in the Audit Committee Policy for a term of two years:

- Mayor (Chairperson)
- City Council Member
- City Manager

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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. Discuss Cause No. DC-C201800428, Maria Ortiz, as next friend to J.D., a minor child v. City of Cleburne, in the 413<sup>th</sup> District Court, Johnson County, Texas
2. Update on 802 North Granbury 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.