



REGULAR CITY COUNCIL MEETING AGENDA
SEPTEMBER 10, 2019
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, 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 J. D. Wright, North Cleburne Church of Christ

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

- ☆ Proclamation – U. S. Constitution Week, September 17-23, 2019
- ☆ Proclamation – POW_MIA Recognition Days, September 10-20, 2019
- ☆ Recognition – 911 Remembrance – Moment of Silence

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. CONSIDER MINUTES FOR THE AUGUST 27, 2019 REGULAR COUNCIL MEETING AND SEPTEMBER 3, 2019 SPECIAL COUNCIL MEETING.

RS1. CONSIDER A RESOLUTION AFFIRMING THE ANNUAL REVIEW OF THE INVESTMENT STRATEGY AS PART OF THE INVESTMENT POLICY FOR THE CITY OF CLEBURNE.

Person presenting this item: Troy Lestina, Director of Finance

BRIEF: The Public Funds Investment Act, Government Code 2256, requires that public entities have an investment policy and have several provisions regarding permissible investments, diversification, ethics, training and reporting. There is a requirement in the Public Funds Investment Act, Government Code 2256.005 that the governing body review and affirm the investment strategy annually. The investment strategy by fund type (operating, debt service, debt service reserve, and special revenue/purpose) is contained in the City's investment policy (Page 8) adopted by City Council on July 12, 2016 (RS07-2016-51) for the Council's annual review and affirmation of the investment strategy. See linked Report for the full staff report.

RS2. A RESOLUTION ELECTING TO CONTINUE RECEIVING A SHARE OF BINGO PRIZE FEES COLLECTED BY LICENSED AUTHORIZED ORGANIZATIONS CONDUCTING CHARITABLE BINGO IN ACCORDANCE WITH SECTION 2001.502 OF THE OCCUPATIONS CODE.

Person presenting this item: Troy Lestina, Director of Finance

BRIEF: House Bill 914, passed by the 86th Texas Legislature amends Section 2001.502 of the Occupations Code to require licensed authorized organizations conducting charitable bingo to now send local governments 50% of the bingo prize fees that they collect to eligible local governments each quarter. By November 1, 2019, local governments must vote to approve to continue to receive its share of bingo prize fees collected after January 1, 2020.

RS3. CONSIDER A RESOLUTION AUTHORIZING AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR THE ROUTINE AIRPORT MAINTENANCE PROGRAM.

Person presenting this item: Sharlette Wright, Airport Manager

BRIEF: The grant is a 50/50 match from the Texas Department of Transportation that is received annually to help with the grounds, building and weather station maintenance. The grant amount is \$50,000.00. An example of the items covered are:

- Runway/taxiway light bulbs and fixtures
- Maintenance agreement for the weather station AWOS (Automated Weather Observation Station)
- Hangar/building maintenance
- Self Service fuel island repairs
- Crack sealing of runway, taxiway and aprons

All airside maintenance needs come first which are runway/taxiway lighting, pavements,

drainage and weather station. The items that directly relate to the travel of aircraft come first before other items are addressed.

OR1. CONSIDER AN ORDINANCE APPROVING THE RESALE OF CERTAIN REAL PROPERTY ACQUIRED AT A DELINQUENT TAX SALE FOR 912 N ROBINSON ST, AND 821 N WILHITE ST.

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. Bids were opened on August 2, 2019 and evaluated by Perdue and Staff. Below are the following bids for Council's consideration:

- **912 N Robinson St**, Lot 2 Block 122, Original Cleburne aka Lot 2, Block B, D J Brown's Addition, Cause #T201400098 acquired on June 29, 2016, high bidder is Homes MX2, LLC, for \$15,000.00. City is to receive \$2,879.52 in maintenance fees, \$577.37 in back property taxes, and \$2,757.06 in excess funds upon completion of resale.
- **821 N Wilhite St**, Lot 9, Block 116, Original Cleburne, Cause #T201100244 acquired on February 19, 2016; high bidder is Martha Miranda & Sara Moreno for \$12,501.00. City is to receive \$6,672.64 in maintenance fees, \$773.18 in back property taxes, and \$2,257.00 in excess fees upon completion of resale.

As detailed above, the total amount to be received by the City is \$9,552.16 in maintenance fees, \$1,350.55 in back taxes and \$5,014.06 in excess funds upon completion of these resales. Six properties were advertised, but due to some legal technicalities, only two of the six properties are being presented to council at this time. See linked Report for full staff report.

OC1. CONSIDER THE FINAL PLAT OF LOT 1, BLOCK 1, OF JOAQUIN MIRANDA ADDITION, BEING ±0.463 ACRE TRACT, LOCATED AT 831 FULLER AVENUE; AS REQUESTED BY JOAQUIN MIRANDA.

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

BRIEF: The applicant is requesting approval of a final plat for one (1) residential lot. The Future Land Use Map designates this property to be located within the Villages District. The final plat meets all of the minimum requirements as outlined in Chapter 154 of the Code of Ordinances. The Planning and Zoning Commission considered this request at their August 26, 2019 meeting and recommended approval by a vote of 5-0.

ORDINANCES

OR2. *PUBLIC HEARING* CONSIDER AN ORDINANCE REZONING ±12.953 ACRES, LOCATED AT 1401 N MAIN ST, FROM M1 (LIGHT INDUSTRIAL DISTRICT) TO PD (PLANNED DEVELOPMENT DISTRICT); AS REQUESTED BY KELLY WILLIAM ROGER, REPRESENTED BY BANNISTER ENGINEERING.

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

BRIEF: The applicant is proposing the base zoning of the SF-4 (Single-Family Dwelling District) with intent to construct single-family residential homes.

The property is currently zoned M1 (Light Industrial District) and is surrounded by SF-4 (Single-Family Dwelling District) to the north and south, while the properties to the west and east are zoned M1 (Light Industrial District). The surrounding land use is primarily single-family residential, within several established neighborhoods including Preston Meadow to the north. There is an apartment complex to the west and vacant land to the east. The property is currently unplatted and a preliminary plat and final plat are required for the development of the subject property. The applicant has submitted a preliminary plat to the City and it is currently under review. There are some engineering concerns related to drainage of the property that are currently being addressed. The site layout may potentially be affected based on said drainage requirements, however the applicant has indicated their intent to take the rezoning case forward for consideration.

The Future Land Use Plan shows this property to be located in the Traditional Neighborhoods District, whose purpose is to support future growth with family oriented development in a traditional neighborhood context. The proposed rezone request is consistent with the intent of the Traditional Neighborhoods District. See linked [Report](#) for full staff report detailing the Development Standards. The Planning and Zoning Commission considered this request at their August 26, 2019 meeting and recommended denial by a vote of 5-0.

OR3. *PUBLIC HEARING* CONSIDER AN ORDINANCE REZONING ±0.402 ACRE TRACT, LOCATED AT 205 ERIE ST, FROM C1 (LOCAL BUSINESS DISTRICT) TO MF (MULTIPLE-FAMILY HOUSING DISTRICT); AS REQUESTED BY VAQUERO HOME BUILDER, REPRESENTED BY EDGAR CHAVEZ.

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

BRIEF: The applicant has requested to rezone and indicated their intent to construct a multiple-family housing development, between eight (8) and sixteen (16) units in total. The property is currently platted as Lot 2R, Block 1, of The Turner Addition and is currently zoned C1 (Local Business District). The property is surrounded on all sides by the MF (Multiple-Family Housing District) and the surrounding land use is primarily single-family residential homes.

The Future Land Use Plan shows this property to be located in the Preservation District, whose purpose is to stabilize property values in the older neighborhoods of Cleburne with single-family residential development. The proposed rezone request to the MF District for a multiple-family housing development is not considered an appropriate use or a specially permitted use within the Preservation District.

The original request submitted by the applicant was a straight zoning change from C1 (Local Business District) to MF (Multiple-Family Housing District). The Planning and Zoning Commission considered this request at their August 26, 2019 meeting and moved to change the rezone request to the SF-4 (Single-Family Dwelling District). The recommendation for approval of the SF-4 District carried by a vote of 5-0.

OR4. CONSIDER AN ORDINANCE APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORP, MID-TEX DIVISION REGARDING THE COMPANY'S 2019 RATE REVIEW MECHANISM FILING.

Person presenting this item: Troy Lestina, Director of Finance

BRIEF: The City of Cleburne, along with 171 other Mid-Texas cities served by Atmos Energy Corporation, Mid-Tex Division ("Atmos Mid-Tex" or "Company"), is a member of the Atmos Cities Steering Committee ("ACSC"). In 2007, ACSC and Atmos Mid-Tex settled a rate application filed by the Company pursuant to Section 104.301 of the Texas Utilities Code for an interim rate adjustment commonly referred to as a GRIP filing (arising out of the Gas Reliability Infrastructure Program legislation). That settlement created a substitute rate review process, referred to as Rate Review Mechanism ("RRM"), as a substitute for future filings under the GRIP statute.

Since 2007, there have been several modifications to the original RRM Tariff. The most recent iteration of an RRM Tariff was reflected in an ordinance adopted by ACS members in 2018. On or about April 1, 2019, the Company filed a rate request pursuant to the RRM Tariff adopted by ASCS members. The Company claimed that its cost-of-service in a test year ending December 31, 2018, entitled it to additional system-wide revenues of \$70 million. Application of the standards set forth in ACSC's RRM Tariff required Atmos to reduce its request to \$54 million, \$39.3 million of which would be applicable to ACSC members. ASCS's consultants concluded that the system-wide deficiency under the RRM regime should be \$38.7 million instead of the claimed \$54 million. The amount of the \$38.7 million deficiency applicable to ACSC members would be \$28.2 million.

After the Company reviewed ACSC's consultants' report, ACSC's Executive Committee and the Company negotiated a settlement whereby the Company would receive an increase of \$35.4 million from ACSC Cities. The Executive Committee recommends a settlement at this amount. The Effective Date for new rates is October 1, 2019. See the linked [Report](#) for the full staff report.

OTHER COUNCIL MATTERS

OC2. *PUBLIC HEARING* CONSIDER THE REPLAT OF LOTS 1 AND 2, BLOCK 1, ALEMTHAN COMMERCIAL ADDITION, AN ADDITION TO THE CITY OF CLEBURNE, JOHNSON COUNTY, TEXAS, BEING A ±0.942 ACRE TRACT, LOCATED AT 1002 AND 1004 SPELL AVENUE, REQUESTED BY ALEMTHAN COMMERCIAL, LLC.

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

BRIEF: The applicant is requesting approval of a replat and has indicated that the existing land uses at the addresses listed above will remain. The applicant stated that there may be a possibility for development in the future but nothing planned at this time. The Future Land Use Plan designates this property to be located within the City Center North District and a small portion within the Central Corridor 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.

The Planning and Zoning Commission considered this request at their August 26, 2019 meeting and recommended approval by a vote of 5-0.

OC3. *PUBLIC HEARING* CONSIDER THE REPLAT OF 3R, BLOCK 1, OF VENTURI ESTATES, AN ADDITION WITHIN THE EXTRATERRITORIAL JURISDICTION (ETJ) OF THE CITY OF CLEBURNE, BEING A ±2.782 ACRE TRACT, LOCATED AT 4809 AND 4817 COUNTY ROAD 1115, AS REQUESTED BY MONTE AND TERESA JOHNSON, REPRESENTED BY JEREMY DEAL.

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

BRIEF: The applicant is requesting approval of a replat for one (1) lot for residential use, located within the City's ETJ. The Future Land Use Plan designates this property to be located within the Farmland Community District. The replat meets all of the minimum requirements as outlined in Chapter 154 of the Code of Ordinances. The Planning and Zoning Commission considered this request at their August 26, 2019 meeting and recommended approval by a vote of 5-0.

BUDGET AND TAX RATE

OR5. *PUBLIC HEARING* AN ORDINANCE ADOPTING AND APPROVING AN ANNUAL BUDGET FOR THE CITY OF CLEBURNE FOR FISCAL YEAR OCTOBER 1, 2019 THROUGH SEPTEMBER 30, 2020.

Person presenting this item: Steve Polasek, City Manager

BRIEF: In accordance with Section 6.2 of the City of Cleburne Charter, Preparation And Submission Of Budget, the City Manager filed the proposed budget on August 9, 2019 and presented it to the City Council at the August 13, 2019 City Council Budget work session. At the conclusion of the work session, City Council gave direction to the City Manager to move forward on September 10, 2019 for adoption of the proposed fiscal year 2020 budget as presented.

The proposed budget for fiscal year 2020 is based on conservative fiscal management practices and balances the needs of the community with available resources. It is founded primarily on the assumptions as discussed during the March 7, 2019 Council Workshop and the Strategic Plan, which outlines various projects addressing our key focus areas of Economic Development, Planning and Growth Management, Public Infrastructure Enhancements, Aesthetics/Quality of Life Programs, and Information Sharing/Communications.

Revenue:

- No planned tax rate increase
- Continue pursuit of economic development opportunities
- Fee schedule revisions as appropriate
- Water / Waste Water rate modifications (effective Jan. 1, 2020)
- Identify and implement operational cost savings initiatives
- Pursue grant opportunities
- Public / Private partnership opportunities

Expenditures:

- Continue to invest in our employees
 - Support current compensation plan
 - Adjust for cost of living expenses
 - Pay plan adjustments – specific job classifications
- Limited potential for new employees
 - Streets
 - Parks
- Invest in infrastructure, facilities, vehicles and equipment
- Enhance fund balance reserves where possible
- Next phase of design and engineering for sewer treatment plant expansion and renovations

Below are some, but not all, of the major proposed fiscal year 2020 city-wide capital purchases and large operating expenses:

- Replacement street sweeper
- Replacement sanitation truck
- Replaster the Competition Pool at Splash Station
- General Vehicle Replacement for Police, Fire, and Streets
- Update of Parks Master Plan
- Major Street Repair Projects
- Waste Water Treatment Plant Expansion Engineering
- Façade and downtown building rehabilitation improvement Programs

As a point of reference, this item is presented as a public hearing for compliance with Section 6.4 (Public Hearing on Budget) of the City of Cleburne Charter that states “At the time and place so advertised, or at any time and place to which such public hearing shall from time to time be adjourned, the Council shall hold a public hearing on the budget as submitted, at which all interested persons shall be given an opportunity to be heard for or against the estimates of any budget item thereof.” To be in compliance with this Charter requirement, at the August 13, 2019 City Council meeting, the City Council stated its intent to schedule and hold the public hearing to adopt the budget on September 10, 2019, at 5:00pm, a regularly scheduled meeting of the City Council. Additionally, for compliance with State law, a record vote must be taken on this proposed ordinance. The proposed ordinance includes the appropriation amounts for the following budgets: General Fund, Water/Wastewater Fund, General Debt Service Fund, 4B Sales Tax Fund, 4A Corporation Sales Tax Fund, Airport Fund, and Drainage Utility Fund.

OR6. AN ORDINANCE SETTING THE 2019 AD VALOREM TAX RATE AT \$0.773206 PER ONE HUNDRED DOLLARS PROPERTY ASSESSMENT AND LEVYING A TAX UPON ALL PROPERTY SUBJECT TO TAXATION WITHIN THE CITY OF CLEBURNE, TEXAS FOR FISCAL YEAR 2020.

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 proposed rate for 2019 is \$0.773206 per \$100 of valuation, which is the rate presented to the City Council at the August 13, 2019 budget workshop. This rate is lowered from 2018. The calculated 2019 effective tax rate is \$0.727714

per \$100 of valuation utilizing the July 25, 2019 certified tax roll.

As the proposed rate of \$0.773206 is higher than the effective tax rate of \$.727714, a city must take several actions for compliance with Chapter 26 of the Texas Property Tax Code. The City Council, must take a record vote to set the time, date and place of two public hearings for public comment on the proposed 2019 tax rate prior to the meeting for tax rate adoption. Resolution RS08-2019-55 was approved by City Council on August 13, 2019 setting the two required public hearings. As required by Section 140.010 of the Local Government Code, the "Notice of 2019 Tax Year Proposed Property Tax Rate for the City of Cleburne" containing information about the two public hearings was published in the Cleburne Times-Review on Tuesday, August 20, 2019. The two public hearings were held on Tuesday, August 27, 2019 at 5:00 p.m. (first required public hearing), and on Tuesday, September 3, 2019 at 5:00 p.m. (second required public hearing).

As a point of reference, the effective tax calculation rate sets the interest and sinking rate (Debt Service rate) at \$0.140235. The remainder of the tax rate of \$0.632971 and is allocated to operations and maintenance (General Fund rate). The ordinance adopting the 2019 Tax Rate reflects these rates, as required by the effective tax rate calculation.

RS4. CONSIDER A RESOLUTION RATIFYING THE PROPERTY TAX REVENUE INCREASE FOR THE FISCAL YEAR 2020 ANNUAL BUDGET, AS REQUIRED BY SECTION 102.007, CHAPTER 102: MUNICIPAL BUDGET OF THE LOCAL GOVERNMENT CODE.

Person presenting this item: Troy Lestina, Director of Finance

BRIEF: Chapter 102.007 Subsection (c) of the Local Government Code requires that after the adoption of a budget that will raise more property tax revenue than the last year's budget, a separate agenda item and vote is required for a City Council to ratify that revenue increase. This agenda item provides for that ratification of the proposed Fiscal Year 2020 General Fund budget, as the tax rate of \$0.773206 is lowered from the prior year, but property valuation increased by 9.32%, which produces a property tax revenue increase of \$739,323. The increase primarily provides funding for the acquisition of a replacement street sweeper and replacement equipment.

OR7. AN ORDINANCE ADOPTING A ONE-TIME SENIORITY PAY INCREMENT TO CIVIL SERVICE EMPLOYEES WHO ARE ON THE TOP STEP PLAN FOR THEIR RESPECTIVE RANK ON SEPTEMBER 30, 2019.

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

BRIEF: The City Manager desires to issue a one-time seniority payment to those Civil Service employees who are on the top step of the pay plan for specific ranks on September 30, 2019. This ordinance should not be construed to increase or alter the step pay plans for the fire or police departments.

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. Discuss hangar lease agreement with RT General, LLC

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.