



REGULAR CITY COUNCIL MEETING AGENDA
SEPTEMBER 24, 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 Rev Daniel Hawkins, First United Methodist Church

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 - Waste Water Treatment Plant Expansion and Re-Use Line Funding, Jim Sabonis, Hilltop Securities, Inc

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 SEPTEMBER 10, 2019 COUNCIL MEETING.**RS1. CONSIDER A RESOLUTION AUTHORIZING INTERLOCAL AGREEMENT WITH THE CITY OF ROCKWALL, TEXAS FOR COOPERATIVE PURCHASING.**

Person presenting this item: Troy Lestina, Director of Finance

BRIEF: : The City of Cleburne and the City of Rockwall desire to cooperate on select governmental purchases in order to enjoy greater economy of scale and thereby reduce prices for certain commodities and services used by both governmental entities. The City of Cleburne and the City of Rockwall will engage in the purchase of items and services that are used by both entities and as jointly agreed upon by the purchasing officers of both entities. As a general rule, the governmental entity that uses the most of a particular commodity or service will be the lead agent in making a joint purchase. Each entity will be responsible for payment of its portion of the proportionate purchase costs directly to the vendor.

RS2. CONSIDER A RESOLUTION AUTHORIZING CONTRACTS FOR THE ANNUAL SUPPLY OF WATER TREATMENT PLANT CHEMICALS.

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

BRIEF: Annual contracts for bids that were originally awarded in 2018 are eligible for the second of three (3) possible 12-month renewals for the following chemicals as pricing will remain the same:

Item Description	Bidder Name	Item Cost
Sodium Bisulfite	Calabrian Corp	\$0.327 per pound
Potassium Permanganate	Brenntag	\$102.81 per 55 pound container
Anti-Foam Concentrate	Brenntag	\$606.32 per 55 gallon container
Powder Activated Carbon	Brenntag	\$39.49 per 50 pound bag

The following contracts for three chemicals were not able to be renewed at the original pricing, therefore they were advertised for bid by the City. A total of six (6) vendors provided bids for the materials and the lowest, most responsible bidder for each chemical is:

Item Description	Bidder Name	Item Cost
Liquid Ferric Sulfate	Pencoco	\$189 per ton
Chlorine Liquefied Gas	DPC	\$719 per ton
Liquid Ammonium Sulfate	Brenntag	\$1.10 per gallon

The contracts for the three chemicals that were rebid, are fixed for a 24-month term to coincide with the original chemical contract.

OR1. CONSIDER AN ORDINANCE AMENDING THE ANNUAL BUDGET FOR FISCAL YEAR OCTOBER 1, 2018 TO SEPTEMBER 30, 2019 (#11) BY APPROVING CITY MANAGER'S LINE ITEM BUDGET TRANSFERS FOR THE MONTH OF SEPTEMBER 2019.

Person presenting this item: Troy Lestina, Director of Finance

BRIEF: The primary reasons for operational overruns by department during the current fiscal

year are as follows:

- Non-Departmental – Payment of unused vacation and sick time for retirements and resignations of long term staff members.
- Sanitation – A greater amount of expenditures at the Transfer Station and the other sanitation services, due to greater amount of trash hauled, grinding and landfill charges.

Transfers to General Capital Projects Fund (Fund 53) from the General Fund:

- To preserve unspent street maintenance funds appropriated in the Fiscal Year 2019 General Fund budget for future street maintenance needs, the proposed ordinance contains a provisions that the City Manager is authorized to transfer the unspent balance of Street Department account 0179-8467 Maintenance and Repair – Streets, Curbs and Alleys to the General Capital Projects Fund (Fund 53) for future street repair projects.

As there are sufficient savings in various departments that had position vacancies during the fiscal year and operational expenditure savings, which yielded sufficient savings in funds to cover the expenditure overruns and the transfer to Fund 53, therefore the net budget adjustment is \$0 with no increase to the overall General Fund budget total

OC1. CONSIDER ACCOUNTS PAYABLE FOR THE MONTH OF AUGUST 2019.

Person presenting this item: Troy Lestina, Director of Finance

OC2. CONSIDER FINAL PLAT OF LOT 1, BLOCK 1, ETHAN C. FORRESTER ADDITION, BEING ±3.39 ACRES, GENERALLY LOCATED AT 659 WOODARD AVE AND 1102 WILLIAMS AVE; AS REQUESTED BY FORRESTER CUSTOM HOMES.

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

BRIEF: The applicant is requesting approval for one (1) lot with the intent to construct duplexes as outlined in Planned Development Ordinance No. OR10-2018-85, site layout attached for reference. The Future Land Use Plan designates this property to be located within the City Center North District and a small portion within the Traditional Neighborhoods District. The final plat 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. OR10-2018-85. The Planning and Zoning Commission considered this request at their September 9, 2019 meeting and recommended approval by a vote of 4-0.

RESOLUTIONS

RS3. CONSIDER A RESOLUTION ACCEPTING THE CAPITAL IMPROVEMENT ADVISORY COMMITTEE'S IMPACT FEE PROGRAM SEMI-ANNUAL PROGRESS REPORT.

Person presenting this item: Cheryl Taylor, Director of Engineering

BRIEF: Pursuant to Chapter 395 of the Texas Local Government Code, the City of Cleburne Capital Improvements Advisory Committee (CIAC) is required to file semiannual reports to the City Council on the administration of the city's impact fee program.

Staff provided the first semi-annual presentation of revenues and expenditures for water, wastewater, and roadway impact fees to the CIAC on July 8, 2019. The CIAC's recommendation on the City of Cleburne's water, wastewater, and roadway impact fee program is to continue forward with no changes at this time, and is included in their report to the City Council.

ORDINANCES

OR2. CONSIDER AN ORDINANCE AMENDING TITLE XI: BUSINESS REGULATIONS, CHAPTER 110: AMBULANCES, SECTION 110.020: CITY AMBULANCE SERVICE FEES, OF THE CODE OF ORDINANCES; PROVIDING FOR A CHARITY CARE POLICY.

Person presenting this item: Scott Lail, Director of Fire Services

BRIEF: The Ambulance Supplemental Payment Program (ASPP) is a federally-funded program designed to offset a portion of the payment shortfalls of Medicaid patients that are transported by ambulance. The Center for Medicare and Medicaid Services (CMS) requires EMS providers participating in the ASPP to have a Charity Care policy in place to distinguish the costs that will be included in the program. Beginning October 1, 2019, the reimbursement methodology will be revised to reimburse providers for uncompensated Charity Care costs only and will no longer include the reimbursement of Medicaid shortfall cost. Cleburne Fire is currently a participant in the ASPP. Failure to implement a Charity Care policy will cause Cleburne Fire to lose that status. Depending on the number of qualified transports, the City could lose as much as \$35,000 per year in federal funding.

OR3. CONSIDER AN ORDINANCE AMENDING TITLE IX: GENERAL REGULATIONS, CHAPTER 104: ALARMS, TO AMENDING RULES AND REGULATIONS FOR ALARM SYSTEMS THAT OPERATE WITHIN THE CORPORATE CITY LIMITS OF CLEBURNE.

Person presenting this item: Rob Severance, Director of Police Services

BRIEF: : The amendments of Chapter 104, "Alarms" in Title IX of the Code of Ordinances include creating a new subdivision, "Offenses" and a new subdivision, "Penalty." The update includes guidelines for offenses and proposed permit fee changes.

OR4. CONSIDER AN ORDINANCE AMENDING TITLE V: PUBLIC WORKS, CHAPTER 50: GARBAGE AND TRASH, SECTION 50.06: RATES FOR HAULING AND DISPOSING OF GARBAGE BY AMENDING RATES FOR COMMERCIAL CONTAINER SERVICE.

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

BRIEF: On August 27, 2019, the City Council approved a rate adjustment with Waste Connections (dba Progressive Waste Solutions) in the amount of 4.5% on both the commercial refuse collection rate and the rate paid by the City to remove solid waste from the transfer station. This code amendment reflects this increase and is effective October 1, 2019.

OR5. CONSIDER AN ORDINANCE AMENDING TITLE V: PUBLIC WORKS, CHAPTER 51: WATER AND SEWER, SECTION 51.030: RATES FOR TREATED WATER SERVICE FOR THE BRAZOS RIVER AUTHORITY'S RATE PASS THROUGH.

Person presenting this item: Troy Lestina, Director of Finance

BRIEF: This ordinance will allow for the pass through of the Brazos River Authority budgeted increases on an annual basis. This ordinance allows staff to calculate the appropriate rate increase to pass through to the City's water customers. Annually, staff will determine the total dollar amount of the Brazos River Authority increase and divide that amount by the number of accounts then divide that amount by 12 to determine the monthly base rate increase. This base rate increase would apply to all customers regardless of meter size. Brazos River Authority has annual budgeted rate increases in order to pay for future planned infrastructure to the Brazos River Authority system

OR6. CONSIDER AN ORDINANCE AMENDING TITLE V: PUBLIC WORKS, CHAPTER 51: WATER AND SEWER, SECTIONS 51.030: RATES FOR TREATED WATER SERVICE AND 51.031: RATES FOR WASTEWATER SERVICE.

Person presenting this item: Troy Lestina, Director of Finance

BRIEF: This ordinance follows the recommendation and proposal presented in March 2019 City Council workshop to increase the water and wastewater monthly base charge in order to fund the Waste Water Treatment Plant Expansion and Re-use Line project. The City will borrow \$41,000,000 from the Texas Water Development Board to construct these projects. The City will fund the projects by increasing the waste water base charge by \$1.50 in FY 2020 to \$14.08, by \$1.50 in FY 2021 to \$15.58 and \$1.50 in FY 2022 to \$17.08 on all accounts. The water base rates will increase on accounts with a water meter 1" and larger. This proposal to increase the water base rate charges excludes churches, multi-family, Cleburne ISD, City and residential accounts. At the time of the presentation, there were approximately 369 accounts that would be affected by the water base rate charge and approximately 10,700 residential accounts affected by the wastewater base rate charge.

OR7. PUBLIC HEARING* CONSIDER AN ORDINANCE GRANTING A SIGN VARIANCE FOR AN ELECTRONIC MESSAGE BOARD FOR PROPERTY LOCATED AT 200 S NOLAN RIVER RD; AS REQUESTED BY FIRST CHRISTIAN CHURCH.

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

BRIEF: First Christian Church has submitted a formal request for a variance to permit an electronic message board on the property located at 200 South Nolan River Road. As requested, the proposed electronic message board will be embedded into the existing ground sign.

Section 156.10 Appeals and Variances of the Sign Ordinance states that the City Council may grant variances to the provisions of the sign ordinance for all sign types, when the variance does not:

1. *Augment or increase the types of signs permitted by this chapter for location within the street interface zone (Internal Setback Envelope);*
2. *Increase the permitted area of a pole sign by more than 10% without amendment of this chapter;*
3. *Decrease the setback or separation standards for billboards without amendment of this chapter; or*
4. *Allow an applicant to reuse a pole that is currently located within the street interface zone and/or has not been structurally certified by a registered engineer as structurally capable of accommodating the new use.*

The proposed variance request is not in conflict with any of the four provisions listed above. Therefore, City Council has the discretion to grant a variance for the proposed sign, should they chose to do so. See linked [Report](#) for the full staff report.

OR8. CONSIDER AN ORDINANCE AUTHORIZING EXCHANGE OF PROPERTY ADJACENT TO THE CLEBURNE GOLF COURSE WITH 2005 DUDLEY PROPERTIES, LP AND MARK SIMS; AUTHORIZING THE MAYOR TO EXECUTE NECESSARY DEEDS FOR SAID EXCHANGE.

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

BRIEF: In March 2007, City Manager - Chester Nolan entered into an agreement with Howard Dudley and Mark Sims for the exchange of easements and property to accommodate the reconstruction of the City's Municipal Golf Course. The exchange of property consisted of the City transferring to Mr. Dudley and Mr. Sims, in fee simple a parcel of land approximately 2.102 acres adjacent to the Municipal Golf Course in exchange for Mr. Dudley and Mr. Sims abandoning an eight-foot (8') easement bisecting the northeast section of the Municipal Golf Course, specifically the fairway for hole number fifteen.

In July 2019, staff received a request to formalize and complete this land transaction from an attorney representing Mr. Dudley and Mr. Sims. At that time, staff began researching the history of this agreement, and any actions that had taken place to date. Staff determined that the agreement had been made between the parties, and initial work to memorialize the agreement had taken place, but no formal action was taken. See linked [Report](#) for the full staff report.

OTHER COUNCIL MATTERS

OC3. *PUBLIC HEARING* CONSIDER REPLAT OF LOT 3R, BLOCK 267, ORIGINAL CLEBURNE, BEING ±0.12 ACRES, LOCATED AT 506 ROYAL ST; AS REQUESTED BY RODNEY GATTIS, REPRESENTED BY SHELBY HOFFMAN.

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

BRIEF: The applicant is requesting approval to replat a portion of Lot 2 and all of Lot 3 into one (1) lot for a residential use. The Future Land Use Map designates the property to be located within the City Center East District. The applicant requested a variance from the Zoning Board of Adjustment at the August 20, 2019 meeting, to allow for a reduction of the minimum lot area and minimum lot width for the subject property. The variance request was approved with a vote

of 5-0. 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 September 9, 2019 meeting and recommended approval by a vote of 4-0.

OC4. *PUBLIC HEARING* CONSIDER REPLAT OF LOT 17, BLOCK 793, FAIRFIELD ADDITION, BEING ±0.241 ACRES, LOCATED AT 1506 N BUFFALO AVE; AS REQUESTED BY ELITE DEVELOPERS, INC, REPRESENTED BY MATT POWELL.

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

BRIEF: The applicant is requesting approval for one (1) residential lot. The Future Land Use Plan designates this property within the City Center North 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 September 9, 2019 meeting and recommended approval by a vote of 4-0.

OC5. *PUBLIC HEARING* CONSIDER REPLAT OF LOT 5R, BLOCK B, C.A. HOSHOUR'S ADDITION, BEING ±0.397 ACRES, LOCATED AT 309 N HOLLOWAY ST, AS REQUESTED BY JOSE AND EVA GARCIA, REPRESENTED BY TRANS TEXAS SURVEYING.

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

BRIEF: The applicant is requesting approval for one (1) residential lot. The Future Land Use Plan designates this property within the City Center North 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 September 9, 2019 meeting and recommended approval by a vote of 4-0.

WORKSHOP

I. CITY MANAGER'S UPDATE ON MUNICIPAL BUSINESS

- A. Discuss proposed amendment to Section 155.08: Non-Conforming Uses, Structures, and Lots which is part of Title XV: Land Usage, Chapter 155: Zoning, Shane Pace, Director of Community Development
- B. Discuss facility operations at the Transfer Station, Jeremy Hutt, Director of Public Works

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) Cause No. D-1-GN-16-005692, City of Cleburne, Texas and Johnson County, Texas vs. Texas Commission on Environmental Quality, in the 126th District Court, Travis County, Texas, and said cause is on appeal to the Third Court of Appeals in Austin, Texas in Cause No. 03-18-00711-CV
- 2) Cause No. D-1-GN-005686, City of Cleburne, Texas and Johnson County, Texas vs. Texas Commission Environmental Quality, in the 353rd District Court of Travis County, Texas
- 3) Cause No. DC-C201800880, City of Cleburne, Texas and Johnson County, Texas vs. Harrington Environmental Services, LLC, in the 18th District Court, 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.