



CITY COUNCIL REGULAR MEETING AGENDA
OCTOBER 13, 2020 @ 5:00 PM
CITY HALL COUNCIL CHAMBERS
10 NORTH ROBINSON STREET, CLEBURNE, TX 76031

City Council meetings are open to the public with social distancing protocols in place. A member of the public wishing to participate in the meeting may do so via the options below or view the online [live broadcast](#).

- *In person:* Complete a speaker/comment registration card and turn in to the City Secretary before the meeting begins.
 - *Submit questions/comments online:* Complete a speaker/comment registration card found on the [City's online Agenda Center](#). Registration cards received by 4:00 p.m. the same day will be distributed to the Council for consideration.
 - *Address the Council by phone:* Submit a registration card as directed above and by 4:45p.m. call [\(346\) 248-7799](tel:346-248-7799) or (800) 731-0285. **Enter Meeting ID 995-6991-0537 and then press #.**
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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, Mayor Pro Tem/SMD 2
- ✓ Mike Mann, SMD 3
- ✓ John Warren, SMD 4

Administration:

- ✓ Steve Polasek, City Manager
- ✓ Ashley Dierker, City Attorney
- ✓ Ivy Peterson, City Secretary

II. INVOCATION

III. PLEDGE OF ALLEGIANCE

IV. CITY SECRETARY READS THE GUIDELINES TO SPEAK BEFORE COUNCIL

V. COMMUNITY INTEREST MATTERS, ANNOUNCEMENTS & PRESENTATIONS

- ★ Presentation – Economic Development Quarterly Update, Grady Easdon, Economic Development Manager

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.

MN1. CONSIDER MINUTES FOR THE SEPTEMBER 22, 2020 REGULAR COUNCIL MEETING.

BQ1. CONSIDER REJECTING BIDS FOR THE REPLACEMENT OF BAY DOORS AT THE FIRE STATIONS.

Presented by: Troy Lestina, Director of Finance

SUMMARY: Only one bid was received for this project from Overhead Door Company of Abilene, Inc. in the amount of \$98,973. This bid amount exceeds the budget amount of \$87,053 for this project and therefore staff recommends rejecting the bid. The scope of the project will be reviewed and the project will be rebid.

RS1. CONSIDER A RESOLUTION CONSENTING TO THE EXTENSION OF THE DECLARATION OF LOCAL DISASTER UNTIL OCTOBER 27, 2020.

Presented by: Steve Polasek, City Manager

SUMMARY: On March 13, 2020, the Mayor executed a Declaration of Local Disaster ("Declaration"), for the City of Cleburne pursuant to Section 418.108(a) of the Texas Government Code, which is for a period of seven days. In order to extend the Declaration, the City Council must consent to an extension pursuant to 418.108(b) of the Texas Government Code.

The Council has approved extensions to the Declaration on March 13th by RS03-2020-32 until March 29th, on March 24th by RS03-2020-35 until April 14th, on April 14th by RS04-2020-45 until April 28th, on April 28th by RS04-2020-49 until May 12th, on May 12th by RS05-2020-54 until May 26th, on May 26, 2020 by RS05-2020-59 until June 9th, on June 9, 2020 by RS06-2020-61 until June 23rd, on June 30, 2020 by RS06-2020-73 until August 3rd, on July 28, 2020 by RS07-2020-81 until August 11th, on August 11, 2020 by RS08-2020-84 until August 25th, on August 25, 2020 by RS08-2020-88 until September 8th, on September 8, 2020 by RS09-2020-90 until September 22nd, and on September 22, 2020 by RS09-2020-97 until October 13th.

Following Governor Abbott's announcement of Open Texas, the City continues to take actions to promote health and safety, and suppress the spread of COVID-19 in the community. This resolution for your consideration is to extend the Declaration to the next regular council meeting date of October 27, 2020 at 11:59 p.m. central standard time.

RS2. CONSIDER A RESOLUTION AUTHORIZING AN AGREEMENT WITH BICKERSTAFF HEATH DELGADO ACOSTA, LLP PROVIDING

REDISTRICTING SERVICES FOR THE CITY OF CLEBURNE FOLLOWING THE 2020 U.S. CENSUS.

Presented by: Ivy Peterson, City Secretary

SUMMARY: Upon the release of the US decennial census data by the Census Bureau, cities with members elected from single-member-districts must review population changes to determine if districts have become imbalanced. If so, the districts must be redrawn in order to maintain the one-person, one-vote principal of the United States Constitution. This legal team will guide the City through the decisions and procedures involved in the redistricting process. Some of the services include initial assessment, planning of work/training sessions and public hearing(s), establish target deadlines, produce a set of geographical plans, and prepare the Council's plan for adoption.

Although advertising for qualifications is not required by statute to retain a firm for professional legal services, in the interest of transparency and to ensure the City secures a firm with up-to-date industry standards including modern GIS capabilities, requests for qualifications (RFQ) were advertised seeking firms with expertise in redistricting services. Four responses were received from Bickerstaff Heath Delgado Acosta, LLP, Bojorquez Law Firm, LLP, The Knight Law Firm, LLP, and Walsh Gallegos Treviño Russo & Kyle, PC.

A three-member committee evaluated the RFQ submissions and recommends authorizing the professional services agreement with Bickerstaff Heath Delgado Acosta, LLP. Bickerstaff also provided these services to the City of Cleburne during the last redistricting cycle following the 2010 census. They are a respected firm throughout Texas, they are highly recommended by their references, and have the qualifications, experience, and technical resources to successfully complete this multi-complex process. The estimated project cost is \$23,810 and was included in the recently adopted FY 2021 Annual Budget.

RS3. CONSIDER A RESOLUTION ADOPTING THE UPDATED CITY/COUNTY TRANSPORTATION TITLE VI POLICY AND AUTHORIZING THE CITY MANAGER TO SIGN THE POLICY DOCUMENT.

Presented by: Troy Lestina, Director of Finance

SUMMARY: As City/County Transportation is the recipient of federal grant funds, it is required that a Title VI Policy be adopted by the City Council and submitted to the Federal Government. The most recent policy was updated in 2017 and approved by City Council in October, 2017 by Resolution RS10-2017-80. Federal regulation requires that the policy be updated every three years. Attached is the 2020 proposed update of the Title VI policy, and noted on the 2017 policy, all updates needed to be in federal compliance are noted in red. This updated policy has also been reviewed by TxDOT for compliance. Items of note within the updated policy and its exhibits are:

- The following statement to the public "City County Transportation is committed to ensuring that no person is excluded from participating in, or denied the benefits of, or be subject to discrimination in the receipt of its services or programs on the basis of race, color, national origin, or any other characteristics protected by law, including Title VI of the Civil Rights Act of 1964, as amended. Further, under the Americans with Disabilities

Act (ADA) of 1990, no entity shall discriminate against an individual with a physical or mental disability in connection with the provision of transportation service.”

- Process and form for Title VI complaints
- Limited English Proficiency Plan

RS4. CONSIDER A RESOLUTION AUTHORIZING SUBMISSION OF THE PUBLIC HOUSING AUTHORITY 5-YEAR PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

Presented by: Sallie Watson, Housing Manager

SUMMARY: The U.S. Housing Act of 1937 requires housing authorities to submit to HUD every five years, a strategy for meeting local housing needs and goals. Cleburne Housing’s goals remain the same as we continue to provide affordable, decent, and safe housing to the very low income, elderly, and disabled. The plan also includes certification of compliance for a drug free workplace, certifies federal funds will not be used to influence public/federal officials, certifies compliance with civil rights requirements, and certifies the plan is consistent with promoting fair housing.

The City’s Housing Department goals for the next five years include:

- Increase the monthly leasing (in order to assist more families);
- Encourage self-sufficiency for all non-elderly/disabled households;
- Ensure equal opportunity and affirmative fair housing practices;
- Improve program accessibility by developing an on-line application process; and
- Move from a paper-based system to an electronic record system and mobile inspections.

OR1. CONSIDER AN ORDINANCE APPROVING CONVEYANCE OF REAL PROPERTY LOCATED AT 802 NORTH GRANBURY STREET ACQUIRED AT A DELINQUENT TAX SALE TO THE CITY OF CLEBURNE.

Presented by: Scott Lail, Fire Chief

SUMMARY: The City of Cleburne, for itself and the use and benefit of Johnson County, Hill College and the Cleburne Independent School District acquired title to a certain tract of real estate known as 802 North Granbury Street (being ±.356 acres of Lot 4 Block 618, Original Cleburne) at a Constable’s sale held on the 2nd day of February, 2016, in Cause No. T201400049, Cleburne ISD vs. Keith D. Marlin.

Section 34.05 (a), Texas Property Tax Code, authorizes the City of Cleburne, by and through its governing body, to resell the property. Therefore, on three occasions (January 2019, March 2019, and July 2019) the City, through our tax attorney Perdue Brandon Fielder Collins and Mott, LLP, solicited sealed bids for the resale of this property and received none. Staff and Council discussed this property and decided because of the environmental issues it should be conveyed to and retained by the City.

All taxing units participating in the tax foreclosure of this property, Johnson County, Cleburne ISD, and Hill College, have consented to allow the City of Cleburne to convey the property to itself so that the property may be used as greenspace.

An Asbestos Survey and Phase I Environmental Site Assessment have been completed. A bid has been received for the demolition of the two structures at a cost of \$34,558.81.

RESOLUTIONS

RS5. CONSIDER A RESOLUTION AUTHORIZING RENEWAL OF THE INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR THEIR ANNUAL CONTRIBUTION TO CITY/COUNTY TRANSPORTATION.

Presented by: Troy Lestina, Director of Finance

SUMMARY: 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 2021 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.

RS6. CONSIDER A RESOLUTION APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORP., REGARDING THE COMPANY'S 2020 RATE REVIEW MECHANISM FILING.

Presented by: Troy Lestina, Director of Finance

SUMMARY: 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 March 31, 2020, 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, 2019, entitled it to additional system-wide revenues of \$141.2 million. Application of the standards set forth in ACSC's RRM Tariff required Atmos to reduce its request to \$136.3 million, \$98.7 million of which would be applicable to ACSC members. ASCS's consultants concluded that the system-wide deficiency under the RRM regime should be \$111.5 million instead of the claimed \$136.3 million. The amount of the \$111.5 million deficiency applicable to ACSC members would be \$80.8 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 \$90 million from ACSC Cities, but with a two-month delay in the Effective Date until December 1, 2020. This should save taxpayers approximately \$9 million such that the case is functionally equivalent to ACSC's consultants' recommendation of \$80.8 million.

The Executive Committee recommends a settlement of \$90 million. The Effective Date for new rates is December 1, 2020. ACSC members should take action approving the Resolution before November 1, 2020. See Staff's Agenda Report for full RRM settlement details.

RS7. CONSIDER A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND ACCEPT FUNDS FROM THE TEXAS DEPARTMENT OF TRANSPORTATION FOR A CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT GRANT FOR EXPENSES RELATED TO THE IMPACTS OF THE COVID-19 PUBLIC HEALTH EMERGENCY ON AIRPORT OPERATIONS.

Presented by: Sharlette Wright, Airport Manager

SUMMARY: Staff received notice on September 29, 2020 of the award of a grant from the Texas Department of Transportation in the amount of \$6,117,360 to rehabilitate and mark runway 15-33 and taxiway Alpha and to relocate and mark taxiway Delta at the Cleburne Regional Airport. This grant includes covering the city's ten percent (10%) match through Group 1 CARES Act funding. The Group 1 CARES Act funding was established in response to the financial impact of the COVID-19 pandemic on airports. Those communities that may not have been able to fund their 10% match might otherwise have had to postpone their project until such time as funding was available. The Group 1 funding will assist municipalities by providing for the grant match and allow them to continue airport infrastructure improvements planned for FY 2021.

As mentioned, by accepting the grant the 10% project match (\$611,736) that would normally have come from the City's budget will no longer be required. As a result, 100% of the projected construction costs will be eligible for federal financial assistance. This will result in a savings to the city of approximately \$611,736.

ORDINANCES

OR2. CONSIDER AN ORDINANCE AMENDING THE FISCAL YEAR 2021 ANNUAL BUDGET TO INCLUDE THE APPROPRIATION FOR THE COVID-19 FIRE SERVICES READINESS AND THE OPERATION CONNECTIVITY PROGRAM.

Presented by: Troy Lestina, Finance Director

SUMMARY: Staff was approached by the Cleburne Independent School District to participate in the Operation Connectivity Program to assist in purchasing mobile hotspots using CARES Act Funding. This plan was presented to City Council on September 22, 2020.

Staff worked with the Texas Department of Emergency Management for approval for additional Fire Service gear, equipment and supplies that are eligible under the CARES Act Funding.

Staff has developed a plan for a second round of All Aboard Cleburne Promotional Program for local businesses that have been affected by the CoVID-19 pandemic.

The proposed General Fund budget amendment in the amount of \$404,246.40 will revise the total adopted General Fund budget of \$40,104,005 (Ordinance OR09-2020-49) to \$40,508,251.40.

OR3. *PUBLIC HEARING* CONSIDER AN ORDINANCE REZONING ±0.16 ACRES FROM C1 (LOCAL BUSINESS DISTRICT) TO SF-4 (SINGLE-FAMILY DWELLING DISTRICT), LOCATED AT 155 PEACOCK STREET; AS REQUESTED BY PRESCHER CUSTOM HOMES, CASE ZC20-019.

Presented by: Shane Pace, Executive Director of Development Services

SUMMARY: The applicant has requested the rezone with an intent to build a single-family home. The subject property is currently a portion of Lot 8, Block 240 of Original Cleburne. Although the SF-4 District requires a minimum width of 60 feet and minimum lot area of 7,000 square feet, the lot is approximately 6,947 square feet in size. This lot has existed in this configuration since before the establishment of the rules and regulations of the Zoning Ordinance (March 22, 1996). Section 155.08 (K) allows a substandard parcel or tract to be used for a single-family residential use provided that all other development regulations are satisfied. Additionally, a building permit may be issued on a substandard parcel or tract, and no plat shall be required.

The properties immediately surrounding the subject property to the east and west are similarly zoned the C1 District, while the property to the north was rezoned to the SF-4 District in October of 2019. The property to the south is zoned D (Duplex District). There are several existing single-family homes to the north and south, an existing church to the east and several undeveloped tracts of land to the west of the subject property. The Future Land Use Plan shows this property to be located in the City Center East District, whose purpose is to improve neighborhood definition by promoting infill development. The proposed rezoning request is considered an appropriate use within this district.

A total of twenty-four (24) property owners within 200 feet were notified. Staff did not receive any responses in support of or in opposition to this request. The Planning and Zoning Commission considered this request at their September 28, 2020 meeting and recommended approval by a vote of 5-0.

OR4. *PUBLIC HEARING* CONSIDER AN ORDINANCE REZONING ±0.49 ACRES FROM C0 (NON-RETAIL DISTRICT) TO SF-4 (SINGLE-FAMILY DWELLING DISTRICT), LOCATED AT 705 NORTH GRANBURY STREET; AS REQUESTED BY DLJ HOMES, LLC, CASE ZC20-020.

Presented by: Shane Pace, Executive Director of Development Services

SUMMARY: The applicant has requested the rezone with an intent to revert the existing building to a residential use. The property was rezoned from the SF-4 District to its current C0 District zoning designation in May of 2015 in order to utilize the home for an office use.

The properties immediately surrounding the subject property are all zoned in the SF-4 District. With the exception of one vacant lot to the west, the subject property is surrounded on all sides by existing single-family homes. The Future Land Use Plan shows this property to be

located in the City Center North District, whose purpose is to stabilize and improve property values and increase connectivity in order to preserve neighborhood definition. The proposed rezoning request is considered an appropriate use within this district.

A total of twenty-five (25) property owners within 200 feet were notified of this rezoning request. Staff did not receive any responses in support of or in opposition to this request. The Planning and Zoning Commission considered this request at their September 28, 2020 meeting and recommended approval by a vote of 5-0.

OR5. *PUBLIC HEARING* CONSIDER AN ORDINANCE REZONING ±0.57 ACRES FROM C1 (LOCAL BUSINESS DISTRICT) TO SF-4 (SINGLE-FAMILY DWELLING DISTRICT), LOCATED AT 614 NORTH BRAZOS AVENUE; AS REQUESTED BY THE CITY OF CLEBURNE, CASE ZC20-021.

Presented by: Shane Pace, Executive Director of Development Services

SUMMARY: The subject property is the previous site of the Earl Williams grocery store, built in the 1960s. Over time, the building fell into disrepair, was condemned, and ultimately ended up in the City's possession. The building was demolished earlier this year. In conjunction of this rezoning request, the City is in the process of replatting the property with the intent to permit development of single-family residential homes.

The property is surrounded by the same C1 District zoning designation to the north and west, with the SF-4 District to the south and east. There are several existing homes to the west, across Brazos Ave, as well as several undeveloped tracts of land to the north, east, and south of the subject property. The Future Land Use Plan shows this property to be located in the City Center East District, whose purpose is to improve neighborhood definition by promoting infill development. The proposed rezoning request is considered an appropriate use within this district.

A total of twenty-eight (28) property owners within 200 feet were notified. Staff did not receive any responses in support of or in opposition to this request. The Planning and Zoning Commission considered this request at their September 28, 2020 meeting and recommended approval by a vote of 5-0.

OR6. *PUBLIC HEARING* CONSIDER AN ORDINANCE REZONING ±180 ACRES FROM C3 (COMMERCIAL DISTRICT), M1 (LIGHT INDUSTRIAL DISTRICT) AND IH (INTERIM HOLDING DISTRICT) TO PD (PLANNED DEVELOPMENT DISTRICT), GENERALLY LOCATED ON THE EAST SIDE OF NORTH MAIN STREET, BETWEEN EAST VAUGHN ROAD AND BURGESS ROAD; AS REQUESTED BY WILLIAM A. CUSTARD, REPRESENTED BY MKP DEVELOPMENT, CASE ZC20-013.

Presented by: Shane Pace, Executive Director of Development Services

SUMMARY: The applicant has requested the rezone for future residential development. The Planned Development includes 483 single-family detached residential lots, with a mixture of home products, a proposed multi-family development, as well as approximately 50 acres of open space to be owned and maintained by the Home Owner's Association (HOA). The applicant is requesting a base zoning of the SF-4 District for the single-family detached homes, with some deviations, including minimum lot area, minimum lot width and building setbacks. The applicant

is proposing a base zoning of the MF (Multiple-Family Housing District) for the multi-family development, without any deviations. Within the 50 acres of open space, the applicant is proposing some amenities including, but not limited to, a community amenity center with a gathering loggia, and trail connections throughout the development. See Staff's Agenda Report for full development details.

OTHER COUNCIL MATTERS

OC1. CONSIDER APPOINTMENT TO THE PLANNING AND ZONING COMMISSION.

Presented by: Ivy Peterson, City Secretary

SUMMARY: A vacancy on the Commission was created when Mr. Derek Weathers filed his application to run for City Council. The Board & Commission Recommendation Committee met to consider applications on file for this vacancy and recommends appointment of Mr. Lee David "Sonny" Albertson for a two-year term effective immediately. Mr. Albertson is willing to serve if appointed.

EXECUTIVE SESSION

Pursuant to the Open Meetings Act, Chapter 551, and the Texas Disaster Act, Chapter 418, of the Texas Government Code, Executive Session may be held at any time during the meeting that a need arises for the City Council to seek advice from the City Attorney as to any posted subject matter of this City Council Meeting.

Section 551.071. Consultation with Attorney - The City Council will convene into executive session to receive legal advice from the City Attorney on the following matters in which the duty of the City Attorney to the City's governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code:

EXE1. Discuss Municipal Utility District – Shane Pace, Executive Director of Development Services

ADJOURNMENT

ADJOURNED AT:

CERTIFICATION

THIS IS TO CERTIFY that the Notice of Meeting of the Cleburne City Council is a true and correct copy of said Notice and that I posted said Notice on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, as well as the City's official

website at www.cleburne.net and said Notice was posted on **Friday, October 9, 2020**, by **5:00 pm** in compliance with Chapter 551, Texas Government Code.

Note: A quorum of any Cleburne board, commission, or committee may participate during this meeting.

City of Cleburne

By _____
Ivy Peterson, City Secretary



City Hall is wheelchair accessible. Reasonable accommodations to furnish auxiliary aids or services for persons with special needs will be provided when at least two working days' notice is given. Contact the City Secretary's office at (817) 645-0908 or by fax (817) 556-8848.