



CITY COUNCIL REGULAR MEETING AGENDA
JUNE 8, 2021 @ 5:00PM
CITY HALL COUNCIL CHAMBERS
10 NORTH ROBINSON STREET, CLEBURNE, TX 76031

City Council meetings are open to the public with social distancing and sanitation protocols in place. A member of the public wishing to participate in the meeting may do so via the options below or view the [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](#) 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
Derek Weathers, 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 by Pastor Brent Shields, Bethel Temple Assembly of God

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

- CMP1. Cares Act Update and American Rescue Plan Presentation
- Rhonda Daugherty, Director of Finance

CONSENT AGENDA

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 MAY 25, 2021 REGULAR COUNCIL MEETING.

RS1. CONSIDER A RESOLUTION CONSENTING TO THE EXTENSION OF THE DECLARATION OF LOCAL DISASTER UNTIL JUNE 22, 2021.

Presented by: Steve Polasek, City Manager

Summary: On March 23, 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 was for a period of seven days. In accordance with 418.108(b) of the Texas Government Code and following Governor Greg Abbott's executive orders, the City Council has approved extensions to said Declaration, and 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 existing Declaration to the next regular council meeting date of June 22, 2021 at 11:59 p.m. central standard time.

RS2. CONSIDER A RESOLUTION ACKNOWLEDGING COMPLIANCE WITH MANDATED CYBERSECURITY AWARENESS TRAINING AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO FILE THE COMPLIANCE REPORT FORM PURSUANT TO TEXAS HB 3834 (2019).

Presented by: David Raybuck, Director of Information Technology

Summary: In the 2019 legislative session, the legislature adopted Texas HB 3834, that was codified into the Texas Government Code and requires certain employees and elected officials to complete mandated cybersecurity training. The required training must be completed by June 14th and reported to the state by June 15th each year.

Code Excerpt: Texas Government Code

Sec. 2054.5191. CYBERSECURITY TRAINING REQUIRED: CERTAIN EMPLOYEES.

(a-1) At least once each year, a local government shall identify local government employees who have access to a local government computer system or database and require those employees and elected officials of the local government to complete a cybersecurity training program certified under Section [2054.519](#) or offered under Section [2054.519\(f\)](#).

(b) The governing body of a local government may select the most appropriate cybersecurity training program certified under Section [2054.519](#) or offered under Section [2054.519\(f\)](#) for employees of the local government to complete. The governing body shall:

(1) verify and report on the completion of a cybersecurity training program by employees of the local government to the department; and

(2) require periodic audits to ensure compliance with this section.

The City staff and elected officials have completed certified training developed by KnowBe4, a leading provider of security awareness training already in use by the City. The Texas Department of Information Resources (DIR) is the agency charged with implementing the legislation for certifying completion of the training, and has created an online form for reporting our compliance. This legislation also requires acknowledgement by the governing body that the training has been completed, which is accomplished and documented with this resolution.

RS3. CONSIDER A RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW THE AUDIT ENGAGEMENT CONTRACT WITH PATTILLO, BROWN & HILL L.L.P. IN THE AMOUNT OF \$58,700 FOR FISCAL YEAR ENDING SEPTEMBER 30, 2021.

Presented by: Rhonda Daugherty, Director of Finance

Summary: On June 13, 2017, the City Council approved a contract with PBH by Resolution RS06-2017-40 to provide audit services over a term of five years. This is the fifth year of the five-year audit engagement contract. The terms of the approved contract include a 3% annual increase for an amount not to exceed \$53,700 for Fiscal Year 2021 audit. The audit engagement contract includes 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 \$53,700, plus the preparation and printing of the Annual Financial Report at an annual cost of \$5,000 for a not to exceed total of \$58,700.

The audit engagement letter for Fiscal Year 2021 is included in the backup. Incorporated into the engagement letter is a copy of PBH's most recent peer review. Peer reviews are periodic outside reviews, 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. PBH received a peer review of pass, which is the highest rating that a firm can receive.

RS4. CONSIDER A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHAPTER 380 AGREEMENT WITH DILLER'S BARBER SHOP UNDER THE TERMS OF THE CITY OF CLEBURNE FAÇADE IMPROVEMENT ECONOMIC DEVELOPMENT INCENTIVE PROGRAM.

Presented by: Grady Easdon, Economic Development Manager

Summary: Diller's Barber Shop, located at 202 E. Chambers Street, has submitted an application under the terms of the City's Façade Improvement program seeking funds to remove and replace existing front door, including framing modifications, new trim, and paint. Under the terms of the Façade Improvement Incentive Program, up to 50% of eligible project costs are reimbursable up

to a maximum of \$5,000. Total cost of this project is \$4,750.00, therefore, \$2,375.00 would be the maximum match by the City.

ACTION AGENDA

OR1. **FIRST READING* CONSIDER AN ORDINANCE GRANTING A FRANCHISE AGREEMENT TO ATMOS PIPELINE-TEXAS, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO CONSTRUCT, MAINTAIN, AND OPERATE PIPELINES AND EQUIPMENT IN THE CITY OF CLEBURNE, JOHNSON COUNTY, TEXAS, FOR THE TRANSPORTATION AND DELIVERY OF GAS IN, OUT OF, AND THROUGH SAID CITY FOR ALL PURPOSES; PROVIDING FOR THE PAYMENT OF A FEE OR CHARGE FOR THE USE OF THE PUBLIC RIGHTS-OF-WAYS; AND PROVIDING THAT SUCH FEE SHALL BE IN LIEU OF OTHER FEES AND CHARGES, EXCEPTING AD VALOREM TAXES.

Presented by: Steve Polasek, City Manager

Summary: Atmos Energy currently provides natural gas service to residential, commercial and industrial customers within the City of Cleburne through two separate agreements. The agreement covering primarily residential and commercial customers was renewed in 2018 and is active through December 31, 2027. The agreement currently being considered is for a portion of the industrial park and serves some of our larger industrial partners. This agreement expired on December 31, 2019, and was under re-negotiation at the time of the advent of the COVID-19 pandemic. It was temporarily placed on hold and we have continued to operate under existing terms and conditions. Beginning in early fall negotiations were reconvened between the city, Atmos Energy and the primary industrial clients. The franchise agreement is the result of those negotiations and has been verbally agreed upon by Atmos Pipeline, endorsed by industrial clients, and reviewed by our city attorney. It is now subject to City Council review and consideration.

The proposed ordinance is relatively unchanged from what is currently in place. The major exception is the revenue formula. Unlike most franchise gas agreements where Atmos delivers their product to the end user and a percentage of gross revenues is provided to the city in return for utilizing city owned property (rights-of-way), the industrial agreement is different in that Atmos only serves as the delivery method of gas that the industrial user purchases on the open market. As such, there is a delivery cost charged by Atmos, but no product cost. In order to determine a franchise fee a formula was established using the number of linear feet of pipe within the rights-of-way of the subject area multiplied by the per foot cost of \$23.66. The per foot amount included in this Agreement is based on the value of gas transported, the transportation fees paid during the historic three-year period from 2006 through 2008, the annual PPI increase experienced during the previous agreement term and an adjusted decrease of approximately \$1.00 per foot. Due to the annual PPI – Finished Goods increasing on average 1.5% annually over the previous ten years, the cost to our industrial partners had become problematic and they requested a reasonable adjustment of the per foot cost of the pipeline. Also, in order to avoid this significant extrapolation going forward, the proposed agreement caps the average annual PPI at 1% per year.

As shown in the estimates below, with the proposed changes the annual revenues would

result in a slight decrease in future years to the city versus the formula used in the current agreement. That said, the revenues remain significant and this method of free market purchase, delivery and formula based franchise fee calculation results in both the city and our industrial partners receiving a greater return as compared to the standard purchase, delivery and 5% of gross revenues method of a standard franchise agreement.

	<i>\$23.66 @ 1.0% PPI</i>	<i>\$24.66 @ 1.5% PPI</i>	<i>Difference</i>
2022	\$782,613.65	\$819,729.23	\$37,115.57
2023	\$790,439.79	\$832,025.16	\$41,585.38
2024	\$798,344.18	\$844,505.54	\$46,161.36
2025	\$806,327.63	\$857,173.12	\$50,845.50
2026	\$814,390.90	\$870,030.72	\$55,639.82
2027	\$822,534.81	\$883,081.18	\$60,546.37
2028	\$830,760.16	\$896,327.40	\$65,567.24
2029	\$839,067.76	\$909,772.31	\$70,704.55
2030	\$847,458.44	\$923,418.89	\$75,960.46
2031	\$855,933.02	\$937,270.18	\$81,337.16

If approved, the agreement would be in effect for the calendar year 2021 and would expire on December 31, 2035. Per our City Charter, Section 10.3 FRANCHISES AND SPECIAL PRIVILEGES (B) - *No franchise shall ever be granted until it has been approved by a majority of the City Council, after having been considered at three (3) regular meetings of the City Council, nor shall any such franchise, grant or privilege ever be made unless it provides for adequate compensation or consideration therefore to be paid to the City.* This shall be the first of three readings, with the second and third readings planned for consideration at the regular City Council meetings scheduled for June 22, 2021 and July 13, 2021.

OR2. *PUBLIC HEARING* **CONSIDER AN ORDINANCE AMENDING TITLE XV, "LAND USAGE", CHAPTER 155 "ZONING", OF THE CODE OF ORDINANCES OF THE CITY OF CLEBURNE, BY AMENDING SECTION 155.30 "LAND USE TABLE" AND SECTION 155.58 "TEMPORARY USES" TO CONSIDER PERMITTING TEMPORARY CONCRETE AND ASPHALT BATCH PLANTS AS A TEMPORARY USE, PROVIDED CERTAIN CRITERIA ARE MET, CASE GC21-006.**

Presented by: Shane Pace, Director of Development

Summary: Staff is proposing amendments to Chapter 155 - Zoning, Section 155.30 Land Use Table and Section 155.58 Temporary Uses. Currently, temporary asphalt or concrete batch plants are allowed in the M1 and M2 Districts with approval of a Specific Use Permit (SUP). A temporary asphalt or concrete batch plant is a facility that is erected on a construction site to mix concrete and/or asphalt that will be used directly in the construction of infrastructure. This may include streets, drainage channels, and other public infrastructure. They are not used for the construction of individual homes. Given the temporary nature of the batch plants, staff

recommends removing the use of temporary asphalt or concrete batch plant from the schedule of permitted principal uses and, instead, allowing it as a temporary use.

The proposed amendments will provide standards for the majority of the requests the City may receive for temporary batch plants, given that the temporary batch plant is capable of meeting the requirements outlined below. Requests for temporary batch plants that cannot meet the proposed standards, due to size, scale, duration of the project, proximity to existing development, etc. will require approval of an SUP. These requests will be considered by City Council on a case-by-case basis, with staff providing recommendations of standards, etc.

At the May 11, 2021 City Council meeting, staff presented this during a work session and discussed the proposed amendments regarding these temporary batching plants. The Council provided feedback to staff and expressed their support to bring the proposed amendments forward for consideration, all of which are outlined below.

The Planning and Zoning Commission considered this request at their May 24, 2021 meeting and recommended approval by a vote of 4-0.

OR3. *PUBLIC HEARING* AN ORDINANCE GRANTING TO RECYCLOPS, LLC, A UTAH LIMITED LIABILITY COMPANY, A FRANCHISE SERVICE AGREEMENT TO COLLECT, HAUL, AND RECYCLE CERTAIN RECYCLABLE MATERIALS WITHIN THE CITY'S CORPORATE LIMITS, PROVIDING FOR COMPENSATION THEREFOR, PROVIDING FOR AN EFFECTIVE DATE AND A TERM OF SAID FRANCHISE, AND PROVIDING FOR WRITTEN ACCEPTANCE OF THIS FRANCHISE.

Presented by: Jeremy Hutt, Director of Public Works

Summary: In accordance with the City Charter (Sec 10.3.B) this item is being considered at three meetings, upon which action may be taken. This is the third of three readings to consider this franchise agreement with Recyclops, LLC, A Utah Limited Liability Company.

Recyclops provides recycling services to both residential and commercial properties that choose to subscribe to their services. This service includes bags that are filled by the customer and placed at the curb at their prescribed day. Recyclops utilizes independent contracted vehicles and drivers, collects the bagged materials, and hauls them to a recycling center.

Staff and the City Attorney have been working on an acceptable services agreement with Recyclops and is included in the backup. A summary would include the following highlights;

- 1) Non-exclusive franchise agreement
- 2) 5 year term, expiring September 30, 2025
- 3) Four additional one-year term renewal options
- 4) An annual fee in the amount of \$5 per customer within Cleburne city limits on an annual basis based on the customer count as of June 1, 2021 and every June 1 thereafter
- 5) Adherence to the City's Right-of-Way ordinance, and
- 6) City retains the right to terminate with or without cause

First Reading - May 10, 2021

Second Reading - May 24, 2021

Third Reading and Action - June 8, 2021

RS5. CONSIDER A RESOLUTION SETTING A PUBLIC HEARING DATE TO CONSIDER AMENDMENTS TO THE LAND USE ASSUMPTIONS, CAPITAL IMPROVEMENTS PLAN AND IMPACT FEES FOR WATER, WASTEWATER AND ROADWAY FACILITIES.

Presented by: Jeremy Hutt, Director of Public Works

Summary: This resolution is part of the water, wastewater and roadway impact fees update. A public hearing will be held on July 13, 2021 for the consideration of the amendment of the roadway, water and wastewater impact fees and to receive additional public input.

RS6. CONSIDER A RESOLUTION SUPPORTING A NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS SOLID WASTE PROGRAM IMPLEMENTATION GRANT APPLICATION.

Presented by: Jeremy Hutt, Director of Public Works

Summary: The Public Works Department is seeking a resolution from the City Council to support submission of a grant application to NCTCOG. This request will be to help fund the equipment needs for the improvements planned for the transfer station, to allow for additional drop off locations.

This resolution of support establishes:

- If the grant project is funded, The City of Cleburne will need to comply with the requirements of the North Central Texas Council of Governments, Texas Commission on Environmental Quality and the State of Texas.
- The local government will allocate and expend the necessary moneys to support this grant project and then seek reimbursement from NCTCOG on a timely basis.
- The grant project funds and any project-funded equipment or facilities will be used only for the purposes for which they are intended under the project.
- The grant activities for this project will comply with and support the adopted regional (and local) solid waste management plans adopted for the geographical area in which the activities are performed.

DISCUSSION & UPDATES

OC1. DISCUSS POTENTIAL TO EXPAND THE TRAIN DISPLAY AT HULEN PARK AND OTHER ASSOCIATED ENHANCEMENTS.

Presented by: Steve Polasek, City Manager

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 Wright Farms MMD, Shane Pace, Executive Director of Development Services

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, June 4, 2021**, 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



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.