



CITY COUNCIL REGULAR MEETING AGENDA
AUGUST 22, 2023 @ 5:00 PM
CITY HALL COUNCIL CHAMBERS
10 NORTH ROBINSON STREET, CLEBURNE, TX 76031

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 PM the same day will be distributed to the Council for consideration.
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I. ROLL CALL AND CALL TO ORDER

City Council:

Scott Cain, Mayor
Derek Weathers, SMD 1
Blake Jones, SMD 2
Mike Mann, Mayor Pro Tem/SMD 3
John Warren, SMD 4

Administration:

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

II. INVOCATION by Pastor Adam Mathews, Nolan River Road Baptist 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

IV. COMMUNITY INTEREST MATTERS, ANNOUNCEMENTS & PRESENTATIONS

CMP1. PROCLAMATION – 911 Day of Remembrance/Patriot Day, September 11, 2023, Marty Peters

CMP2. PRESENTATION – All Star for June 2023 – Kenneth Overstreet, Parks & Recreation Department

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 AUGUST 8, 2023 REGULAR COUNCIL MEETING.

OR1. CONSIDER AN ORDINANCE REPEALING SECTION 130.18: CURFEW HOURS FOR MINORS OF THE CODE OF ORDINANCES, AS REQUIRED BY HOUSE BILL 1819 ADOPTED BY THE 2023 TEXAS LEGISLATURE DURING THE 88TH REGULAR SESSION.

Presented by: Rob Severance, Chief of Police

Summary: The City previously adopted regulations imposing curfew restrictions for certain individuals. The Texas Legislature in its 88th regular session adopted HB 1819, effective September 1, 2023, prohibits any municipality from adopting or enforcing any measure that imposes a curfew to regulate the movements or actions of persons younger than 18 years of age. In order to comply with HB 1819, the regulations previously adopted applying a curfew should be repealed. This ordinance shall be in full force and effect from and after its passage as provided by law.

RS1. CONSIDER A RESOLUTION ACCEPTING THE CAPITAL IMPROVEMENTS ADVISORY COMMITTEE'S SEMI-ANNUAL REPORT, MID-YEAR 2023, AS TO THE PROGRESS OF THE CAPITAL IMPROVEMENT PLAN OF THE CITY OF CLEBURNE WATER, WASTEWATER, AND ROADWAY IMPACT FEE ORDINANCE.

Presented by: Jeremy Hutt, Director of Public Works

Summary: Pursuant to Chapter 395 of the Texas Local Government Code, the City of Cleburne Capital Improvements Advisory Committee (CIAC) is required to file semi-annual reports to the City Council on the administration of the impact fee program. Staff provided the semi-annual presentation of revenues and expenditures for water, wastewater, and roadway impact fees to the CIAC on August 14, 2023. 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.

OR2. CONSIDER AN ORDINANCE AMENDING CHAPTER 50: GARBAGE AND TRASH, SECTION 50.06: RATES FOR HAULING AND DISPOSING OF GARBAGE OF THE CODE OF ORDINANCES.

Presented by: Jeremy Hutt, Director of Public Works

Summary: 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

years, concluding on August 31, 2024. According to Section 8.A., of the approved contact, the service provider has the right to adjust the rates in accordance with the CPI-U. The service provider has requested an increase based on the CPI-U to the City prior to the July 31, 2023. The CPI-U, the revised Consumer Price Index rate for all urban consumers for the Dallas/Fort Worth or the U.S. City Average, whichever is less is 4.7%. Waste Connections will implement the increase effective October 1, 2023.

The service provider previously implemented rate increases in 2017, 2019 2020, 2021 and 2022. This ordinance amends Section 50.06 Rates for Hauling and Disposing of Garbage to reflect the rate adjustment authorized in the existing contract.

OR3. CONSIDER AN ORDINANCE AMENDING THE ANNUAL BUDGET FOR FISCAL YEAR 2023 (#10) BY INCREASING APPROPRIATIONS BY \$70,000 FROM UNRESERVED FUND BALANCE IN THE VEHICLE REPLACEMENT FUND TO PROVIDE ADDITIONAL FUNDING FOR THE PURCHASE OF AN AMBULANCE.

Presented by: Rhonda Daugherty, CFO/Director of Finance

Summary: This budget amendment is requested to provide an appropriation of funds for the purchase of a 2013 ambulance from the Rendon Fire Department. There is a resolution for Council's consideration on this agenda to authorize said purchase. The proposed amendment will revise the total adopted Vehicle Replacement Fund expenditure budget by \$70,000, increasing the budgeted fund expenditures from \$2,547,518 to \$2,617,518. Budgeted Unreserved Fund Balance will decrease from \$623,195 to \$553,195.

RS2. CONSIDER A RESOLUTION AUTHORIZING THE PURCHASE OF A 2013 AMBULANCE FROM THE RENDON FIRE DEPARTMENT FOR AN AMOUNT NOT TO EXCEED \$70,000.

Presented by: Scott Lail, Fire Chief

Summary: Due to excessively long delays in receiving new ambulances, it is essential to maintain a sound fleet of front-line and backup units. In 2021, Cleburne Fire Department (CFD) lost a front-line unit in a vehicle accident, and the Rendon Fire Department was willing to allow Cleburne the use their backup ambulance until a replacement was ordered and received. The ambulance is a 2013 Ford with a Ford-installed 2016 engine. Rendon FD was not willing to sell the unit to Cleburne at that time. Cleburne FD has used the ambulance for approximately 600 days free-of-charge. With rental rates for an ambulance at \$200 per day, this has saved the City \$120,000 in rental costs. During the time CFD has used the unit, approximately \$5,000 has been spent on maintenance and repair. Rendon FD recently contacted CFD and reported they were now willing to sell the unit for \$70,000. After consultations with industry experts, they reported the price is appropriate for the age of the unit and the included equipment. The current ambulance fleet that CFD deploys consists of a 2003, a 2008, and a 2018. The Rendon unit is a 2013 and, with 75,000 miles, would be the lowest mileage ambulance CFD has by almost 40,000 miles. The unit has been reliable, and staff recommends this purchase to augment the CFD fleet while awaiting the delivery of new ambulances.

RS3. CONSIDER A RESOLUTION APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORP, MID-TEX DIVISION, REGARDING THE COMPANY'S 2023 RATE REVIEW MECHANISM FILING.

Presented by: Rhonda Daugherty, CFO/Director of Finance

Summary: The City, along with 181 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 ACSC members in 2018. On or about March 31, 2023, the Company filed a rate request pursuant to the RRM Tariff adopted by ACSC members. The Company claimed that its cost-of-service in a test year ending December 31, 2022, entitled it to additional system-wide revenues of \$165.9 million.

Application of the standards set forth in ACSC's RRM Tariff reduces the Company's request to \$156.1 million, \$113.8 million of which would be applicable to ACSC members. After reviewing the filing and conducting discovery, ACSC's consultants concluded that the system-wide deficiency under the RRM regime should be \$130.9 million instead of the claimed \$156.1 million.

After several settlement meetings, the parties have agreed to settle the case for \$142 million. This is a reduction of \$23.9 million to the Company's initial request. This includes payment of ACSC's expenses. The settlement also includes an additional \$19.5 million for the securitization regulatory asset expenses related to Winter Storm Uri. This was previously approved by the Texas Legislature and Railroad Commission. The effective date for new rates is October 1, 2023. It is recommended ACSC members should take action approving the Resolution/Ordinance before September 30, 2023.

RS4. CONSIDER A RESOLUTION AUTHORIZING THE PAYMENT OF ANNUAL MAINTENANCE FEES TO ROUTEMATCH SOFTWARE, LLC FOR CITY/COUNTY TRANSPORTATION DISPATCH SOFTWARE LICENSE, HOSTING, AND MAINTENANCE FEES IN AN AMOUNT NOT TO EXCEED \$52,175.38.

Presented by: Rhonda Daugherty, CFO/Director of Finance

Summary: City County Transportation utilizes Routematch Software for scheduling and ticketing of bus transportation trips and routes. The software has been in place since 2009, and in 2016, Council approved RS10-2016-85, extending the contract through the life of the software.

This resolution will authorize the payment of the annual license fees, maintenance and support for the Core System (\$38,584.63), Hosting Fees (\$10,152.50), and 17 AVL/MDC licenses (\$3,438.25), for a not to exceed total of \$52,175.38. This is a sole source purchase as

Routematch, a subsidiary of Modaxo, Inc., is the only seller of licensing and support for the software.

RS5. CONSIDER A RESOLUTION APPROVING ACCOUNTS PAYABLE AND BUDGET TRANSFERS FOR THE MONTH OF JULY 2023.

Presented by: Rhonda Daugherty, CFO/Director of Finance

Summary: Accounts payable payments for the month of July 2023, total \$9,502,633.20. There were no budget transfers processed for July 2023.

RS6. CONSIDER A RESOLUTION ACKNOWLEDGING COMPLIANCE WITH MANDATED CYBERSECURITY AWARENESS TRAINING AND AUTHORIZING THE FILING OF THE COMPLIANCE REPORT PURSUANT TO THE TEXAS GOVERNMENT CODE.

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 and reported to the state by August 31, 2023.

The City staff and elected officials have completed certified training provided by the Texas Municipal League. 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 compliance. This legislation also requires acknowledgement by the governing body that the training has been completed, which is accomplished and documented with this resolution.

ACTION AGENDA

OR4. *PUBLIC HEARING* CONSIDER AN ORDINANCE REZONING FROM RC (REGIONAL COMMERCIAL DISTRICT) TO PD (PLANNED DEVELOPMENT DISTRICT) TO INCORPORATE AN ADDITIONAL ±0.56 ACRES AND TO AMEND THE PD (PLANNED DEVELOPMENT DISTRICT) AUTHORIZED BY ORDINANCE NO. 04-2021-19 TO CHANGE SIDE YARD BUILDING SETBACK REQUIREMENTS WITHIN THE LEGADO SUBDIVISION (FORMERLY MAYFIELD RANCH), ON ±149.99 ACRES GENERALLY LOCATED SOUTH OF THE FUTURE INTERSECTION OF WEST HENDERSON STREET AND UNIVERSITY DRIVE, SOUTH OF MAYFIELD PARKWAY, AND ON BOTH SIDES OF FUTURE UNIVERSITY DRIVE, CASE ZC23-030.

Presented by: David Jones, Community Development Director

Summary: The applicant, Forestar Real Estate Group, represented by Britain Seright, is requesting to amend the side yard building setback requirement for all 60-foot lots within the Legado Planned Development District (formerly Mayfield Ranch) that was originally approved in April, 2021. The subdivision sits on approximately 150 acres and is generally located south of the future intersection of W. Henderson Street and University Drive, south of Mayfield Parkway,

and on both sides of future University Drive. The PD consists of 503 single-family detached residential lots and 10 open space lots over three (3) phases.

The applicant is requesting to amend the minimum side yard building setback for all 60-foot lots from 7 feet to 5 feet. The amendment would also remove the condition that only allows a 5-foot setback on a 60-foot lot if the house plan features a 3-car garage. As part of the amendment, approximately 0.56 acres within the future University Drive right-of-way would be incorporated into the overall PD boundaries. The additional acreage is planned for dedication to the City with the Phase 1 plat. The applicant has provided a Letter of Intent and Conceptual Plot Plan showing the proposed amendments. The proposed PD amendment would not allow an increase in the number of lots and there are no other proposed changes to the PD development regulations.

The Planning and Zoning Commission considered this request at their August 14, 2023, meeting and recommended approval by a vote of 5-2, with Chairman Archer and Vice-Chairman Albertson voting against the motion.

OR5. *PUBLIC HEARING* CONSIDER AN ORDINANCE AUTHORIZING A SPECIFIC USE PERMIT (SUP) FOR A TEMPORARY CONSTRUCTION TRAILER FOR THE BURGESS MEADOWS SUBDIVISION (FORMERLY CUSTARD FARMS) ON LOT 1, BLOCK 3, ±0.19 ACRES ZONED PD (PLANNED DEVELOPMENT DISTRICT), LOCATED AT 112 MANCHESTER DRIVE, ZC23-033.

Presented by: David Jones, Community Development Director

Summary: The applicant, History Maker Homes, represented by April Hansford, has submitted a request for a Specific Use Permit (SUP) for a temporary construction trailer for the Burgess Meadows (formerly Custard Farms) subdivision, generally located on the east side of N. Main Street, between E. Vaughn Road and Burgess Road. The public infrastructure required as part of the Burgess Meadows subdivision is currently under construction, which includes the installation of water and sewer lines and the construction of the residential roads.

The temporary construction trailer will be located on Lot 1, Block 3 at 112 Manchester Drive for a duration of one (1) year, until construction of homes is complete, as requested by the applicant. The duration of time for a temporary construction trailer is determined based on the applicant's request since the Zoning Ordinance does not establish a maximum duration of time, designed to allow flexibility based on project type.

Staff recommends granting a one (1) time administrative extension for up to 12 months should the construction extend past one (1) year to account for any unforeseen construction delays. Staff recommends that the SUP be required to be amended to allow any additional time extensions greater than two (2) years.

The applicant has provided a Letter of Intent, Site Plan, and a Floor Plan and Exterior Elevation describing and showing the location and design of the temporary construction trailer.

The Planning and Zoning Commission considered this request at their August 14, 2023, meeting and recommended approval by a vote of 7-0 with the following condition:

- i. If an extension is needed at the end of one (1) year, an SUP amendment will be required.

OR6. *PUBLIC HEARING* CONSIDER AN ORDINANCE AMENDING THE PD (PLANNED DEVELOPMENT DISTRICT) AUTHORIZED BY ORDINANCE NO. 10-2020-59 TO AMEND REGULATIONS FOR THE TIMING OF COMPLETION OF THE COMMUNITY AMENITIES WITHIN THE BURGESS MEADOWS PLANNED DEVELOPMENT (FORMERLY CUSTARD FARMS), ON ±180.00 ACRES GENERALLY LOCATED ON THE EAST SIDE OF NORTH MAIN STREET, BETWEEN EAST VAUGHN ROAD AND BURGESS ROAD, CASE ZC23-034.

Presented by: David Jones, Community Development Director

Summary: The applicant, MKP Development, represented by Adlai Pennington, is requesting to amend timing of completion of community amenities within the Burgess Meadows Planned Development District (formerly Custard Farms). The subdivision sits on approximately 180 acres and is generally located on the east side of N. Main Street, between E. Vaughn Road and Burgess Road. The PD was originally approved in October 2020, and consists of 483 single-family detached residential lots, approximately 50 acres of open space, and one (1) multi-family tract located near the southeast intersection of N. Main Street and E. Vaughn Road. The project is planned for completion in seven (7) phases.

The community amenities were originally required to be completed during Phase 1. The amendment will allow additional time to install water and electrical infrastructure needed to service the lighting and landscaping components within the amenity area and would defer completion of certain amenities to Phases 2 and 3. The applicant has provided a Letter of Intent detailing the requested timing of completion of the community amenities. The proposed PD amendment would not allow an increase in the number of lots and there are no other proposed changes to the PD development regulations.

The Planning and Zoning Commission considered this request at their August 14, 2023, meeting and recommended approval by a vote of 7-0 with the following condition:

- i. That the amenities requiring irrigation and lighting be completed prior to acceptance of public infrastructure for Phase 2 or within 12 months, whichever comes first.

OR7. CONSIDER AN ORDINANCE AMENDING CHAPTER 154: SUBDIVISIONS, SECTION 154.060 (D): CONSTRUCTION AUTHORIZATION OF THE CODE OF ORDINANCES.

Presented by: Jeremy Hutt, Director of Public Works

Summary: As a result of new legislative action, the City of Cleburne needs to update the Code of Ordinances to remain in compliance with state law prior to the September 1, 2023, effective date. The State of Texas recently enacted House Bill 3492, which impacts plan review and inspection fees for municipalities. This bill adds a new Section 212.906 to the Texas Local Government Code that directs how a city may calculate its fees for plan review and inspections for development and goes into effect September 1, 2023. The bill prohibits a city from considering the cost of constructing the public infrastructure for a subdivision in determining the amount of the plan review and inspection fees. The existing ordinance (154.060-D) language utilizes a percentage-base structure which, as of September 1, 2023, will no longer be permissible.

Existing - (D) Paid to the city a fee for inspections and administration fee for that community facility to be constructed. The fee will be based on 3% of the actual construction cost of each community facility, which includes the cost of labor, materials, equipment required to construct the completed facility, in accordance with the city's standard specifications. The developer shall provide to the City Engineer a copy of the itemized contract prepared by his engineer with the engineer's seal affixed to it.

The proposed ordinance revision is necessary to maintain compliance with state requirements and will allow the City to continue the collection of this fee, which is needed to offset the costs of the city services rendered. Legal Counsel has reviewed the amendment and it is to read as follows:

Proposed - (D) Paid to the city a fee for the Engineering Design Review and Construction Inspection Services, the amount of the fee shall be determined by the City Engineer in compliance with State and Local requirements.

OR8. CONSIDER AN ORDINANCE AMENDING CHAPTER 154: SUBDIVISIONS, SECTION 154.089: OFF-SITE STREET CONSTRUCTION OR IMPROVEMENT, SUBSECTION D: ANALYSIS, OF THE CODE OF ORDINANCES.

Presented by: Jeremy Hutt, Director of Public Works

Summary: This proposed ordinance amends the subdivision ordinance (Chapter 154), specifically to Section 154.089: Off-Site Street Construction or Improvement, Subsection D: Analysis, to provide clarity of the requirements of a traffic impact analysis and the situations that require their submittal. This amendment will improve the ordinance language by addressing the following criteria:

- Establish when a Traffic Study and a Traffic Impact Analysis (TIA) are required to be performed and submitted to the City
- Outlines the format and the content requirements for the Traffic Study and a Traffic Impact Analysis (TIA)
- Specifies the requirement for mitigation efforts when necessitated

BUDGET AND TAX RATE

OC1. *PUBLIC HEARING* HOLD PUBLIC HEARING FOR PUBLIC INPUT ON THE FISCAL YEAR 2024 ANNUAL BUDGET BEGINNING OCTOBER 1, 2023, AND ENDING SEPTEMBER 30, 2024.

Presented by: Rhonda Daugherty, CFO/Director of Finance

Summary: In accordance with the City Charter (Sec 6.4) and the Local Government Code (LGC) (Sec. 102.006), the governing body shall hold a public hearing on the proposed budget on a date before the tax rate is adopted. On August 8, 2023, the City Council scheduled a public hearing to provide the public the opportunity to speak on the proposed budget. A public hearing notice was published on August 12, 2023, in the *Cleburne Times Review*, which is not earlier than 30th or later than the 10th day prior to the public hearing in accordance with LGC Sec. 102.0065.

At the conclusion of this public hearing, required action is to announce the date, time and place of the adoption of the proposed annual FY 2024 budget to be held during the regularly

scheduled City Council meeting of September 12, 2023, at 5:00 pm at City Hall, 10 N. Robinson St, Cleburne, Texas.

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 551.087. Deliberation Regarding Economic Development Negotiations - This chapter does not require a governmental body to conduct an open meeting: (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1):

EX1. Discuss Project Sunrise

EX2. Discuss economic development incentives related to redevelopment of property located at 111 South Caddo Street

Section 551.074. Deliberation regarding Personnel Matters, and Section 551.071. Consultation with Attorney - The City Council may convene in 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 and/or to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee, including deliberation regarding the following officers or employees:

EX3. Discussion update related to the City Manager position

Reconvene into open session for possible action resulting from any items posted and legally discussed in Executive Session.

CERTIFICATION

THIS IS TO CERTIFY 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, as well as the City's official website at www.cleburne.net and said Notice was posted on **Friday, August 18, 2023**, 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.