



CITY COUNCIL REGULAR MEETING AGENDA
AUGUST 23, 2022 @ 5:00PM
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 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:3462487799) or (888) 788-0099. **Enter Meeting ID 995-6991-0537 and then press #.**

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 Daniel Gibbs, Open Heart Ministries

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. PROCLAMATION: 9/11 Day of Remembrance - Patriots' Day, September 11, 2022 – Marty Peters

CMP2. PRESENTATION: Summer Reading Program Report, Tina Dunham, Library Services Director

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 9, 2022 REGULAR COUNCIL MEETING.

RS1. CONSIDER A RESOLUTION CONSENTING TO THE EXTENSION OF THE DECLARATION OF LOCAL DISASTER UNTIL SEPTEMBER 13, 2022.

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 September 13, 2022 at 11:59 p.m. central daylight time.

RS2. CONSIDER A RESOLUTION APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORP, MID-TEX DIVISION REGARDING THE COMPANY’S 2022 RATE REVIEW MECHANISM FILING.

Presented by: Rhonda Daugherty, Director of Finance

Summary: The City, along with 181 other Mid-Texas cities served by Atmos Energy Corporation, Mid-Tex Division (“Atmos Mid-Tex”), is a member of the Atmos Cities Steering Committee (“ACSC”). In 2007, ACSC and Atmos Mid-Tex settled a rate application 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.

The Legislature’s GRIP process allowed gas utilities to receive annual rate increases associated with capital investments. The RRM process has proven to result in a more efficient and less costly process. Given Atmos Mid-Tex’s claim that its historic cost of service should entitle it to recover \$141.3 million in additional system-wide revenues, the RRM settlement at \$115 million for ACSC cities reflects substantial savings and considers the settlement fair and reasonable. The ACSC Executive Committee consisting of city employees of 18 ACSC members urges all ACSC members to pass the Resolution/Ordinance before September 30, 2022 with the new rates being effective October 1, 2022.

The impact of the settlement on average residential rates is an increase of \$4.60 on a monthly basis, or 6.7%. The increase for average commercial usage will be \$14.34 or 4.3%.

OC1. CONSIDER APPROVING ACCOUNTS PAYABLE AND BUDGET TRANSFERS FOR THE MONTH OF JULY 2022.

BUDGET AND TAX RATE MATTERS

OC2. **PUBLIC HEARING HOLD PUBLIC HEARING FOR PUBLIC INPUT ON THE FISCAL YEAR 2023 ANNUAL BUDGET BEGINNING OCTOBER 1, 2022 AND ENDING SEPTEMBER 30, 2023.**

Presented by: Steve Polasek, City Manager & Rhonda Daugherty, 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 9, 2022, 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 13, 2022 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 2023 budget to be held during the regularly scheduled City Council meeting of September 13, 2022 at 5:00 pm at City Hall, 10 N. Robinson St, Cleburne, Texas.

RS3. CONSIDER A RESOLUTION SCHEDULING A PUBLIC HEARING FOR THE FISCAL YEAR 2023 TAX RATE TO BE HELD ON SEPTEMBER 13, 2022, AT 5:00 PM DURING THE REGULAR CITY COUNCIL MEETING.

Presented by: Rhonda Daugherty, Director of Finance

Summary: At the August 9, 2022 Council meeting, the tax rate associated with the Fiscal Year 2023 budget was presented for council consideration. At this meeting and in the intent resolution, it stated a public hearing on the tax rate was not required. After further review, Section 26.05(d) states the governing body may not adopt a tax rate that exceeds the lower of the voter-approval tax rate or the no-new-revenue tax rate before a public hearing is held. As a reminder, the proposed rate for FY 2023 is \$0.640476 per \$100 of valuation, which is the rate presented to City Council at the FY 2023 budget workshop on August 9, 2022. The proposed rate of \$0.640476 does not exceed the voter-approval tax rate of \$0.640476, however, it does exceed the no-new-revenue tax rate of \$0.635579, and therefore, a public hearing on the tax rate is required by the Texas Property Tax Code. In accordance with Section 26.06(b-2) of the Texas Tax Code, the publication of the Notice of Public Hearing on Tax Increase and will be published in the Cleburne Times-Review on Saturday, August 27, 2022.

As previously presented, the allocation for the FY 2023 tax rate for the interest and sinking rate (Debt Service Fund rate) is \$0.029790 and the operations and maintenance (General Fund rate) is \$0.610686. The ordinance adopting the FY 2023 tax rate will reflect these rates.

ACTION AGENDA

OR1. CONSIDER AN ORDINANCE APPROVING THE REDISTRICTING OF THE CITY COUNCIL SINGLE-MEMBER DISTRICTS AND ESTABLISHING NEW DISTRICT BOUNDARY LINES BASED ON 2020 CENSUS DATA FOR CLEBURNE CITY COUNCIL ELECTIONS.

Presented by: Ivy Peterson, City Secretary

Summary: Results of the 2020 federal Census indicated the City's single-member council districts are sufficiently out of population balance and require redistricting in order to comply with the "one-person, one-vote" (equal population) principle established by the U.S. Constitution. The City engaged the law firm of Bickerstaff Heath Delgado Acosta, LLP to act as its consultant, including advising and assisting the City Council in preparation of a new redistricting plan in compliance with applicable requirements of state and federal law.

On June 14, 2022, the Council adopted criteria to assist in the development of redistricting plans. Additionally, Council adopted guidelines establishing procedures for the submission of comments and proposed plans by the public, and at the Council's regular meeting of July 26, 2022, a public hearing was held providing an opportunity for public input.

As part of this multi-step process, the Council has considered several plans. This ordinance provides for the adoption of a final districting plan that will establish new municipal boundaries defining council representation for future elections. As provided in the City Charter, any redistricting plan requires a three-fourths vote of the full Council and shall be adopted no later than six months prior to the next ensuing City election. The proposed ordinance includes an immediate effective date that will provide sufficient time to coordinate with Johnson County for updating voter registration records before the next city election's candidate filing period.

OR2. **PUBLIC HEARING CONSIDER AN ORDINANCE REZONING ±4.138 ACRES LOCATED AT 2637 NORTH NOLAN RIVER ROAD, FROM A (AGRICULTURAL DISTRICT) TO RC (REGIONAL COMMERCIAL DISTRICT), WITH A SPECIFIC USE PERMIT FOR A HEAVY EQUIPMENT SALES AND REPAIR FACILITY AT 2637 AND 2825 NORTH NOLAN RIVER ROAD, CASE ZC21-027.**

Presented by: David Jones, Community Development Director

Summary: The applicant, Zimmerer Kubota, has submitted a request for a rezoning and Specific Use Permit for the property located at 2637 and 2825 North Nolan River Road, to expand the existing Zimmerer Kubota heavy equipment dealership. The proposed expansion will include the construction of a new building in order to expand the existing heavy machinery sales, rental, and service business, with outside display. The applicant has provided a letter of intent, and a site plan that includes landscaping and building elevations. The Planning and Zoning Commission considered the request at its July 25, 2022 meeting and recommended approval as presented by a vote of 6-0.

OR3. **PUBLIC HEARING CONSIDER AN ORDINANCE REZONING ±11.195 ACRES FROM IH (INTERIM HOLDING DISTRICT) TO RC (REGIONAL**

COMMERCIAL DISTRICT) FOR COMMERCIAL DEVELOPMENT, GENERALLY LOCATED 1,700 FEET WEST OF HIX ROAD, BETWEEN US HIGHWAY 67 AND KILPATRICK AVENUE, CASE ZC22-016.

Presented by: David Jones, Community Development Director

Summary: The applicant, Griffin Ellis, has submitted a request to rezone approximately 11.195 acres from IH (Interim Holding District) to RC (Regional Commercial District) for the property generally located 1,700 feet west of Hix Road, between U.S. Highway 67 and Kilpatrick Avenue. The applicant intends to rezone the subject property for future commercial development fronting onto U.S. Highway 67. The Planning and Zoning Commission considered this request at their August 8, 2022 meeting and recommended approval by a vote of 6-0.

RS4. CONSIDER A RESOLUTION AUTHORIZING AN AGREEMENT WITH CERTAIN PROPERTY OWNERS TO DELAY INSTALLATION OF REQUIRED LANDSCAPING MATERIALS DURING SPECIFIED DROUGHT CONDITIONS.

Presented by: David Jones, Community Development Department

Summary: Due to Stage 2 drought conditions that restrict unattended watering to one day per week, it is infeasible for builders to establish landscaping, particularly sod, until it can be watered sufficiently. The proposed resolution would authorize the City Manager to enter into an agreement with builders who are ready to occupy residential or commercial construction, but otherwise could not because required landscaping has not been installed. The agreement would bind the builder or developer, not necessarily the final building occupant or owner, to install the landscaping within a certain number of days or as drought restrictions allow.

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

Presented by: Jeremy Hutt, Director of Public Works

Summary: The City Council approved a contract with Waste Connections (dba Progressive Waste Solutions) on June 10, 2014 and the term of the contract is for a period of ten years, concluding on August 31, 2024. In accordance with the terms of the contract (Section 8.A.), the service provider has the right to adjust the rates based on the CPI-U, and has requested such increase to the City prior to July 31, 2022. The amended rates are in line with the CPI-U 9.1%, which is the revised Consumer Price Index rate for all urban consumers for Dallas/Fort Worth, or the U.S. City Average, whichever is less. Waste Connections will implement the increase effective October 1, 2022.

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

RS5. CONSIDER A RESOLUTION AUTHORIZING A CONTRACT WITH RNO CONSTRUCTION, LLC FOR THE EAST HENDERSON WATER LINE PROJECT FOR AN AMOUNT OF \$157,210, AUTHORIZING THE CITY MANAGER TO EXECUTE ANY SUBSEQUENT CHANGE ORDERS, AND

ESTABLISHING A TOTAL PROJECT BUDGET AMOUNT NOT TO EXCEED \$190,000.

Presented by: Jeremy Hutt, Director of Public Works

Summary: Several properties on East Henderson Street are currently provided water through a decades-old one-inch (1”) water line that runs through the properties and is not contained within an easement. The proposed project will replace that line with 1350 LF of new 8” water line contained within the Henderson Street right-of-way. Services to the properties will be extended to the new water line. In addition, the line will complete a loop that will improve water quality and pressures in the area, and add or replace 3 fire hydrants.

The City engaged engineering services to provide design for the project with Oller Engineering. The project was posted and advertised for bids on July 9th, with a bid opening on July 29, 2022. Ten (10) bids were received, with RNO Construction, LLC being the apparent low offer.

RNO Construction, LLC meets the minimum qualifications required by the contract documents and their total offer of \$157,210 is the lowest qualified bid. This project has a construction duration of 60 days. The proposed resolution will award the contract to RNO Construction, LLC, authorize the City Manager to execute the contract documents, and authorize the City Manager to utilize contingency funds in the amount of \$32,790.00 to execute change orders and provide construction testing services that may be required in order to complete the project. Funding for this contract is in the FY22 Budget in the Utility Fund, East Henderson Street Water Line project.

RS6. CONSIDER A RESOLUTION ADOPTING THE SPECIAL EVENTS POLICY FOR THE CITY OF CLEBURNE.

Presented by: Rob Severance, Chief of Police

Summary: The purpose of this policy is to facilitate activities that are safe, enjoyable and well-coordinated, and to provide guidelines by which the reviews, approvals, administration, and implementation of special events are consistent in nature. Attention is given to the use of City resources and infrastructure in support of such activities.

RS7. CONSIDER A RESOLUTION ADOPTING THE TRESPASS WARNING ON CITY PROPERTY POLICY FOR THE CITY OF CLEBURNE.

Presented by: Craig Huskey, Assistant Chief of Police

Summary: The City desires to provide the public and city staff at city property, buildings and facilities, to the extent permitted by law, an environment free from unlawful and disruptive behavior that interferes with city and public business and activities. For public safety reasons, staff recommends adoption of a resolution to provide a trespass policy under the City Manager’s authority to exclude unlawful and disruptive activities and persons from city property, buildings, and facilities while being within state and federal laws. The trespass policy acknowledges a person’s First Amendment right and does not prohibit a person from exercising those rights at any public forum.

RS8. CONSIDER A RESOLUTION APPOINTING TWO CITY COUNCIL MEMBERS TO SERVE ON A COMMITTEE DESIGNATED TO REVIEW AND RECOMMEND UPDATES TO THE CURRENT LAND LEASE AND PERFORMANCE AGREEMENT WITH THE JOHNSON COUNTY HERITAGE FOUNDATION FOR OPERATION OF THE CHISHOLM TRAIL OUTDOOR MUSEUM.

Presented by: Grady Easdon, Economic Development Manager

Summary: The Johnson County Heritage Foundation (“Foundation”) has requested additional funding to offset increased expenditures related to operations of the Chisholm Trail Outdoor Museum (“CTOM”). As a condition of allocating additional funding, the current land lease and CTOM Chapter 380 Economic Development and Performance Agreement both need to be reviewed and updated with revised financial accountability, operational, and performance measures. It is requested two councilmembers assist in this process, in addition to two city staff members, to work with members of the Foundation on these document revisions.

The current land lease was approved by the City Council at its meeting held on July 12, 2005, and executed on March 20, 2006. The Chapter 380 agreement was originally executed on July 24, 2018, and re-approved in October of 2021.

RS9. CONSIDER A RESOLUTION AUTHORIZING A RENEWAL OF THE INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR THEIR ANNUAL CONTRIBUTION TO CITY/COUNTY TRANSPORTATION.

Presented by: Rhonda Daugherty, Director of Finance

Summary: City/County Transportation wishes to renew its annual Interlocal Agreement with Johnson County for their annual contribution to the program. 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 the City’s federal grant. Johnson County’s annual contribution for Fiscal Year 2023 will be \$63,693. This agreement includes a renewal option, allowing the parties to renew for four (4) additional one-year terms, with a final expiration of September 30, 2027. 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.

DISCUSSION & UPDATES

OC3. DISCUSS THE ADDITION OF A 9-11 MEMORIAL AT MCGREGOR PARK.

Presented by: Aaron Dobson, Director of Parks & Recreation

Summary: The Cleburne Fire and Police Departments approached the Parks & Recreation Department in April of 2022 with the idea of readdressing a September 11 Honor Monument at McGregor Park.

The original project was designed in 2012 and incorporated a monument to be placed on the west side middle open grass area. The design included elements honoring Police, Fire, and Military. The focal point of the plan had a metal I beam from the Twin Towers.

After an initial conversation about the project, the parks and recreation team recommended changing the location to the pond area at the park. The pond no longer retains water, nor does it have a reliable source to maintain water levels and would require filling from a potable water source. The parks team has explored various opportunities to renovate the pond; however, each option was costly, and none provided a reliable water source. The original area of consideration, the grass lawn, serves as the open lawn grounds of the park and is the only irrigated open lawn in the entire park system. The parks, fire, and police teams will work with the original designer, who provided their plans free of charge, to review and update the plan.

At their August 1, 2022 meeting, the Parks & Recreation Advisory Board unanimously recommended moving forward with filling in the existing pond at McGregor Park and partnering with the Fire and Police Departments to create a September 11 Honors Monument, with funds to be supplied through donations.

OC4. DISCUSS AMENDING CHAPTER 150 OF THE CODE OF ORDINANCES BY ADOPTING THE 2021 ICC MODEL BUILDING CODES AND ASSOCIATED NCTCOG AMENDMENTS.

Presented by: David Jones, Community Development Director

Summary: The purpose of this update is to make the Council aware of major changes introduced in the 2021 International Code Council (ICC) model building codes that are currently being reviewed by City staff and to answer any questions regarding the nature or impact of these changes. Generally speaking, the 2021 codes contain minor updates from the 2015 codes currently used by the City. There are, however, additional requirements in the electrical code and energy code that would apply to all new houses constructed in the city that will add a nominal cost to construction but will improve life safety and home efficiency for occupants.

Cleburne has operated under the 2015 ICC building code cycle since September of 2017. Adopted codes include the International Building Code, Plumbing Code, Electrical Code, Mechanical Code, Residential Code, Energy Code, and Fuel Gas Code.

The ICC updates these codes on a 3-year cycle, though it is customary for cities to skip adoption of a cycle, given the generally-minimal impact of changes for each cycle. The North Central Texas Council of Governments (NCTCOG) reviews the ICC codes each cycle and develops amendments that are specific to the North Texas region. Cities may also develop their own amendments in addition to NCTCOG's that are tailored to their local building environment.

In addition to this Council briefing, City staff are scheduled to present the updates to the Johnson County Builders Association in October.

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 and Section 551.072. Deliberation Regarding Real Property The City Council will convene into executive session to receive legal advice from the City Attorney 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 the provisions of Chapter 551 and to deliberate the purchase, exchange, lease, or value of real property related to the following:

EXE1. Discuss City-owned Real Property located at 1801 Sparks Drive

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).

EXE2. Discuss request for economic development incentives related to proposed retail project at 1663 West Henderson Street

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:

EXE3. Discuss pending litigation: US District Court Civil Action No. 3:22-cv-01483-X, Aaron Urbanski

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:

EXE4. Succession planning for City Management

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

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, August 19, 2022**, 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
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.