



**REGULAR CITY COUNCIL MEETING MINUTES  
JULY 28, 2020 @ 5:00 PM  
CITY HALL COUNCIL CHAMBERS  
10 NORTH ROBINSON STREET, CLEBURNE, TX 76031**

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City Council meetings reopened to the public with social distancing and sanitation guidelines in place as a continued response to the COVID-19 health emergency. Members of the council, city staff and the public were given an opportunity to participate in person or by teleconference.

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**I. ROLL CALL AND CALL TO ORDER BY MAYOR PRO TEM @ 5:03PM**

\*Participated remotely

**City Council:**

- X 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** by Rev John Warren, Councilman SMD 4

**III. PLEDGE OF ALLEGIANCE**

**IV. ~~CITY SECRETARY READS THE GUIDELINES TO SPEAK BEFORE COUNCIL~~**

Mayor Pro Tem Boedeker waived the reading of the guidelines until such a time as necessary

**V. COMMUNITY INTEREST MATTERS, ANNOUNCEMENTS & PRESENTATIONS**

- Proclamation: Cleburne Purple Heart Medal Recipients' Day of Honor, August 7, 2020
- Presentation: Railroad Museum Expansion Project Update on Design of Phase III – Aaron Dobson, Director of Parks and Recreation

Linda Wallace, a member of the Railroad Museum Expansion Committee, was present and offered comments in favor of the expansion project and expressed how much of an asset the new facility will be to the community. Ms. Wallace also complimented staff on their leadership and diligent efforts on this project.

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**CONSENT ITEMS**

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All of the following items on the Consent Agenda are considered to be routine and self-explanatory by the Council and was enacted with one motion with no separate action of these items.

**M1. CONSIDER MINUTES FOR THE JULY 14, 2020 REGULAR COUNCIL MEETING.****RS1. RS07-2020-81****CONSIDER A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLEBURNE, TEXAS, CONSENTING TO THE EXTENSION OF THE DECLARATION OF LOCAL DISASTER UNTIL AUGUST 11, 2020, AT 11:59 PM.**

Presented by: Steve Polasek, City Manager

**BRIEF:** 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 418.108(b) of the Texas Government Code.

The Council has approved extensions to the Declaration on March 13<sup>th</sup> by RS03-2020-32 until March 29<sup>th</sup>, on March 24<sup>th</sup> by RS03-2020-35 until April 14<sup>th</sup>, on April 14<sup>th</sup> by RS04-2020-45 until April 28<sup>th</sup>, on April 28<sup>th</sup> by RS04-2020-49 until May 12<sup>th</sup>, on May 12<sup>th</sup> by RS05-2020-54 until May 26<sup>th</sup>, on May 26, 2020 by RS05-2020-59 until June 9<sup>th</sup>, on June 9, 2020 by RS06-2020-61 until June 23<sup>rd</sup>, and on June 30, 2020 by RS06-2020-73 until August 3<sup>rd</sup>.

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 August 11, 2020 at 11:59 p.m. central standard time.

**RS2. RS07-2020-82****CONSIDER A RESOLUTION ACCEPTING THE CAPITAL IMPROVEMENTS ADVISORY COMMITTEE’S SEMI-ANNUAL, 2020 MID-YEAR REPORT.**

Presented by: Jeremy Hutt, Director of Public Works

**BRIEF:** 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 city’s impact fee program.

Staff provided the semi-annual presentation of revenues and expenditures for water, wastewater, and roadway impact fees to the CIAC on July 13, 2020. The CIAC’s recommendation on the City of Cleburne’s water, wastewater, and roadway impact fee program is to continue forward with no changes at this time, and is included in their report to the City Council.

**RS3. RS07-2020-83****CONSIDER A RESOLUTION APPROVING THE CITY OF CLEBURNE’S INVESTMENT REPORT FOR THE QUARTER ENDED JUNE 30, 2020.**

Presented by: Troy Lestina, Director of Finance

**BRIEF:** Chapter 2256.023 of the Texas Government Code states that a written quarterly investment report must be prepared by the investment officer and submitted to the governing body. For the quarter ended June 30, 2020, the City invested solely in four Local Government Investment Pools along with a trust account for the funds received from Texas Water Development Board (LOGIC, Texas Class, TexPool, TexSTAR, and Amegy). Included in the investment report are the newsletters from each of the pools that provides information on their average yield, net asset value, weighted average maturity, and portfolio composition at the end of the reporting quarter.

As of June 30, 2020, there was \$124,578,743.94 invested in the four investment pools, along with the loan proceeds held by TWDB at Amegy Bank, with total quarterly interest income of \$184,842.67 (see attached quarterly investment reports for the four investment pools). The percentage allocation by investment pool at March 31, 2020 is LOGIC: 19.55%, Texas Class: 30.13%, TexPool: 5.94%, TexSTAR: 12.20% and Amegy: 32.17%.

**OR1. OR07-2020-41**

**CONSIDER AN ORDINANCE DESIGNATING SCOTT PORTER, THE TAX ASSESSOR-COLLECTOR OF JOHNSON COUNTY TO FULFILL THE DUTIES REQUIRED BY CHAPTER 26 OF THE TAX CODE.**

Presented by: Troy Lestina, Director of Finance

**BRIEF:** Every taxing unit has as an officer or employee contracted, or directly employed, a person who functions as Tax Assessor, Tax Collector, or Tax Assessor/Collector. The City has contracted with Johnson County to have the County Assessor/Collector perform those functions. Therefore, concerning the units in Johnson County, Scott Porter is each units' Tax Assessor/Collector. The Tax Code 26.04 has always required the tax calculations be performed by a designated officer or employee and historically that function has been done by whoever is contracted to be the Assessor/Collector (considered an officer of the unit by case law). Historically, the contract with Johnson County has been treated as the designation of the County TAC to perform the calculations without any other formal action by the governing body. However, given the additional responsibilities given in SB2 to the designee, the City wishes to formally designate Johnson County Tax Assessor/Collector, Scott Porter to perform the necessary tax calculations for the City of Cleburne.

**OC1. CONSIDER APPROVAL OF ACCOUNTS PAYABLE FOR THE MONTH OF JUNE 2020.**

Presented by: Troy Lestina, Director of Finance

**MOTION: to approve as presented in its entirety**

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly		X	X				X	Approved as presented
Boedeker			X					Approved as amended

Mann			X				Denied
Warren	X		X				Withdrawn
Cain						X	Postponed until:
X	<i>Motion Carried</i>		<i>Motion Failed</i>			X	<i>Roll Call</i>

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**ORDINANCE**

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**OR2. POSTPONED**

**CONSIDER AN ORDINANCE REZONING ±38.376 ACRES FROM SF-4 (SINGLE-FAMILY DWELLING DISTRICT) TO PD (PLANNED DEVELOPMENT DISTRICT), LOCATED APPROXIMATELY 184 FEET NORTH OF MANN COURT, APPROXIMATELY 122 FEET SOUTH OF MIMOSA STREET AND APPROXIMATELY 248 FEET WEST OF GRAND AVENUE; AS REQUESTED BY XR DEVELOPMENT, LLC, CASE ZC20-008.**

Person presenting this item: Shane Pace, Executive Director of Development Services

**BRIEF:** The applicant’s Planned Development of approximately 38.376 acres includes both single-family detached and single-family attached home products. 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 and building setbacks. The applicant is requesting a base zoning of the SF-A District for the single-family attached homes, with a deviation to the minimum building setbacks. The applicant is also proposing some amenities including residential landscaping, and 7-acres of open space to be dedicated to the City of Cleburne as a future public park. Further detail is provided below. For full planned development details, see Staff’s Agenda Report included in the backup.

The Planning and Zoning Commission considered this request at their July 13, 2020 meeting. During the public hearing, several citizens voiced their concerns regarding the proposed request, including traffic safety, flooding and privacy. Additionally, several speaker registration cards were submitted (attached) citing opposition to this request.

The Planning and Zoning Commission recommended approval by a vote of 4-1 with the following conditions:

1. The applicant must build a temporary drainage berm along the existing properties located along Mann Court during construction until completion of the road;
2. The minimum lot size in Area A be 6,000 square feet with the exception of two (2) lots allowed to be 5,600 square feet; and
3. The minimum rear yard setback in Area B to be 30-feet.

Following the Planning & Zoning Commission meeting, the applicant submitted a letter (attached) to staff responding to some of the concerns that were presented that evening. The applicant has indicated that a traffic study has been initiated as well as a restriction for one (1) lot within the townhome development (Area B) to a single-story home. Additionally, the applicant has agreed to provide a 30-foot rear yard setback for the townhome lots (Area B) as recommended by the Commission.

A total of ninety (90) property owners within 200 feet were notified of the proposed rezoning request. Staff received a total of thirty (30) letters of opposition (see backup). Per State Law and Section 155.15 of the Zoning Ordinance, should a protest of 20% or more of the property owners within the 200 feet notification boundary be submitted, a super majority vote by City Council is

required. Staff has evaluated the submitted opposition letters and it does not constitute a super majority vote given that the percentage of opposition is 17.6%.

***\*OPENED PUBLIC HEARING\****

Speakers: Bryan Hicks, Cody Hicks, and Josh Brockett, proponents of the rezone request were present and available for questions of the Council.

Mr. Robert Harris, 805 McAnear Street, expressed concerns about safety, increased traffic, and decreased property values.

Mrs. Kay Harris, 805 McAnear Street, stated they have lived there since 1984 and is concerned with the increased traffic the new development may cause and how the neighbors will maintain their property. She also expressed concern of the city's ability to provide code enforcement and referenced existing neighbors' not following the guidelines for placement of trash cans.

Ms. Lynn Limon, 702 Mann Court, expressed appreciation that the developer made adjustments in accordance with the Planning and Zoning's recommendation. She stated that Mann Court is a well-maintained neighborhood and that Mimosa Street is mostly rent houses and is not well maintained. Ms. Limon stated that perhaps an HOA for this proposed development would improve the conditions of the area. She expressed concerns about the proposed lot size being so small and how close the new neighbors will be and would like the lot sizes increased.

Ms. Barbara Sisk, 1419 Mimosa Street, expressed that the development area needs to be mowed regularly during the construction phase. She has concerns with the telephone and electrical infrastructure in the area and, with the increased housing density, how the utility companies will be able to access the lines for maintenance.

With no other speakers, Mayor Pro Tem Boedeker closed the public hearing.

Mayor Pro Tem Boedeker inquired about the maintenance of the property during the construction phase as well as specifics on the traffic study. Mr. Pace confirmed the developer would be in charge of maintenance.

Mr. Josh Brockett, of Childress Engineers spoke concerning the traffic study. The impact analysis will be contracted with and conducted by Lee Engineering and that they already have counts that were taken when school was in session.

Councilman Kelly expressed he would like more time to study the development details and that 30 days would be an adequate time for the review.

Councilman Mann spoke concerning the history of the property and that he was satisfied that this will be a good development and an asset to the community.

Councilman Warren inquired if staff had been to the site and addressed the concerns of the public. Mr. Pace confirmed the staff had addressed the concerns to the best of our ability and added that the council may add anything they desire to the planned development.

Mayor Pro Tem Boedeker thanked the developer for regarding the Planning and Zoning Commission and for making the recommended adjustments. He inquired if the builder is taking into consideration the meshing of the proposed smaller lots with the existing larger lots and how it affects property owners' privacy and asked them to consider landscaping between the new and old development. Mr. Bryan Hicks responded that the proposal includes a 6-foot fence and privacy landscaping. He believes the property values will increase because of this development.

Councilman Warren asked staff if the concerns about utility easement access would be an issue and Mr. Pace confirmed that new developments have utility access in the front of the house.

**MOTION:** to postpone and continue the public hearing to the August 25, 2020, Regular Council Meeting at 5:00pm

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly	X		X					Approved as presented
Boedeker				X				Approved as amended
Mann				X				Denied
Warren		X	X					Withdrawn
Cain						X	X	Postpone and continue Public Hearing: Aug 25, 2020
	<i>Motion Carried</i>		X	<i>Motion Failed</i>			X	<i>Roll Call</i>

Councilman Mann asked why Dr Kelly was ready to vote. Dr Kelly said he needed 30 days to study this in depth. He has concerns with streets and traffic. Mr Pace noted that the builder is required to meet all current code. Mayor Pro Tem noted that we were apparently at an impasse and requested Dr Kelly to make his motion again.

**MOTION:** to postpone and continue the public hearing to the August 25, 2020, Regular Council Meeting at 5:00pm

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly	X		X					Approved as presented
Boedeker			X					Approved as amended
Mann				X				Denied
Warren		X	X					Withdrawn
Cain						X	X	Postpone and continue Public Hearing: Aug 25, 2020
X	<i>Motion Carried</i>			<i>Motion Failed</i>			X	<i>Roll Call</i>

***\*CONTINUE PUBLIC HEARING\****

The Regular Council Meeting recessed at 6:27 PM to discuss items legally posted in Executive Session.

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**EXECUTIVE SESSION**

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The City Council went into Executive Session at 6:36 PM

**A. § 551.071. Consultation with Attorney; Closed Meeting** A governmental body may not conduct a private consultation with its attorney except: (1) when the governmental body seeks the advice of its attorney about: (A) pending or contemplated litigation; or (B) a settlement offer; or (2) on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this chapter.

1. ~~Cause no. DC C201900937; RT General, LLC v. City of Cleburne / Case No. 10-20-0037-CV; City of Cleburne v. RT General, LLC — Steve Polasek, City Manager~~
2. Discuss Municipal Utility District – Shane Pace, Executive Director of Development Services

Mayor Pro Tem Boedeker reconvened into open session at 6:46 PM and no action was taken resulting from any items posted and legally discussed in Executive Session.

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**ADJOURNMENT**

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**ADJOURNED AT: 6:46 PM**

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**APPROVAL OF MINUTES**

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