



**REGULAR CITY COUNCIL MEETING MINUTES**  
**MAY 12, 2020**  
**5:00 PM**  
**CITY HALL COUNCIL CHAMBERS**  
**10 NORTH ROBINSON STREET, CLEBURNE, TX 76031**

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City facilities are closed to the public in response to a health emergency. Cleburne City Council conducted this meeting by telephone conference in accordance with local, state and federal Orders to advance the public health goal of limiting face-to-face meetings (also called “social distancing”) to slow the spread of the Coronavirus (COVID-19). Therefore, there was no public access to the location described above. The meeting was live streamed and is available on the city’s website.

Members of the public were given an opportunity to participate in the meeting by teleconference and/or submitting questions/comments through the registration card available on the city’s website (<https://www.cleburne.net/agendacenter>). No registration cards were received for this meeting.

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**I. ROLL CALL AND CALL TO ORDER BY MAYOR AT 5:03 PM**

\*Participated remotely

**City Council:**

- ✓ Scott Cain, Mayor
- ✓ Dr. Bob Kelly, SMD 1
- ✓ Chris Boedeker, SMD 2\*
- ✓ Mike Mann, SMD 3
- ✓ John Warren, Mayor Pro Tem/SMD 4

**Administration:**

- ✓ Steve Polasek, City Manager\*
- ✓ Fritz Quast, City Attorney\*
- ✓ Ivy Peterson, City Secretary

**II. INVOCATION by Mayor Pro Tem John Warren**

**III. PLEDGE OF ALLEGIANCE**

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

Mayor Cain waived the reading of the guidelines until such a time as necessary

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

None

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**MINUTES**

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**M1. CONSIDER MINUTES FOR THE APRIL 28, 2020 COUNCIL MEETING.**

**MOTION:** to approve as presented

	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Warren	X		X					Withdrawn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>

**RESOLUTIONS**

**RS1. RS05-2020-54**

**CONSIDER A RESOLUTION CONSENTING TO THE EXTENSION OF THE DECLARATION OF LOCAL DISASTER UNTIL MAY 26, 2020, 11:59PM.**

Person presenting this item: 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 as follows:

March 13, 2020 by RS03-2020-32 until March 29<sup>th</sup> at 11:59 p.m.

March 24, 2020 by RS03-2020-35 until April 14<sup>th</sup> at 11:59 p.m.

April 14, 2020 by RS04-2020-45 until April 28<sup>th</sup> at 11:59 p.m.

April 26, 2020 by RS04-2020-49 until May 12<sup>th</sup> at 11:59 p.m.

The City continues to take actions to promote health and safety, and suppress the spread of COVID-19 in the community. In doing so, staff has cancelled nonessential meetings until further notice. This resolution for your consideration is to extend the Declaration to the next regular council meeting date of May 26, 2020 at 11:59 p.m. central standard time. *Further, this Declaration would now require any future Orders issued by the Mayor to be approved by a majority of the City Council in advance of implementation.*

**MOTION: to approve with continuation of the Mayor’s Order #11 as well as authorizing Mayor to execute any requests, applications or other documents for federal or state emergency funding programs related to the COVID-19 pandemic**

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly		X	X					Approved as presented
Boedeker	X		X				X	Approved as amended
Mann			X					Denied
Warren			X					Withdrawn
Cain			X					Postponed until:
X	<i>Motion Carried</i>			<i>Motion Failed</i>			X	<i>Roll Call</i>

**RS2. RS05-2020-55**

**CONSIDER A RESOLUTION AUTHORIZING A RIGHT OF WAY EXCHANGE AGREEMENT WITH JAMES HARDIE BUILDING PRODUCTS, INC FOR THE PROPERTY NEEDED TO CONSTRUCT SPARKS DRIVE, AND A SPECIAL WARRANTY DEED AND ALL OTHER APPLICABLE CLOSING DOCUMENTS, AND PAY CLOSING COSTS IN AN AMOUNT NOT TO EXCEED \$3,000.**

Person presenting this item: Cheryl Taylor, Director of Engineering Services

**BRIEF:** The City is exchanging property with James Hardie Building Products, Inc. for the construction of the Sparks Drive connection project. James Hardie previously dedicated right of way for the road construction. The completed engineering design by Childress Engineers has aligned the roadway to the current configuration which no longer follows the right of way previously dedicated. James Hardie has been a cooperative and proactive partner with the city on this project and the roadway alignment and agrees to exchange the right of way previously dedicated for the right of way required by the final design. With the completion of the land exchange, the Sparks Drive Project will be ready to be bid for construction.

The right of way agreement allows for an even exchange of the 4.227 acres previously dedicated for the 1.714 acres required for the construction of Sparks Drive. The City will be responsible for all closing costs with the title company, and James Hardie will be responsible for prorated taxes on the property from January 1, 2020 until the date of closing.

Funding for the closing costs will be paid from the General Fund, and will seek reimbursement from the TIF 1 at their next board meeting.

**MOTION: to approve as presented**

	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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**ORDINANCES**

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**OR1. OR05-2020-28**

**CONSIDER AN ORDINANCE REZONING ±0.649 ACRES FROM C1 (LOCAL BUSINESS DISTRICT) AND C3 (COMMERCIAL DISTRICT) TO C1/SUP (LOCAL BUSINESS DISTRICT WITH A SPECIFIC USE PERMIT FOR A CAR WASH), LOCATED AT 805 POINDEXTER AVENUE, AS REQUESTED BY JOE AND MARGO O’CONNOR.**

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

**BRIEF:** The applicant is requesting a Specific Use Permit (SUP) for a car wash located at 805 Poindexter Avenue. The subject property, approximately 0.649 acres in size, currently has a shed structure and two existing canopy structures that were used in the past for a self-service car wash, one for washing vehicles and one as a vacuum station.

Staff research indicates that the car wash has not been in operation over a year. After such period of time being non-operation, a use within a zoning district that is not currently allowed by right can no longer be valid as a legal non-conforming use. The majority of the property is zoned C1 (Local Business District) and the portion along Poindexter is zoned C3 (Commercial District). The main business is located within the C1 District and in order to open as a car wash, the approval of an SUP is required.

The properties to the north, west and south are existing residential homes that are zoned in three different districts: C3 to the north, C1 to the west and the SF-4 District to the south. The properties to the east are zoned commercially, both C2 (General Business District) and C3 District, and there are existing businesses within the strip center.

When an SUP request is submitted, staff reviews the site for compliance with the rules and regulations of the Zoning Ordinance. In this case, since this property is already developed and was previously used as a car wash, staff will outline the regulations typically required for new development. The applicant has indicated their intent to leave the property as is with some improvements as outlined below. An SUP request, and any conditions placed upon the property are at the discretion of the Planning and Zoning Commission and City Council. See staff’s agenda report for more application details.

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

Speakers: Joe O’Connor was available for questions of the Council.

***\*CLOSED PUBLIC HEARING\****

**MOTION: to approve as presented including the recommendations by the Planning and Zoning Commission**

	Motion	Second	Aye	No	Abstain	Absent	Result
Kelly			X				Approved as presented
Boedeker	X		X				X Approved as amended
Mann		X	X				Denied
Warren			X				Withdrawn
Cain			X				Postponed until:
X	<i>Motion Carried</i>		<i>Motion Failed</i>				X <i>Roll Call</i>

**OR2. POSTPONED**

**CONSIDER AN ORDINANCE REZONING ±27.812 ACRES FROM SF-4 (SINGLE-FAMILY DWELLING DISTRICT) AND C3 (COMMERCIAL DISTRICT) TO PD (PLANNED DEVELOPMENT DISTRICT), LOCATED APPROXIMATELY 1,500 FEET WEST OF NOLAN RIVER ROAD AND ON THE SOUTHWEST SIDE OF WOODARD AVENUE, AS REQUESTED BY RW GOSSETT, REPRESENTED BY MICHAEL VARRICCHIO.**

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

**BRIEF:** The applicant has requested that the public hearing be continued to the June 23, 2020 City Council meeting. See staff’s agenda report for full application details.

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

Speakers: None

**MOTION: to continue the public hearing to the June 23, 2020 Regular Council meeting**

	Motion	Second	Aye	No	Abstain	Absent	Result
Kelly			X				Approved as presented
Boedeker			X				Approved as amended
Mann	X		X				Denied
Warren		X	X				Withdrawn
Cain			X				X Postponed and continue PH to: 6/23
<b>X</b>	<b>Motion Carried</b>		<b>Motion Failed</b>				<b>X Roll Call</b>

**OR3. OR05-2020-29**

**CONSIDER AN ORDINANCE REZONING ±45.17 ACRES FROM IH (INTERIM HOLDING DISTRICT) TO SF-4 (SINGLE-FAMILY DWELLING DISTRICT), LOCATED AT 1509 EAST SECOND STREET, AS REQUESTED BY MW TEXAN STAR HOMES, LLC, REPRESENTED BY KIMBERLY MALONE.**

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

**BRIEF:** The applicant has requested to rezone approximately 45.17 acres from IH (Interim Holding District) to SF-4 (Single-Family Dwelling District) located at 1509 E. Second Street. The applicant has indicated their intent to construct a single-family residential development on the subject property. The applicant requested a voluntary annexation to include the subject property into the City Limits. At the February 11, 2020 meeting, City Council voted 3-0 to approve the request.

The property, upon being annexed, was given a zoning designation of the IH (Interim Holding District) until such time that the applicant was ready to move forward with developing the property. The properties to the west, across Pearl Street, are zoned SF-4 District and consist of several single-family homes. The properties to the north, south and east are located within the City’s Extraterritorial Jurisdiction (ETJ). The Future Land Use Plan shows this property to be located in the Traditional Neighborhoods District, whose purpose is to support future population growth in a traditional neighborhood development context. The proposed rezoning request for single-family development is considered an appropriate use within this district. The applicant has provided a conceptual site layout of the proposed single-family development. This conceptual layout is for informational purposes only and is not up for consideration as part of this rezoning request.

The Planning and Zoning Commission considered this request at their April 27, 2020 meeting and recommended approval by a vote of 4-0.

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

Speakers: Kim Malone spoke in favor of the rezone  
 Bruce Nelson, engineer for this project was available for questions

***\*CLOSED PUBLIC HEARING\****

**MOTION: to approve as presented**

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly			X				X	Approved as presented
Boedeker			X					Approved as amended
Mann	X		X					Denied
Warren		X	X					Withdrawn
Cain			X					Postponed until:
X	<i>Motion Carried</i>		<i>Motion Failed</i>				X	<i>Roll Call</i>

**OR4. OR05-2020-30**

**CONSIDER AN ORDINANCE REZONING ±1.38 ACRES FROM C3 (COMMERCIAL DISTRICT) TO C3/SUP (COMMERCIAL DISTRICT WITH A SPECIFIC USE PERMIT FOR RV SALES), LOCATED AT 2042 EAST HENDERSON STREET, AS REQUESTED BY EBM WACO PROPERTY, LLC, REPRESENTED BY WILLIAM BROWN.**

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

**BRIEF:** The applicant is requesting a Specific Use Permit for Recreational Vehicle (RV) Sales for the property located at 2042 E. Henderson Street as an expansion for Fun Town RV. The applicant has indicated that the property will be used as an extension to the current display area for RV’s. The existing business is directly east of the subject property and is located in the City of Keene.

The subject property, approximately 1.38 acres, is triangular in nature and currently has one building, approximately 4,000 square feet in size that will be used to house between 2-4 RV’s for display. Although an exact site layout of how the RV’s will be displayed outside the building has not been provided, the applicant has indicated that the trailers will displayed similar to the existing business in either a horizontal or vertical fashion.

The property is currently zoned C3 (Commercial District). The property to the north, across Henderson Street, is zoned C3/SUP where a shed building company is located. The property to the west and south is zoned M2 (Heavy Industrial District) where a warehouse facility is located. As previously mentioned, the property to the east is home to the applicant’s main business and is located in the City of Keene. The subject property is not located within the boundaries of the Future Land Use Plan.

The Planning and Zoning Commission considered this request at their April 27, 2020 meeting and recommended approval by a vote of 4-0.

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

Speakers: None

***\*CLOSED PUBLIC HEARING\****

**MOTION: to approve as presented**

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly		X	X				X	Approved as presented
Boedeker			X					Approved as amended
Mann	X		X					Denied
Warren			X					Withdrawn
Cain			X					Postponed until:
X	<i>Motion Carried</i>		<i>Motion Failed</i>				X	<i>Roll Call</i>

**OR5. DENIED**

**CONSIDER AN ORDINANCE DISANNEXING TERRITORY FROM THE CITY OF CLEBURNE, BEING ±7.935 ACRES AT 4363 WEATHERFORD HIGHWAY; AMENDING BOUNDARY LIMITS OF SAID CITY; AS REQUESTED BY BRYCE CLOTHIER (POSTPONED FROM MAR 24<sup>TH</sup> COUNCIL MTG).**

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

**BRIEF:** Bryce Clothier is the owner of approximately 10.008 acres of land located at 4363 Weatherford Highway, 7.935 acres of which are located within the city limits of Cleburne. The property owner has requested to have their property disannexed from the corporate limits of the City of Cleburne. The subject property was annexed in 2012 as part of the larger annexation proceedings taking place at the time. The owner of the property at the time of the annexation proceedings did not enter into a development agreement.

The subject property within the city limits is approximately 7.935 acres in size and is developed with a single-family home and multiple accessory buildings. The property owner has indicated their intent to continue the current land use on the subject property. The adjacent properties to the west and east are located within the city limits of Cleburne while the properties to the south are outside the city’s jurisdiction.

Section 1.3 Extension of Boundaries - of the City of Cleburne Charter authorizes the City Council to disannex territory by ordinance, without limitation, and at its discretion. A public hearing is not required for this action.

The property owner has paid City taxes each year following annexation as required. Section 43.148 Refund of Taxes and Fees - of the Texas Local Government Code requires a municipality disannexing a property to review the amount of property taxes collected, and provide a refund in the event the taxes paid exceed the pro rata costs of direct services available and/or provided to the property owner. Staff has reviewed the taxes paid to date, and evaluated the pro rata cost of basic services available. The results of this analysis indicate a refund is not required.

The subject property is currently served by a private water well and is utilizing a septic system for sanitary sewer. There are no plans to extend city water or sewer infrastructure into this area in the near future.

Bryce Clothier, property owner spoke in favor of this request.

**MOTION: to deny**

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly			X					Approved as presented
Boedeker	X		X					Approved as amended
Mann			X				X	Denied
Warren		X	X					Withdrawn
Cain			X					Postponed until:
X	<i>Motion Carried</i>		<i>Motion Failed</i>				X	<i>Roll Call</i>

**OR6. OR05-2020-31**

**CONSIDER AN ORDINANCE APPROVING THE REAPPOINTMENT OF MICHAEL KURMES FOR A TERM OF TWO YEARS AS MUNICIPAL COURT JUDGE FOR THE CLEBURNE MUNICIPAL COURT OF RECORD AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT FOR SAID PROFESSIONAL SERVICES.**

Person presenting this item: Troy Lestina, Director of Finance

**BRIEF:** On November 8, 2016, City Council reappointed Michael Kurmes for a term to expire on May 31, 2018, after his initial appointment as Municipal Court Judge on November 11, 2014. On April 10, 2018, City Council renewed the contract for a two year period from June 1, 2018 to May 31, 2020. City Council desires to reappoint Michael Kurmes as Municipal Court Judge for a two year term for the period of June 1, 2020 through May 31, 2022 at an annual compensation amount of \$55,125 for judicial and magistrate services for the City of Cleburne Municipal Court of Record.

The Agreement for Contract Services for Municipal Court Judge details the judicial and magistrate services to be provided by the Municipal Court Judge. This appointment is authorized by ordinance, as the Cleburne Municipal Court of record was created pursuant to Chapter 30, Subchapter P, of the Texas Government Code, and Section 30.006(b) of the Texas Government Code. Those Codes provide that Municipal Courts of Record must have their judges appointed by an ordinance of the City Council, and the City of Cleburne Charter provides for the Council’s appointment of a Municipal Court Judge.

Judge Michael Kurmes was available for questions of the Council.

**MOTION: to approve as presented**

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly	X		X				X	Approved as presented
Boedeker		X	X					Approved as amended
Mann			X					Denied
Warren			X					Withdrawn
Cain			X					Postponed until:
X	<i>Motion Carried</i>		<i>Motion Failed</i>				X	<i>Roll Call</i>



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**OTHER COUNCIL MATTERS**

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**OC1. CONSIDER AND DIRECT THE CITY ATTORNEY TO SUBMIT A LETTER OF SUPPORT ON THE CITY’S BEHALF TO THE OFFICE OF THE TEXAS GOVERNOR REQUESTING A NEW ELECTION DATE.**

\*Mayor Cain abstained from discussion and voting on this item as he is a candidate on the ballot for the related election. Mayor Pro Tem Warren presided during this item.

Person presenting this item: Ivy Peterson, City Secretary

**BRIEF:** On March 18, 2020, Governor Abbott issued a proclamation authorizing subdivisions to postpone their election to November due to public health and safety concerns related to COVID-19. On March 24, upon recommendation of the Governor’s Office and Secretary of State Elections Division, the City Council passed Resolution No. RS03-2020-38 to postpone the City’s May 2nd General Election to November 3, 2020. At the time, there were no alternatives to consider other than the November 2nd General Election date.

Since then, a number of Texas cities have submitted letters to Governor Abbott requesting the option of holding a local election in either July or August. Reasons for this consideration are detailed in the proposed letter included in the packet.

This action is to direct the City Attorney to submit a letter of support for the Governor to consider suspending provisions in Chapter 41 of the Texas Election Code allowing political subdivisions the option to choose another election date other than November 2nd.

An amendment to the original Order of Election for May 2nd approved in February will be presented for your consideration at a future council meeting and should Governor Abbott decide to make other dates available, the City Council will then have the option of holding the local election in July, August or November.

**MOTION: to approve as presented**

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly		X	X				X	Approved as presented
Boedeker			X					Approved as amended
Mann	X		X					Denied
Warren			X					Withdrawn
Cain					X			Postponed until:
<b>X</b>	<b>Motion Carried</b>		<b>Motion Failed</b>				<b>X</b>	<b>Roll Call</b>

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**WORKSHOP**

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**I. CITY MANAGER’S UPDATE ON MUNICIPAL BUSINESS**

WS. Discussion about the upcoming BNSF Railroad project and implications to the City – Jeremy Hutt, Director of Public Works

Mr. Hutt gave the Council an overview of BNSF Railway’s Rio Vista to Midway Double Track Improvements Project and their request of the City to relocate utilities as well as consider railroad street crossing closures. BNSF is interested in reducing the number of grade crossings and proposes four options for the City’s consideration:

1. No closures and minimal improvements to accommodate the BNSF Project
2. One Street/Railroad crossing closure plus additional improvements and funds
3. Two Street/Railroad crossing closure plus additional improvements and funds
4. Three Street/Railroad crossing closure plus additional improvements and funds

The Council discussed implications of the proposal. No action was requested of the Council and Mr. Hutt stated this discussion would be presented at the next council meeting for further discussion.

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**EXECUTIVE SESSION**

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The Council did not convene a Closed Meeting to discuss items legally posted in executive session.

~~A. § 551.074. Personnel Matters; Closed Meeting. (a) This chapter does not require a governmental body to conduct an open meeting: (1) to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or (2) to hear a complaint or charge against an officer or employee. (b) Subsection (a) does not apply if the officer or employee who is the subject of the deliberation or hearing requests a public hearing.~~

- ~~1. Discuss Municipal Court Judge evaluation~~

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**ADJOURNMENT**

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**ADJOURNED AT: 6:58 PM**

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**APPROVAL OF MINUTES**

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**APPROVED BY MAJORITY VOTE OF COUNCIL ON:     MAY 26, 2020**