



CITY COUNCIL REGULAR MEETING MINUTES
JULY 27, 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 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.

I. ROLL CALL AND CALL TO ORDER BY MAYOR @ 5:00 PM

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| <p><u>City Council:</u></p> <ul style="list-style-type: none">✓ Scott Cain, MayorX Derek Weathers, SMD 1✓ Chris Boedeker, Mayor Pro Tem/SMD 2✓ Mike Mann, SMD 3✓ John Warren, SMD 4 | <p><u>Administration:</u></p> <ul style="list-style-type: none">✓ Steve Polasek, City Manager✓ Ashley Dierker, City Attorney✓ Ivy Peterson, City Secretary |
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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~~
The Mayor waived the reading of the guidelines to speak until a time he deemed necessary.

VI. COMMUNITY INTEREST MATTERS, ANNOUNCEMENTS & PRESENTATIONS

CMP1 Proclamation – Purple Heart Recipient’s Day of Honor, Marty Peters
Lorin Storey and Mike Rabye, both Vietnam veterans, were present for the proclamation and receive words of appreciation from Mayor Cain.

CMP2. Presentation of a special service award by Scott Lail, Fire Chief
Firefighter/EMT Austin Warner saved an unconscious driver from a truck that went into the water from the ramp and began sinking at the lake. For his lifesaving efforts he was awarded the Medal of Valor, the highest award issued by the Fire Department. Chief Lail commended Firefighter Warner saying that his actions exemplified the Firefighter’s moto, Ante Se Alii or ‘others before self’.

CMP4. Economic Development Update by Grady Easdon, Economic Development Manager
Fiscal YTD sales tax through July is up 15.13% over Fiscal YTD July 2020. Unemployment rate is down as well. Some highlights were the adoption of updated Parks, Recreation, Trails and Open Space Master Plan; adoption of funding agreement with TxDOT for signage designating “Truck

Route” in an effort to relieve downtown heavy truck traffic; and adoption of zoning/land use ordinance listing “Breweries” and “Brew Pubs” as acceptable uses.

V. CITIZENS COMMENTS

An opportunity for the public to make comments or address concerns for any matter whether or not posted on the agenda.

Nina Dixon spoke concerning the condition of the Senior Center and repairs needed like flooring, chairs, ceiling fan, as well as a request for partitions.

Lisa Poeggel sent a card online in support.

Mayor Cain stated the Council is aware of the needed updates and would like to see a new building in the future. Mayor Cain stated it all comes down to funding, but one day should be obtainable.

CMP3. Actions taken by the City of Cleburne related to securing the building located at 14 East Chambers Street by Scott Lail, Fire Chief

Chief Lail presented pictures of the condition of the building before and after the collapse, and described the measures taken by the City the shore up the building in order to avoid a complete collapse creating a public safety situation.

CMP5. Financial Report by Steve Polasek, City Manager on behalf of Rhonda Daugherty
Mr. Polasek stated that overall the City is in a very stable growth revenue mode and right on target for revenue and expenditures.

CONSENT AGENDA

All of the following items on the Consent Agenda are considered to be routine and self-explanatory by the Council and were enacted with one motion.

MN1. CONSIDER MINUTES FOR THE JULY 13, 2021 REGULAR COUNCIL MEETING.

RS1. RS07-2021-87 CONSIDER A RESOLUTION CONSENTING TO THE EXTENSION OF THE DECLARATION OF LOCAL DISASTER UNTIL AUGUST 10, 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 August 10, 2021 at 11:59 p.m. central standard time.

RS2. RS07-2021-88 CONSIDER A RESOLUTION ACCEPTING THE CAPITAL IMPROVEMENTS ADVISORY COMMITTEE’S SEMI-ANNUAL REPORT, MID-YEAR 2021, 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 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 12, 2021. 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. RS07-2021-89 CONSIDER A RESOLUTION AUTHORIZING A CHAPTER 380 ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT WITH GARY FOX JR. TO REIMBURSE AN AMOUNT EQUAL TO ASSESSED AND COLLECTED IMPACT FEES, UP TO A MAXIMUM OF \$4,000 FOR CONSTRUCTION OF A NEW HOME LOCATED AT 1139A ALVARADO STREET, CLEBURNE, TEXAS.

Presented by: Grady Easdon, Economic Development Manager

Summary: Mr. Fox has submitted an application for reimbursement of impact fees under the Infill Lot Impact Fee Rebate Incentive Program that was first adopted by City Council at the January 28, 2020 meeting and renewed as part of the Fiscal Year 2021 budget that was adopted at the September 8, 2020 City Council meeting. Their approximate investment will be \$126,160.00 for a 1,292 square foot home at 1139A Alvarado Street. This is one of the many “infill lots” in Cleburne that have been acquired by builders or developers. As part of the Program, the builder must meet certain design and development standards and other criteria in order to qualify for reimbursement of these fees. Based upon a copy of the application documents and building plans submitted, the project meets the required criteria for Council consideration. Should this request be approved, there will be \$16,000 remaining for future projects under this program.

RS4. RS07-2021-90 CONSIDER A RESOLUTION AUTHORIZING A CHAPTER 380 ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT WITH GARY FOX SR. AND LISA FOX TO REIMBURSE AN AMOUNT EQUAL TO ASSESSED AND COLLECTED IMPACT FEES, UP TO A MAXIMUM OF \$4,000 FOR CONSTRUCTION OF A NEW HOME LOCATED AT 1139B ALVARADO STREET, CLEBURNE, TEXAS.

Presented by: Grady Easdon, Economic Development Manager

Summary: Gary & Lisa Fox have submitted an application for reimbursement of impact fees under the Infill Lot Impact Fee Rebate Incentive Program that was first adopted by City Council at the January 28, 2020 meeting and renewed as part of the Fiscal Year 2021 budget that was adopted at the September 8, 2020 City Council meeting. Their approximate investment will be \$126,160.00 for a

1,292 square foot home at 1139B Alvarado Street. This is one of the many “infill lots” in Cleburne that have been acquired by builders or developers. As part of the Program, the builder must meet certain design and development standards and other criteria in order to qualify for reimbursement of these fees. Based upon a copy of the application documents and building plans submitted, the project meets the required criteria for Council consideration. Should this request be approved, there will be \$12,000 remaining for future projects under this program.

RS5. RS07-2021-91 CONSIDER A RESOLUTION APPROVING THE CITY OF CLEBURNE'S INVESTMENT REPORT FOR THE QUARTER ENDED JUNE 30, 2021.

Presented by Marcie Freelan, Director of Finance

Summary: 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, 2021, the City invested in four Local Government Investment Pools (LOGIC, Texas Class, TexPool, and TexSTAR). Included in the investment report are the newsletters from each of the pools, providing information on the average yield, net asset value, weighted average maturity, and portfolio composition for each investment pool at the end of the reporting quarter.

At June 30, 2021, there was \$135,379,169.72 invested in the four investment pools, along with the loan proceeds held by TWDB at Amegy Bank, with total quarterly interest income of \$16,319.90. The percentage allocation by investment pool at June 30, 2021 is LOGIC: 25.93%, Texas Class: 29.62%, TexPool: 5.47%, TexSTAR: 11.04% and Amegy: 27.93%.

RS6. RS07-2021-92 CONSIDER A RESOLUTION DESIGNATING THE CITY MANAGER AS THE AUTHORIZED REPRESENTATIVE TO EXECUTE AGREEMENTS AND OTHER DOCUMENTS WITH, OR PROMULGATED BY, THE TEXAS DEPARTMENT OF TRANSPORTATION IN RELATION TO THE CITY'S TRANSIT ACTIVITIES.

Presented by: Marcie Freelan, Assistant Director of Finance

Summary: Article 40. Delegation of Authority/Signature Authority of the State/Local Public Transportation Master Grant Agreement FY 2022-2026 between the State of Texas and the City of Cleburne requires the City to have a Signature Authority document on file with the State. This same Article allows the governing body to delegate signature authority to a designated representative, committee or other person. This resolution gives the signature authority to the City Manager to execute agreements and other documents with, or promulgated by, the Texas Department of Transportation in relation to the City's transit activities for the City County Transportation. Items related to fare or service changes would continue to be brought to council for approval.

RS7. RS07-2021-93 CONSIDER THE RENEWAL OF A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF CLEBURNE ON BEHALF OF ITS POLICE DEPARTMENT AND THE JOSHUA INDEPENDENT SCHOOL DISTRICT ON BEHALF OF ITS POLICE DEPARTMENT.

Presented by: Rob Severance, Chief of Police

Summary: The Joshua Independent School District has requested to renew a memorandum of understanding with the City of Cleburne to set out a common understanding of the policies and procedures that the Joshua ISD Police Department, and the Cleburne Police Department, will follow in providing police service to Joshua ISD schools in Cleburne, Johnson County and/or the State of Texas. This MOU is a formal agreement to clarify jurisdiction, define parameters and areas of responsibilities, and to establish a spirit of cooperation to enhance the services that both agencies provide to the citizens residing within the city limits of Cleburne, Texas, in accordance with the provisions of the Texas Education Code, Section 37.081. There is no cost to the City of Cleburne. This agreement shall be in full force and effect from the date of the last party to sign this Agreement until July 31, 2024. This agreement may be renewed every three years upon approval by both parties. Either party may terminate this agreement upon giving written notice thirty (30) days prior to the date of termination.

OC1. CONSIDER ACCOUNTS PAYABLE FOR THE MONTH OF JUNE 2021.

Presented by: Marcie Freelan, Assistant Director of Finance

MOTION: to approve as presented in its entirety

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

ACTION AGENDA

OR1. OR07-2021-36 CONSIDER AN ORDINANCE AMENDING THE ANNUAL BUDGET FOR FISCAL YEAR OCTOBER 1, 2020 TO SEPTEMBER 30, 2021 (#12) BY APPROPRIATING \$100,000.00 FROM FUND BALANCE RESERVES IN THE GENERAL FUND FOR THE EMERGENCY RESPONSE TO THE STRUCTURAL INTEGRITY OF THE BUILDING LOCATED AT 14 EAST CHAMBERS STREET.

Presented by: Marcie Freelan, (On the phone) Assistant Director of Finance

Summary: At the June 25, 2021 City Council Emergency Meeting, the Council authorized the City Manager to negotiate and execute necessary agreements to secure the structural integrity of the building located at 14 East Chambers Street, for an amount not to exceed \$100,000. The purpose of this agenda item is to amend the General Fund budget to add the appropriation for this expenditure.

MOTION: to approve as presented

	Motion	Second	Aye	No	Abstain	Absent		Result
Weathers						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>					<i>Roll Call</i>

OR2 and RS8 were presented together with separate motions and votes for each.

OR2. OR07-2021-37 CONSIDER AN ORDINANCE AMENDING THE ANNUAL BUDGET FOR FISCAL YEAR OCTOBER 1, 2020 TO SEPTEMBER 30, 2021 (#13) BY APPROPRIATING \$750,000.00 FROM UNDESIGNATED RETAINED EARNINGS IN THE WATER AND SEWER FUND FOR A UTILITY LINE RENEWAL PROJECT.

Presented by: Marcie Freelan, (On the phone) Assistant Director of Finance

Summary: The Public Works Department desires to proceed with the award of a contract for the City of Cleburne 2021 Asphalt Maintenance and Utility Renewal Project. This contract is planned to be funded by various sources including the annual utility line capital expenditure appropriation. Those funds were not utilized in Fiscal Year 2020 and were rolled into the Water and Sewer Fund retained earnings to be available for appropriation at a later date, to be determined. The purpose of this agenda item is to move those funds from undesignated retained earnings (6005-5595) and add to the Water Distribution capital outlay account (6083-8870), increasing the appropriations in that account from \$750,000 to \$1,500,000.

MOTION: to approve as presented

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

RS8. RS07-2021-94 CONSIDER A RESOLUTION AUTHORIZING A CONTRACT WITH TEXAS MATERIALS GROUP, INC, TEXASBIT, UTILIZING THE INTERLOCAL AGREEMENT WITH THE CITY OF FORT WORTH, FOR THE CITY OF CLEBURNE - 2021 ASPHALT MAINTENANCE AND UTILITY RENEWAL PROJECT FOR AN AMOUNT NOT TO EXCEED \$3,850,000.

Presented by: Jeremy Hutt, Director of Public Works

Summary: This is a contract between the City of Cleburne and Texas Materials Group, Inc, TexasBit, for the City of Cleburne - 2021 Asphalt Maintenance and Utility Renewal Project. The

agreement allows the City to use a third party contractor to perform large scale asphalt maintenance projects throughout the City along with utility renewals in order to upgrade/replace existing utilities that do not meet current standards that are located under the pavement.

Streets that will receive work include Starling Court, Wren Court, Madison Street, Odell Street, Featherston Street, Barber Street, West 2nd Street, West 3rd Street, West 4th Street, West Westhill Drive, Sabine Avenue, Chase Avenue, Pearl Street, Phillips Street, Ridgeway Drive, North and South Colonial Drive, and the Cemetery Property. The roadways included in this project amount to a total of approximately 7.5 miles of streets that will be resurfaced.

Street sections that will include utility renewals include Starling Court, Wren Court, Madison Street, Odell Street, and Sabine Avenue. The waterline and sewer line renewals included in this project amount to approximately 4,200 linear feet and a 92 new service connections for both water and sewer.

The City of Fort Worth bid a similar contract at much larger quantities resulting in lower unit pricing. The City of Fort Worth contract was previously awarded to Texas Materials Group, Inc, TexasBit. The City of Cleburne, through the its interlocal agreement with the City of Fort Worth, is able to utilize the unit prices from the Fort Worth contract with Texas Materials Group, Inc, TexasBit so that all state and local bidding requirements have been met.

Funding is allocated for this project in General Capital Projects Fund (Fund 53) Streets – M&R Streets, Curbs, and Alleys account in the amount of \$2,550,000, Utility Line Capitol Reserve in the amount of \$750,000 and FY 2021 Utility Fund Capital Water Distribution in the amount of \$750,000 for total funding amount of \$4,050,000, which exceeds the proposed contract amount. The proposed contract amount is \$3,850,000 and the current estimate for the project is \$3,701,160.01 that allows \$148,839.99 (about 4%) to be available to address any field changes that may arise during construction.

MOTION: to approve as presented

	Motion	Second	Aye	No	Abstain	Absent		Result
Weathers						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>					<i>Roll Call</i>

RS9. RS07-2021-95 CONSIDER A RESOLUTION AUTHORIZING LICENSE AGREEMENTS AND AMENDMENTS WITH BNSF RAILWAY COMPANY AND APPROVE PAYMENT OF LICENSE FEES PLUS ANY ASSOCIATED COSTS, IN AN AMOUNT NOT TO EXCEED \$12,000.

Presented by: Jeremy Hutt, Director of Public Works

Summary: The City of Cleburne was notified by BNSF Railway of their project, Rio Vista to Midway Double Track Improvements that will install a new rail line in the existing railroad right-of-way. This project will affect the existing city owned utility crossings. Multiple utility conflicts have been identified that will need to be addressed by the City of Cleburne.

The City engaged the services of the engineering firm Transystems to provide design, bidding and BNSF coordination for the relocation, replacement, and/or extension of city facilities within the railway project limits. During the design and permitting phase, it was determined, that there are eight (8) utility conflicts that will need to be adjusted. BNSF requires permitting and a license agreement for any facilities contained within BNSF right-of-way, which establishes the terms of use and requirements for the encroachment. The City utility adjustment project is expected to start construction in late 2021. The BNSF construction project is scheduled to begin in early 2022.

Prior to construction of the city relocations, all license agreements must be in place and current based on proposed utility improvements. Of the eight (8) locations that have been identified with this project, four (4) will require new license agreements, and four (4) will require updates for a term of 25 years to the current agreements.

Location	Document	Tracking Number	Maximum Expense
Buffalo Creek	Amendment	21-67440	\$0.00
East Chambers Street	Amendment	21-67442	\$0.00
East Kilpatrick Street	Amendment	21-67444	\$0.00
Ramsey Street	Amendment	21-67445	\$0.00
East Willingham Street	Agreement	21-67441	\$2,066.00
East Shaffer Street	Agreement	21-67443	\$5,766.00
Ramsey Street	Agreement	21-67446	\$2,066.00
FM4	Agreement	21-67474	\$2,066.00

MOTION: to approve as presented

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

OR3. OR07-2021-38 CONSIDER AN ORDINANCE AMENDING TITLE IX: GENERAL REGULATIONS, CHAPTER 104: ALARMS, OF THE CODE OF ORDINANCES.

Presented by: Rhonda Dempsey, Police Department Records Supervisor

Summary: The amendments of Chapter 104, “Alarms” include the removal of repetitive language, with definition and title clarification, and added “Duties of Alarm Business”. The update includes proposed permit fee and fine changes. These changes were presented to Council as a workshop item at their meeting of February 23, 2021. Recommendations from the Council have been incorporated. Staff recommends adoption of these code changes.

MOTION: to approve as presented

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

Mayor Cain recessed the Regular Council Meeting at 6:20 pm to discuss items legally posted in Executive Session.

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 Municipal Utility District
- EXE3.** Discuss the building at 14 East Chambers Street under the posted agenda item CMP3 on the regular agenda.

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:

- EXE2.** Discuss city-owned real property located at 1701 Park Boulevard

Mayor Cain reconvened into open session at 7:59 PM and no formal action was taken resulting from the above items posted and legally discussed in Executive Session.

ADJOURNMENT

ADJOURNED AT: 8:00 PM

APPROVAL OF MINUTES

APPROVED BY MAJORITY VOTE OF COUNCIL ON: AUGUST 10, 2021