



CITY COUNCIL REGULAR MEETING MINUTES
AUGUST 24, 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

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 Reverend DeWaun Ashley, First United Pentecostal Church

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 such a time is necessary.

V. CITIZENS COMMENTS

An opportunity for the public to make comments or address concerns for any matter whether or not posted on the agenda. There were no speakers.

VI. COMMUNITY INTEREST MATTERS, ANNOUNCEMENTS & PRESENTATIONS

CMP1 Proclamation - 9/11 Day of Remembrance/Clebune Patriots' Day

CMP2. Presentation - American Rescue Plan Act and Coronavirus State and Local Recovery Funds Update, Rhonda Daugherty, Director of Finance

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 AUGUST 10, 2021 REGULAR COUNCIL MEETING.

RS1. RS08-2021-107 CONSIDER A RESOLUTION CONSENTING TO THE EXTENSION OF THE DECLARATION OF LOCAL DISASTER UNTIL SEPTEMBER 14, 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 September 14, 2021 at 11:59 p.m. central standard time.

RS2. RS08-2021-108 CONSIDER A RESOLUTION AUTHORIZING A CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT WITH DILLER’S BARBER SHOP UNDER THE TERMS OF THE DOWNTOWN BUILDING REHABILITATION MATCHING INCENTIVE PROGRAM FOR IMPROVEMENTS TO PROPERTY LOCATED AT 202 EAST CHAMBERS STREET FOR AN AMOUNT NOT TO EXCEED \$25,000.

Presented by: Grady Easdon, Economic Development Manager

Summary: Diller’s Barber Shop, located at 202 E. Chambers Street, has submitted an application under the terms of the City’s Downtown Building Rehabilitation Matching Incentive Program. They are requesting funds to remove deteriorating stucco from a portion of the west side (Anglin Street side) of the building and perform repairs as needed to reinforce or replace the underlying brick and/or framing, replace stucco with new material, and paint to match other building facades. Over the years, water has seeped in between the original brick and the outer stucco surface, causing portions of the damaged stucco to crumble and fall from the side of the building. This condition creates a safety hazard with the threat of possible injury to pedestrians on the sidewalk below, in addition to possible unknown structural damage beneath the outer material layer. These funds would provide for mitigation of potential additional damage and enhance the building appearance. Under the terms of the Program, up to 50% of eligible project costs are reimbursable up to a maximum of \$25,000. Since the extent of damage is unknown until the deteriorating stucco is removed, estimates currently range from \$16,000 to \$45,000 or more. If this request is approved, there would be \$25,000.00 remaining for other projects for FY2021.

RS3. PULLED FROM CONSENT CONSIDER A RESOLUTION AUTHORIZING A RENEWAL OF THE INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR THEIR ANNUAL CONTRIBUTION TO CITY/COUNTY TRANSPORTATION.

OC1. CONSIDER APPROVING ACCOUNTS PAYABLE FOR THE MONTH OF JULY 2021.

Presented by: Rhonda Daugherty, Director of Finance

MOTION: to approve with the exception of RS3 to be considered separately

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

RS3. RS08-2021-109 CONSIDER A RESOLUTION AUTHORIZING A RENEWAL OF THE INTERLOCAL AGREEMENT WITH JOHNSON COUNTY FOR THEIR ANNUAL CONTRIBUTION TO CITY/COUNTY TRANSPORTATION.

Mayor Pro Tem Boedeker abstained from discussion and voting on this item and filed a conflict of interest affidavit with the City Secretary.

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 our federal grant funds. Johnson County's annual contribution for Fiscal Year 2022 will be \$59,889.00. 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.

MOTION: to approve as presented

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

ACTION AGENDA

OC2. *PUBLIC HEARING* HOLD PUBLIC HEARING FOR PUBLIC INPUT ON THE FISCAL YEAR 2022 ANNUAL BUDGET BEGINNING OCTOBER 1, 2021 AND ENDING SEPTEMBER 30, 2022.

Presented by: 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 10, 2021, 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 14, 2021 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 2022 budget to be held during the regularly scheduled City Council meeting of September 14, 2021 at 5:00 pm at City Hall, 10 N. Robinson St, Cleburne, Texas

Mayor Cain opened the public hearing. There were no speakers and the public hearing was closed.

This was only a public hearing and no formal action was taken.

OR1. OR08-2021-41 *PUBLIC HEARING* HOLD SECOND PUBLIC HEARING TO CONSIDER AN ORDINANCE READOPTING AND CONTINUING SECTION 130.18: “CURFEW HOURS FOR MINORS” OF TITLE XIII, CHAPTER 130: GENERAL OFFENSES OF THE CODE OF ORDINANCES.

Presented by: Rob Severance, Chief of Police

Summary: State law requires the Juvenile Curfew ordinance be reviewed and renewed every three years in order to keep it in force. This is the second of two required public hearings, the first of which was held at the August 10, 2021 Regular Council Meeting.

Mayor Cain opened the public hearing. There were no speakers and the public hearing was closed.

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. OR08-2021-00 *PUBLIC HEARING* CONSIDER AN ORDINANCE REZONING ±0.93 ACRES FROM SF-4 (SINGLE-FAMILY DWELLING DISTRICT) AND MH (MANUFACTURED HOUSING DISTRICT) TO MF (MULTIPLE-FAMILY HOUSING DISTRICT), LOCATED AT 1202 ALVARADO STREET, AS REQUESTED BY MOMPREMIER INC, REPRESENTED BY PAULEMOND MOMPREMIER, CASE ZC21-010.

Presented by: Shane Pace, Executive Director of Development Services

Summary: The applicant has requested to rezone approximately 0.93 acres from SF-4 (Single-Family District) and MH (Manufactured Housing District) to MF (Multiple-Family Housing District) for the property located at 1202 Alvarado Street. The applicant has indicated their intent to add two duplexes to the subject property.

At the July 26, 2021 Planning and Zoning Commission Meeting, the Commission made a motion to continue the public hearing and table the item to the August 9, 2021 Planning and Zoning Commission meeting with a vote of 7-0.

The Planning and Zoning Commission considered this request at their August 9, 2021 meeting and recommended denial by a vote of 5-1. The recommendation of denial requires a supermajority vote for approval by City Council.

Mayor Cain opened the public hearing. There were no speakers and the public hearing was closed.

MOTION: to deny

	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>

OR3. OR08-2021-42 *PUBLIC HEARING* CONSIDER AN ORDINANCE REZONING ±99.2 ACRES FROM IH (INTERIM HOLDING DISTRICT) TO PD (PLANNED DEVELOPMENT DISTRICT), GENERALLY LOCATED APPROXIMATELY 3,200 FEET EAST OF SOUTH NOLAN RIVER ROAD, BETWEEN BROWNING LANE AND OLD FOAMY ROAD, AS REQUESTED BY SAM KERBEL, REPRESENTED BY TEMPUS DEVELOPMENT, LLC, CASE ZC21-008.

Presented by: Shane Pace, Executive Director of Development Services

Summary: The applicant has requested to rezone approximately 99.2 acres from IH (Interim Holding District) to PD (Planned Development District) for the property generally located east of South Nolan River Road, between Browning Lane and Old Foamy Road.

The Planned Development (PD) is for a single-family residential development, to be known as the Madeline Meadows subdivision. The proposed development will contain 252 single-family lots and 15 open space lots. The applicant is requesting a base zoning of the SF-4 District with a deviation to the building setbacks. The applicant is proposing several amenities within the open space lots, including enhanced landscaping along Hyde Park Boulevard and Bent Creek Drive, a connected trail system, and a centrally located sand volleyball court, playground and picnic area.

The Planning and Zoning Commission considered this request at their August 9, 2021 meeting and recommended approval by a vote of 6-0. During the public hearing, several citizens voiced their concerns regarding the proposed request, including traffic congestion, floodplain and lot size. Additionally, several letters and speaker registration cards were submitted (see backup) citing opposition to this request.

A total of thirty-seven (37) property owners within 200 feet were notified of the proposed rezoning request. Staff has received thirteen (13) letters in opposition and one (1) letter of inquiry (see backup). There were also several citizens who spoke in opposition to this request at the Planning & Zoning Commission meetings (June 14th, July 12th and July 26th). 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 10.5%.

The applicant, Michael Martin was present and answered questions of the Council regarding building product in an interim holding district, traffic analysis may warrant a traffic signal in the area, the main entrance of the development will be on Old Foamy Road, flood plain and drainage are addressed in the development plan, question as to water service capacity (i.e. water pressure), and the walking trail amenity and its length and material. The Council complimented the developer for meeting with the neighbors and working on solutions to their concerns and for the overall development product itself.

Mayor Cain opened the public hearing and members of the public who registered to speak with the City Secretary were invited to come forward.

Jean Moss, Longfellow Lane, spoke in opposition stating the neighborhood traffic, especially school traffic, is extremely congested and that the south entrance on Old Foamy Road will not be suitable for the development.

Paula Christian, Browning Lane, spoke in opposition stating the development of Madeline Meadows will not have adequate flow of traffic into or out of the new development. Access from Hyde Park will place enormous constraints on the current neighborhood. Old Foamy is a country road not built to handle construction vehicles. Would like to see this denied until proper traffic solutions are addressed by developer and the city.

Mayor Cain invited anyone else wishing to speak to come forward.

Joy McHargue, Browning Lane, thanked the developers for their efforts in meeting with the residents of the neighboring subdivision and coming to some agreements. She also discussed traffic on Hyde Park and that overall traffic planning is necessary as the community grows.

Adam Reeves, part of the development team, was available via teleconference and thanked city staff and the Planning and Zoning Commission for the best product possible making the community proud.

There were no further speakers and Mayor Cain closed the public hearing.

MOTION: to approve as presented with the following amendments that the ordinance incorporate Exhibit B into the language of the ordinance to reflect the design plan in connection with Park Blvd, that the amenities and Park Blvd construction be included

during Phase 1, and that the J-swing garages shall have windows and other elements consistent with the conceptual elevations contained in the planned development

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

OR4. OR08-2021-43 *PUBLIC HEARING* CONSIDER AN ORDINANCE AMENDING SECTIONS 154.100 THRU 154.107: WATER AND SANITARY SEWER REQUIREMENTS, AS PART OF TITLE XV: LAND USAGE, CHAPTER 154: SUBDIVISIONS OF THE CODE OF ORDINANCES, ESTABLISHING REQUIREMENTS AND GUIDELINES FOR NEW WATER AND SANITARY SEWER INFRASTRUCTURE.

Presented by: Jeremy Hutt, Director of Public Works

Summary: The existing Ordinance language is outdated and can be updated to better reflect current engineering practices, development standards, construction techniques and the update ordinance will provide increased clarity of requirements and regulations to the development community. The proposed Chapter 154 - Sections 154.100 to 154.107 will establish the requirements and guidelines for new water and sanitary sewer infrastructure that will ultimately be accepted by the City of Cleburne for perpetual ownership and maintenance.

Mayor Pro Tem Boedeker opened the public hearing. There were no speakers and the public hearing was closed.

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>

RS4. RS08-2021-110 CONSIDER A RESOLUTION APPROVING A NEGOTIATED SETTLEMENT BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORPORATION, MID-TEX DIVISION REGARDING THE COMPANY’S 2021 RATE REVIEW MECHANISM FILING.

Presented by: Rhonda Daugherty, Director of Finance

Summary: The City, along with 171 other Mid-Texas cities served by Atmos Energy Corporation, Mid-Tex Division (“Company”), is a member of the Atmos Cities Steering Committee (“ACSC”). In 2007, ACSC and the Company 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 April 1, 2021, 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, 2020, entitled it to additional system-wide revenues of \$43.4 million.

Application of the standards set forth in ACSC’s RRM Tariff reduces the Company’s request to \$40.5 million, \$29.3 million of which would be applicable to ACSC members. ACSC’s consultants concluded that the system-wide deficiency under the RRM regime should be \$22.34 million instead of the claimed \$40.5 million. The amount of the \$22.34 million deficiency applicable to ACSC members would be \$16.8 million.

After the Company reviewed ACSC’s consultants’ report, ACSC’s Executive Committee and the Company negotiated a settlement whereby the Company would receive an increase of \$22.78 million from ACSC Cities, but with a two-month delay in the effective date until December 1, 2021. This should save ACSC cities approximately \$3.8 million. The Executive Committee recommends a settlement at \$22.78 million. The effective date for new rates is December 1, 2021. ACSC members should take action approving the Resolution before October 1, 2021.

MOTION: to approve as presented

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

OC3. CONSIDER APPOINTMENT OF MEMBERS TO THE AUDIT COMMITTEE.

Presented by: Rhonda Daugherty, Director of Finance

Summary: : In 2011, the City Council created an Audit Committee and on April 28, 2015 revised the membership of the Audit Committee to include the Mayor, a City Council Member, and the City Manager for a two-year term. The previous consideration for audit committee appointment was on August 27, 2019, whereby council appointed Councilman Chris Boedeker to the Audit Committee.

Staff is requesting the appointment of the Mayor (Chairperson), a City Councilmember, and the City Manager as provided in the Audit Committee Policy for a term of two years.

MOTION: to appoint Councilman Mann

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

RS5. WITHDRAWN BY STAFF CONSIDER A RESOLUTION AUTHORIZING AN EXCLUSIVE LISTING AGREEMENT WITH AIRSPACE DFW, LLC FOR THE PURPOSE OF MARKETING A PORTION OF THE CLEBURNE REGIONAL AIRPORT PROPERTY KNOWN AS HANGAR 98 TO PROSPECTIVE LEASE TENANTS.

Presented by: Grady Easdon, Economic Development Manager

Summary: Pursuant to the fact that Hangar 98, located within Cleburne Regional Airport property and owned by the City of Cleburne has been made available for lease to prospective tenants, staff has determined that the best course of action to reach the widest possible audience within the aviation field is to engage the services of a broker who specializes in catering to this type of potential tenant.

During the process of communicating with other experts in the aviation field, the consensus was that Airspace DFW, LLC, represented by Ryan Cox, is the preferred choice for getting maximum exposure within the aviation industry in marketing Hangar 98 to potential tenants

This item was withdrawn by staff and there was no discussion or action taken by the Council.

OR5. OR08-2021-44 CONSIDER AN ORDINANCE AMENDING SECTION 71.25(C): OPERATION OF LARGE TRUCKS ON CITY STREETS, AS PART OF TITLE VII: TRAFFIC CODE, CHAPTER 71: TRAFFIC REGULATIONS OF THE CODE OF ORDINANCES.

Presented by: Jeremy Hutt, Director of Public Works

Summary: The existing Ordinance language establishes a restriction on any truck tractor, road tractor, truck trailer, semi-trailer, or motor vehicle with a gross vehicle weight rating in excess of 26,000 pounds from travelling on Park Boulevard between the hours of 7 p.m. and 7 a.m. seven days a week. Park Boulevard serves as the only access point to the Wastewater Treatment Plant and under normal operating conditions, this restriction can be adhered to, however the upcoming WWTP expansion project will require some afterhour’s construction activities such as overnight concrete placement.

The proposed update to the ordinance will add the following language: “The City Manager is authorized to approve alternate hour restrictions for a designated temporary period of time in special cases when, in the opinion of the City Manager, such alternate hour restrictions is considered in the best interest of the city.”

This change will allow the City Manager to grant alternate hour restrictions for a set period, allowing construction traffic for afterhours work when it is determined to be the best option. These

scenarios would be considered on a case-by-case basis and this proposed change will authorize the City Manager to make the final decision.

MOTION: to approve OR5 as presented with the following amendment to also prohibit any thru traffic from any vehicle with a gross vehicle weight rating in excess of 26,000 pounds from Hyde Park [Boulevard] or Bent Creek [Drive] into the Madeline Meadows Subdivision

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

Mayor Cain recessed the Regular Council Meeting at 6:57 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
- EXE2.** Actions taken and to be taken related to securing the building located at 14 East Chambers Street (further described as the Southwest Corner of Caddo Street and Chambers Street)

Mayor Cain reconvened into open session at 8:00 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