



**REGULAR CITY COUNCIL MEETING MINUTES  
AUGUST 25, 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 @ 5:03 PM**

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| <p><b><u>City Council:</u></b></p> <ul style="list-style-type: none"><li>✓ Scott Cain, Mayor</li><li>✓ Dr. Bob Kelly, SMD 1</li><li>✓ Chris Boedeker, Mayor Pro Tem/SMD 2</li><li>✓ Mike Mann, SMD 3</li><li>✓ John Warren, SMD 4</li></ul> | <p><b><u>Administration:</u></b></p> <ul style="list-style-type: none"><li>✓ Steve Polasek, City Manager</li><li>✓ Ashley Dierker, City Attorney</li><li>✓ Ivy Peterson, City Secretary</li></ul> |
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**II. INVOCATION by David Raybuck**

**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**

- ☆ Proclamation – World War II Veterans Recognition Days and 75<sup>th</sup> Anniversary of the End of WWII, August 25 –September 2, 2020  
Army veteran, Mr. Richard Standley, was present to receive the proclamation and was recognized for his service during WWII that included combat in the historic Battle of the Bulge.

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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 were enacted with one motion with no separate action of these items.

**MN1. CONSIDER MINUTES FOR THE AUGUST 11, 2020 REGULAR COUNCIL MEETING.**

**RS1. RS08-2020-88  
CONSIDER A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLEBURNE, TEXAS, CONSENTING TO THE EXTENSION OF THE DECLARATION OF LOCAL DISASTER UNTIL SEPTEMBER 8, 2020 AT 11:59PM.**

Presented by: Steve Polasek, City Manager

Summary: 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>, on June 30, 2020 by RS06-2020-73 until August 3<sup>rd</sup>, on July 28, 2020 by RS07-2020-81 until August 11<sup>th</sup> and on August 11, 2020 by RS08-2020-84 until August 25<sup>th</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 September 8, 2020 at 11:59 p.m. central standard time.

**OC1. CONSIDER ACCOUNTS PAYABLE FOR THE MONTH OF JULY 2020.**

Presented by: Troy Lestina, Director of Finance

**OC2. CONSIDER THE PRELIMINARY PLAT OF MW LANDING, BEING ±45.13 ACRES LOCATED AT 1509 EAST SECOND STREET; AS REQUESTED BY MW TEXAN STAR HOMES, LLC, REPRESENTED BY KIMBERLY MALONE, CASE PC20-021.**

Presented by: Shane Pace, Executive Director of Development Services

Summary: The applicant is requesting approval for a proposed single-family residential development comprised of 186 lots and one (1) common area lot.

The applicant requested a voluntary annexation to include the subject property into the City Limits and 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 development. At the May 12, 2020 meeting, City Council voted 5-0 to approve a rezoning request to the SF-4 (Single-Family Dwelling District).

The SF-4 District requires a minimum 7,000 square foot lot size, a minimum 60-foot lot width and the following setbacks: 30-foot front yard, 20-foot rear yard, 7-foot side yard and 15-foot side yard adjacent to the street. The properties to the west, across Pearl Street, are zoned SF-4 (Single-Family Dwelling District), while the properties to the north, east, and south are part of the City of Cleburne’s Extraterritorial Jurisdiction (ETJ). The surrounding land use is primarily residential, with a church located southwest of the subject property. There is also a considerable amount of undeveloped land in the immediate area.

As submitted, the preliminary plat meets all of the minimum requirements of Chapters 154 and 155 of the Code of Ordinances. The Planning and Zoning Commission considered this request at their August 10, 2020 meeting and recommended approval with a vote of 6-0.

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

	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>					<i>Roll Call</i>

**RESOLUTIONS**

**RS2. RS08-2020-89**

**CONSIDER A RESOLUTION APPROVING A RATE INCREASE FOR COMMERCIAL SOLID WASTE SERVICES; AS REQUESTED BY WASTE CONNECTION, DBA PROGRESSIVE WASTE SOLUTIONS.**

Presented by: Jeremy Hutt, Director of Public Works

Summary: The Cleburne City Council approved a contract with Waste Connections (dba Progressive Waste Solutions) on June 10, 2014. The term of the agreement is for a period of ten (10) years, concluding on August 31, 2024. According to Section 8 of the approved contract, a yearly price increase based on the Consumer Price Index (CPI) as well as an Operating Cost Adjustment can be requested by the service provider.

The service provider previously requested and was granted a rate increase in 2017 and 2019. No other rate increases have been implemented since 2014.

City staff has received a notice of requested rate adjustment for operating costs in the amount of 2%. If approved, the rates take effect on October 1, 2020.

Speakers: Mr. Abel Moreno was available via teleconference 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>					<i>Roll Call</i>

**ORDINANCES**

**OR1. OR08-2020-45**

**CONTINUE PUBLIC HEARING AND 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.**

Presented by: Shane Pace, Executive Director of Development Services

Summary: 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. 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 citing opposition to this request. A total of ninety (90) property owners within 200 feet were notified of the proposed rezoning 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 to staff responding to some of the concerns that were presented that evening. The applicant has indicated that a traffic impact analysis 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.

**UPDATE:** At the July 28, 2020 City Council meeting, the Council voted 3-1 to postpone and continue the public hearing to the August 25, 2020, Regular Council Meeting at 5:00pm. Following this meeting, staff received additional speaker/comment registration cards citing opposition to this request. To date, staff has received a total of thirty-seven (37) letters of opposition and is included in the backup. Per state law and Section 155.15(B)(5) of the Zoning Ordinance, should a protest of 20% or more of the property owners within 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* constitute a super majority vote given that the percentage of opposition is 23.6%.

Mr. Pace reported that since the postponement of this item at the July 28, 2020 Regular Council Meeting, additional comment cards have been received. As of Tuesday, August 25<sup>th</sup>, staff has received a total of 39 letters of opposition and the percentage of opposition is now 24.11%.

In addition to the Planning and Zoning Commission's recommendation and the applicant's previously stated revisions, following the July 28, 2020 Regular Council Meeting, the applicant added another revision that they will install screening trees along rear lot line separating development from Mann Court.

***\*CONTINUED PUBLIC HEARING from the July 28, 2020 Regular Council Meeting\****

**Speakers:**

- 1) Proponent Brian Hicks with XR Development was available and answered questions of the Council. Mr. Hicks stated there will not be any windows on the back of the townhomes adjacent to Mann Court and confirmed that a six foot privacy fence will be constructed along Street Four.
- 2) Barbara Sisk, 1419 Mimosa St, asked for an alleyway behind their property for utility access. Ms. Sisk stated the property acreage is not being maintained and the grass is 6 feet tall. She also voiced her concern about speeding and asked speed bumps and stop signs be installed.
- 3) Lisa Poeggel, 1414 W Lone Star Ave, presented pictures for the Council and addressed concerns about the lack of maintenance of the property in question. Ms. Poeggel inquired the timing of the construction phase because of a family member's health conditions.
- 4) Robert Harris, 805 McAnear St, a long-time resident at this location, voiced concerns the development will cause increased traffic on McAnear. Mr. Harris also communicated concerns of the flow of traffic, street width, pedestrian safety, and property values.
- 5) Kay Harris, 805 McAnear St, read a letter submitted to the City by Jana (Peden) Arneel, daughter of a parent who resides at 701 Mann Ct. The letter addressed concerns of existing residence privacy and suggested building a high, concealing wall and strategic placement of windows. Mrs. Harris voiced concerns of the increased traffic flow on McAnear St causing increased challenges backing out of driveways, as well as pedestrian safety. Mrs. Harris suggested the City update the thoroughfare plan.

Mayor Cain read into the record cards of opposition from Randy Canty of 807 McAnear St and Melinda Fowler of 703 Mann Ct.

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

Mayor Cain and Mayor Pro Tem Boedeker offered comments that careful planning is important to sustaining a community. Under straight zoning, the state restricts cities from requiring certain building materials and amenities, but a planned development offers negotiated terms for a better value to the community, provides sustainable housing with more control to match the character of the existing neighborhood, garages help with residential parking and is an overall good fit for the area. The average lot size in this development plan is only 200 square feet from the standard, and in return, a seven-acre park area adjacent to the development is being donated to the city. Although growing pains are associated with community development and construction, providing a safe environment to residents is a priority to the Planning and Zoning Commission and the City Council.

**MOTION: to approve with the following conditions:**

- 1) Permit a minimum lot area of 6,000 sf for Area A, with the exception of two lots allowed to be a minimum of 5,600 sf;

- 2) Build a temporary drainage berm in Area B adjacent to the existing properties located along Mann Court during construction to remain until the completion of the road;
- 3) Permit a minimum rear setback of 30 ft in Area B;
- 4) Install screening trees along the property line in Area B adjacent to Mann Court;
- 5) Prohibit construction of a two-story home on Lot 12, Area B; and
- 6) No second-story windows may face Mann Court within Area B

\*Note: After the meeting, all members of the Council signed a sworn affidavit clarifying the motion, specifically Item #5 above to specify that "...Lot 12, Area B was confined to the lot located directly east of Mann Court within Block No. 5..."

	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:
<b>X</b>	<b>Motion Carried</b>		<b>Motion Failed</b>			<b>Roll Call</b>	

**OR2. OR08-2020-46**

**CONSIDER AN ORDINANCE AUTHORIZING RELEASE OF CERTAIN INTEREST DUE ON LIENS FILED AGAINST 703 DEWEY STREET; AS REQUESTED BY REV. CHARLES CHANDLER, REPRESENTED BY NATHIAN CHANDLER.**

Presented by: Ivy Peterson, City Secretary

Summary: Rev. Charles Chandler, owner of the property located at 703 Dewey Street has requested the Council consider releasing interest due for outstanding liens filed by the City. Nathian Chandler, the property owner’s son has moved back to Cleburne and has taken over management of the property and is preparing to rebuild a house on this lot. In order to secure financing, the lender required Mr. Chandler to payoff three of the six liens held by the City. Not to hold up plans for construction, in May 2020, Mr. Chandler paid in full three liens identified by the lender for an amount of \$4,986.64 and those liens have since been released. Mr. Chandler is requesting Council consider waiving the interest on the remaining three liens assisting him in the cost of construction. A breakdown of the lien costs are as follows:

Services Provided	Principal	Interest
2008 Demolition	\$1,602.00	\$3,425.76
2018 Mowing	\$1,173.06	\$192.58
2019 Mowing	\$1,302.00	\$65.10
<b>Total Due: \$7,760.50</b>	<b>\$4,077.06</b>	<b>\$3,683.44</b>

As per Council’s direction and is included in the proposed Ordinance, a fee of \$75 per lien will be applied to the payoff amount and the interest waiver will be in effect for the number of days set by the Council from the date of this approval. The Johnson County Central Appraisal District lists the

property at \$10,000 valuation and according to the Johnson County Tax Office, the property taxes are current.

There was discussion about adding a contingency clause to the ordinance and the ability to apply the interest back to the property in the event the house construction is not done in the approved timeframe.

**MOTION: to approve the interest waiver contingent on construction beginning within 180 days and completed in 12 months from the date of the ordinance approval**

	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>

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**BUDGET & TAX RATE**

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Mr. Lestina presented items #OC3 and #OC4 together.

**OC3. HOLD FIRST PUBLIC HEARING FOR THE FISCAL YEAR ANNUAL BUDGET BEGINNING OCTOBER 1, 2020 AND ENDING SEPTEMBER 30, 2021.**

Presented by: Troy Lestina, Director of Finance

Summary: In accordance with the City Charter (Sec 6.4) and the Local Government Code (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 11, 2020, the City Council scheduled two public hearings to provide the public the opportunity to speak on the proposed budget. This is the first of the two public hearings on the proposed budget. The second public hearing will be held on Tuesday, September 8, 2020 at 5:00 pm, during the regularly scheduled council meeting. A public hearing notice was published on August 15th in the Cleburne Times Review, which is 10 days prior to the first public hearing in accordance with LCC. Sec. 102.0065.

At the conclusion of this public hearing, required action is to announce the date, time and place of the second public hearing and adoption of the proposed annual FY 2021 budget to be held during the regularly scheduled City Council meeting of September 8, 2020 at 5:00 pm at City Hall, 10 N. Robinson St, Cleburne, Texas.

*\*OPENED PUBLIC HEARING\**

Speakers: None

*\*CLOSED PUBLIC HEARING\**

**OC4. HOLD FIRST PUBLIC HEARING FOR PUBLIC INPUT ON THE FISCAL YEAR 2021 PROPOSED TAX RATE OF \$0.760092 PER HUNDRED DOLLARS OF**

**VALUATION, IN ACCORDANCE WITH CHAPTER 26 OF THE TEXAS TAX CODE.**

Presented by: Troy Lestina, Director of Finance

Summary: Chapter 26 of the Texas Property Tax Code requires taxing units to comply with “Truth-in-Taxation” laws in setting tax rates. The calculated FY 2021 (Tax Year 2020) no-new-revenue tax rate is \$0.770197. The proposed rate for FY 2021 is \$0.760092 per \$100 of valuation. On August 11, 2020, the City Council adopted a resolution stating its intent to adopt a tax rate of \$0.760092. This rate has been lowered from FY 2020. This current and proposed tax rate of \$0.760092 is lower than the no-new-revenue tax rate of \$0.770197 and legislation states that the City Council is not required to hold a public hearing. For the sake of full transparency, the City Council will hold two public hearings to provide the public the opportunity to speak on the proposed tax rate and this is the first of the two scheduled. A “Notice of Public Hearings on Proposed Tax Rate” was published on Saturday, August 15, which is 10 days prior to the first public hearing. In accordance with state law, the City will also publish a “Notice of Meeting to Vote on Tax Rate” on August 29, 2020 in the Cleburne Times-Review.

As a point of reference, the no-new-revenue tax rate sets the interest and sinking rate (Debt Service rate) at \$0.110391. The remainder of the tax rate of \$0.649701 will be allocated to operations and maintenance (General Fund rate). The proposed ordinance adopting the FY 2021 tax rate reflects these rates, as required by the no-new-revenue tax rate calculation.

The second public hearing and proposed adoption will be held on Tuesday, September 8, 2020 at 5:00pm, during the regularly scheduled council meeting at City Hall, 10 N. Robinson St, Cleburne, Texas.

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

Speakers: None

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

**There was no motion, but with a general consensus of the Council, Mayor Cain announced the second public hearing and adoption of the proposed annual FY 2021 budget is to be held on Tuesday, September 8, 2020 at 5:00 pm during the regularly scheduled City Council at City Hall, 10 N. Robinson St, Cleburne, Texas.**

The Regular Council Meeting recessed at 6:56 PM to discuss items legally posted in Executive Session.

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**EXECUTIVE SESSION**

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**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.

- EXE1. 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
- EXE2. Discuss Municipal Utility District – Shane Pace, Executive Director of Development Services
- EXE3. Legal advice regarding management and regulation of City owned property at Lake Pat Cleburne and related ordinance provisions located in Chapter 98 of the Code of Cleburne, Texas – Jeremy Hutt, Director of Public Works

**B. §551.087. Deliberation Regarding Economic Development Negotiations; Closed Meeting**

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).

- EXE4. Discuss Victron Energy project and their request for economic development incentives – Grady Easdon, Economic Development Manager and Shane Pace, Executive Director of Development Services

Mayor Cain adjourned the closed meeting and reconvened into open session at 8:00 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: 8:03 PM**

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**APPROVAL OF MINUTES**

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**APPROVED BY MAJORITY VOTE OF COUNCIL ON: SEPTEMBER 8, 2020**