



City of Cleburne

REGULAR CITY COUNCIL MEETING MINUTES

OCTOBER 9, 2007

7:00 PM

CITY HALL COUNCIL CHAMBERS
10 NORTH ROBINSON

I. ROLL CALL AND CALL TO ORDER BY MAYOR @ 7:00 PM

City Council:

- ✓ Ted Reynolds, Mayor
- ✓ Kyle Boles, Mayor Pro Tem
- ✓ Sonny Russell, SMD 1
- ✓ Robert Force, SMD 3
- ✓ John Warren, SMD 4

Administration:

- ✓ Chester Nolen, City Manager
- ✓ Adam Miles, Assistant City Manager
- ✓ Shelly Doty, City Secretary
- ✓ Ivy Peterson, Deputy City Secretary
- ✓ Wade Adkins, City Attorney

Division Directors:

- ✓ Jerry Cash, Economic Development
- ✓ Mike Claunch, Public Services
- ✓ Bonita Hall, Human Resources
- ✓ Clint Ishmael, Fire Services
- ✓ Donna Jackson, Development Services
- ✓ Terry Powell, Police Services
- X Max Robertson, Parks & Recreation
- ✓ Russell Schreiber, Public Works
- ✓ Greg Wilmore, Finance

Department Heads:

- ✓ Kim Galvin, Budget & Purchasing
- ✓ Ann Powell, Planning & Zoning

Media:

- ✓ Matt Smith, Times-Review
 - ✓ Teresa Blackwell, Cleburne Eagle
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II. INVOCATION by Councilman Sonny Russell

III. PLEDGE OF ALLEGIANCE

IV. CEREMONIAL MATTERS

Proclamations Gotel Ministries Day, October 12, 2007
National Business Women's Week, October 14-20, 2007
Texas Chamber of Commerce Week, October 15-19, 2007

V. CITY SECRETARY READ THE GUIDELINES TO SPEAK BEFORE COUNCIL

CONSENT ITEMS

***ALL ITEMS WERE CONSIDERED SEPARATELY**

ITEMS PULLED FROM CONSENT AGENDA

C1. MINUTES

APPROVAL OF MINUTES FOR THE SEPTEMBER 25, 2007 REGULAR COUNCIL MEETING.

MOTION: to approve with corrections as submitted by the City Secretary

	Motion	Second	Aye	No	Abstain	Absent	Result
Russell	X		X				Approved as presented
Boles		X	X				X Approved as amended
Force			X				Denied
Warren			X				Withdrawn
Reynolds			X				Tabled
							Postponed until:
X	Motion Carried		Motion Failed				Roll Call

BQ1.

AUTHORIZE PURCHASE OF AN ASPHALTIC CRACK SEALER FOR THE STREET DEPARTMENT FROM CRAFCO TEXAS, INC IN THE AMOUNT OF \$44,590.36.

Kim Galvin, Budget and Purchasing Manager stated that CrafcO Texas Inc. has been awarded a state contract from the BuyBoard purchasing cooperative. This contract was competitively bid and meets all state and local purchasing laws.

MOTION: to approve as presented

	Motion	Second	Aye	No	Abstain	Absent	Result
Russell			X				X Approved as presented
Boles		X	X				Approved as amended
Force			X				Denied
Warren	X		X				Withdrawn
Reynolds			X				Tabled
							Postponed until:
X	Motion Carried		Motion Failed				Roll Call

BQ2.

AUTHORIZE PURCHASE OF EQUIPMENT FOR THE SPORTS COMPLEX AND PARKS DEPARTMENT FROM JOHN DEERE COMPANY IN THE AMOUNT OF \$71,616.62.

Kim Galvin, Budget and Purchasing Manager stated that John Deere Company has been awarded a state contract from the BuyBoard purchasing cooperative. This contract was competitively bid and meets all state and local purchasing laws. Equipment includes a utility tractor with loader, backhoe, and spray rig and boom.

Speakers: Alden Nellis spoke in opposition of this item

MOTION: to approve as presented

	Motion	Second	Aye	No	Abstain	Absent	Result
Russell	X		X				X Approved as presented
Boles			X				Approved as amended
Force		X	X				Denied
Warren			X				Withdrawn
Reynolds			X				Tabled
							Postponed until:
X	Motion Carried		Motion Failed				Roll Call

RS1. RS10-2007-47

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLEBURNE, TEXAS AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT WITH JOHN DEERE COMPANY TO PROVIDE MAINTENANCE EQUIPMENT FOR THE SPORTS COMPLEX AND PARKS DEPARTMENT; PROVIDING AN EFFECTIVE DATE.

Kim Galvin, Budget and Purchasing Manager stated that this contract will provide equipment necessary to maintain the sports complex and city parks and recreation facilities. The contract would be for four years, with lease payments not exceeding \$4,000 per month. The contract includes a non-appropriation clause and product warranty for the entire lease period.

Speakers: Alden Nellis spoke in opposition

MOTION: to approve as presented

	Motion	Second	Aye	No	Abstain	Absent	Result
Russell		X	X				X Approved as presented
Boles			X				Approved as amended
Force			X				Denied
Warren	X		X				Withdrawn
Reynolds			X				Tabled
							Postponed until:
X	Motion Carried		Motion Failed				Roll Call

RS2. RS10-2007-48

A RESOLUTION OF THE CITY OF CLEBURNE SUSPENDING THE OCTOBER 25, 2007, EFFECTIVE DATE OF ATMOS ENERGY CORP., MID-TEX DIVISION REQUESTED RATE CHANGE TO PERMIT THE CITY TIME TO STUDY THE REQUEST AND TO ESTABLISH REASONABLE RATES; APPROVING COOPERATION WITH ATMOS CITIES STEERING COMMITTEE AND OTHER CITIES IN THE ATMOS ENERGY CORP., MID-TEX DIVISION SERVICE AREA TO HIRE LEGAL AND CONSULTING SERVICES AND TO NEGOTIATE WITH THE COMPANY AND DIRECT ANY NECESSARY LITIGATION AND APPEALS; REQUIRING REIMBURSEMENT OF CITIES' RATE CASE EXPENSES; FINDING THAT THE MEETING AT WHICH THIS RESOLUTION IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; REQUIRING NOTICE OF THIS RESOLUTION TO THE COMPANY AND LEGAL COUNSEL.

Greg Wilmore, Director of Finance stated that Atmos is filing a Statement of Intent to Increase Rates with all cities that retain original jurisdiction in the Mid-Tex region. In this case, the Company's request to raise rates is essentially a re-litigation of the Atmos Mid-Tex rate case that concluded earlier this year. The order in that case became final this May. This new Statement of Intent indicates that the Company is seeking a \$52 million rate increase. If approved, the \$52 million increase would raise rates for the average residential customers by nearly \$20 per year. The statute permits cities to extend the effective date by up to 90 days in order to study the filing. The city must take action to suspend the rates or the increase will become effective October 25, 2007. Atmos is asking for the City to approve an 8.27% increase in residential rates, a 22.72% increase in commercial rates and a 38.95% increase in industrial and transportation rates. A 90-day suspension will allow the 141 Atmos Cities Steering Committee (ACSC) Member Cities time to study and investigate the increase.

*Mayor Reynolds filed a conflict of interest affidavit and abstained from discussion and voting on this item.

MOTION: to approve as presented

	Motion	Second	Aye	No	Abstain	Absent	Result
Russell			X				X Approved as presented
Boles			X				Approved as amended
Force		X	X				Denied
Warren	X		X				Withdrawn
Reynolds					X		Tabled
							Postponed until:
X	<i>Motion Carried</i>		<i>Motion Failed</i>				<i>Roll Call</i>

RS3. RS10-2007-49

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLEBURNE, TEXAS AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE INDIVIDUAL PROJECT ORDER NUMBER 6 WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR

CULVERT EXTENSION AND PEDESTRIAN IMPROVEMENTS AT WOODARD AVE. AND MCANEAR CREEK; PROVIDING AN EFFECTIVE DATE.

Russell Schreiber, Director of Public Works stated that on March 22, 2005, Council authorized Resolution RS03-2005-22 approving Kimley-Horn and Associates, Inc. to provide traffic engineering services with each individual project being issued under an individual project number. This is Project Order #6 and includes engineering services for structural design of the culvert, channel improvements of McAnear Creek, pedestrian improvements (including sidewalk alignment and pedestrian rails), and construction contract administration for the crossing on Woodard Avenue at McAnear Creek. Fees are not to exceed \$39,500.00.

MOTION: to approve as presented

	Motion	Second	Aye	No	Abstain	Absent	Result
Russell		X	X				X Approved as presented
Boles			X				Approved as amended
Force	X		X				Denied
Warren			X				Withdrawn
Reynolds			X				Tabled
							Postponed until:
X	Motion Carried		Motion Failed				Roll Call

RS4. RS10-2007-50
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLEBURNE, TEXAS AUTHORIZING THE EXPENDITURE OF \$1,857,000.00 (ONE MILLION EIGHT HUNDRED FIFTY-SEVEN THOUSAND DOLLARS) FOR CONSTRUCTION OF THE BOOKER T. WASHINGTON COMMUNITY AND RECREATION CENTER BY PRIME CONSTRUCTION COMPANY; AS REQUESTED BY THE CLEBURNE 4B ECONOMIC DEVELOPMENT CORPORATION; PROVIDING AN EFFECTIVE DATE.

Adam Miles, Assistant City Manager stated that Competitive Sealed Proposals were opened on September 13, 2007 for the construction of the Booker T. Washington Community and Recreation Center. Seven proposals were received and evaluated. The evaluation team checked references, reviewed the proposed subcontractors, and interviewed two finalists. Based on the review and analysis, Prime Construction Company offers the best value for this project. The amount includes the base bid amount plus bid alternate 1. It should be noted that the bid price is significantly under the budgeted amount for this project. Council approval is needed to authorize the 4B Corporation to expend funds for construction of this project.

Speakers: Alden Nellis spoke in opposition

MOTION: to approve as presented

	Motion	Second	Aye	No	Abstain	Absent	Result
Russell		X	X				X Approved as presented
Boles			X				Approved as amended
Force			X				Denied
Warren	X		X				Withdrawn
Reynolds			X				Tabled
							Postponed until:
X	Motion Carried		Motion Failed				Roll Call

OC1.

APPROVAL OF ACCOUNTS PAYABLE FOR THE MONTH OF SEPTEMBER 2007.

Person presenting this item: Greg Wilmore, Director of Finance

MOTION: to approve as presented

	Motion	Second	Aye	No	Abstain	Absent	Result
Russell			X				X Approved as presented
Boles			X				Approved as amended
Force		X	X				Denied
Warren	X		X				Withdrawn
Reynolds			X				Tabled
							Postponed until:
X	Motion Carried		Motion Failed				Roll Call

ORDINANCES

OR1.

OR10-2007-56

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLEBURNE, TEXAS AUTHORIZING THE CITY MANAGER TO ISSUE A LIMITED PERMIT TO THE CLEBURNE LIONS CLUB UNDER CODE OF ORDINANCES SECTION 116.02 REGARDING SOLICITING CHARITABLE CONTRIBUTIONS IN THE ROADWAYS; PROVIDING AN EFFECTIVE DATE.

Shelly Doty, City Secretary stated that the Cleburne Lions Club is requesting the Council’s approval for a street solicitation permit around the Courthouse Square on Friday, October 19, 2007 from 1:30 pm to 5:30 pm and on Saturday, October 20, 2007 from 9:00 am to 1:00 pm. All monies collected during this solicitation will be used for Lions Club sight conservation projects, including the purchase of eye glasses for needy schoolchildren in Johnson County. The Council has granted approval of this organization's request in previous years pending receipt of an insurance certificate made to the City of Cleburne in the amount of \$1M. They have submitted the certificate.

MOTION: to approve as presented

	Motion	Second	Aye	No	Abstain	Absent	Result
Russell	X		X				X Approved as presented
Boles		X	X				Approved as amended
Force			X				Denied
Warren			X				Withdrawn
Reynolds			X				Tabled
							Postponed until:
X	Motion Carried		Motion Failed				Roll Call

OR2. OR10-2007-57
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLEBURNE, TEXAS AMENDING TITLE XV, CHAPTER 155 - ZONING, SECTION 155.61, HISTORIC LANDMARKS OF THE CODE OF ORDINANCES, CORRECTING THE SECTION NUMBERING; PROVIDING AN EFFECTIVE DATE.

Donna Jackson, Director of Development Services stated that Staff is requesting that Ordinance 08-2007-44 be amended changing the numbering system of sections 155.61.001 through 155.61.010 to 155.80 through 155.89 regarding the Historic Landmarks.

MOTION: to approve as presented

	Motion	Second	Aye	No	Abstain	Absent	Result
Russell			X				X Approved as presented
Boles			X				Approved as amended
Force		X	X				Denied
Warren	X		X				Withdrawn
Reynolds			X				Tabled
							Postponed until:
X	Motion Carried		Motion Failed				Roll Call

OR3. OR10-2007-58
AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLEBURNE, TEXAS CREATING A DOWNTOWN DISTRICT FOR THE CITY OF CLEBURNE; PROVIDING AN EFFECTIVE DATE.

Donna Jackson, Director of Development Services stated that Staff is requesting guidance and direction from Council concerning the creation and boundary definition of a Downtown District. Staff has included an aerial view of the proposed Downtown District. It is staff's opinion that the creation of the District will be beneficial for economic development as well as tourism, preservation and redevelopment.

MOTION: to approve as presented

	Motion	Second	Aye	No	Abstain	Absent	Result
Russell			X				X Approved as presented
Boles			X				Approved as amended
Force	X		X				Denied
Warren		X	X				Withdrawn
Reynolds			X				Tabled
							Postponed until:
X	Motion Carried		Motion Failed				Roll Call

OPENED PUBLIC HEARING

OR4. POSTPONED

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLEBURNE, TEXAS AUTHORIZING THE CLOSURE, VACATION AND ABANDONMENT OF A PORTION OF BOYD AVENUE BETWEEN LOTS 15, 16, 17 AND 18, BLOCK 368, J.M. BOOTH’S ADDITION TO THE CITY OF CLEBURNE, JOHNSON COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME 93, PAGE 641 DEED RECORDS, JOHNSON COUNTY, TEXAS, LOCATED SOUTH OF EAST JAMES STREET AND NORTH OF THE RAILROAD TRACKS, ACCORDING TO THE OFFICIAL MAP OF TEXAS; DECLARING THAT THIS PROPERTY IS NOT BEING USED BY, NOR USEFUL OR CONVENIENT TO THE PUBLIC IN GENERAL; THEREFORE, THE PUBLIC WOULD BE BETTER SERVED AND BENEFITED BY ITS VACATION AND ABANDONMENT; AUTHORIZING THE CITY SECRETARY TO FILE THE ORDINANCE WITH THE OFFICE OF THE JOHNSON COUNTY RECORDER, THEREBY RELEASING PUBLIC OWNERSHIP, INTEREST AND CONTROL OF THE ALLEY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

Donna Jackson, Director of Development Services stated that notice was sent to all adjoining property owners, utility companies, Development Services, Public Works, and Fire and Police Departments. Staff recommends that Boyd Avenue be closed from the south line of East James Street to the north line of Willie Mae Street only and that an eight (8) foot utility easement be retained down the centerline of Boyd Avenue. Closing Boyd south of the north line of Willie Mae Street will cut off access to Lots 18 , 20, 22, 24, 26, 28, 30, 32 and 34, Block 368, J.M. Booth's Addition. We have received inquiries but no protests regarding this matter. If Boyd Avenue is closed, title to one-half of the closed street will revert to the owners of the adjacent property on each side as of the effective date of the Ordinance and the Ordinance shall be recorded in the Official Public Records of Johnson County, Texas.

Speakers: Stella Taves, proponent spoke in favor
 Lila Mitchell spoke in favor

CLOSED PUBLIC HEARING

MOTION: to postpone until October 23rd Council Meeting

	Motion	Second	Aye	No	Abstain	Absent	Result
Russell		X	X				Approved as presented
Boles			X				Approved as amended
Force	X		X				Denied
Warren			X				Withdrawn
Reynolds			X				Tabled
						X	Postponed until: 10-23
X	Motion Carried		Motion Failed				Roll Call

OPENED PUBLIC HEARING

OR5. DENIED

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLEBURNE, TEXAS AUTHORIZING THE CLOSURE, VACATION AND ABANDONMENT OF A PORTION OF PEARCE STREET BETWEEN LOTS 1 AND 9, BLOCK 759 AND LOT 1 AND 6, BLOCK 756, PEARCE & JESTER ADDITION TO THE CITY OF CLEBURNE, JOHNSON COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME 154, PAGE 700, DEED RECORDS, JOHNSON COUNTY, TEXAS, LOCATED EAST OF THE RAILROAD TRACKS, WEST OF NORTH WILHITE STREET AND BETWEEN 1701 AND 1611 NORTH WILHITE STREET, ACCORDING TO THE OFFICIAL MAP OF THE CITY OF CLEBURNE, JOHNSON COUNTY, TEXAS AS REQUESTED BY NICOLAS RIOS; RETAINING A DRAINAGE EASEMENT THE ENTIRE WIDTH OF THE STREET; DECLARING THAT THIS PROPERTY IS NOT BEING USED BY, NOR USEFUL OR CONVENIENT TO THE PUBLIC IN GENERAL; THEREFORE, THE PUBLIC WOULD BE BETTER SERVED AND BENEFITED BY ITS VACATION AND ABANDONMENT; AUTHORIZING THE CITY SECRETARY TO FILE THE ORDINANCE WITH THE OFFICE OF THE JOHNSON COUNTY RECORDER, THEREBY RELEASING PUBLIC OWNERSHIP, INTEREST AND CONTROL OF THE RIGHT OF WAY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

Donna Jackson, Director of Development Services stated that notice was sent to all adjoining property owners, utility companies, Development Services, Public Works, and Fire and Police Departments. Staff recommends that this portion of Pearce Street not be closed because it will cut off access to Lot 9, Block 759 and a portion of Lot 1, Block 756. We have received a protest from Julian Reyes who resides at 1703 North Wilhite. If the street is closed, it will be necessary to retain a drainage easement the entire width of the street. If this portion of Pearce Street is closed, title to one-half of the closed street will revert to the owners of the adjacent property on each side as of the effective date of the Ordinance and the Ordinance shall be recorded in the Official Public Records of Johnson County, Texas.

Speakers: Julian Reyes spoke in opposition

CLOSED PUBLIC HEARING

MOTION: to deny

	Motion	Second	Aye	No	Abstain	Absent	Result
Russell			X				Approved as presented
Boles			X				Approved as amended
Force	X		X				X Denied
Warren		X	X				Withdrawn
Reynolds			X				Tabled
							Postponed until:
X	Motion Carried		Motion Failed				Roll Call

OPENED PUBLIC HEARING

OR6. POSTPONED

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLEBURNE, TEXAS AUTHORIZING THE CLOSURE, VACATION AND ABANDONMENT OF A PORTION OF WILLIE MAE STREET BETWEEN LOTS 1 THROUGH 34, BLOCK 368, J.M. BOOTH’S ADDITION TO THE CITY OF CLEBURNE, JOHNSON COUNTY, TEXAS, ACCORDING TO THE PLAT RECORDED IN VOLUME 93, PAGE 641 DEED RECORDS, JOHNSON COUNTY, TEXAS, LOCATED EAST OF ORAN AVENUE AND TO THE EAST PROPERTY LINES OF LOTS 33 AND 34, BLOCK 368, J.M. BOOTH’S ADDITION, ACCORDING TO THE OFFICIAL MAP OF THE CITY OF CLEBURNE, JOHNSON COUNTY, TEXAS; AS REQUESTED BY STELLA TAVES; DECLARING THAT THIS PROPERTY IS NOT BEING USED BY, NOR USEFUL OR CONVENIENT TO THE PUBLIC IN GENERAL; THEREFORE, THE PUBLIC WOULD BE BETTER SERVED AND BENEFITED BY ITS VACATION AND ABANDONMENT; AUTHORIZING THE CITY SECRETARY TO FILE THE ORDINANCE WITH THE OFFICE OF THE JOHNSON COUNTY RECORDER, THEREBY RELEASING PUBLIC OWNERSHIP, INTEREST AND CONTROL OF THE RIGHT OF WAY; PROVIDING A SEVERABILITY CLAUSE; PROVIDING AN EFFECTIVE DATE.

Donna Jackson, Director of Development Services stated that notice was sent to all adjoining property owners, utility companies, Development Services, Public Works, and Fire and Police Departments. Staff recommends that Willie Mae Street not be closed because it will cut off access to Lots 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32 and 34, Block 368 J.M. Booth's Addition. We have received inquiries but no protests regarding this matter. If Willie Mae Street is closed, title to one-half of the closed street will revert to the owners of the adjacent property on each side as of the effective date of the Ordinance and the Ordinance shall be recorded in the Official Public Records of Johnson County, Texas.

Speakers: Nicolas Rios came forward to speak on OR4 which had already been denied by Council and was directed by the Mayor to speak with staff and/or an attorney regarding this item.

CLOSED PUBLIC HEARING

MOTION: to postpone until October 23rd Council Meeting

	Motion	Second	Aye	No	Abstain	Absent	Result
Russell			X				Approved as presented
Boles		X	X				Approved as amended
Force	X		X				Denied
Warren			X				Withdrawn
Reynolds			X				Tabled
						X	Postponed until: 10-23
X	Motion Carried		Motion Failed				Roll Call

OR7. DENIED

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLEBURNE, TEXAS AMENDING THE BUDGET FOR THE FISCAL YEAR OCTOBER 1, 2007 TO SEPTEMBER 30, 2008, PROVIDING FOR RECALCULATION OF CIVIL SERVICE EMPLOYEE SALARY INCREASES; PROVIDING AN EFFECTIVE DATE.

Mayor Ted Reynolds stated that this item be presented to clarify how the Civil Service salaries should be calculated. The budget as adopted on September 25th provides for calculation of Civil Service salary increases as follows: 4% increase, then implementation of the Waters Study. The City Council amended the budget to provide for an additional 4.5% increase for Civil Service employees only. Mayor Reynolds has asked that salary increases be calculated as follows: implementation of the Waters Study, 4% increase, and then the additional 4.5% increase for Civil Service employees. An amendment to the budget is necessary as this will increase the cost for Civil Service salaries by approximately \$200,000.00, which was not provided for in the budget as presented and adopted on September 25th. The additional cost is currently not budgeted.

Speakers: Alden Nellis spoke in opposition

MOTION: to approve as presented

	Motion	Second	Aye	No	Abstain	Absent	Result
Russell	X		X				Approved as presented
Boles				X			Approved as amended
Force		X		X			X Denied
Warren				X			Withdrawn
Reynolds			X				Tabled
							Postponed until:
	Motion Carried	X	Motion Failed				X Roll Call

CITIZENS COMMENTS

Bill Miller spoke on the need for parking enforcement downtown.

ADJOURNED AT: 8:25 p.m.

APPROVAL OF MINUTES

APPROVED BY MAJORITY VOTE OF COUNCIL ON: October 23, 2007

CITY OF CLEBURNE

Ted Reynolds, Mayor

ATTEST:

Shelly Doty, City Secretary