



CITY COUNCIL REGULAR MEETING AGENDA
MARCH 28, 2023 @ 5:00 PM
CITY HALL COUNCIL CHAMBERS
10 NORTH ROBINSON STREET, CLEBURNE, TX 76031

A member of the public wishing to participate in the meeting may do so via the options below or view the [live broadcast](#).

- *In person*: Complete a speaker/comment registration card and turn in to the City Secretary before the meeting begins.
- *Submit questions/comments online*: Complete a speaker/comment registration card found on the [City's online Agenda Center](#). Registration cards received by 4:00 p.m. the same day will be distributed to the Council for consideration.
- *Address the Council by phone*: Submit a registration card as directed above and by 4:45 p.m. call [\(346\) 248-7799](tel:346-248-7799) or (888) 788-0099. **Enter Meeting ID 995-6991-0537 and then press #.**

I. ROLL CALL AND CALL TO ORDER BY MAYOR

City Council:

Scott Cain, Mayor
Derek Weathers, SMD 1
Mike Mann, Mayor Pro Tem/SMD 3
John Warren, SMD 4

Administration:

Steve Polasek, City Manager
Ashley Dierker, City Attorney
Ivy Peterson, City Secretary

II. INVOCATION by Pastor Trinity Bounds, Pursuit Bible Church

III. PLEDGE OF ALLEGIANCE

III. CITY SECRETARY READS THE GUIDELINES TO SPEAK BEFORE COUNCIL

IV. CITIZENS COMMENTS

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

VI. COMMUNITY INTEREST MATTERS, ANNOUNCEMENTS & PRESENTATIONS

CMP1. PRESENTATION – 2022 Achievement of Excellence in Libraries Award by the Texas Municipal Library Directors Association

CMP2. PRESENTATION – Fiscal Year 2021 Award for Excellence in Government Finance by the Government Finance Officers Association

CONSENT AGENDA

All of the following items on the Consent Agenda are considered to be routine and self-explanatory by the Council and will be enacted with one motion. There will be no separate discussion of these items unless a Council Member or citizen so requests. For a citizen to request removal of an item, a speaker card must be filled out and submitted to the City Secretary prior to the beginning of the meeting.

MN1. CONSIDER MINUTES FOR THE MARCH 14, 2023 REGULAR COUNCIL MEETING.

RS1. CONSIDER A RESOLUTION APPROVING AN AIRPORT FUEL DISCOUNT POLICY AND STANDARD AGREEMENT FOR COMMERCIAL TENANTS AT CLEBURNE REGIONAL AIRPORT.

Presented by: Garrett Watson, Interim Airport Manager

Summary: As the Airport continues to grow and operations increase, a number of commercial tenants who buy a high quantity of fuel have approached the city about potential fuel discounts. In the past, fuel discounts were given based on the Airport Manager's discretion with no formal policy in place. To remain fair and consistent, a formal fuel discount policy with an accompanying standard agreement for commercial customers and tenants has been developed for Council's consideration. The proposed policy identifies three tiers. Tier One provides for a \$0.10/gallon discount, Tier Two, a \$0.20/gallon discount, and Tier Three, a \$0.30/gallon discount.

Following investigation of what other airports in the region are doing, the developed policy offers discounts in conjunction with the gallons of fuel purchased over the course of the previous year, including new tenants who can provide at least 6 months of historical data and evidence of meeting one of the three tier requirements.

There are currently four tenants on the field that would qualify for one of these tiers. With the current fuel markup algorithm in place and at the most, a \$0.30 per gallon discount, offering these discounts would still cover the cost of fuel and operations as well as profit from the fuel sale, all while offering a loyalty discount for customers who consider the airport their preferred location for fuel purchase.

RS2. CONSIDER A RESOLUTION AUTHORIZING RENEWAL OF THE CURRENT LEASE AGREEMENT WITH JOHNSON COUNTY EMERGENCY SERVICES DISTRICT #1 FOR REAL PROPERTY LOCATED AT 2451 SERVICE DRIVE STARTING APRIL 1, 2023 AND ENDING APRIL 1, 2048.

Presented by: Scott Lail, Fire Chief

Summary: The City of Cleburne began leasing this property, known as the Fire Training Field, to the Johnson County Fire Protection District in 1990 with a 15-year term. The Lease was amended in 2010 to remove the Fire Protection District, replace it with the Johnson County ESD #1, and extend the term to 25-years. The current term ends in 2035. The ESD is preparing to make a substantial investment in the Training Field and "Burn House" and has requested the City make the 25-year extension now, before they invest in the facility. The upgrades to the facility

will benefit the Cleburne Fire Department by allowing staff to train in a state-of-the-art center without having to leave the city limits. Staff fully supports the extension.

RS3. CONSIDER A RESOLUTION AUTHORIZING AN INTERLOCAL AGREEMENT WITH JOHNSON COUNTY EMERGENCY SERVICES DISTRICT #1 FOR MUTUAL AID ARSON INVESTIGATION SERVICES.

Presented by: Scott Lail, Fire Chief

Summary: Due to the lack of certified arson investigators in the County, Johnson County ESD #1 has created an Arson Investigation Task Force. Member organizations agree to provide investigative assistance, if needed, in cases of suspected arson fires and explosions. There are currently over 10 arson investigators (2 at CFD) in Johnson County as well as state fire marshal assets. This agreement would allow the arson investigators in the county to provide mutual aid to other municipalities or unincorporated areas, as requested, to assist with investigations. Cleburne Fire anticipates less than 5 requests per year for Cleburne FD staff to respond outside of the City.

OC1. CONSIDER ACCOUNTS PAYABLE AND BUDGET TRANSFERS FOR THE MONTH OF FEBRUARY 2023.

ACTION AGENDA

RS4. CONSIDER A RESOLUTION AUTHORIZING A NEW LEASE AGREEMENT WITH JOHNSON COUNTY HERITAGE FOUNDATION, INC. FOR APPROXIMATELY 10.73 ACRES OF CITY-OWNED LAND LOCATED AT 101 CHISHOLM TRAIL, AND SITE OF THE CHISHOLM TRAIL OUTDOOR MUSEUM.

Presented by: Grady Easdon, Economic Development Manager

Summary: The Chisholm Trail Outdoor Museum (“CTOM”) has been in continuous operation on City of Cleburne Property west of Lake Pat Cleburne along Hwy. 67 since 2005, when a lease agreement was executed between the City and Johnson County Heritage Foundation Inc. (the “Foundation”). Due to addition of several new structures and expanded usage of the property by CTOM, it has been determined that a new Lease Agreement is necessary. At the August 23, 2022 City Council meeting, the City Council established a CTOM Committee which included Mayor Pro Tem Mann and Councilman Weathers and tasked them with providing direction and oversight concerning operations of the CTOM and regarding collaboration in drafting a new Lease Agreement, as well as a Chapter 380 Economic Development Operating and Performance Agreement. Some of the key components of the proposed new land lease are as follows:

- No future improvements on the Property without prior written approval by the City Manager
- The lessee shall not engage in any activities on or along the banks of any body of water abutting or upon the Property including, but not limited to, Lake Pat Cleburne, creeks, rivers, or channels, without prior written consent of the City Manager
- The lessee shall not violate any State or Federal laws concerning use of Wetlands, and shall not engage in any activities on said Wetlands

- The lessee is to provide a schedule of application of any herbicides and pesticides to the City in advance of application
- The hours of operation for all events, whether open to the general public or privately-held events such as weddings, receptions, and other events, shall be limited to 7:00 am – 11:00 pm on Fridays and Saturdays, and from 7:00 am – 10:00 pm on Sundays
- Overnight camping is prohibited on the Property without prior approval of the City Manager, and only under special circumstances related to certain events held on the Property
- Overnight lodging is prohibited on the Property
- The lessee shall ensure that all events open to the general public are “family-friendly”, appropriate for all ages, and depict themes that honor and celebrate the history, heritage, and pioneering spirit of Cleburne, Johnson County, the State of Texas, or the United States
- Alcohol shall be prohibited for any event open to the general public held on the Property
- The lessee shall promptly pay any current and future utility service that is not paid by the Lessor under any prior arrangements to pay such utility costs

The initial term of the Lease shall be for a period of five (5) years, commencing upon the date of execution of the Lease by both parties. Provided that Lessee has complied with the terms and conditions, the Lease shall be automatically renewed for two (2) additional five (5) year periods following the initial term, and provided that either party shall have the right to give the other party written notice that such party does not desire to renew the Lease. Such written notice shall be sent not later than thirty (30) days prior to commencement of any renewal term and shall cause the Lease to terminate upon expiration of the term in which the notice is given. Either party may terminate the Lease upon thirty (30) days written notice if the other party is in violation of the terms and conditions of the Lease or with one hundred twenty (120) days written notice without cause.

RS5. CONSIDER A RESOLUTION AUTHORIZING A CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT WITH JOHNSON COUNTY HERITAGE FOUNDATION, INC FOR PROVIDING SUPPLEMENTAL FUNDING RELATED TO OPERATIONS AND MANAGEMENT OF THE CHISHOLM TRAIL OUTDOOR MUSEUM.

Presented by: Grady Easdon, Economic Development Manager

Summary: The Chisholm Trail Outdoor Museum (“CTOM”) has been in continuous operation on City of Cleburne property west of Lake Pat Cleburne along Hwy. 67 since 2005, when a lease agreement was executed between the City and Johnson County Heritage Foundation Inc. (the “Foundation”). Since that time, several new events have been added and construction of additional buildings and facilities have taken place. In addition to numerous events open to the public throughout the year, CTOM also has become a destination for weddings, receptions, and other privately-held events.

At the August 9, 2022 meeting of the City Council, action was taken to reallocate \$35,000 from the Market Square Concert Series to Johnson County Heritage Foundation, which would bring the total new funding allocation to \$55,000 annually and paid in quarterly installments, provided certain performance and accountability measures are met and a new agreement was approved.

At the August 23, 2022 meeting of the City Council, the CTOM Committee was formed which included Mayor Pro Tem Mann and Councilman Weathers and tasked them with providing direction and oversight concerning operations of the CTOM and regarding collaboration in drafting a new Lease Agreement and Chapter 380 Economic Development Operating and Performance Agreement.

In return for the City's investment, the Foundation will provide the following information annually on January 31st: (1) Verification of the Foundation's non-profit status; (2) Proof of current insurance coverage; (3) Naming the City as Additional Insured; (4) Provide a current fee schedule including proposed adjustments; (5) Provide a schedule of a minimum of ten (10) and a maximum of seventeen (17) events for each calendar year; and (6) Provide a verifiable means of recording attendance as agreed to by the City, including but not limited to special events, activities, and general site visits. Semi-annually, the foundation is to provide financial reports with one being an annual audited statement and lastly, the foundation is to present an update to the City Council during open session not less than twice annually.

The City Attorney has reviewed the proposed Agreement, and their recommended revisions have been incorporated into the proposed Agreement.

OR1. *PUBLIC HEARING* CONSIDER AN ORDINANCE REZONING ±14.68 ACRES LOCATED AT 640 MANSFIELD ROAD FROM IH (INTERIM HOLDING DISTRICT) AND SF-7 (SINGLE-FAMILY DWELLING DISTRICT) TO SF-20 (SINGLE-FAMILY DWELLING DISTRICT), CASE ZC23-010.

Presented by: David Jones, Community Development Director

Summary: The property owners, David and Julie Morgan, have requested to rezone approximately 14.68 acres from IH (Interim Holding District) and SF-7 (Single-Family Dwelling District) to SF-20 (Single-Family Dwelling District) for the property located at 640 Mansfield Road. The property owners intend to rezone the property for the future construction of a single-family home.

The Planning and Zoning Commission considered this request at their March 13, 2023 meeting and recommended approval by a vote of 6-0.

RS6. CONSIDER A RESOLUTION APPROVING A FINAL PLAT OF SILO MILLS PHASE 1C.2, FOR 63 SINGLE-FAMILY RESIDENTIAL LOTS AND 3 OPEN SPACE LOTS, BEING ±20.711 ACRES IN THE EXTRATERRITORIAL JURISDICTIONS OF THE CITY OF CLEBURNE AND THE CITY OF BURLESON, GENERALLY LOCATED SOUTH AND SOUTHEAST OF PLEASANT VIEW ELEMENTARY SCHOOL AT 7800 SILO MILLS PARKWAY, CASE PC23-001.

Presented by: David Jones, Community Development Director

Summary: The applicant, Johnson Volk Consulting, represented by Tom Dayton, is requesting approval of the final plat for Silo Mills Phase 1C.2, which consists of 63 single-family residential lots and three (3) open space lots, generally located south and southeast of Pleasant View elementary school in Godley ISD. The property is located within the extraterritorial jurisdictions (ETJ) of the City of Cleburne and the City of Burleson.

The final plat will require a dual approval platting process given that the property is located within both Cleburne and Burleson's jurisdictions. There are notations on the plat that designate the dual jurisdiction. The final plat of Phase 1C.2 within Cleburne's ETJ meets all of the minimum requirements as outlined in Chapter 154 of the Code of Ordinances and the approved Development Agreement for Silo Mills.

The Planning and Zoning Commission considered this request at its March 13, 2023 meeting and recommended approval with a vote of 6-0.

RS7. CONSIDER A RESOLUTION APPROVING A CONVEYANCE PLAT FOR RAILHEAD ADDITION, CONSISTING OF 11 LOTS, BEING ±94.737 ACRES ZONED PD (PLANNED DEVELOPMENT DISTRICT), GENERALLY LOCATED ON THE SOUTH SIDE OF US HIGHWAY 67, APPROXIMATELY 330 FEET SOUTHWEST OF STATE HIGHWAY 171/WEATHERFORD HIGHWAY, AND WEST OF WOODRUFF ROAD, CASE PC23-011.

Presented by: David Jones, Community Development Director

Summary: The applicant, Topographic Surveying, represented by Erik Dumas, requests approval of the conveyance plat for Railhead Addition, which consists of 11 lots on approximately 94.737 acres generally located on the south side of US Highway 67, approximately 330 feet southwest of State Highway 171 (Weatherford Highway), and west of Woodruff Road.

The purpose of the conveyance plat for the Railhead Addition is to subdivide and convey undeveloped property to end users. The conveyance plat is not considered a step in the development of a project, does not establish vested rights to develop, and does not constitute any approval of development on the property.

The conveyance plat complies with the requirements as outlined in Chapter 154 of the Code of Ordinances and OR10-2022-74 (Railhead PD). The Planning and Zoning Commission considered this request at its March 13, 2023 meeting and recommended approval with a vote of 6-0.

OR2. *PUBLIC HEARING* CONSIDER AN ORDINANCE AMENDING TITLE V: PUBLIC WORKS, CHAPTER 51: WATER AND SEWER, SECTIONS 51.30: RATES FOR TREATED WATER SERVICE, AND 51.31: RATES FOR WASTEWATER SERVICE.

Presented by: Jeremy Hutt, Director of Public Works

Summary: The proposed changes will not affect existing utility customers located within the city limits. The proposed ordinance will amend the following: (1) Establish the City Water Rate and Service Demand Charge for multi-family dwelling uses with specifically five or more units located outside of the city; (2) Establish the City Wastewater Rate and Demand Charge located outside of the city; (3) Establish the City Wastewater Rate and Service Demand Charge for multi-family dwelling uses with specifically five or more units located outside of the city.

The City currently has established water rates for water customers that are both inside and outside of the city limits. The charges for water customers outside the city limits are approximately 25% higher. The current ordinance language has an exception for rates associated with multi-family dwelling uses that specifically include five or more units. The proposed

amendments will remove this exception. No other changes to the water rates are included in this amendment.

The proposed ordinance update will also establish a sanitary sewer utility rate (demand and volumetric) approximately 25% higher for all customers located outside of the city limits, similar to the structure established for water rates. The adjusted utility rates for customers located outside the city limits will help offset the additional costs associated with providing utilities to areas outside the city limits.

RS8. CONSIDER A RESOLUTION ACCEPTING THE ANNUAL AUDIT FOR FISCAL YEAR ENDED SEPTEMBER 30, 2022.

Presented by: Marcie Freelen, Assistant Finance Director/Chief Accountant

Summary: Section 8.12 of the City of Cleburne Charter states an independent firm of certified public accountants will perform the annual audit and present the results to the City Council.

On Friday, February 24, 2023, the Audit Committee met with John Manning, the audit engagement partner with the City's audit firm, Pattillo, Brown and Hill LLP, to review the results of the annual audit for Fiscal Year ended September 30, 2022 and the Statement on Auditing Standards 114 audit management letter. The City received an unmodified opinion (Independent Auditor's Report), which is the most favorable audit opinion an entity can receive. The consultant will be present to give a brief presentation regarding the annual audit. Once the report is accepted by City Council, it will be available on the City's website.

RS9. CONSIDER A RESOLUTION AUTHORIZING THE CITY MANAGER TO PROVIDE WRITTEN NOTICE TO TERMINATE THE AGREEMENT WITH THE CLEBURNE CHAMBER OF COMMERCE FOR THE MANAGEMENT OF THE OPERATION OF THE CLEBURNE CONFERENCE CENTER AND PERFORMING ARTS CENTER, EFFECTIVE OCTOBER 1, 2023.

Presented by: Aaron Dobson, Director of Parks & Recreation

Summary: In 2010, the City Council approved Resolution RS01-2010-10 for the Cleburne Chamber of Commerce to manage the operations at the Cleburne Conference Center and Performing Arts Center. The most recent renewal of the contract occurred on September 14, 2021. This agreement has benefited the City for several years; however, with improvements to our organizational structure, the City of Cleburne is now in a position to supply the appropriate management and oversight of the Conference Center operations. This change will also benefit the Chamber of Commerce by allowing them to focus on its core mission of supporting local businesses.

Within the current agreement, a termination statement reads, "The City and Chamber agree that either party may give 90-day written notice to terminate this agreement." This resolution will authorize City Staff to terminate the Cleburne Chamber of Commerce management agreement for the Cleburne Conference Center and Performing Arts Center at the end of the current term, thus re-establishing the Conference Center as a division of the City.

The Chamber of Commerce Board was briefed on the potential termination of the management agreement at their February 16, 2023, meeting. The agreement will terminate after September 30, 2023, and management of operations will transfer to the City on October 1, 2023.

With this advance notification, the City will be able to continue to work with the Chamber to ensure a smooth transition.

RS10. CONSIDER A RESOLUTION AUTHORIZING AMENDMENT NO. 1 TO THE CURRENT FACILITY LEASE AGREEMENT WITH THE CLEBURNE CHAMBER OF COMMERCE TO ALLOW FOR ADDITIONAL USE OF CITY FACILITIES IN EXCHANGE FOR CERTAIN SERVICES, AND ESTABLISHING AN EFFECTIVE DATE OF OCTOBER 1, 2023.

Presented by: Aaron Dobson, Director of Parks & Recreation

Summary: In November of 2010, the City of Cleburne and the Cleburne Chamber of Commerce entered in to a lease agreement for Chamber use of the Cathy Marchel Building. This proposed resolution would amend the lease to include Chamber use of the Cleburne Conference Center for various events and activities throughout the year. If approved, the term of the Amendment No. 1 (Amendment) shall be in effect for a period of five (5) years beginning October 1, 2023, and terminating September 30, 2028. The Agreement may be extended for an additional five (5) year term upon the mutual consideration and approval of both parties. In addition, either party may terminate this Amendment by providing written notice should the other party fail to comply with the terms and conditions contained herein.

DISCUSSION & UPDATES

OC2. DISCUSS SALES TAX STUDY

Presented by: Kevin Hennessey, Assistant Finance Director/FP&A

Summary: In response to proposed Sales Tax Rule 3.334 changes, Cleburne has worked closely with the economic analysis and public policy consulting firm TXP, Inc. to evaluate how the proposed changes might impact the City of Cleburne's annual sales tax collections. Based on a review of Cleburne's largest sales tax payers, conversations with select companies in Cleburne and discussions with the Texas Comptroller of Public Accounts, it does not appear Cleburne will be significantly impacted by the proposed changes.

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. Actions taken and to be taken related to ETJ Boundary Agreement with the City of Keene

EXE2. Actions taken and to be taken related to water line damage cost of repair located at 1004, 1006, and 1100 blocks of Spell Street

Section 551.074. Deliberation regarding Personnel Matters, and Section 551.071. Consultation with Attorney - The City Council may convene in 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 and/or to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee, including deliberation regarding the following officers or employees:

EXE3. Discuss City Manager transition and succession planning for city management.

EXE4. Discuss agreement related to the City Manager position.

Reconvene into open session for possible action resulting from any items posted and legally discussed in Executive Session.

CERTIFICATION

THIS IS TO CERTIFY that the Notice of Meeting of the Cleburne City Council is a true and correct copy of said Notice and that I posted said Notice on the City Hall bulletin board, a place convenient and readily accessible to the general public at all times, as well as the City's official website at www.cleburne.net and said Notice was posted on **Friday, March 24, 2023**, by **5:00pm** in compliance with Chapter 551, Texas Government Code.

Note: A quorum of any Cleburne board, commission, or committee may participate during this meeting.



City of Cleburne

By: Ivy Peterson

Ivy Peterson, City Secretary



Reasonable accommodations to furnish auxiliary aids or services for persons with special needs will be provided when at least two working days' notice is given. Contact the City Secretary's office at (817) 645-0908 or by fax (817) 556-8848.