



## NOTICE OF REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF CLEBURNE, TEXAS

Notice is hereby given that a **REGULAR COUNCIL MEETING** of the above named City will be held on the 23<sup>rd</sup> day of APRIL 2019, at 5:00pm, in the Council Chambers at Cleburne City Hall, 10 North Robinson Street, Cleburne, Texas 76031.

At which time the following subjects will be discussed, to-wit:

Refer to attached agenda

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the governing body of the above named City is a true and correct copy of said Notice and that I posted a true and correct copy of said Notice on the bulletin board in City Hall of said City in Cleburne, Texas, 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](http://www.cleburne.net), and said Notice was posted on April 18, 2019, by 5:00 p.m.



City of Cleburne

By   
Ivy Peterson, Deputy Secretary



City Hall is wheelchair accessible. Access to the building and special parking are available at the southeast entrance facing Chambers Street. Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, or large print, are requested to contact the City Secretary's Office at 817/645-0908 or by FAX 817/556-8848 at least two (2) working days prior to the meeting so that appropriate arrangements can be made.

*Note: A quorum of any Cleburne board, commission, or committee may be present at this meeting.*

### Agenda Removal Notice

Date:

Initials:



## REGULAR CITY COUNCIL MEETING AGENDA

**APRIL 23, 2019**

**5:00 PM**

**CITY HALL COUNCIL CHAMBERS**

**10 NORTH ROBINSON STREET**

- I. ROLL CALL AND CALL TO ORDER BY MAYOR**
- II. INVOCATION** by Pastor David Hargrave, First Christian Church
- III. PLEDGE OF ALLEGIANCE**
- IV. COMMUNITY INTEREST MATTERS, ANNOUNCEMENTS & PRESENTATIONS**
  - ☆ Proclamation – Motorcycle Safety Month
  - ☆ Proclamation – Cleburne Railroad History Days, May 10-17
  - ☆ Presentation – STARS Award for March, Jimmy Green, Sanitation
  - ☆ Presentation – Quarterly Economic Development Report – Grady Easdon
- V. CITY SECRETARY READS THE GUIDELINES TO SPEAK BEFORE COUNCIL**
- VI. CITIZENS COMMENTS**

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

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### CONSENT ITEMS

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**M1. APPROVAL OF MINUTES FOR THE APRIL 9, 2019 COUNCIL MEETING.**

**RS1. RESOLUTION APPROVING THE CITY OF CLEBURNE'S INVESTMENT REPORT FOR THE QUARTER ENDING MARCH 31, 2019.**

Person presenting this item: Troy Lestina, Director of Finance

**BRIEF:** Chapter 2256.023 of the Texas Government Code states that a written quarterly investment report must be prepared by the investment officer and submitted to the governing body. For the quarter ended March 31, 2019, the City invested solely in four Local Government Investment Pools (LOGIC, Texas Class, TexPool, and TexSTAR), and included in the investment report are the newsletters from each of the pools that provides information on their average yield, net asset value, weighted average maturity, and portfolio composition at the end of the reporting quarter. At March 31, 2019, there was \$78,380,255 invested in the four pools with total quarterly interest income of \$473,118 (see attached quarterly investment report). The percentage allocation by investment pool at March 31, 2019 is LOGIC: 20.30%, Texas Class: 47.42%, TexPool: 9.26%, and TexSTAR: 23.03%.

**RS2. RESOLUTION AUTHORIZING CHANGE OF REPRESENTATIVES FOR THE TEXAS LOCAL GOVERNMENT INVESTMENT POOL (TEXPOOL).**

Person presenting this item: Troy Lestina, Director of Finance

**BRIEF:** The purpose of this item is to add Troy Lestina, Director of Finance as an authorized representative to invest funds for the City of Cleburne with TexPool. The City utilizes TexPool for

investment of funds and TexPool requires formal action by City Council to make changes to authorized representatives.

**RS3. RESOLUTION AUTHORIZING CORRECTION DEEDS FOR PROPERTIES SOLD DURING TAX RESALE EVENTS TO DAVID RAY DAVENPORT AND SAID PROPERTIES LOCATED AT 1201, 1202 AND 1206 N BRAZOS AVE SHALL BE DEEDED TO “SUNWEST TRUST INC FBO DAVID RAY DAVENPORT ROTH IRA”.**

Person presenting this item: Ivy Peterson, Deputy City Secretary

**BRIEF:** David Ray Davenport recently bid on and was awarded the resale of three properties located at 1201 N Brazos Ave, 1202 N Brazos Ave, and 1206 N Brazos Ave. Sale of property was approved by council in July of 2018 and accepted by all taxing entities. Mr Davenport has asked that the Grantee on the Resale Deed to amended to read “Sunwest Trust Inc. FBO David Ray Davenport Roth IRA to match the source of the funds he used to purchase the properties

**OC1. APPROVE ACCOUNTS PAYABLE FOR THE MONTH OF APRIL 2018.**

Person presenting this item: Troy Lestina, Director of Finance

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**RESOLUTIONS**

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**RS4. RESOLUTION FINDING THAT ONCOR ELECTRIC DELIVERY COMPANY LLC’S APPLICATION FOR APPROVAL TO AMEND ITS DISTRIBUTION COST RECOVERY FACTOR WITHIN THE CITY SHOULD BE DENIED**

Person presenting this item: Troy Lestina, Director of Finance

**BRIEF:** On April 8, 2019, Oncor Electric Delivery Company LLC (“Oncor” or “Company”) filed an Application for Approval of a Distribution Cost Recover Factor (“DCRF”) to Increase Distribution Rates with each of the cities in their service area. In the filing, the Company asserts that it is seeking an increase in distribution revenues of \$29,433,804. The purpose of the purpose of the proposed resolution is to deny the DCRF application proposed by Oncor and authorize the City to join with the Steering Committee of Cities Served by Oncor (“OCSC”) to evaluate the filing, determine whether the filing complies with law, and if lawful, to determine what further strategy, including settlement, to pursue. Cities have sixty (60) days from the date of filing to act (deny the increase), thus providing additional time for appropriate review and consideration.

**RS5. APPROVE THE RECOMMENDATION OF THE TIF 1 BOARD TO SPEND UP TO \$45,000 FROM PROJECT #5 FOR SERVICES RELATED TO THE DEVELOPMENT OF A CONSERVATION EASEMENT DOCUMENT FOR SPARKS DRIVE AND THE RECOMMENDATION OF THE TIF 1 BOARD TO SPEND UP TO \$27,000 FROM PROJECT #5 FOR CONSULTING SERVICES RELATED TO THE DEVELOPMENT OF A SUPPLEMENTAL GRADING PLAN FOR SPARKS DRIVE.**

Person presenting this item: Cheryl Taylor, Director of Engineering Services

**BRIEF:** The Tax Increment Financing District Reinvestment Zone No. 1 (TIF 1) Board of Directors met on December 3, 2018, where they unanimously approved:

- 1) Spending a maximum of \$45,000 from project #5 to proceed with developing a conservation easement document for submittal to the Corps of Engineers.

The Corps of Engineers (Corps) requires a wetlands mitigation plan in order to approve a permit for the Sparks Drive extension project. This project impacts a small area of wetlands as determined by the city's environmental consultant, Integrated Environmental Solutions. The Corps requires mitigation of that impact in order to approve a permit for the project. The project area is located in a region that has no approved mitigation banks; therefore, a permittee-responsible mitigation plan is required. Integrated Environmental Solutions prepared that plan and submitted it to the Corps for review. As of this date, in order to respond to Corp's comments, the city needs to provide the following items:

- Develop a conservation easement document for submittal to the Corps. This a requirement of the Corps to ensure that the created wetlands are perpetually monitored by a qualified third party.
  - Contract with the Mitigation Futures Conservancy of McKinney, Texas, to provide perpetual monitoring of the mitigation area.
  - Direct Trans Texas Surveying to prepare a metes & bounds description and exhibit of the easement area.
  - Have a title company prepare a 60-year property abstract / title report with an attorney's opinion of title documentation. The Corps requires proof that the City owns the land where the mitigation will occur.
- 2) Spending a maximum of \$27,000 from project #5 to proceed with developing a supplemental grading plan for submittal to the Johnson County Soil & Conservation District and the Natural Resources Conservation Service.

Staff procured the services of a title company to research the title reports in order to execute the land swap. There is an unresolved issue with one easement that is currently being addressed. The land is within an easement to the Johnson County Soil & Conservation District (JCSCD) for the impoundment of water in Lake Marti. JCSCD sent the project plans to the Natural Resources Conservation Service for review. Their engineer responded that the entire volume of material used to build the road and bridge will need to be offset with an equivalent volume of excavation plus 10% to account for lost flood storage created by this project. The city attorney's office does not disagree with this assessment.

The following is informational only and will be considered by the City Council as separate agenda items: Childress Engineers has submitted an agreement for an amount not to exceed \$27,000, and a conservation easement agreement with Mitigation Futures Conservancy.

**RS6. APPROVAL OF AN AMENDMENT TO AGREEMENT FOR ENGINEERING SERVICES WITH CHILDRESS ENGINEERS FOR THE SPARKS DRIVE CONNECTION TO DEVELOP A SUPPLEMENTAL GRADING PLAN IN CONJUNCTION WITH THE JAMES HARDIE LAND SWAP IN AN AMOUNT NOT TO EXCEED \$27,000.**

Person presenting this item: Cheryl Taylor, Director of Engineering Services

**BRIEF:** This item is an amendment to the agreement for engineering services with Childress Engineers to develop a supplemental grading plan for submittal to the Johnson County Soil & Conservation District and the Natural Resources Conversation Service to offset the entire volume of material used to build the Sparks Drive extension with an equivalent volume of excavation plus 10% to account for lost flood storage created by this project, as required for the land swap. The original engineering agreement with Childress Engineers was approved by the City Council on June 23, 2015.

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## ORDINANCES

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**OR1. ORDINANCE REZONING 1.52 ACRES LOCATED AT 1308 CHASE AVE, FROM M1 (LIGHT INDUSTRIAL DISTRICT) TO SF-4 (SINGLE FAMILY DWELLING DISTRICT); AS REQUESTED BY JERRY FOX.**

Person presenting this item: Shane Pace, Director of Community Development

**BRIEF:** The applicant has requested to rezone approximately 1.52 acres from the M1 (Light Industrial District) to the SF-4 (Single Family Dwelling District) with the intent to construct single-family homes on the subject property. The Comprehensive Land Use Plan shows this property to be located in the Village District. The proposed rezoning request is consistent the intent of the Comprehensive Land Use Plan. The Planning and Zoning Commission considered this request at their April 8, 2019 meeting and recommended approval by a vote of 6-0.

**OR2. ORDINANCE REZONING 9.389 ACRES LOCATED AT 320 W KILPATRICK AVE, FROM C3 (COMMERCIAL DISTRICT) TO C3/SUP (COMMERCIAL DISTRICT WITH A SPECIFIC USE PERMIT FOR A CAMPGROUND WITH RECREATIONAL VEHICLES); AS REQUESTED BY SOLOMON FAMILY REAL ESTATE HOLDINGS, LLC.**

Person presenting this item: Shane Pace, Director of Community Development

**BRIEF: UPDATE:** At the April 9, 2019 City Council meeting, Council moved to continue the public hearing for this item to the April 23, 2019 meeting. This action was taken to allow Councilmembers to visit the site and review the supporting material prior to voting.

**SUMMARY STATEMENT:** The applicant has requested a Specific Use Permit (SUP) to permit a Campground with Recreational Vehicles. The property is currently zoned C3 and the proposed use is permitted with approval of an SUP. The Comprehensive Land Use Plan designates the subject property as Traditional Neighborhood District. The proposed land use is an appropriate use in this District.

The applicant has provided details of the proposed plan (attached for reference) including a summary of the proposed development, detailed Park Rules, Site Plan, Utility and Grading Plans, and renderings of the proposed park. The attached site plan shows 70 spaces (31 back in spaces, and 39 pull-through spaces), thirteen (13) standard parking spaces, an office/restroom/shower building, a laundry facility, playground, dog park, and picnic area. The applicant proposes to install white PVC fencing along Woodruff Road and six-foot (6') chain link fencing along the north and east property lines. The applicant proposes to construct the project in two phases. The limits of the phases have not been provided.

The applicant has also provided grading and utility plans. Staff has reviewed these documents as preliminary studies to verify the development is feasible. Based on the information submitted to date, staff has determined that the applicant's proposal is capable of meeting the minimum requirements of the City's development codes.

The attached Park Rules provide details of the operation of the proposed park, and cover items such as:

- Permitted Uses – Sites may only be used for recreational purposes (no permanent residences)
- Length of Stay Permitted – A maximum of two-weeks without prior approval by park staff. (Please note the attached development summary states "monthly rates" therefore the intent may be to permit longer stays)

- Permanent Structures – No permanent structures may be added at any site (i.e. porch, carport, etc.)
- Age of Recreational Vehicle – Any RV older than ten-years old requires inspection by park staff and staff reserves right of refusal
- Sewer Connections – Connections are provided at each site. No foreign objects, chemicals, oils, etc. may be dumped into the sewer system
- Safety Policy – Speed limits within site, no blocking of fire lanes, designated fireplaces and barbecue pits, etc.

The Planning and Zoning Commission considered this request at their March 25, 2019 meeting and recommended denial by a vote of 4-2. The recommendation of denial requires a supermajority vote by Council for approval.

**OR3. ORDINANCE AUTHORIZING VARIANCE TO CHAPTER 156: SIGN REGULATIONS TO PERMIT AN INCREASE IN MAXIMUM SIGN AREA FOR PROPERTY LOCATED AT 2860 N NOLAN RIVER RD; AS REQUESTED BY CLEBURNE STATION INVESTMENTS, LP.**

Person presenting this item: Shane Pace, Director of Community Development

**BRIEF:** Cleburne Station Investments, L.P. has submitted a formal request for a variance to allow for an increase in the maximum sign area permitted for a Landmark Sign located at 2860 N. Nolan River Rd. The proposed Landmark Sign will be the monument for Cleburne Station, home of The Depot.

On April 24, 2018 Council approved a variance to permit a Landmark Sign that exceeded the maximum sign area by 152 square feet. At that time, the applicant provided renderings of the proposed sign, detailing the design, size, materials, and placement of the sign. Following Council approval the applicant sent the proposal to bid and it was determined the cost to construct the sign as approved exceeded the available funding. At this time, the applicant has submitted a revised plan containing new renderings of the proposed sign with an updated design, materials, and size. The location of the sign is not proposed to change.

The proposed sign exceeds the maximum allowable sign area by 316.5 square feet. The maximum sign area for a Landmark Sign in the Regional Node District is 300 square feet. The area is calculated as the sum total of each sign face on all sides. The L-shaped Tower Sign is proposed to contain tenant signage on two faces with a total sign area of 616.5 square feet. Of this total sign area, 192 square feet is a high-definition electronic message center (EMC) which comprises the majority of Southwest elevation, facing Nolan River Rd.

The proposed sign is unlike any other sign existing in the City of Cleburne. This sign will serve as a significant landmark and gateway signage into the City of Cleburne from the Chisholm Trail Tollway.

The proposed variance request is not in conflict with any of the four provisions listed above. Therefore, City Council has the discretion to grant a variance for the proposed sign, should they chose to do so.

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**OTHER COUNCIL MATTERS**

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**OC2. APPROVE PRELIMINARY PLAT OF THE SILO MILLS ADDITION, BEING 285.406**

**ACRES CONSISTING OF 892 LOTS LOCATED AT 7940 CR 1010 IN THE CITY'S ETJ; AS REQUESTED BY JOSHUA LAND FARMS LLC; REPRESENTED BY BRET PEDIGO**

Person presenting this item: Shane Pace, Director of Community Development

**BRIEF:** This is a request to create 892 residential lots in the City's Extraterritorial Jurisdiction. A Development Agreement was approved by Council for the subject property on November 1, 2017. The Agreement establishes zoning and development standards for the subject property. These standards include specific requirements for the number and size of lots, setbacks, open space, along with additional design and development standards. As submitted, this plat meets all minimum platting requirements of Chapter 154 of the Code of Ordinances, and the attached Development Agreement. The plat also meets the intent of the Comprehensive Land Use Plan. The Planning and Zoning Commission considered this request at their April 8, 2019 meeting and recommended approval by a vote of 6-0.

**OC3. APPROVE FINAL PLAT OF BELCLAIRE, PHASE III, BEING 31.325 ACRES, LOCATED NORTH OF COUNTRY CLUB RD AND WEST OF S NOLAN RIVER RD; AS REQUESTED BY DR HORTON, REPRESENTED BY LANDON KING, CASE PC18-041**

Person presenting this item: Shane Pace, Director of Community Development

**BRIEF:** This is a request to plat 110 residential lots. The subject property is zoned SF-4 (Single-Family Dwelling District) and the Comprehensive Land Use Plan shows this property to be located in the Village and Community Commercial Districts. As submitted, the plat meets all minimum requirements of the SF-4 District as described in Chapter 155, and platting requirements of Chapter 154 of the Code of Ordinances. The plat also meets the intent of the Comprehensive Land Use Plan. The Planning and Zoning Commission considered this request at their April 8, 2019 meeting and recommended approval by a vote of 6-0

**OC4. APPROVAL OF FINAL PLAT OF THE VILLAGES AT MAYFIELD, PHASE I, BEING 16.617 ACRES LOCATED NORTH OF 1601 E HENDERSON ST, SOUTH OF CR 805, AND WEST OF FERGASON RD; AS REQUESTED BY AL MCNATT FAMILY PARTNERSHIP, LLC, REPRESENTED BY ERIK DUMAS.**

Person presenting this item: Shane Pace, Director Community Development

**BRIEF:** This is a request to create 72 residential lots and four (4) open space lots. The subject property is zoned PD (Planned Development District) and the Comprehensive Land Use Plan shows this property to be located in the Future Traditional Neighborhood District. As submitted, this plat meets all minimum requirements of the PD District (Ordinance OR11-2018-88) and platting requirements of Chapter 154 of the Code of Ordinances. The plat also meets the intent of the Comprehensive Land Use Plan. The Planning and Zoning Commission considered this request at their April 8, 2019 meeting and recommended approval by a vote of 6-0.

**OC5. APPROVE PRELIMINARY PLAT OF LOTS 1-2 , BLOCK 1, ETHAN C FORRESTER ADDITION, BEING 3.39 ACRES LOCATED AT 659 WOODARD AVE AND 1102 WILLIAMS AVE, AS REQUESTED BY BRIAN FORRESTER,**

Person presenting this item: Shane Pace, Director of Community Development

**BRIEF:** This is a request to preliminarily plat two (2) residential lots, with the intent to construct 14 duplexes. The subject property is zoned PD (Planned Development District) and the Comprehensive Land Use Plan shows this property to be located in the City Center North District.

As submitted, this plat meets all minimum requirements of the PD District: Ordinance OR10-2018-85 attached for reference, and platting requirements of Chapter 154 of the Code of Ordinances. The plat also meets the intent of the Comprehensive Land Use Plan. The Planning and Zoning Commission considered this request at their April 8, 2019 meeting and recommended approval by a vote of 6-0.

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### EXECUTIVE SESSION

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Pursuant to the Open Meetings Act, Chapter 551, Texas Government Code, Sec. 551.071, Sec. 551.072, Sec. 551.073, Sec. 551.074, Sec. 551.076, Sec. 551.087 and Sec. 418.0183(f) of the Texas Government Code (Texas Disaster Act). Refer to posted list attached hereto and incorporated herein. **Executive Session may be held, under these exceptions, at any time during the meeting that a need arises for the City Council to seek advice from the City Attorney as to the posted subject matter of this City Council Meeting.**

**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.

1. Discuss development of property being a portion of Tracts 21-24, Abstract 400, located in the H&TC RY Co Survey

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

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### ADJOURNMENT

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#### **ADJOURNED AT:**



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