



CITY COUNCIL REGULAR MEETING AGENDA
JULY 13, 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 protocols in place. 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 4:45p.m. call [\(346\) 248-7799](#) or (800) 731-0285. **Enter Meeting ID 995-6991-0537 and then press #.**
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I. ROLL CALL AND CALL TO ORDER BY MAYOR

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 Rev Brandon Wright, First Christian Church

III. PLEDGE OF ALLEGIANCE

IV. CITY SECRETARY READS THE GUIDELINES TO SPEAK BEFORE COUNCIL

V. 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 AND DISCUSSION OF THE MASTER THOROUGHFARE PLAN UPDATE INCLUDING RIDGEWAY DRIVE AND POSSIBLE ALTERNATE ALIGNMENTS.

Presented by: Jeremy Hutt, Director of Public Works

Summary: The City is in the process of updating the Master Thoroughfare Plan (MTP) that was originally developed in 2008. The MTP update process was initiated in February and includes several elements:

- Task 1. Existing Conditions Evaluation
- Task 2. Alignment Evaluation
- Task 3. Thoroughfare Mapping Updates
- Task 4. Intersection Evaluation
- Task 5. Project Prioritization
- Task 6. Planning Level Project Costing
- Task 7. Meetings and Project Management

The consultant will update the City Council on the status of the project and some of the alignment options that are being generated with this project. The discussion will focus on the Ridgeway Drive/Nolan River Road area of the City.

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 JUNE 22, 2021 REGULAR COUNCIL MEETING AND JUNE 25, 2021 EMERGENCY COUNCIL MEETING.

RS1. CONSIDER A RESOLUTION CONSENTING TO THE EXTENSION OF THE DECLARATION OF LOCAL DISASTER UNTIL JULY 27, 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 July 27, 2021 at 11:59 p.m. central standard time.

RS2. CONSIDER A RESOLUTION AUTHORIZING AN AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR THE CORONAVIRUS RESPONSE GRANT PROGRAM GRANT IN THE ESTIMATED AMOUNT OF \$23,000 TO PREVENT, PREPARE FOR, AND RESPOND TO THE CORONAVIRUS.

Presented by: Sharlette Wright, Airport Manager

Summary: The grant is from the Texas Department of Transportation. The funds from this grant may be used to cover costs related to operations, personnel, cleaning, sanitization, janitorial services, and

combating the spread of pathogens. The Grant may also be used to reimburse a Sponsor's payment of debt service where such payments occur on or after December 27, 2020. The grant amount is \$23,000.00

RS3. CONSIDER A RESOLUTION AUTHORIZING AN AGREEMENT WITH WALLACE CONTROLS AND ELECTRIC, A SOLE SOURCE VENDOR, FOR THE PURCHASE, INSTALLATION, AND PROGRAMMING OF SUPERVISORY CONTROL AND DATA ACQUISITIONS UPGRADES AT SIX SEPARATE SANITARY SEWER LIFT STATIONS FOR AN AMOUNT NOT TO EXCEED \$79,912.

Presented by: Jeremy Hutt, Public Works Director

Summary: This project will upgrade six (6) existing sanitary sewer lift stations, which pump wastewater in the collection system, with a Supervisory Control and Data Acquisition (SCADA) system that will help with future operations. The City currently operates a SCADA system 24/7 for various system controls of the utility systems, this project will allow these six lift stations to be integrated into that existing system.

Our existing SCADA system is a propriety platform, known as Wonderware West, and Wallace Controls is the Registered Wonderware System Integrator for the State of Texas, therefore this is a sole source acquisition.

The Texas Administrative Code requires that a live monitoring systems be utilized on lift stations; therefore, this project will help ensure compliance with the established requirements for sanitary sewer systems.

Locations of the 6 Lift Stations that will receive this upgrade include;

1. Sports Complex Lift Station
2. Old Foamy Road Lift Station
3. Woodard @ HWY 67 Lift Station
4. HWY 4 @ HWY 67 Lift Station
5. 1811 West Henderson Lift Station
6. 170 East Industrial Lift Station

OC1. CONSIDER APPOINTMENTS OF COMMUNITY MEMBERS TO BOARDS AND COMMISSIONS.

Presented by: Ivy Peterson, City Secretary

Summary: At such time when members' terms expire or vacancies occur on City boards, the Board & Commission Review Committee convenes to review applications of potential candidates for the Council's consideration. These appointments are presented to Council twice annually, and at the last Council Meeting of June 22nd, a slate of candidates was presented and approved for two-year terms. There were a few vacancies remaining, so city staff continued recruiting efforts so that boards may operate and conduct business with full membership. Below are the Committee's recommendations for your consideration:

Board/Commission	Recommendations	Appoint/Reappoint	Term #
Building and Standards	Christi Bradley	Appointment	1
Parks and Recreation	Steven Brown	Appointment	1
Zoning Board of Adjustment	Virgil Green	Appointment	1
Zoning Board of Adjustment - Alternate	Adam Matthews	Appointment	1

ACTION AGENDA

OR1. **THIRD READING & PUBLIC HEARING CONSIDER AN ORDINANCE GRANTING A FRANCHISE AGREEMENT TO ATMOS PIPELINE-TEXAS, ITS SUCCESSORS AND ASSIGNS, THE RIGHT TO CONSTRUCT, MAINTAIN, AND OPERATE PIPELINES AND EQUIPMENT IN THE CITY OF CLEBURNE, JOHNSON COUNTY, TEXAS, FOR THE TRANSPORTATION AND DELIVERY OF GAS IN, OUT OF, AND THROUGH SAID CITY FOR ALL PURPOSES; PROVIDING FOR THE PAYMENT OF A FEE OR CHARGE FOR THE USE OF THE PUBLIC RIGHTS-OF-WAYS; AND PROVIDING THAT SUCH FEE SHALL BE IN LIEU OF OTHER FEES AND CHARGES, EXCEPTING AD VALOREM TAXES.**

Presented by: Steve Polasek, City Manager

Summary: Atmos Energy currently provides natural gas service to residential, commercial and industrial customers within the City of Cleburne through two separate agreements. The agreement covering primarily residential and commercial customers was renewed in 2018 and is active through December 31, 2027. The agreement currently being considered is for a portion of the industrial park and serves some of our larger industrial partners. This agreement expired on December 31, 2019, and was under re-negotiation at the time of the advent of the COVID-19 pandemic. It was temporarily placed on hold and we have continued to operate under existing terms and conditions. Beginning in early fall negotiations were reconvened between the city, Atmos Energy and the primary industrial clients. The attached franchise agreement is the result of those negotiations and has been verbally agreed upon by Atmos Pipeline, endorsed by industrial clients, and reviewed by our city attorney. It is now subject to City Council review and consideration.

The proposed ordinance is relatively unchanged from what is currently in place. The major exception is the revenue formula. Unlike most franchise gas agreements where Atmos delivers their product to the end user and a percentage of gross revenues is provided to the city in return for utilizing city owned property (rights-of-way), the industrial agreement is different in that Atmos only serves as the delivery method of gas that the industrial user purchases on the open market. As such, there is a delivery cost charged by Atmos, but no product cost. In order to determine a franchise fee a formula was established using the number of linear feet of pipe within the rights-of-way of the subject area multiplied by the per foot cost of \$23.66. The per foot amount included in this Agreement is based on the value of gas transported, the transportation fees paid during the historic three-year period from 2006 through 2008, the annual Producer Price Index (PPI) increase experienced during the previous agreement term and an adjusted decrease of approximately \$1.00 per foot. Due to the annual PPI – Finished Goods increasing on average 1.5% annually over the

previous ten years, the cost to our industrial partners had become problematic and they requested a reasonable adjustment of the per foot cost of the pipeline. Also, in order to avoid this significant extrapolation going forward, the proposed agreement caps the average annual PPI at 1% per year.

As shown in the estimates below, with the proposed changes the annual revenues would result in a slight decrease in future years to the city versus the formula used in the current agreement.

That said, the revenues remain significant and this method of free market purchase, delivery and formula based franchise fee calculation results in both the city and our industrial partners receiving a greater return as compared to the standard purchase, delivery and 5% of gross revenues method of a standard franchise agreement.

	23.66 @ 1.0%	24.66 @ 1.5%	Difference
2022	\$782,613.65	\$819,729.23	\$37,115.57
2023	\$790,439.79	\$832,025.16	\$41,585.38
2024	\$798,344.18	\$844,505.54	\$46,161.36
2025	\$806,327.63	\$857,173.12	\$50,845.50
2026	\$814,390.90	\$870,030.72	\$55,639.82
2027	\$822,534.81	\$883,081.18	\$60,546.37
2028	\$830,760.16	\$896,327.40	\$65,567.24
2029	\$839,067.76	\$909,772.31	\$70,704.55
2030	\$847,458.44	\$923,418.89	\$75,960.46
2031	\$855,933.02	\$937,270.18	\$81,337.16

If approved on 3rd reading, the agreement would be in effect for the calendar year 2021 and would expire on December 31, 2035. Per our City Charter, Section 10.3 FRANCHISES AND SPECIAL PRIVILEGES (B) - *No franchise shall ever be granted until it has been approved by a majority of the City Council, after having been considered at three (3) regular meetings of the City Council, nor shall any such franchise, grant or privilege ever be made unless it provides for adequate compensation or consideration therefore to be paid to the City.* This constitutes the third and final reading to consider said franchise with the first and second readings occurring at the regular City Council meetings on June 8, 2021 and June 22, 2021.

OR2. *PUBLIC HEARING* CONSIDER AN ORDINANCE AMENDING TITLE XV: LAND USAGE, CHAPTER 158: IMPACT FEES OF THE CODE OF ORDINANCES BY PROVIDING FOR AN UPDATED PROGRAM ADMINISTRATION FOR ADEQUATE PUBLIC FACILITIES FOR WATER, WASTEWATER AND ROADWAY FACILITIES.

Presented by: Jeremy Hutt, Public Works Director

Summary: On February 23, 2018, City Council adopted ordinance OR02-2018-10 establishing water, wastewater, and roadway impact fees in accordance with Chapter 395 of the Texas Local Government Code (TLGC). Chapter 158 assures the provision of adequate public facilities for water, wastewater and roadway facilities to serve new development by requiring each such development to

pay its share of the costs of such improvements necessitated by and attributable to such new development, in conformance with the provisions of TLGC Chapter 395.

On May 8, 2018, Chapter 158: Impact Fees was adopted by ordinance in order to include necessary provisions into the city's Code of Ordinances for program administration. The chapter addresses impact fee schedules, service unit determination, processes for assessment, calculation, collection and use of impact fees, processes for appeals, credits, refunds, rebates and relief of impact fees, and water, wastewater and roadway service areas.

Since that time, the City Limits have changed due to annexations and utilities are being expanded into the City of Cleburne ETJ. The proposed update will update the necessary documents to ensure correct application of the fees to the newly annexed areas and developments within the ETJ that utilize City water and/or wastewater

There are no changes to the land use assumptions, capital improvements plans, and maximum allowable impact fee because of this service area change.

OR3. CONSIDER AN ORDINANCE AMENDING CHAPTER 91: ANIMALS; ADDING NEW DEFINITIONS AND REGULATIONS, AND AMENDING THE EXISTING REGULATIONS.

Presented by: Mindy Henry, Animal Shelter Manager

Summary: Cleburne Animal Services is dedicated to protecting pets and public safety in animal related incidents. In order to effectively do so, Cleburne Animal Services has discovered the need for amendment of specific ordinances, addition of definitions, and addition of new ordinances. The need for changes was realized through several cases where the ability to enforce ordinances and gain compliance was difficult or not possible due to current language in existing ordinances or lack of ordinance and/or definitions. Fees have also been revised to reflect current standard practices and offset the cost of operations involved in certain instances. The proposed changes are to protect the welfare of animals in Cleburne, ensure public safety, and help gain compliance among residents.

OR4. AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLEBURNE, TEXAS, AMENDING THE ANNUAL BUDGET FOR FISCAL YEAR OCTOBER 1, 2020 TO SEPTEMBER 30, 2021 (#10) BY APPROPRIATING \$17,976.17 FROM FUND BALANCE RESERVES (0905-5595) IN THE 4B ECONOMIC DEVELOPMENT CORPORATION BUDGET.

Presented by: Rhonda Daugherty, Finance Director

Summary: The purpose of this item is to amend the Fiscal Year 2021 4B Economic Development Corporation budget by \$17,976.17, increasing the total appropriations from \$2,933,662.60 to \$2,951,638.77. The anticipated funding source for the budget amendment is the fund balance reserves.

The additional funding is for adjusting the Splash Station Pay matrix, allowing Splash Station to be competitive for season and part-time staffing.

This item was presented to the 4B Economic Development Corporation Board at a special meeting held on Thursday, July 1, 2021 and was approved unanimously.

OR5. CONSIDER AN ORDINANCE AMENDING THE ANNUAL BUDGET FOR FISCAL YEAR OCTOBER 1, 2020 TO SEPTEMBER 30, 2021 (#11) BY APPROPRIATING \$150,000.00 FROM UNDESIGNATED RETAINED EARNINGS IN THE WATER AND SEWER FUND TO PROVIDE ADDITIONAL FUNDING FOR METERS AND SETTINGS.

Presented by: Rhonda Daugherty, Finance Director

Summary: The Finance and Utility Billing staff have identified additional funding needs for meters and registers. We are submitting, for Council consideration and approval, a revised budget for the Fiscal Year 2020-21 (FY21) to include an adjustment for \$150,000, which is necessary for functionality of the automated meter reading system installed in 2009.

The proposed amendment of \$150,000 will revise the total adopted Water and Sewer Fund budget (Ordinance OR09-2020-49) as approved from \$12,965,196.62 to \$13,115,196.62 and will be funded from the Water and Sewer Fund reserve balance.

OR6. *PUBLIC HEARING* CONSIDER AN ORDINANCE AMENDING TITLE XV: LAND USAGE, CHAPTER 155: ZONING, OF THE CODE OF ORDINANCES BY AMENDING SECTION 155.30: LAND USE TABLE, AND SECTION 155.31: LAND USE DEFINITIONS AND EXPLANATIONS, TO CONSIDER INCLUDING BREWERY AND BREWPUB AS PERMITTED USES WITHIN CERTAIN DISTRICTS, CASE GC21-005.

Presented by: Shane Pace, Executive Director of Development Services

Summary: Staff is proposing amendments to Chapter 155 - Zoning, specifically to Section 155.30 Land Use Table and Section 155.31 Land Use Definitions and Explanations. Staff has received multiple inquiries, specifically in downtown, to consider including Brewery and Brewpub as permitted uses within the City. A *Brewery* is an industrial use that brews ales, beers and similar beverages on-site while a *Brewpub* is a restaurant/bar that sells ales, beers and similar beverages brewed on the premise.

Staff is proposing amendments to include Brewery and Brewpub as permitted uses within the Land Use Table in certain districts as well as development regulations for each. The proposed amendments are consistent with the draft language within the Zoning Ordinance update that is set to be adopted later this year. Staff has also researched regulations from our benchmark cities and used those findings as a basis for the proposed amendments.

The Planning and Zoning Commission considered this request at their June 28, 2021 meeting and recommended approval with a vote of 6-0 with the following recommendation:

- a. Option 2 to consider permitting a Brewery by right in the industrial districts M1 (Light Industrial District) and M2 (Heavy Industrial District), and on a case-by-case basis by Specific Use Permit (SUP) in the C2 (General Business District) and C3 (Commercial District).

RS4. CONSIDER A RESOLUTION APPROVING THE PRELIMINARY PLAT OF SADDLE CREEK, BEING ±219.49 ACRES, GENERALLY LOCATED EAST OF NORTH COLONIAL DRIVE (YELLOW JACKET DRIVE), BETWEEN NORTH NOLAN RIVER ROAD AND HARLIN DRIVE, AS REQUESTED BY MAYFIELD FAMILY LP, REPRESENTED BY D.R. HORTON INC, CASE PC21-019.

Presented by: Shane Pace, Executive Director of Development Services

Summary: The applicant is requesting approval of the preliminary plat for Saddle Creek, which consists of 583 single-family detached residential lots and 12 open space lots. The development is proposed to be constructed in three (3) phases, generally as shown on the preliminary plat.

The proposed road system includes an adjustment of Ridgeway Drive from its current alignment on the Master Thoroughfare Plan (MTP). The project proposal is that Ridgeway Drive follows a similar alignment through the development and connects to Nolan River Road at an existing intersection. This project proposal also removes the section of Ridgeway Drive going north to Kilpatrick Avenue. The proposed change was evaluated by the City, as well as the City's Consultant, Kimley-Horn, who is working on an MTP update and this proposal was consistent with the revised alignment of the roadway network in this area.

The proposed change, along with the other alignment updates that are being considered with the MTP Update Project, will facilitate traffic flow in this area of the City and also better reflect some of the natural conditions that exist in the area (floodplain, existing roadways, proximately to other major intersections, etc.). If approved, the adjusted alignment is consistent with the revised alignment options that are being considered with the MTP Update Project and will be presented to City Council in the coming months.

The preliminary plat meets all of the minimum requirements as outlined in Chapter 154 and Chapter 155 of the Code of Ordinances. The Planning and Zoning Commission considered this request at their June 14, 2021 meeting and recommended approval with a vote of 7-0. The City Council considered this request at their June 22, 2021 meeting and voted to continue this item to the July 13, 2021 meeting.

RS5. CONSIDER A RESOLUTION APPROVING THE FINAL PLAT OF LOT 1, BLOCK 1, OF CANE'S ADDITION, BEING ±0.85 ACRES, LOCATED AT 1605 WEST HENDERSON STREET, AS REQUESTED BY LG CLEBURNE, LLC, REPRESENTED BY KIMLEY-HORN AND ASSOCIATES, INC, CASE PC21-021.

Presented by: Shane Pace, Executive Director of Development Services

Summary: The applicant is requesting approval of the final plat for Lot 1, Block 1, of the Cane's Addition. The applicant has indicated their intent to demolish the existing Burger King restaurant for the construction of a new Raising Cane's restaurant. The final plat meets all of the minimum requirements as outlined in Chapter 154 and Chapter 155 of the Code of Ordinances.

The Planning and Zoning Commission considered this request at their June 28, 2021 meeting and recommended approval with a vote of 6-0.

RS6. CONSIDER A RESOLUTION ADOPTING THE CEMETERY HEIRSHIP PROGRAM AS RECOMMENDED BY THE CEMETERY ADVISORY BOARD.

Presented by: Aaron Dobson, Director of Parks and Recreation

Summary: This program began as a revision for Chambers Cemetery Heirship to ensure our interment process meets our community needs and follows State law. The Chambers Cemetery Heirship project expanded to include Greenlawn, Memorial, and Rose Hill, to ensure all cemeteries abide by the same procedures. At the Cemetery Advisory Board meeting held on June 1, 2021, the board unanimously voted to approve an updated Heirship/Lineage/Ownership program. The City of Cleburne will abide by the State of Texas Estates Code to determine heirship when claiming cemetery space(s) or right of interment.

DISCUSSION & UPDATES

OC2. UPDATE OF MEDICAL BENEFITS RENEWAL AND OPTIONS

Presented by: Debra Powledge, Human Resources Director

Summary: Renewal options have been reviewed and alternative plan options considered following March and July Council Meeting, staff meetings, and recommendations from the Medical Benefits Committee. Andrew Weegar with HUB International is here to present recommendations to be included in the budget process that will achieve both cost mitigating plan changes as well as reduction of the number of plans.

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 securing the building located at 14 East Chambers Street (further described as the Southwest Corner of Caddo Street and Chambers Street), Scott Lail, Fire Chief
- EXE2.** Discuss Wright Farms MMD, Shane Pace, Executive Director of Development Services

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, July 9, 2021**, by **5:00 pm** 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.