



**REGULAR CITY COUNCIL MEETING AGENDA  
AUGUST 25, 2020 @ 5:00 PM  
CITY HALL COUNCIL CHAMBERS  
10 NORTH ROBINSON STREET, CLEBURNE, TX 76031**

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City Council meetings are open to the public with social distancing 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](tel:3462487799) or (888) 788-0099. **Enter Meeting ID 995-6991-0537 and then press #.**
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**I. ROLL CALL AND CALL TO ORDER BY MAYOR**

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

**III. PLEDGE OF ALLEGIANCE**

**IV. CITY SECRETARY READS THE GUIDELINES TO SPEAK BEFORE COUNCIL**

**V. COMMUNITY INTEREST MATTERS, ANNOUNCEMENTS & PRESENTATIONS**

- ☆ Proclamation – World War II Veterans Recognition Days and 75<sup>th</sup> Anniversary of the End of WWII, August 25 –September 2, 2020
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**CONSENT ITEMS**

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All of the following items on the Consent Agenda are considered to be routine and self-explanatory by the Council and 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 AUGUST 11, 2020 REGULAR COUNCIL MEETING.**

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

Presented by: Steve Polasek, City Manager

Summary: On March 13, 2020, the Mayor executed a Declaration of Local Disaster (“Declaration”), for the City of Cleburne pursuant to Section 418.108(a) of the Texas Government Code, which is for a period of seven days. In order to extend the Declaration, the City Council must consent to an extension pursuant 418.108(b) of the Texas Government Code.

The Council has approved extensions to the Declaration on March 13<sup>th</sup> by RS03-2020-32 until March 29<sup>th</sup>, on March 24<sup>th</sup> by RS03-2020-35 until April 14<sup>th</sup>, on April 14<sup>th</sup> by RS04-2020-45 until April 28<sup>th</sup>, on April 28<sup>th</sup> by RS04-2020-49 until May 12<sup>th</sup>, on May 12<sup>th</sup> by RS05-2020-54 until May 26<sup>th</sup>, on May 26, 2020 by RS05-2020-59 until June 9<sup>th</sup>, on June 9, 2020 by RS06-2020-61 until June 23<sup>rd</sup>, on June 30, 2020 by RS06-2020-73 until August 3<sup>rd</sup>, on July 28, 2020 by RS07-2020-81 until August 11<sup>th</sup> and on August 11, 2020 by RS08-2020-84 until August 25<sup>th</sup>.

Following Governor Abbott’s announcement of Open Texas, the City continues to take actions to promote health and safety, and suppress the spread of COVID-19 in the community. This resolution for your consideration is to extend the Declaration to the next regular council meeting date of September 8, 2020 at 11:59 p.m. central standard time.

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

Presented by: Troy Lestina, Director of Finance

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

Presented by: Shane Pace, Executive Director of Development Services

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

The applicant requested a voluntary annexation to include the subject property into the City Limits and at the February 11, 2020 meeting, City Council voted 3-0 to approve the request. The property, upon being annexed, was given a zoning designation of the IH (Interim Holding District) until such time that the applicant was ready to move forward with development. At the May 12, 2020 meeting, City Council voted 5-0 to approve a rezoning request to the SF-4 (Single-Family Dwelling District).

The SF-4 District requires a minimum 7,000 square foot lot size, a minimum 60-foot lot width and the following setbacks: 30-foot front yard, 20-foot rear yard, 7-foot side yard and 15-foot side yard adjacent to the street. The properties to the west, across Pearl Street, are zoned SF-4 (Single-Family Dwelling District), while the properties to the north, east, and south are part of the

City of Cleburne's Extraterritorial Jurisdiction (ETJ). The surrounding land use is primarily residential, with a church located southwest of the subject property. There is also a considerable amount of undeveloped land in the immediate area.

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

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## RESOLUTIONS

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**RS2. CONSIDER A RESOLUTION APPROVING A RATE INCREASE FOR COMMERCIAL SOLID WASTE SERVICES; AS REQUESTED BY WASTE CONNECTION, DBA PROGRESSIVE WASTE SOLUTIONS.**

Presented by: Jeremy Hutt, Director of Public Works

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

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

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

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## ORDINANCES

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**OR1. CONTINUE PUBLIC HEARING AND CONSIDER AN ORDINANCE REZONING ±38.376 ACRES FROM SF-4 (SINGLE-FAMILY DWELLING DISTRICT) TO PD (PLANNED DEVELOPMENT DISTRICT), LOCATED APPROXIMATELY 184 FEET NORTH OF MANN COURT, APPROXIMATELY 122 FEET SOUTH OF MIMOSA STREET AND APPROXIMATELY 248 FEET WEST OF GRAND AVENUE; AS REQUESTED BY XR DEVELOPMENT, LLC, CASE ZC20-008.**

Presented by: Shane Pace, Executive Director of Development Services

Summary: The applicant's Planned Development of approximately 38.376 acres includes both single-family detached and single-family attached home products. The applicant is requesting a base zoning of the SF-4 District for the single-family detached homes, with some deviations, including minimum lot area and building setbacks. The applicant is requesting a base zoning of the SF-A District for the single-family attached homes, with a deviation to the minimum building setbacks. The applicant is also proposing some amenities including residential landscaping, and 7-acres of open space to be dedicated to the City of Cleburne as a future public park. For full planned development details, see Staff's Agenda Report included in the backup.

The Planning and Zoning Commission considered this request at their July 13, 2020 meeting. During the public hearing, several citizens voiced their concerns regarding the proposed request,

including traffic safety, flooding and privacy. Additionally, several speaker registration cards were submitted citing opposition to this request. A total of ninety (90) property owners within 200 feet were notified of the proposed rezoning request.

The Planning and Zoning Commission recommended approval by a vote of 4-1 with the following conditions:

1. The applicant must build a temporary drainage berm along the existing properties located along Mann Court during construction until completion of the road;
2. The minimum lot size in Area A be 6,000 square feet with the exception of two (2) lots allowed to be 5,600 square feet; and
3. The minimum rear yard setback in Area B to be 30-feet.

Following the Planning & Zoning Commission meeting, the applicant submitted a letter to staff responding to some of the concerns that were presented that evening. The applicant has indicated that a traffic study has been initiated as well as a restriction for one (1) lot within the townhome development (Area B) to a single-story home. Additionally, the applicant has agreed to provide a 30-foot rear yard setback for the townhome lots (Area B) as recommended by the Commission.

**UPDATE:** At the July 28, 2020 City Council meeting, the Council voted 3-1 to postpone and continue the public hearing to the August 25, 2020, Regular Council Meeting at 5:00pm. Following this meeting, staff received additional speaker/comment registration cards citing opposition to this request. To date, staff has received a total of thirty-seven (37) letters of opposition and is included in the backup. Per state law and Section 155.15(B)(5) of the Zoning Ordinance, should a protest of 20% or more of the property owners within 200 feet notification boundary be submitted, a super majority vote by City Council is required. Staff has evaluated the submitted opposition letters and it *does* constitute a super majority vote given that the percentage of opposition is 23.6%.

**OR2. CONSIDER AN ORDINANCE AUTHORIZING RELEASE OF CERTAIN INTEREST DUE ON LIENS FILED AGAINST 703 DEWEY STREET; AS REQUESTED BY REV. CHARLES CHANDLER, REPRESENTED BY NATHIAN CHANDLER.**

Presented by: Ivy Peterson, City Secretary

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

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

As per Council's direction and is included in the proposed Ordinance, a fee of \$75 per lien will be applied to the payoff amount and the interest waiver will be in effect for the number of days set by the Council from the date of this approval. The Johnson County Central Appraisal District lists the property at \$10,000 valuation and according to the Johnson County Tax Office, the property taxes are current.

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### **BUDGET & TAX RATE**

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

Presented by: Troy Lestina, Director of Finance

**Summary:** In accordance with the City Charter (Sec 6.4) and the Local Government Code (Sec. 102.006), the governing body shall hold a public hearing on the proposed budget on a date before the tax rate is adopted. On August 11, 2020, the City Council scheduled two public hearings to provide the public the opportunity to speak on the proposed budget. This is the first of the two public hearings on the proposed budget. The second public hearing will be held on Tuesday, September 8, 2020 at 5:00 pm, during the regularly scheduled council meeting. A public hearing notice was published on August 15th in the Cleburne Times Review, which is 10 days prior to the first public hearing in accordance with LCC. Sec. 102.0065.

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

#### **OC4. HOLD FIRST PUBLIC HEARING FOR PUBLIC INPUT ON THE FISCAL YEAR 2021 PROPOSED TAX RATE OF \$0.760092 PER HUNDRED DOLLARS OF VALUATION, IN ACCORDANCE WITH CHAPTER 26 OF THE TEXAS TAX CODE.**

Presented by: Troy Lestina, Director of Finance

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

As a point of reference, the no-new-revenue tax rate sets the interest and sinking rate (Debt Service rate) at \$0.110391. The remainder of the tax rate of \$0.649701 will be allocated to

operations and maintenance (General Fund rate). The proposed ordinance adopting the FY 2021 tax rate reflects these rates, as required by the no-new-revenue tax rate calculation.

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

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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.

- EXE1. Cause no. DC-C201900937; RT General, LLC v. City of Cleburne / Case No. 10-20-0037-CV; City of Cleburne v. RT General, LLC – Steve Polasek, City Manager
- EXE2. Discuss Municipal Utility District – Shane Pace, Executive Director of Development Services
- EXE3. Legal advice regarding management and regulation of City owned property at Lake Pat Cleburne and related ordinance provisions located in Chapter 98 of the Code of Cleburne, Texas – Jeremy Hutt, Director of Public Works

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

This chapter does not require a governmental body to conduct an open meeting: (1) to discuss or deliberate regarding commercial or financial information that the governmental body has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the governmental body and with which the governmental body is conducting economic development negotiations; or (2) to deliberate the offer of a financial or other incentive to a business prospect described by Subdivision (1).

- EXE4. Discuss Victron Energy project and their request for economic development incentives – Grady Easdon, Economic Development Manager

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### ADJOURNMENT

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**ADJOURNMENT:**

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**CERTIFICATION**

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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](http://www.cleburne.net) and said Notice was posted on August 21, 2020, 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



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.