



REGULAR CITY COUNCIL MEETING MINUTES
MARCH 24, 2020
5:00 PM
CITY HALL COUNCIL CHAMBERS
10 NORTH ROBINSON STREET

I. ROLL CALL AND CALL TO ORDER BY MAYOR @ 5:02 PM

*Participated remotely

City Council:

- ✓ Scott Cain, Mayor
- ✓ Dr. Bob Kelly, SMD 1*
- ✓ Chris Boedeker, SMD 2
- ✓ Mike Mann, SMD 3
- ✓ John Warren, Mayor Pro Tem/SMD 4*

Administration:

- ✓ Steve Polasek, City Manager
- ✓ Fritz Quast, City Attorney
- ✓ Ivy Peterson, City Secretary

II. INVOCATION by Mayor Scott Cain

III. PLEDGE OF ALLEGIANCE

IV. ~~CITY SECRETARY READS THE GUIDELINES TO SPEAK BEFORE COUNCIL~~
Mayor Cain waived the reading of the guidelines until such a time as necessary

V. CITIZENS COMMENTS – *Special Guidelines for March 24 Council Meeting:*
Citizens Comments may only address items on the agenda and provided in written form. The Mayor will read submitted comments if received by the City Secretary by March 24, 2020, 4:30pm. There were no written comments submitted.

VI. COMMUNITY INTEREST MATTERS, ANNOUNCEMENTS & PRESENTATIONS

☆ Proclamation – 2020 Census Day, April 1, 2020 – Mayor

CONSENT ITEMS

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.

M1. CONSIDER MINUTES FOR THE MARCH 10, 2020 REGULAR COUNCIL MEETING.

M2. CONSIDER MINUTES FOR THE MARCH 13, 2020 EMERGENCY COUNCIL MEETING.

RS1. RS03-2020-35

CONSIDER A RESOLUTION CONSENTING TO THE EXTENSION OF THE DECLARATION OF LOCAL DISASTER UNTIL APRIL 14, 2020, 11:59PM.

Person presenting this item: Steve Polasek, City Manager

BRIEF: 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 seven day period. In order to extend the Declaration, the City Council must consent to an extension pursuant 418.108(b) of the Texas Government Code. During the same meeting, the City Council passed Resolution RS03-2020-32, consenting to an extension until March 29, 2020 at 11:59 p.m.

The City is taking actions to promote health and safety, and suppress the spread of COVID-19 in the community. In doing so, staff has cancelled nonessential meetings until further notice. This resolution for your consideration is to extend the Declaration to the next regular council meeting date of April 14, 2020 at 11:59 p.m. central standard time

RS2. RS03-2020-36

CONSIDER A RESOLUTION AUTHORIZING A RESIDENTIAL HISTORIC REINVESTMENT TAX INCENTIVE FOR THE PROPERTY LOCATED AT 604 PRAIRIE AVENUE; AS REQUESTED BY HAROLD GENTRY.

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

BRIEF: On January 28, 2019, City Council approved an amendment to Chapter 155 Zoning, specifically related to Historic Landmarks. The approved amendment repealed Section 155.88, Tax Incentives, and Section 155.89, Tax Incentive Application and Approval Process. At the January 28th meeting staff notified City Council that one application was currently in process, and that it would be coming forward at a future date. Staff is presenting this application as discussed at that meeting. Mr. Gentry’s application will be the last application considered related to historic tax incentives, and no additional applications will be accepted in the future since the tax incentive provision has been removed. The application up for consideration has been reviewed based on the criteria set forth in the ordinance, prior to the January 28th amendment. Those requirements are outlined below:

Section 155.88(B) Tax Incentives

(B) Residential tax incentive program.

(1) Eligible residential historic landmarks shall be entitled to a reinvestment tax incentive of 25% of the total property tax bill for restorations amounting to \$1,250 or more based on meeting all of the following criteria:

(a) Designation as a historic landmark must be in place prior to any application for the reinvestment tax incentive.

(b) Restoration that has been started or completed prior to designation cannot be included in the request for the reinvestment tax incentive.

(c) All modifications or expansions are completed pursuant to the issuance of a Certificate of Appropriateness provided for in § [155.83](#).

(d) *The residential historic landmark is listed on the National Register of Historic Places, designated as a recorded Texas historic landmark or state archaeological landmark by the Texas Historical Commission, or has been designated by the city as an historically significant site in accordance with the Tex. Property Tax Code.*

(e) *The residential historic landmark must adhere to all city ordinances.*

(2) *Each property owner who desires to apply for an historic reinvestment tax incentive shall apply for said incentive on or before March 15 of the year the tax incentive is to be granted. The incentive, if granted, shall be applicable for only one year. Subsequent incentives for additional projects must be applied for each year. Application shall be made on the official form provided by the city.*

The proposed project meets or complies with all of the above listed criteria. The applicant has provided documentation of the designation as a historical landmark, has an approved Certificate of Appropriateness, and has supplied receipts totaling greater than \$1,250 for the approved project.

Finance has reviewed the associated ad valorem tax records related to this property. Ad valorem taxes were paid on November 29, 2019 and it was determined that Mr. Gentry is owed \$398.13 for the reinvestment tax incentive based on the taxes paid to the City in the amount of \$1,592.50.

OR1. OR03-2020-21

CONSIDER AN ORDINANCE RESCINDING BIDS AWARDED ON DECEMBER 10, 2019 AND REAUTHORIZE RESALE BIDS FOR PROPERTIES LOCATED AT 612 EAST WARDVILLE STREET, 720 NORTH BORDER STREET, AND 722 NORTH BORDER STREET.

Person presenting this item: Ivy Peterson, City Secretary

BRIEF: Bids for 8 resale properties were advertised and opened on October 18, 2019 and evaluated by the City's tax attorney Perdue, Fielder, Collins and Mott, LLP and City Staff. These bids were awarded to the highest bidder on December 10, 2019 by OR12-2019-71. Since then, bidders for the below properties were withdrawn. Staff recommends rescinding the following bids.

- **720 N Border St**, awarded to M. Sharp Family, LP, for \$8,100.00. *Bid was withdrawn by bidder.*
- **722 N Border St**, awarded to M. Sharp Family, LP, for \$8,100.00. *Bid was withdrawn by bidder*
- **612 E Wardville St**, awarded to FWD Contractors, for \$12,800.00. *Bid was not paid by the 30-day deadline, as required by the agreement and is therefore effectively withdrawn.*

The second highest bidder was contacted in each case. There was a tie between the second and third highest bidder for the properties located at 720 and 722 North Border Street. Those bidders were allowed to amend their bids, if desired. The following is staff's recommendation for the new bid awards:

- **720 N Border St**, Lot 7 Block 99, Original Cleburne, Cause #T201400097 acquired on November 20, 2015; high bidder is Y & M Investments, for \$9,501.00. City is to receive \$1,348.82 in maintenance fees, \$313.18 in back property taxes, and \$2,967.21 in excess funds.

- **722 N Border St**, Lot 8, Block 99, Original Cleburne, Cause #T201400097 acquired on November 20, 2015; high bidder is Y & M Investments, for \$9,501.00. City is to receive \$1,348.82 in maintenance fees, \$313.18 in back property taxes, and \$2,967.21 in excess funds.
- **612 E Wardville St**, Lot 1 Block 288, Original Cleburne, Cause #T20130156 acquired on November 12, 2014; high bidder is Garza Custom Homes and Real Estate, LLC (Casey Garza) for \$5,500.00. City is to receive \$2,455.73 in maintenance fees, \$432.11 in back property taxes.

The total amount to be received by the City upon completion of the resale of the above three properties is \$12,146.26 (\$5,153.37 for maintenance fees, \$1,058.47 for back taxes and \$5,934.42 as excess funds). The remaining \$12,355.74 will be distributed to the other taxing entities: Cleburne Independent School District, Johnson County and Hill College.

OR2. OR03-2020-22

CONSIDER AN ORDINANCE RATIFYING AND APPROVING THE CITY OF CLEBURNE’S CURRENT EMERGENCY MANAGEMENT PLAN; AMENDING THE PLAN TO ALLOW PENALTIES UNDER STATE LAW.

Person presenting this item: Rob Severance, Chief of Police

BRIEF: The City of Cleburne, Texas, has in place an Emergency Management Plan adopted under Chapter 32 of the Code of Ordinances and Chapter 418 of the Texas Government Code (the Texas Disaster Act). This proposed ordinance will ratify and approve the plan and amend it to expressly provide penalties for violations of the plan and for rules adopted under the plan as provided by state law.

OC1. APPROVE ACCOUNTS PAYABLE FOR THE MONTH OF FEBRUARY 2020.

Person presenting this item: Troy Lestina, Director of Finance

OC2. CONSIDER FINAL PLAT OF LOTS 1 AND 2, BLOCK 1, OF SILO MILLS, BEING ±11.331 ACRES OF LAND, LOCATED AT 7924 CR 1010 WITHIN THE EXTRATERRITORIAL JURISDICTION; AS REQUESTED BY PROPHET EQUITY, REPRESENTED BY PELOTON LAND SOLUTIONS, INC.

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

BRIEF: The applicant is requesting approval of a final plat for Lots 1 and 2, Block 1, of Silo Mills, located at 7924 CR 1010. There is an existing gas well site on Lot 1. The proposed wastewater treatment plant for the Silo Mills development will be located on Lot 2. A Development Agreement was approved by Council for Silo Mills on June 27, 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. The surrounding land use is residential to the north, with large areas of undeveloped land.

As submitted, the final plat meets all of the minimum requirements of the Chapter 154 of the Code of Ordinances. The Planning and Zoning Commission considered this request at their March 9, 2020 meeting and recommended approval by a vote of 4-0.

OC3. CONSIDER THE PRELIMINARY PLAT OF BAKER FARMS, BEING ±60.423 ACRES OF LAND, LOCATED IN THE 1800 BLOCK OF WEST HENDERSON STREET; AS REQUESTED BY GOSSETT FARMS, LLC, REPRESENTED BY DREW DONOSKY.

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

BRIEF: The applicant is requesting approval of a preliminary plat for Baker Farms, a proposed single-family residential development comprised of 274 lots and two (2) common area lots. A PD amendment was approved at the January 28, 2020 City Council meeting - OR01-2020-10. The minimum standards for the subdivision include the following:

PD Development Standards	
Description	Minimum Standards
Minimum Lot Size (SF)	6,000
Minimum Lot Width (Feet)	50
Minimum Lot Depth (Feet)	100
Front Yard Setback (Feet)	25
Rear Yard Setback (Feet)	15
Side Yard Setback (Feet)	5
Side Yard - Adjacent to Street (Feet)	15
Minimum Living Area (SF)	1,800*
Maximum Height (Feet)	35 / 2 stories

*A maximum of 10% of the homes within the Baker Farms community shall be allowed to be less than 1,800 square feet but must be a minimum of 1,600 square feet. No homes less than 1,800 square feet may be constructed adjacent to each other.

The surrounding properties are zoned SF-4 (Single-Family Dwelling District) to the north, C2 (General Business District) to the east and south, and C3 (Commercial District) to the east. The surrounding land use is primarily residential with commercial located on the southeast portion of the 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 the PD – OR01-2020-10 and Chapter 154 of the Code of Ordinances. The Planning and Zoning Commission considered this request at their March 9, 2020 meeting and recommended approval by a vote of 4-0.



Mayor Cain offered an overview concerning the unprecedented matter at hand by the COVID-19 pandemic and the measures being taken by the City to deal with the issue. Three main elements/questions are considered when drafting the Emergency Orders:

- 1) The health and safety of the public; how to best protect the seniors and those most susceptible to contracting COVID-19. How do the City’s actions ensure first responders and basic services are available to the community, best measures to flattening the curve?

- 2) How does the issuance and timing of the Emergency Order help lower the panic and stress within the community as well as distribute factual information?
- 3) What is the economic impact of the City’s decisions?

Mayor Cain stated he has been in frequent contact with churches, businesses, and industries via conference calls to keep the lines of communication open and get feedback from their perspective. Businesses assured him they are following local guidelines as outlined by the CDC. The Mayor affirmed “Cleburne is open for business”. He encouraged citizens to support the local restaurants using take-out or delivery options. Mayor Cain continues to coordinate with local and state officials to stay abreast of the circumstances facing the community.

Mayor Cain opened the floor to the Council for any comments, questions, or to pull items from the Consent Agenda. After a couple questions of the Council, Mayor Cain called for a motion.

MOTION: to approve as presented in its entirety

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly			X				X	Approved as presented
Boedeker	X		X					Approved as amended
Mann		X	X					Denied
Warren			X					Withdrawn
Cain			X					Postponed until:
X	<i>Motion Carried</i>		<i>Motion Failed</i>				X	<i>Roll Call</i>

RESOLUTIONS

RS3. RS03-2020-37

CONSIDER A RESOLUTION ACCEPTING THE ANNUAL AUDIT FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2019.

Person presenting this item: Troy Lestina, Director of Finance

BRIEF: Section 8.12 of the City of Cleburne Charter states that an independent firm of certified public accountants will perform the annual audit and present the results to the City Council. On Tuesday, February 25, 2020, 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, 2019 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. John Manning of Pattillo, Brown and Hill LLP, will be present to give a brief presentation regarding the annual audit. The Comprehensive Annual Financial Report (CAFR) for Fiscal Year ended September 30, 2019 is an exhibit to the staff report. A public copy of the CAFR is also available for review in the Finance Department, City Secretary’s Office and Library. The CAFR will also be available on the City’s website after acceptance by City Council.

Councilman Boedeker stated this was his first year on the Audit Committee and expressed his appreciation for the process and how the City handles the budget. Councilman Mann asked if the City is concerned about a drop in sales tax given the current situation. Mr. Lestina confirmed that staff is watching the current trend and will evaluate what measures might need to be taken. City Manager Polasek spoke concerning the staff’s activities now to curb spending to meet the challenge.

MOTION: to approve as presented

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly			X				X	Approved as presented
Boedeker		X	X					Approved as amended
Mann	X		X					Denied
Warren			X					Withdrawn
Cain			X					Postponed until:
X	<i>Motion Carried</i>		<i>Motion Failed</i>				X	<i>Roll Call</i>

RS4. RS03-2020-38

CONSIDER A RESOLUTION POSTPONING THE GENERAL ELECTION CALLED FOR MAY 2, 2020 FOR MAYOR AND COUNCILMEMBERS FOR SINGLE MEMBER DISTRICTS ONE AND FOUR UNTIL NOVEMBER 3, 2020.

*Mayor Cain abstained from discussion and voting on this item as he is a candidate on the ballot for the related election. Mayor Pro Tem Warren presided during this item.

Person presenting this item: Ivy Peterson, City Secretary

BRIEF: In accordance with the general laws and Constitution of the State of Texas, the Charter of the City of Cleburne, and pursuant to Council’s Ordinance No.02-2020-12, a Municipal Officers’ election was ordered to be held on May 2, 2020, for the purpose of electing a Mayor and Council Members for Single Member Districts 1 and 4. Pursuant to Section 418.016 of the Texas Government Code, on March 18, 2020, the Governor of the State of Texas signed a proclamation suspending certain provisions of the Texas Election Code and the Texas Water Code allowing all local political subdivisions that are utilizing the May 2nd uniform election date to postpone their elections to the November 3, 2020, uniform election date.

Under Article XVI, Sec 17 of the Texas Constitution, the current elected officers will continue to exercise their duties until the new officers take their oaths of office. The candidate filing period will not be re-opened for the November 3rd election.

If postponement is approved, Council action will be required no later than August 17th to make necessary revisions to the original Order approved in February this year.

Councilman Mann asked if there were options available for having the election earlier than November 3rd. City Attorney Quast determined through research that changing the date to anything other than the uniform election date would require a court order or permission of the governor and the success of these options is unlikely. Mrs. Peterson recommended Council take action due to critical deadlines as per state law, one being mail ballots sent to overseas voters. Councilman Kelly stated he is hopeful for a greater than usual voter turnout in November.

MOTION: to approve as presented

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly	X		X				X	Approved as presented
Boedeker		X	X					Approved as amended
Mann			X					Denied
Warren			X					Withdrawn
Cain					X			Postponed until:
X	<i>Motion Carried</i>		<i>Motion Failed</i>				X	<i>Roll Call</i>

ORDINANCES

OR3. OR03-2020-23

CONSIDER AN ORDINANCE GRANTING REQUEST FOR A SPECIAL EXCEPTION USE PERMIT FOR A REDUCTION OF THE REQUIRED PARKING SPACES PER SECTION 155.54 OF THE ZONING ORDINANCE, FOR 801 WEST HENDERSON STREET; AS REQUESTED BY JAMES E. WRIGHT, REPRESENTED BY JOHN SCRIBNER.

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

BRIEF: The applicant is requesting a special exception use permit for a reduction of the required parking spaces for the property located at 801 W. Henderson Street, for the future location of a proposed Chick-Fil-A restaurant. Per Section 155.16 of the Zoning Ordinance, a Special Exception Use Permit can be requested from City Council to allow for a reduction in the number of required parking spaces. The applicant is proposing 126 seats for the restaurant, 16 of which are to be located outdoors. Per Section 155.54, the parking ratio for a restaurant is one (1) parking space for every two (2) seats, which would require 63 spaces for this restaurant. Chick-Fil-A is requesting a reduction of 12 spaces to provide a maximum of 51 parking spaces on the subject property.

The applicant contends the proposed 51 parking spaces as well as a 22-car stacking in the drive-thru lanes will be adequate to serve the restaurant. The applicant has stated that Chick-Fil-A has a high demand for window pickup as a drive-thru oriented establishment and therefore the requested reduction in parking should not adversely impact the operation of the proposed business nor the surrounding properties.

Mr. Mathias Haubert, representing the owner, participated via teleconference and was available for questions. There were comments and questions of the Councilmembers.

MOTION: to approve as presented

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly		X	X				X	Approved as presented
Boedeker			X					Approved as amended
Mann			X					Denied
Warren	X		X					Withdrawn

Cain			X				Postponed until:
X	Motion Carried		Motion Failed				X Roll Call

OR4. POSTPONED

CONSIDER AN ORDINANCE DISANNEXING TERRITORY FROM THE CITY OF CLEBURNE, BEING ±7.935 ACRES AT 4363 WEATHERFORD HIGHWAY; AMENDING BOUNDARY LIMITS OF SAID CITY; AS REQUESTED BY BRYCE CLOTHIER.

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

BRIEF: Bryce Clothier is the owner of approximately 10.008 acres of land located at 4363 Weatherford Highway, 7.935 acres of which are located within the city limits of Cleburne. The property owner has requested to have their property disannexed from the corporate limits of the City of Cleburne. The subject property was annexed in 2012 as part of the larger annexation proceedings taking place at the time. The owner of the property at the time of the annexation proceedings did not enter into a development agreement.

The subject property within the city limits is approximately 7.935 acres in size and is developed with a single-family home and multiple accessory buildings. The property owner has indicated their intent to continue the current land use on the subject property. The adjacent properties to the west and east are located within the city limits of Cleburne while the properties to the south are outside the city’s jurisdiction.

Section 1.3 Extension of Boundaries - of the City of Cleburne Charter authorizes the City Council to disannex territory by ordinance, without limitation, and at its discretion. A public hearing is not required for this action.

Staff has reviewed the service plan, attached in OR11-2012-62 as Exhibit “C”, and verified with the City Attorney that the City has complied with and has not failed to provide the services as outlined in the service plan.

The property owner has paid City taxes each year following annexation as required. Section 43.148 Refund of Taxes and Fees - of the Texas Local Government Code requires a municipality disannexing a property to review the amount of property taxes collected, and provide a refund in the event the taxes paid exceed the pro rata costs of direct services available and/or provided to the property owner. Staff has reviewed the taxes paid to date, and evaluated the pro rata cost of basic services available. The results of this analysis indicate a refund is not required.

The subject property is currently served by a private water well and is utilizing a septic system for sanitary sewer. There are no plans to extend city water or sewer infrastructure into this area in the near future.

Mr. Clothier requested postponement of this request who was unable to attend due to his work schedule.

MOTION: to postpone to a future meeting

	Motion	Second	Aye	No	Abstain	Absent	Result
Kelly			X				Approved as presented
Boedeker	X		X				Approved as amended

Mann		X	X				Denied
Warren			X				Withdrawn
Cain			X			X	Postponed: future mtg
X	<i>Motion Carried</i>		<i>Motion Failed</i>			X	<i>Roll Call</i>

OR5. DENIED

CONSIDER AN ORDINANCE DISANNEXING TERRITORY FROM THE CITY OF CLEBURNE, BEING ±7.562 ACRES AT 4349 AND 4261 WEATHERFORD HIGHWAY; AMENDING BOUNDARY LIMITS OF SAID CITY; AS REQUESTED BY TERRY AND GARY BOTKIN.

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

BRIEF: Terry and Gary Botkin are the owners of approximately 7.998 acres of land located at 4249 and 4261 Weatherford Highway, 7.562 acres of which are located within the city limits of Cleburne. The property owners have requested to have their property disannexed from the corporate limits of the City of Cleburne. The subject property was annexed in 2012 as part of the larger annexation proceedings taking place at the time. The owner of the property at the time of the annexation proceedings did not enter into a development agreement.

The subject property within the city limits is approximately 7.562 acres in size and is developed with two single-family homes and multiple accessory buildings. The property owners have indicated their intent to continue the current land use on the subject property. The adjacent properties to the west and east are located within the city limits of Cleburne while the properties to the south are outside the city’s jurisdiction.

Section 1.3 Extension of Boundaries - of the City of Cleburne Charter authorizes the City Council to disannex territory by ordinance, without limitation, and at its discretion. A public hearing is not required for this action

Staff has reviewed the service plan, attached in OR11-2012-62 as Exhibit “C”, and verified with the City Attorney that the City has complied with and has not failed to provide the services as outlined in the service plan.

The property owner has paid City taxes each year following annexation as required. Section 43.148 Refund of Taxes and Fees - of the Texas Local Government Code requires a municipality disannexing a property to review the amount of property taxes collected, and provide a refund in the event the taxes paid exceed the pro rata costs of direct services available and/or provided to the property owner. Staff has reviewed the taxes paid to date, and evaluated the pro rata cost of basic services available. The results of this analysis indicate a refund is not required.

The subject property is currently served by a private water well and is utilizing a septic system for sanitary sewer. There are no plans to extend city water or sewer infrastructure into this area in the near future.

Mr. Terry Botkin spoke concerning the original annexation in 2012 and concerns with the implementation of the service plan.

Councilman Boedeker asked Staff about the infrastructure possibilities in the area. City Attorney Quast addressed the City’s responsibility of implementing the service plan and Staff confirmed the

City has met those responsibilities. Councilman Mann added that his property is in the same area and his desire to be in the City of Cleburne rather than another jurisdiction.

MOTION: to deny

	Motion	Second	Aye	No	Abstain	Absent	Result
Kelly			X				Approved as presented
Boedeker	X		X				Approved as amended
Mann			X				X Denied
Warren		X	X				Withdrawn
Cain			X				Postponed until:
X	<i>Motion Carried</i>			<i>Motion Failed</i>			X <i>Roll Call</i>

EXECUTIVE SESSION

The Council did not convene a Closed Meeting.

ADJOURNMENT

ADJOURNED AT: 6:24 PM

APPROVAL OF MINUTES

APPROVED BY MAJORITY VOTE OF COUNCIL ON: APRIL 14, 2020