



**CITY COUNCIL REGULAR MEETING MINUTES**  
**FEBRUARY 14, 2023 @ 5:00 PM**  
**CITY HALL COUNCIL CHAMBERS**  
**10 NORTH ROBINSON STREET, CLEBURNE, TX 76031**

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**I. ROLL CALL AND CALL TO ORDER BY MAYOR @ 5:00 PM**

**City Council:**

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

**Administration:**

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

**II. INVOCATION** by Pastor David denHartog, Cleburne Bible Church

**III. PLEDGE OF ALLEGIANCE**

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

**V. CITIZENS COMMENTS**

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

Carrie Reynolds spoke on behalf of the Chisolm Trail Outdoor Museum and announced hours of operation of the facility and invited the Council to attend an event honoring Bill Harden's 100<sup>th</sup> Birthday celebration on February 25<sup>th</sup>, 1 to 4 pm.

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

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**CONSENT AGENDA**

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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 were enacted with one motion.

**MN1. CONSIDER MINUTES FOR THE JANUARY 24, 2023 REGULAR COUNCIL MEETING.**

**RS1. RS02-2023-18 CONSIDER A RESOLUTION AUTHORIZING APPLICATION FOR AND ACCEPTANCE OF FUNDS FOR BALLISTIC SHIELDS FOR CLEBURNE POLICE DEPARTMENT FROM THE OFFICE OF THE GOVERNOR-CRIMINAL JUSTICE DIVISION.**

Presented by: Robert Severance, Chief of Police

Summary: The Ballistic Shield Grant Program application to the Office of the Governor-Criminal Justice Division is for \$110,000 to purchase 22 ballistic shields. The shields will provide Level III protection to officers and each patrol unit will be equipped with a shield. No funding match is required.

**RS2. RS02-2023-19 CONSIDER A RESOLUTION AUTHORIZING AN AIRPORT LEASE AGREEMENT WITH NATIONWIDE AVIATION FLIGHT SCHOOL FOR HANGAR 102.**

Presented by: Garrett Watson, Interim Airport Manager

Summary: Nationwide Aviation is a flight school currently based on the field and is a sizeable contributor to fuel purchases having a number of aircraft that are fueled up at the airport. They also are a growing business and need room to store more of their aircraft used for training purposes. Thus, they are requesting to enter into a lease for Hangar 102.

Hangar 102 is an older hangar and currently has some structural damage, namely rusted support pipes that need to be replaced by a licensed welder. A quote of \$11,000 was obtained by a welder for the needed pipe replacement repairs. Nationwide Aviation has offered to pay up to \$15,000 for needed repairs in exchange of a credit for whatever the final cost comes out to be, not to exceed \$15,000. That credit would be applied to their monthly rental account for the hangar.

The monthly rental for the hangar would be \$801.02 and the lease allows for rental adjustments in accordance with CPI adjustments on an annual basis. These adjustments will also take into account the appraisals of the airport and the surrounding market. Furthermore, Nationwide is requesting a 10-year lease and the ability to sublet the space in the event they have room for reasons such as one of their aircraft being in the shop or at another airport location for training purposes.

**OC1. CONSIDER THE TEMPORARY USE OF HULEN PARK, LOCATED AT 900 SOUTH HILLSBORO STREET FOR “SPRING CARNIVAL” FROM APRIL 4, 2023, THRU APRIL 10, 2023; AS REQUESTED BY CLEBURNE PERFORMING ARTS, REPRESENTED BY MAXINE AMMONS.**

Presented by: Aaron Dobson, Director of Parks & Recreation

Summary: The applicant is requesting to temporary use of Hulen Park for the annual Spring Carnival. The Carnival will begin setting up on Tuesday, April 4, 2023, and be offsite at noon on Monday, April 10, 2023. The hours of operation will be 10 am to 10 pm.

Recommended restrictions for this event included:

- All noise must be turned off by 8 pm during on-site preparation; noise must be turned off by 10 pm each night of the event.
- On-site electricity will not be available for this event.
- Equipment and entertainment will have OSHA-approved mats to prevent leaks on turf or runoff into Buffalo Creek.
- The clean-up must follow OSHA protocols in case of a leak or spill from equipment and entertainment.

- A \$2,500 deposit will be delivered to the Parks Administrative office one (1) week before the on-site preparation.
  - Following the removal of equipment and entertainment, the park shall be in the same condition as before the event.
  - A \$1,000 charge per day will be deducted from the deposit for each day the park is not ready for the community; additional costs will be applied for further delays or damages.
  - This event must comply with all other City of Cleburne Ordinances if not discussed above.
- The Parks & Recreation Board considered this request at their February 6, 2023 meeting and recommended approval with a vote of 4-0 and Aaron Siler abstaining.

**MOTION: to approve as presented in its entirety**

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

**ACTION AGENDA**

**OR1. OR01-2023-05 \*PUBLIC HEARING\* CONSIDER AN ORDINANCE REZONING ±38.38 ACRES ZONED PD (PLANNED DEVELOPMENT), AMENDING ORDINANCE NO. 08-2020-45 ESTABLISHING THE TRAIL CREEK PLANNED DEVELOPMENT, AND AUTHORIZING ‘AREA B’ FOR CONSTRUCTION OF TOWNHOMES, GENERALLY LOCATED NORTH OF MANN COURT, SOUTH OF MIMOSA STREET, AND WEST OF GRAND AVENUE, CASE ZC22-031.**

Presented by: David Jones, Community Development Director

Summary: The applicant, Brazos Valley Property Management, represented by Hunter Coleman, is requesting to amend a portion of the Trail Creek Subdivision PD (Planned Development District) that was originally approved in August 2020. The subdivision sits on ±38.38 acres and is generally located north of Mann Court, south of Mimosa Street, and west of Grand Avenue and consisting of Area A (single-family lots) and Area B (duplex lots). The applicant is requesting to amend the single-family attached (duplex) lots, known as Area B, to allow for one and two-story townhomes in place of the approved duplexes. The total number of dwelling units approved for Area B under the proposed amendment will remain as originally approved in 2020. Area A is not proposed for amendment and will follow the existing PD standards.

The Planning and Zoning Commission first considered this request at the January 9, 2023 meeting and voted 5-0 to continue the public hearing and table the item. At the January 23, 2023 meeting, the Planning and Zoning Commission considered a revised proposal (one-story and two-story townhomes with 25’ front yard setback, a two-story duplex on Lots 20 and 21, and a

one-story duplex on Lots 11 and 12, Block 6) and voted 6-0 to approve the PD amendment as revised with the following conditions:

- a. Construction of an 8-foot fence along Lots 3 – 12, Block 6;
- b. Construction of an 8-inch cement base with a 6-foot fence built above grade running along Lots 12-18, Block 5; and
- c. The 25-foot drainage easement be maintained by the Home Owners Association (HOA).

Mayor Cain opened the public hearing and with no speakers, the public hearing was closed.

**MOTION: to approve with conditions a, b, & c as recommended by the Planning and Zoning Commission**

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

**OR2. OR01-2023-06 \*PUBLIC HEARING\* CONSIDER AN ORDINANCE REZONING ±4.09 ACRES FROM SF-7 (SINGLE-FAMILY DWELLING DISTRICT) TO RC (REGIONAL COMMERCIAL DISTRICT), WITHIN THE FREEWAY OVERLAY AND LOCATED AT 2449 STATE HIGHWAY 171/WEATHERFORD HIGHWAY, CASE ZC22-032.**

Presented by: David Jones, Community Development Director

Summary: The applicant, Trans Texas Surveying, LLC, represented by Laura Brown, has requested to rezone approximately 4.09 acres from SF-7 (Single-Family Dwelling District) to RC (Regional Commercial District) for the property located at 2449 State Highway 171/Weatherford Highway. The applicant intends to rezone the subject property for future commercial use.

The Planning and Zoning Commission considered this request at their February 13, 2023 meeting and recommended approval with a vote of 5 to 0.

Mayor Cain opened the public hearing and with no speakers, the public hearing was closed.

**MOTION: to approve as presented**

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

**OR3. OR01-2023-07 \*PUBLIC HEARING\* CONSIDER AN ORDINANCE REZONING FROM IH (INTERIM HOLDING DISTRICT) TO SF-6 (SINGLE-FAMILY DWELLING DISTRICT), ON ±107.33 ACRES GENERALLY LOCATED ON THE NORTH SIDE OF US HIGHWAY 67, ON THE EAST SIDE OF COUNTY ROAD 1123, WEST OF BUDDY STEWART PARK, AND APPROXIMATELY 2,100 FEET SOUTH OF WOODARD AVENUE, CASE ZC22-034.**

Presented by: David Jones, Community Development Director

Summary: The applicant, Hakuna Matata Investments, represented by Chad Dannheim, has requested to rezone approximately 107.33 acres from IH (Interim Holding District) to SF-6 (Single-Family Dwelling District) for the property generally located on the north side of US Highway 67, on the east side of County Road 1123, west of Buddy Stewart Park, and approximately 2,100 feet south of Woodard Avenue. The applicant intends to rezone the subject property for single-family residential development.

The Planning and Zoning Commission considered the request for SF-6 zoning at their January 9, 2023 meeting and voted 5-0 to recommend *denial*. The recommendation of denial required a supermajority vote from City Council to approve the rezone ordinance.

The City Council considered the request for SF-6 zoning at their January 24, 2023 meeting and voted 3-0 at the request of the applicant to postpone to the next regular City Council meeting on February 14, 2023.

On February 3, 2023, the applicant submitted a revised letter of intent indicating a requested zoning change to SF-7 (Single-Family Dwelling District) rather than SF-6, citing Planning and Zoning Commission concerns with regard to Future Land Use compatibility. Council is authorized to consider the revised request to SF-7 because it is a district of lower intensity than the previous request for SF-6.

Mayor Cain opened the public hearing and with no speakers, the public hearing was closed.

Proponent Brendan Shelby was available in person should the Council have questions.

Proponent Chad Dannheim was available via teleconference should the Council have questions.

**MOTION: to approve as amended rezoning to SF-7**

	Motion	Second	Aye	No	Abstain	Absent	Result
Weathers	X		X				Approved as presented
Mann			X				X Approved as amended
Warren		X	X				Denied
Cain			X				Withdrawn
							Postponed until:
X	Motion Carried		Motion Failed				Roll Call

**RS3. RS02-2023-20 CONSIDER A RESOLUTION AUTHORIZING AN AGREEMENT WITH BRAZOS ELECTRIC POWER COOPERATIVE, INC TO AMEND, RESTATE, AND REPLACE THE 1995 WATER CONTRACT.**

Presented by: Jeremy Hutt, Director of Public Works

Summary: The City currently operates over eight miles of reuse water pipelines that were placed into service in the late 1990’s. Tenaska IV Texas Partners, LTD developed a power generation plant (‘Plant’) and associated facilities in the Cleburne Industrial Park in Cleburne, Johnson County, Texas and as a result required a substantial quantity of water for various internal Plant requirements. The City and Tenaska IV entered into an agreement for Sewer Effluent Water Purchase, dated June 27, 1995.

Brazos Electric acquired the facilities and is the current operator of the power generation plant and the agreement was assigned to Brazos Electric on May 3, 2006, in connection with Brazos Electric’s acquisition of the Plant. The term of the Sewer Effluent Water Purchase Agreement has been exhausted and the parties have, in good faith, negotiated the proposed agreement. The City and Brazos Electric desire, by this Agreement, to amend and restate the Sewer Effluent Water Purchase Agreement, in its entirety, so that from the effective date, and during the term of this Agreement, as hereafter defined, the Sewer Effluent Water Purchase Agreement shall be superseded by the terms and conditions of this Agreement.

Philip Segrest, legal counsel for Brazos Electric Power was available via teleconference should the Council have questions.

Kyle Minnix, representative for Brazos Electric, submitted an online speaker/comment registration card for this item, but no comments were provided.

**MOTION: to approve as presented**

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

**OC2. CONSIDER APPOINTMENT OF TWO (2) COUNCIL MEMBERS TO THE CLEBURNE-JOHNSON COUNTY JOINT AIRPORT ZONING BOARD.**

Presented by: Ivy Peterson, City Secretary

Summary: On December 13, 2022, the City Council approved an updated master plan for the Cleburne Regional Airport. To implement the new master plan, one of the procedural and legal actions required by the Texas Department of Transportation-Aviation Division’s guidelines is the adoption of an amended Airport Zoning Ordinance (aka, height-hazard ordinance). The plan includes an airport airspace map that extends into Johnson County jurisdiction and the procedure

requires a Joint Airport Zoning Board (JAZB or Board) consider and recommend approval of the ordinance.

The Board is a five-member board consisting of two (2) members being appointed by City Council, two (2) members appointed by the Johnson County Commissioner’s Court, and one (1) member appointed by the existing four (4) members to serve as Chair. The Board’s duty is to review the height & hazard zoning ordinance, hold a public hearing, and consider recommendation to the jurisdiction(s) with zoning authority.

This procedure was done in 1979-1980 and both the City and County created a Cleburne-Johnson County Joint Airport Zoning Board, appointed their respective members, and the Board completed the assigned project. Although the creation of the board was some time ago, no record has been found of it being dissolved and therefore is still in effect.

Coffman Associates, the City’s consultant for the Airport Master Plan has outlined the procedural actions required for the adoption of the Airport Zoning Ordinance:

1. City Ordinance creating a Joint Airport Zoning Board (JAZB) and appointing city’s representatives to that board (City created JAZB by Ordinance on 07/10/1979)
2. County Order creating a JAZB and appointing county’s representative to that board (County created JAZB by Order on 07/13/1979)
3. Oaths of office administered to members of the JAZB
4. Election of 5th member of the JAZB who shall serve as chairperson of that board
5. Oath of office administered to chairperson of the JAZB
6. JAZB sets date of public hearing
7. Notice of public hearing published in local newspaper(s)
8. Proof of publication collected for each newspaper  
Note: Steps 7 & 8 should be repeated for each political subdivision affected by the zoning.
9. Notice of public hearing posted in city hall and county courthouse for each jurisdiction participating in the zoning
11. Conduct public hearing
12. Adopt zoning ordinance
13. Attorney’s certification
14. Adopted ordinance filed with County Clerk
15. Copy of procedural forms and adopted ordinance provided to each political subdivision participating in the zoning process

Once the ordinance is adopted by JAZB, it will be brought before the City’s Planning & Zoning Commission, and then to City Council for final approval.

Mayor Cain nominated Councilman Mann, and he agreed to serve. Councilman Mann then nominated Cliff Holden as the second Council representative.

**MOTION: to appoint Mike Mann and Cliff Holden as the two Council representatives on the Cleburne-Johnson County Joint Airport-zoning Board**

	Motion	Second	Aye	No	Abstain	Absent		Result
Weathers			X				X	Approved as presented
Mann	X		X					Approved as amended
Warren			X					Denied

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

Mayor Cain recessed the Regular Meeting at 5:45 pm to discuss items legally posted and discussed in executive session.

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**EXECUTIVE SESSION**

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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)

**Section 551.074. Deliberation regarding Personnel Matters and Section 551.071. Consultation with Attorney** - The City Council may convene in executive session to receive legal advice from the City Attorney on the following matters in which the duty of the City Attorney to the City's governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code and/or to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee, including deliberation regarding the following officers or employees:

**EXE2.** Discuss City Manager transition

Mayor Cain reconvened into open session at 6:18 pm and no formal action was taken resulting from items legally posted and discussed in Executive Session.

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**ADJOURNMENT**

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**ADJOURNED AT: 6:19 PM**



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**APPROVAL OF MINUTES**

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**APPROVED BY MAJORITY VOTE OF COUNCIL ON: FEBRUARY 28, 2023**