



REGULAR CITY COUNCIL MEETING MINUTES
MAY 14, 2019
5:00 PM
CITY HALL COUNCIL CHAMBERS
10 NORTH ROBINSON STREET

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

City Council:

- ✓ Scott Cain, Mayor
- ✓ Dr. Bob Kelly, SMD 1
- ✓ Gayle White, SMD 2
- X Dale Sturgeon, Mayor Pro Tem
- ✓ John Warren, SMD 4

Administration:

- ✓ Steve Polasek, City Manager
- ✓ Alicia Kreh, City Attorney

II. INVOCATION by Rev. Christopher Woodall, Church of the Holy Comforter

III. PLEDGE OF ALLEGIANCE

IV. COMMUNITY INTEREST MATTERS, ANNOUNCEMENTS & PRESENTATIONS

- ☆ Proclamation – Honor Military Heroes – Yesterday and Today – Memorial Day, May 27 and Poppy Days - May 24-27
- ☆ Proclamation – National Public Works Week “Public Works It Starts Here” – May 19-25
- ☆ Proclamation – Day of Mourning for Stephen Hafford – May 14

V. ~~CITY SECRETARY READ THE GUIDELINES TO SPEAK BEFORE COUNCIL~~

*Mayor Cain waived the reading of the guidelines until such a time as necessary.

VI. CITIZENS COMMENTS

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

ELECTION MATTERS

OC1.

CONDUCT OFFICIAL CANVASS BY THE CITY COUNCIL OF THE ELECTION RETURNS FOR THE CITY OF CLEBURNE GENERAL ELECTION HELD ON MAY 4, 2019.

Person presenting this item: Shelly Doty, City Secretary

BRIEF: This meeting of the governing body shall serve as the official canvass of votes for the City

of Cleburne General Election held May 4, 2019. Mayor Cain shall appoint two (2) Councilmembers and the City Secretary to review election returns submitted by the Precinct Judges for discrepancies. The Canvass Authority will then adjourn to the Conference Room for their review and report back to the Council with their determination.

RS1. RS05-2019-36
A RESOLUTION DECLARING THE RESULTS OF THE MAY 4, 2019 GENERAL ELECTION FOR THE CITY OF CLEBURNE.

Person presenting this item: Shelly Doty, City Secretary

BRIEF: The City Secretary and City Council have investigated all matters pertaining to the May 4, 2019 election, including the ordering, giving notice, and making returns of said election. This Resolution constitutes the declaration of the official results of the election. A swearing-in ceremony for the Councilmembers representing Single Member Districts 2 and 3 will be held at a future regularly scheduled meeting at which time the newly re-elected officials will take their Oaths of Office and be presented their Certificates of Election.

MOTION: to approve as presented

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

CONSENT ITEMS

M1.
APPROVAL OF MINUTES FOR THE APRIL 23, 2019 COUNCIL MEETING.

RS2. RS05-2019-37
A RESOLUTION AUTHORIZING AN INTERLOCAL AGREEMENT WITH THE CITY OF FORT WORTH FOR INSTALLATION, MAINTENANCE AND REPAIR SERVICES FOR WIRELESS COMMUNICATIONS COMPONENTS AND SYSTEM FOR THE POLICE DEPARTMENT.

Person presenting this item: Rob Severance, Chief of Police

BRIEF: The City of Fort Worth operates a Motorola Solutions P25 radio system that is compatible with the system utilized by the Cleburne Police Department for communications. The City of Fort Worth maintains their equipment through their IT department and has personnel on staff who are

trained and authorized to install, maintain, and repair Motorola radio equipment. By doing so, Fort Worth is able to reduce their equipment maintenance costs. Through the execution of an inter-local agreement, they are able to extend those cost reductions to other government entities. There is no budget impact as payments to the City of Fort Worth will come from radio maintenance and repair budgeted funds.

OR1. OR05-2019-22
AN ORDINANCE AMENDING THE FY 2019 BUDGET (#6) BY APPROVING THE CITY MANAGER’S LINE ITEM BUDGET TRANSFERS.

Person presenting this item: Troy Lestina, Director of Finance

BRIEF: The transfers presented for the month of April 2019 are deemed appropriate to be made by the City Manager for City Council approval and are as follows:

- Building Maintenance - transfer funds to cover the expenses related to purchase of portable A/C unit and tools in case of emergency in Minor Equipment (0161-8364 - \$929);
- Building Maintenance - transfer funds to cover the expenses related to purchase of Chamber of Commerce 100 year Gala ticket in Dues (0161-8643 - \$75);
- Human Resources - transfer funds to cover the expenses related to purchase of updated resource kit for defensive driving in Other Supplies (0136-8399 - \$500);
- Human Resources – transfer funds to cover cost of increased fuel expense related to expanded training opportunities for two staff members in Fuel & Lubricants (0136-8336 - \$400);
- Streets – transfer funds to cover expenses related to the purchase of replacement street signs in M&R – Other Systems (0179-8499 - \$2,000).

OC2.
APPROVE FINAL PLAT OF WESTLAKE ESTATES (BEING 62.130 ACRES GENERALLY LOCATED AT 1832 CR 1224 IN THE CITY’S ETJ); AS REQUESTED BY BLUEBERRY MEADOWS, LLC, REPRESENTED BY TIM ROE.

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

BRIEF: This is a request to create ten (10) residential lots in the City’s Extraterritorial Jurisdiction. The Comprehensive Land Use Plan shows this property to be located in the Farmland Community District. As submitted, this plat meets all minimum 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 did not take action on this item, due to the cancellation of the April 22, 2019 meeting. By law, the 30-day approval period has commenced, therefore Council must consider the plat at this time.

MOTION: to approve as presented

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

RESOLUTIONS

RS3. RS05-2019-38
A RESOLUTION AUTHORIZING AMENDMENT TO AGREEMENT WITH ALLIANCE GEOTECHNICAL GROUP FOR THE SAFE ROUTES TO SCHOOL SIDEWALK PROJECT FOR AN AMOUNT NOT TO EXCEED \$15,000, MAKING THE CONTRACT TOTAL \$80,840.

Person presenting this item: Cheryl Taylor, City Engineer

BRIEF: The City awarded a construction contract to Westhill Construction for the construction of the Safe Routes to School Sidewalk Project along Nolan River Road and Colonial Drive. The original contract for geotechnical testing with Alliance Geotechnical Group was approved for an amount not to exceed \$65,840. As per City of Cleburne requirements, material testing for the sidewalk construction is required for this project. City staff is requesting approval of an amendment to the geotechnical testing contract with Alliance Geotechnical Group of Fort Worth, Texas in the amount of \$15,000 (\$12,931 for testing services and \$2,069 for contingency) for a revised not to exceed contract amount of \$80,840. This amendment will allow the construction of intersections that were not originally designed or constructed in compliance with the American Disabilities Act (ADA)/Texas Department of Licensing and Regulation (TDLR). Testing is required for the reconstruction of these intersections to be in compliance with TDLR in order to close out the sidewalk project. The firm of Alliance Geotechnical Group has been employed by the City of Cleburne on several projects such as the testing for the 2017 Street Reconstruction Project and at the Depot at Cleburne Station. Geotechnical testing services are considered engineering type professional services.

MOTION: to approve as presented

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

ORDINANCES

CONTINUED PUBLIC HEARING

OR2. OR05-2019-23

AN ORDINANCE REZONING 1.43 ACRES, LOCATED AT 1531 W KILPATRICK AVE, FROM C3 (COMMERCIAL DISTRICT) TO MF (MULTIPLE-FAMILY HOUSING DISTRICT); AS REQUESTED BY HARDEE PROPERTIES, LLC.

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

COUNCIL UPDATE: City Council considered this item at the April 9, 2019 meeting, and moved to continue the item to the May 14, 2019 meeting. Council requested the applicant provide revisions to the existing site plan and renderings of the proposed project, as well as a development plan for the proposed project. The applicant submitted the requested information and it has been attached for your review.

ORIGINAL BRIEF: The applicant has requested to rezone approximately 1.13 acres from the C3 (Commercial District) to the MF (Multiple Family Housing District) with the intent to construct a multi-family development on the subject property. The Comprehensive Land Use Plan shows this property to be located in the Traditional Neighborhoods District. The proposed rezoning request is consistent the intent specially permitted uses of the Traditional Neighborhood District as defined by the Comprehensive Land Use Plan. At the March 25, 2019 meeting P&Z recommend approval of a rezoning request from C3 (Commercial District) to PD (Planned Development) allowing multi-family uses and incorporating the attached site plan and elevations into the ordinance, by a vote of 6 to 0.

Speakers: None

CLOSED PUBLIC HEARING

MOTION: to approve the rezoning to Planned Development District (PD) as recommended by Planning and Zoning Commission and as presented

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

OR3. OR05-2019-24

AN ORDINANCE AUTHORIZING THE RELEASE OF INTEREST DUE ON LIENS FILED AGAINST THE PROPERTY LOCATED AT 808 BARBER AVE, ACCUMULATED SINCE ORIGINAL REQUEST BY PREVIOUS PROPERTY OWNER GRANTED BY OR03-2018-

22 ON MARCH 13, 2018, AS REQUESTED BY THE GARZA GROUP CUSTOM HOME AND REAL ESTATE.

Person presenting this item: Shelly Doty, City Secretary

BRIEF: At the March 13, 2018 meeting the council granted the request of the previous owner of the property located at 808 Barber Ave, Ms. Juana Facundo, to release the accumulated interest on several liens (5 mowing and 1 demolition) held by the City against the property. On March 19, 2019, the Garza Group Custom Home and Real Estate purchased the property from Ms. Facundo. Since the time of the original request an additional, \$857.21 in interest has accumulated. The new owner, the Garza Group has paid the full amount due for the liens, \$7,244.00 and is asking the council consider releasing the additional interest that has accumulated. A building permit for construction has been pulled on this location.

MOTION: to approve as presented

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

OR4. OR05-2019-25
AN ORDINANCE APPROVING AN ENCROACHMENT INTO THE PUBLIC RIGHT-OF-WAY ON THE NORTH/SOUTH ALLEY ABUTTING LOT 1B, 2B, 1A1, AND 2A1, BLOCK 5, ORIGINAL CLEBURNE, ALSO KNOWN AS 104 S MAIN ST; AS REQUESTED BY PROPERTY OWNER FERNANDO RODRIGUEZ.

Person presenting this item: Cheryl Taylor, City Engineer

BRIEF: Fernando Rodriguez, has requested to encroach into the public alley right of way abutting the property located at 104 S. Main St. The applicant proposes to open a restaurant in the 104 S. Main St. building with an outdoor patio area. The original request was for the abandonment of the alley for construction of a grease trap. Staff contacted private utility companies and received information that both Atmos and AT&T have utilities located within the alley, as well as power poles owned by the electric provider. Because the full width of the alley is encumbered with city utilities as well as gas, electric and telephone easements, the applicant revised the request to an encroachment, as abandonment is not a viable option at this time.

There are four existing drive approaches that provide access to the Johnson County parking lot on the south side of the alley. Staff has recommended the applicant coordinate with Johnson County, the owner of the parking lot and the building abutting the western half of the alley regarding alternate ingress and egress for the parking lot. Traffic control will be required at either end of the proposed patio area for the safety of restaurant patrons.

MOTION: to authorize the City Manager to negotiate and execute an encroachment agreement with the property owner with restrictions discussed by the City Council, that he obtains a resolution of support from Johnson County, that steps be taken to secure traffic safety, and as long as the property is used for restaurant purposes

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

OR5. OR05-2019-26
AN ORDINANCE APPROVING THE ABANDONMENT OF PUBLIC RIGHT-OF-WAY BISECTING LOTS 2-6, BLOCK 175, ORIGINAL CLEBURNE, ALSO KNOWN AS 1308 CHASE ST; AS REQUESTED BY PROPERTY OWNER JERRY FOX.

Person presenting this item: Cheryl Taylor, City Engineer

BRIEF: Jerry Fox has requested to abandon the right of way bisecting the property at 1308 Chase Street. The abandonment is in support of the redevelopment of the property into multiple residential lots. The right of way was originally dedicated to provide an extension of Horton Street from the west. However, the property to the east is owned by Emmanuel Seventh Day Adventist Church and does not include a roadway for Horton Street to connect.

There is an existing 60-inch storm drainage pipe within the right of way to be abandoned which serves the neighborhood between Chase Avenue and the BNSF railroad facility. A drainage easement shall be retained with this abandonment for access and maintenance to the public storm drain. Staff contacted private utility companies and received no objections to the request.

MOTION: to approve as presented

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

WORKSHOP

- I. Discuss Mayor’s Town Hall meeting scheduled for May 23, 2019 – Scott Cain

EXECUTIVE SESSION

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.**

The City Council went into Executive Session at 5:15 p.m.

CALL TO ORDER: The Presiding Officer shall call the Executive Session to order as authorized by Vernon's Texas Codes Annotated, Government Code, Title 5. Open Government Ethics, Subchapter D., Exceptions to Requirement that Meetings be open; as per following sections:

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) Cause No. D-1-GN-16-005692, City of Cleburne, Texas and Johnson County, Texas vs. Texas Commission on Environmental Quality, in the 126th District Court, Travis County, Texas, and said cause is on appeal to the Third Court of Appeals in Austin, Texas in Cause No. 03-18-00711-CV
- ~~2) Cause No. D-1-GN-005686, City of Cleburne, Texas and Johnson County, Texas vs. Texas Commission Environmental Quality, in the 353rd District Court of Travis County, Texas~~
- ~~3) Cause No. DC C201800880, City of Cleburne, Texas and Johnson County, Texas vs. Harrington Environmental Services, LLC, in the 18th District Court, Johnson County, Texas~~

ADJOURN: The Presiding Officer adjourned the Executive Session of Tuesday, May 14, 2018 at 5:55 p.m.

THE PRESIDING OFFICER ANNOUNCED THE RECONVENING OF THE REGULAR MEETING SESSION.

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

*no action taken

ADJOURNMENT

ADJOURNED AT: 7:01 p.m.

APPROVAL OF MINUTES

APPROVED BY MAJORITY VOTE OF COUNCIL ON: MAY 28, 2019