



CITY COUNCIL REGULAR MEETING MINUTES
OCTOBER 11, 2022 @ 5:00PM
CITY HALL COUNCIL CHAMBERS
10 NORTH ROBINSON STREET, CLEBURNE, TX 76031

I. ROLL CALL AND CALL TO ORDER BY MAYOR PRO TEM at 5:00 pm

City Council:

- X 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 Pastor Dean Elliott, Cleburne Bible Church

III. PLEDGE OF ALLEGIANCE

IV. ~~CITY SECRETARY READS THE GUIDELINES TO SPEAK BEFORE COUNCIL~~
Mayor Pro Tem Boedeker 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.

Arvie Millsap, owner of Millsap Appliance Repair at 1502 North Main Street, spoke about the ticket he received from Code Enforcement for salvage appliances being stored outside the business. Mr. Millsap requested leniency in this matter since he uses the parts from the salvage equipment for repair service calls and added it is the only business in town who will take old appliances.

Mayor Pro Tem Boedeker stated he would reach out to staff and see what could be done to help with this situation.

VI. COMMUNITY INTEREST MATTERS, ANNOUNCEMENTS, PRESENTATIONS

CONSENT AGENDA

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 SEPTEMBER 27, 2022 REGULAR COUNCIL MEETING.

RS1. RS10-2022-134 CONSIDER A RESOLUTION CONSENTING TO THE EXTENSION OF THE DECLARATION OF LOCAL DISASTER UNTIL OCTOBER 25, 2022.

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 October 25, 2022 at 11:59 p.m. central daylight time.

RS2. RS10-2022-135 CONSIDER A RESOLUTION AUTHORIZING A 4-YEAR SUBSCRIPTION WITH THE NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS FOR NEARMAP ORTHOPHOTOGRAPHY AND OBLIQUE IMAGERY FOR AN AMOUNT NOT TO EXCEED \$63,800.

Presented by: David Raybuck, Director of Information Technology

Summary: Orthophotography (aka aerial imagery) is used by multiple divisions to aid map-based decision-making. Historically, the City has purchased this from the North Central Texas Council of Governments (NCTCOG) every 2 years to ensure current photos are capturing recent development and the next update is this year. However, NCTCOG now offers a new product that is a better option for the City called Nearmap. Nearmap imagery is higher-resolution and is updated 2 to 3 times per year instead of once every 2 years, so it is much more current than the previous product. Additionally, it is a hosted/cloud service which avoids the need to process and store these large files on City server/network infrastructure. The not to exceed amount of \$63,800 includes a 10% contingency of \$5,800 to cover the base cost of \$58,000 with an annual payment of \$14,500 for the 4-year term. This will be purchased through an interlocal agreement with NCTCOG to meet competitive purchasing requirements.

RS3. RS10-2022-136 CONSIDER A RESOLUTION AUTHORIZING THE PURCHASE OF DESIGO HEATING/AIR CONDITIONING AUTOMATION SOFTWARE AND IMPLEMENTATION SERVICES FROM SIEMENS INDUSTRY, INC. IN AN AMOUNT NOT TO EXCEED \$98,827.

Presented by: David Raybuck, Director of Information Technology

Summary: The City uses building automation software to centrally manage the air temperatures of the Conference Center, Booker T. Washington Community & Recreation Center, Municipal Court, Police/Library, Senior Center, City Hall, and Municipal Services facility which includes Utility Billing, Housing, and Parks and Recreation. The current solutions must be replaced, as they are many years past their end-of-life dates and are no longer supported by the manufacturers. This will authorize the purchase of new software and implementation services by Siemens Industry, Inc., and will also bring the Conference Center into the same solution as the

other locations. This will be purchased via Sourcewell Cooperative Contract #030421-SIE to meet competitive purchasing requirements. The not-to-exceed amount of \$98,827 includes a 7.6% contingency of \$6,997.

RS4. RS10-2022-137 CONSIDER A RESOLUTION AUTHORIZING A CHAPTER 380 ECONOMIC DEVELOPMENT AGREEMENT WITH LAW OFFICE OF ROBERT WARD UNDER THE TERMS OF THE FAÇADE IMPROVEMENT INCENTIVE PROGRAM FOR PROPERTY LOCATED AT 15 NORTH MAIN STREET.

Presented by: Grady Easdon, Economic Development Manager

Summary: Mr. Ward has submitted an application under the terms of the City’s Façade Improvement Incentive program seeking funding for upgrades and repairs to exterior street-facing facades on his property located at 15 North Main Street. The scope of work includes replacement of the existing windows on Main Street with four 4-foot by 6-foot thermal bronze storefront windows with low-E tempered glass and framing to match upgrades and repairs done in March of 2021 on the Henderson Street side. Also included is replacement of the window and framing on the Henderson Street side of the building that was recently damaged by a vehicle collision at the northeast corner. The structural repair work to be done as a result of the collision will be done by another contractor and is not included in the Binswanger estimate or the Façade Grant application. Under the terms of the Façade Improvement Incentive Program, up to 50% of eligible project costs are reimbursable up to a maximum of \$5,000. Total cost of the improvements on this project is estimated at \$14,621, therefore \$5,000 would be the maximum match by the City. Should this request be approved, there will be \$40,000 in remaining funds for other such projects for FY 2023.

MOTION: to approve as presented in its entirety

	Motion	Second	Aye	No	Abstain	Absent		Result
Weathers		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					Roll Call

ACTION AGENDA

OR1. OR10-2022-72 *PUBLIC HEARING* CONSIDER AN ORDINANCE APPROVING A SPECIFIC USE PERMIT (SUP) FOR AN OUTSIDE STORAGE YARD FOR A STEEL PIPE AND SITE SERVICES COMPANY ON ±7.87 ACRES, ZONED RC (REGIONAL COMMERCIAL DISTRICT) AND LOCATED AT 3416 N. MAIN STREET, CASE ZC22-021.

Presented by: David Jones, Community Development Director

Summary: The applicant, Nelson Mejia, has submitted a request for a Specific Use Permit (SUP) authorizing an outside storage yard for a steel pipe and site services company located at 3416 N. Main Street. The applicant is proposing to utilize the existing buildings on-site for the business, including an on-premise residence, a maintenance shop for equipment and valves, and storage of tools and other equipment. The applicant has provided a letter of intent and site plan detailing the proposed business and associated outside storage yard.

The Planning and Zoning Commission considered this request at their September 26, 2022 meeting and recommended approval by a vote of 5-0 with the following condition:

- That the fence along the highway (N. Main Street) meet the screening requirement to be opaque.

The proponent Don McLaughlin was available and answered questions of the Council.

Mayor Pro Tem Boedeker opened the public hearing, and with no speakers, the public hearing was closed.

MOTION: to approve as presented with the condition the screening be opaque as recommended by the Planning & Zoning Commission

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

OR2. OR10-2022-73 *PUBLIC HEARING* CONSIDER AN ORDINANCE APPROVING A SPECIFIC USE PERMIT (SUP) FOR A TATTOO STUDIO ON ±0.06 ACRES, ZONED RC (REGIONAL COMMERCIAL DISTRICT) IN THE DOWNTOWN CORE OVERLAY, LOCATED AT 103 EAST HENDERSON STREET, CASE ZC22-023.

Presented by: David Jones, Community Development Director

Summary: The applicants, Malenna Watrak and Chanler Hobbs, have submitted a request for a Specific Use Permit (SUP) for a tattoo studio located in Downtown at 103 East Henderson Street. In addition to offering tattoo services, permanent cosmetics will also be offered within the establishment. The applicant has provided a letter of intent and conceptual floor plan detailing the proposed business, The Painted Rose.

The Planning and Zoning Commission considered this request at their September 26, 2022 meeting and recommended approval by a vote of 5-0.

Mayor Pro Tem Boedeker opened the public hearing and invited those who registered to speak to come forward.

Chanler Hobbs, owner of The Painted Rose spoke concerning their business model and practices.

Brian Bartolowitz is the owner of the building and spoke in favor of the zoning request and the business being considered.

Heather Cross, an employee of the business, submitted a speaker registration card but declined to speak.

With no further speakers, the public hearing was closed.

MOTION: to approve as presented

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

OC1. *PUBLIC HEARING* CONSIDER APPROVING THE REPLAT OF RENDON ADDITION, FOR 2 SINGLE-FAMILY RESIDENTIAL LOTS WITH A VARIANCE REQUEST, BEING ±0.577 ACRES, LOCATED AT 1003 GRANBURY STREET, CASE PC22-068.

Presented by: David Jones, Community Development Director

Summary: The applicant withdrew the request prior to the Planning and Zoning hearing on September 26th. Because public notices were already mailed advertising the public hearing, the item is included on the agenda. No action is requested.

Mayor Pro Tem Boedeker opened the public hearing, and with no speakers, the public hearing was closed and no formal action taken.

BQ1. CONSIDER AUTHORIZING THE PURCHASE OF SECURITY CAMERAS AND INSTALLATION SERVICES FROM TODO VERDE, LLC IN AN AMOUNT NOT TO EXCEED \$90,712 FOR THE WATER AND WASTEWATER TREATMENT PLANTS.

Presented by: David Raybuck, Director of Information Technology

Summary: The City uses security cameras to assist in crime prevention/prosecution, frivolous lawsuit defense, and employee/public safety. This will authorize the purchase of security cameras to replace the old, failing systems at our water and wastewater treatment plants. This will be purchased via TIPS USA contract 210602 to meet competitive purchasing requirements. The not-to-exceed amount of \$90,712 includes a 9% contingency of \$7,462, and is as follows:

- Water Treatment Plant - \$54,809
- Wastewater Treatment Plant - \$35,903

MOTION: to approve as presented

	Motion	Second	Aye	No	Abstain	Absent		Result
Weathers			X				X	Approved as presented
Boedeker			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>					<i>Roll Call</i>

RS5. RS10-2022-138 CONSIDER A RESOLUTION AUTHORIZING MULTIPLE CONTRACTS FOR ANNUAL SUPPLY OF WATER TREATMENT CHEMICALS, AND RESERVING THE OPTION TO PURCHASE FROM SECONDARY SUPPLIERS PURSUANT TO TEXAS LOCAL GOVERNMENT CODE 252.022(2).

Presented by: Jeremy Hutt, Director of Public Works

Summary: Staff has solicited bids for the chemicals that are used in the operation of the water utilities. Several companies submitted bids to provide the chemicals at various rates. No single bidder submitted a bid to provide all required chemicals. The chart below shows the vendors for each of the chemicals. Primary and secondary vendors are being recommended to ensure consistent supply and best cost to provide the city multiple options to acquire the necessary chemicals in a timely manner.

Item Description	Bidder Name	Item Cost
Chlorine Liquefied Gas	DPC Industries	\$2,295.40 per ton
Liquid Ammonium Sulfate 40%	Chemtrade	\$2.17 per gal.
Cationic Polymer	Clear Water Labs	\$0.88 per lb.
<i>Cationic Polymer*</i>	<i>SNF Polydyne.*</i>	<i>\$0.89 per lb.*</i>
Potassium Permanganate	Chemrite	\$2.68 per lb.
<i>Potassium Permanganate*</i>	<i>Shannon Chemical Corp*</i>	<i>\$3.47 per lb.*</i>
Powder Activated Carbon	Chemrite	\$1.65 per lb.
Liquid Ferric Sulfate (FES04)	Chemtrade	\$322.00 per wet ton
<i>Liquid Ferric Sulfate (FES04)*</i>	<i>Pennco Inc*</i>	<i>\$322.00 per wet ton*</i>
Sodium Bisulfite	Southern Ionics	\$.183 per wet lb.
Quicklime	Texas Lime Co	\$220.00 per short ton
<i>*Secondary Supplier if primary supplier is unable to provide chemicals</i>		

The agreements will have a term of October 1, 2022 through September 30, 2023. The proposed resolution authorizes the City Manager to execute agreements as needed with each of the vendors.

MOTION: to approve as presented

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

RS6. RS10-2022-139 CONSIDER A RESOLUTION AUTHORIZING A CONTRACT WITH R&D BURNS BROTHERS, INC., FOR THE 2022-23 WATER, SEWER AND STREET RENEWAL PROJECT IN THE AMOUNT OF \$5,427,130, AUTHORIZING THE CITY MANAGER TO EXECUTE ANY SUBSEQUENT CHANGE ORDERS, AND ESTABLISHING A TOTAL CONSTRUCTION BUDGET AMOUNT NOT TO EXCEED \$5,700,000.

Presented by: Jeremy Hutt, Director of Public Works

Summary: The 2022-23 Water, Sewer and Street Renewal Project will continue the City’s commitment to replacing aging utility infrastructure in order to provide a better quality of service to citizens. The project includes the reconstruction of approximately 9,000 linear feet of water and sewer lines in multiple locations, followed by pavement repair and restoration of the streets. The locations include portions of Anglin Street, Euclid Street, Turner Street, George Street, Kouns Street, Wilhite Street, Wilson Street and Whitenack Street.

The project was posted and advertised for bids, and opened on September 16, 2022. Three bids were received, with R&D Burns Brothers, Inc., being the apparent low offer.

R&D Burns Brothers, Inc. meets the minimum qualifications required by the contract and successfully completed the water and sewer renewals done in Cleburne in 2021, as a subcontractor to TexBIT. This project has a construction duration of 370 days. The proposed resolution will award the contract in the amount of \$5,427,130 to R&D Burns Brothers, Inc., authorize the City Manager to execute the contract documents, and authorize the City Manager to utilize contingency funds in the amount of \$272,870 (5%) to execute change orders and provide construction testing services that may be required in order to complete the project, establishing a total construction budget of \$5,700,000.

Funding for this contract comes from several sources, including \$3,750,000 in FY23 in the Utility Fund for Water and Sewer Renewals. This \$3.75M funding includes \$1M budgeted for the Euclid/Granbury and Franklin W&S renewals in FY22, and \$2M budgeted for 2022 W&S Renewals in FY22, both of which have been carried forward to FY23 funding, plus \$750,000 from FY23 funding for Water and Sewer Renewals. The street renewal portion of the project is funded using \$1,950,000 from Street Reconstruction funding (\$1M from FY22 and \$950,000 from FY23) available in the Capital Fund.

MOTION: to approve as presented

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

DISCUSSION & UPDATES

OC2. UPDATE ON THE 2022 CURRENT DROUGHT CONDITIONS AND POSSIBLE AMENDMENTS TO THE WATER CONSERVATION AND DROUGHT CONTINGENCY PLAN.

Presented by: Jeremy Hutt, Director of Public Works

Summary: Staff will provide City Council with an update on the current drought conditions and discuss possible amendments to the drought response.

Precipitation in the region has been significantly below normal for the past 12 months (~12”) and the City of Cleburne entered Stage I Drought Response in February 2022. Springs rains resulted in only 36% of the normal rainfall, and therefore, the City entered Stage II Drought Response in August 2022. There was no rainfall from June 4th to August 9th (67 days). There was approximately 11” of rainfall in August, but was absorbed by the soil and made no difference in the lake level. Another dry period, from September 5th to October 10th, marked 36 days with no rain. As of October 10th, Lake Pat Cleburne measured at 53.1% full. Stage I and II are considered a mild drought, and without significant rainfall in the next few weeks, the City will be elevated to Stage III Drought Response, which is considered moderate drought.

The Lake is performing as intended and is serving its primary function, a raw water source for the City of Cleburne Water Utility and the Water Utility receives raw water from Lake Aquila, which is experiencing fewer impacts from the drought. The Brazos River Authority reports there is 74% of the system total as of October 5th, with Lake Aquilla at 66% capacity. Current forecast assumes minimum inflows and high evaporation through November 30th, which indicates 66% system total with Lake Aquilla at 59% capacity.

The City of Cleburne continues to experience drought conditions (record heat and below normal precipitation), and Lake Pat Cleburne water levels are continuing to decline. Stage II - Winter Restrictions include a prohibition of irrigation for the winter months (November to February and a proposed change is to include March) and will be enacted on November 1, 2022. If the lake level reaches 723.7’ (50% capacity), the City will transition to Stage III response, which restricts all outdoor watering, resulting in no irrigation use and removes the allowance for hand watering of landscaping. Stage III is similar to Stage II with Winter Restrictions in place and impacts both residential and commercial properties.

Proposed amendments to the plan clarifies swimming pool restriction, removal of fire hydrant flush from a restricted activity and expands winter restriction to include March, and clarifies Stage III restriction. The City has no record of ever reaching Stage III drought. This is the longest dry spell on record. While the City does not want to restrict water use in businesses, the goal is to conserve water uses for drinking water.

Communication efforts to educate the public on restrictions will be on the website, press releases, social media posting, and postcard notices sent to all water customers.

This item is informational in nature with no formal action taken.

Mayor Pro Tem Boedeker recessed the Regular Council Meeting at 6:21 pm to discuss items legally posted and discussed in executive session.

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)
- EXE2.** Discuss extension, operation and termination of Tax Increment Reinvestment Zone 2
- EXE3.** Discuss status of claims filed regarding the incident that occurred on November 11, 2021 involving a City of Cleburne ambulance unit.
- EXE4.** Discuss pending litigation: US District Court Civil Action No. 3:22-cv-01483-X, Aaron Urbanski
- EXE5.** Update on claim for Mary Marin vs. City of Cleburne that occurred on July 31, 2018

Mayor Pro Tem reconvened into open session at 6:50 pm and no formal action was taken resulting from items legally discussed in Executive Session.

ADJOURNMENT

ADJOURNED AT: 6:50 PM

APPROVAL OF MINUTES

APPROVED BY MAJORITY VOTE OF COUNCIL ON: NOVEMBER 8, 2022

CITY OF CLEBURNE

Scott Cain, Mayor

ATTEST

Ivy Peterson, City Secretary