



REGULAR CITY COUNCIL MEETING MINUTES
AUGUST 12, 2008
7:00 PM
CITY HALL COUNCIL CHAMBERS
10 NORTH ROBINSON

I. ROLL CALL AND CALL TO ORDER BY MAYOR @ 7:00 PM

City Council:

- ✓ Ted Reynolds, Mayor
- X Kyle Boles, Mayor Pro Tem
- ✓ Dr. Bob Kelly, SMD 1
- ✓ Robert Force, SMD 3
- ✓ John Warren, SMD 4

Administration:

- ✓ Chester Nolen, City Manager
- ✓ Adam Miles, Assistant City Manager
- ✓ Shelly Doty, City Secretary
- ✓ Ivy Peterson, Deputy City Secretary
- ✓ Wade Adkins, City Attorney

Division Directors:

- ✓ Jerry Cash, Economic Development
- ✓ David Esquivel, Public Works
- ✓ Bonita Hall, Human Resources
- ✓ Rick Holden, Public Services
- ✓ Clint Ishmael, Fire Services
- ✓ Donna Jackson, Development Services
- ✓ Terry Powell, Police Services
- ✓ Max Robertson, Parks & Recreation
- ✓ Greg Wilmore, Finance

Department Heads:

- ✓ Kim Galvin, Budget & Purchasing
- ✓ Ann Powell, Planning & Zoning

Media:

- ✓ Matt Smith, Times-Review
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II. INVOCATION by Rev. Willie Stevenson, First Mt. Zion Baptist Church

III. PLEDGE OF ALLEGIANCE

IV. CEREMONIAL MATTERS

City Manager Employee Commendation: Barry Hardeman
Matt Slaughter
Mikel Moore

V. CITY SECRETARY READ THE GUIDELINES TO SPEAK BEFORE COUNCIL

CONSENT ITEMS

C1. MINUTES

APPROVAL OF MINUTES FOR THE JULY 22, 2008 REGULAR COUNCIL MEETING.**BQ1.****AWARD BIDS FOR THE ANNUAL SUPPLY OF WATER TREATMENT CHEMICALS.**

Person presenting this item: Kim Galvin, Budget and Purchasing Manager

BRIEF: Sealed bids were received and opened on July 23, 2008 from the vendors below. Staff recommendations for awarding bids are as follows:

Item Description	Bidder Name	Item Cost	Current Cost
Item 1 - Liquid Ferric Sulfate	General Chemical	\$320.00 per ton	\$160.00 per ton
Item 2 - Sodium Bisulfite	Calabrian	\$1.94 per gallon	\$0.84 per gallon
Item 3 - Activated Carbon	F2 Industries	\$29.60 per bag	\$23.80 per 40 lb bag
Item 4 - Potassium Permanganate	JLM Industries	\$2.09 per pound	\$1.85 per pound
Item 5 - Bulk Quick Lime	Texas Lime	\$115.30 per ton	\$110.00 per ton
Item 6 - Chlorine Liquefied Gas	DPC Industries	\$546.00 per ton	\$536.79 per ton
Item 7 - Anhydrous Ammonia	DPC Industries	\$1,300.00 per ton	\$968.64 per ton

BQ2.**RESCIND REMAINDER OF PURCHASING CONTRACT FOR STREET MATERIALS WITH APAC-TEXAS.**

Person presenting this item: Kim Galvin, Budget and Purchasing Manager

BRIEF: APAC-Texas is currently the supplier for black base and hot mix (contract renewed April 8, 2008). Due to severe, unforeseen market volatility, and the bankruptcy of a liquid asphalt supplier, APAC-Texas will not be able to meet current bid prices. Since February, liquid asphalt prices have increased \$350 per ton.

The city staff will now request quotes for these materials from three competing suppliers. As no bids were received for any of the other street materials, all street materials will now be purchased using competitive quotes.

RS1.**WITHDRAWN****A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A RIGHT OF WAY AND EASEMENT AGREEMENT WITH TEXAS MIDSTREAM GAS SERVICES, LLC TO INSTALL AND OPERATE A PIPELINE FOR THE TRANSPORTATION OF OIL, GAS, PETROLEUM PRODUCTS, WATER OR OTHER LIQUIDS OR GASES AND RELATED APPURTENANCES THAT WILL BE REFERENCED AS THE EAST LAKE LOOP PIPELINE.****RS2.****RS08-2008-43****A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A LEASE AGREEMENT WITH FRAKES AVIATION FOR HANGARS #98**

AND #99 AT THE CLEBURNE MUNICIPAL AIRPORT.

Person presenting this item: Rick Holden, Director of Public Services

BRIEF: Both previous lease agreements expired at the end of July 2008. Mr. Frakes desires to maintain his business at the airport and to negotiate new lease agreements.

RS3. RS08-2008-44

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AND NEGOTIATE A CONTRACT WITH SIEMENS BUILDING TECHNOLOGIES, INC. FOR THE IMPLEMENTATION OF A PERFORMANCE CONTRACTING PROGRAM WITH A COST NOT TO EXCEED \$64,500.00.

Person presenting this item: Kim Galvin, Budget and Purchasing Manager

BRIEF: The Performance Contracting Program will be designed to improve system infrastructure and operational efficiencies for City facilities. This first stage will include an audit of the water meters, HVAC, lighting, buildings, water and wastewater treatment plants and water fixtures. If there are sufficient savings discovered through the audit, a presentation will be made to the City Council to determine the direction the program will take based on the audit findings. If the City Council determines that moving forward is in the best interest of the City, the costs of the audit can be rolled over into the financing developed for the program.

RS4. RS08-2008-45

A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT FOR THE LEASE/PURCHASE OF FIVE (5) MONITORS/DEFIBRILLATORS WITH PHILLIPS MEDICAL IN THE AMOUNT OF \$110,692.35.

Person presenting this item: Kim Galvin, Budget and Purchasing Manager

BRIEF: The Cleburne Fire Department currently utilizes five (5) Physio-Control, Inc monitors and defibrillators. These five units have been in service from five to eleven years. In 2000 and 2005 the FDA issued warnings to Physio-Control, Inc for manufacturing and unit service violations. In 2006, the FDA placed restriction on Physio-Control Inc's new sales due to additional violations. In 2008 the FDA issued an additional decree severely limiting the manufacture and distribution of the LIFEPAK series monitor/defibrillators, again due to additional violations.

Shortly after the issue of this FDA decree in 2008, the Cleburne Medical Director, Dr. Michelle Beeson, sent a memo to the Fire Chief strongly recommending deploying a new monitor/defibrillator. Not only was there some concern over Physio-Control, Inc, but there was additional concern that the current units no longer met the Standard of Care in EMS practices. Currently our monitors/defibrillators are monophasic and the Standard of Care recommends biphasic.

Upon receipt of this information from the Medical Director, the Cleburne Fire Department formed a committee to evaluate EKG units from several manufacturers. After a six week evaluation period, the committee recommended the Philips unit. This unit is biphasic and meets or exceeds all current Stand of Care EMS practices, thus enhancing the Fire Department’s ability to save citizen’s lives. As we know, time is of the essence when a heart attack occurs, and this unit will give the firefighters the ability to send EKG information to the receiving ER so that care can be established at the earliest possible second.

The 2007-2008 budget includes \$30,000.00 for the purchase of a monitor/defibrillator. Philips has offered a lease purchase package for a \$150.00 fee and no interest. This lease purchase option includes three annual payments which will begin when the new units are delivered. The 2007-2008 payment will be \$25,000.00. The 2008-2009 payment will be \$60,000.00. The 2009-2010 payment will be \$25,692.35.

OC1.
APPROVAL OF ACCOUNTS PAYABLE FOR THE MONTH OF JULY 2008.

Person presenting this item: Greg Wilmore, Director of Finance

MOTION: to approve with the exception of RS1 which was withdrawn

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

RESOLUTIONS

RS5. WITHDRAWN
A RESOLUTION ACKNOWLEDGING CITY/COUNTY TRANSPORTATION SERVICES (CLETRAN) RATE CHANGES.

RS6. RS08-2008-46
A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AN AGREEMENT FOR THE PURCHASE OF 3/4 INTEREST IN PROPERTY FOR FUTURE CONSTRUCTION OF FIRE STATION #4.

Clint Ishmael, Fire Chief stated that this property has been selected as the site for fire station #4. The property is owned by four individuals with undivided interest in the property. Three of the individuals have been contacted and are willing to sell their interest in the property. The City is

attempting to contact the fourth owner to purchase the remaining ¼ interest. Staff recommends approval of the purchase of ¾ interest of the property.

Speakers: Bill Earley spoke against this item

MOTION: to approve as presented

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

RS7. RS08-2008-47

A RESOLUTION OPPOSING THE CONTINUED PREEMPTION OF MUNICIPAL REGULATION OF CERTAIN INTRA-STATE GAS UTILITIES; URGING LEGISLATIVE ACTION TO PERMIT GREATER LOCAL REGULATORY OVERSIGHT.

David Esquivel, Interim Director of Public Works stated that we have received notice from another municipality that, in general terms, some gas utility (pipeline) operators have been securing easements from residents under the threat of eminent domain and by performing construction without the support of barricades or the implementation of sound mitigation measures. Recognizing the legal constraints established by state law that severely restrict the municipal regulation of gas utility (pipeline) companies, municipalities are by resolution, soliciting the aid of the Texas Legislature in this matter.

MOTION: to approve as presented

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

RS8. RS08-2008-48

A RESOLUTION AUTHORIZING EXPENDITURE OF ADDITIONAL FUNDS NECESSARY FOR INTERSECTION IMPROVEMENTS AT HWY 171 (WEATHERFORD HWY) AND WINDMILL ROAD PURSUANT TO ARTICLE 9 OF TEXAS DEPARTMENT OF TRANSPORTATION ADVANCE FUNDING AGREEMENT #02-7XXF6028, AS AUTHORIZED BY RS05-2007-21 ON MAY 8, 2007.

Chester Nolen, City Manager stated that on March 13, 2007 Council approved Kimley-Horn Associates to perform engineering and design of the Hwy. 171 and Windmill Road traffic signal and intersection improvements. On May 8, 2007, Council authorized the City Manager to negotiate and execute an advance funding agreement with TxDOT. Kimley-Horn & Associates estimated City's costs at \$248,240.00. Schlumberger and Key Energy made a one-time donation for a total of \$275,000.00. After the plans were submitted, TxDOT required additional pavement work enlarging the scope of the project and increasing the costs significantly. Bids have been submitted to TxDOT with the low bidder being \$525,000.00. TxDOT requires \$49,362.27 for review and project management. The funds will come from savings on previous projects. Per the advance funding agreement, the City is responsible for 100% of the project.

MOTION: to approve as presented

	Motion	Second	Aye	No	Abstain	Absent		Result
Kelly		X	X				X	Approved as presented
Boles						X		Approved as amended
Force	X		X					Denied
Warren			X					Withdrawn
Reynolds			X					Postponed until:
X	Motion Carried		Motion Failed					Roll Call

ORDINANCES

***OPENED PUBLIC HEARING**

OR1. OR08-2008-50

AN ORDINANCE REZONING 604 FORREST AVENUE FROM SF-4 (SINGLE FAMILY DWELLING DISTRICT) TO SF-4/H (SINGLE FAMILY DWELLING DISTRICT/HISTORIC LANDMARK), AS REQUESTED BY BARBARA SUE HUNDLEY.

Donna Jackson, Director of Development Services stated that the Historic Preservation Commission considered this request at their June 18th meeting and the Planning and Zoning Commission at its July 14th meeting. Notice was given as required by State law and the property owners within 200 feet were notified. We have received inquiries but no objections. P&Z recommended approval by a vote of 6-0.

Speakers: none

***CLOSED PUBLIC HEARING**

MOTION: to approve as presented

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

Boles						X	Approved as amended
Force		X	X				Denied
Warren	X		X				Withdrawn
Reynolds			X				Postponed until:
X	<i>Motion Carried</i>		<i>Motion Failed</i>				<i>Roll Call</i>

OR2. DENIED

AN ORDINANCE APPROVING A SIGN VARIANCE PERMITTING A MONUMENT SIGN IN AN "SF-4" RESIDENTIALLY ZONED AREA LOCATED AT 303 N. HYDE PARK BLVD, AS REQUESTED BY VILLAS AT HENDERSON PLACE APARTMENT HOMES.

Donna Jackson, Director of Development Services stated that this request for a monument sign to be located at 303 N. Hyde Park Blvd was denied at the July 8, 2008 City Council meeting. The applicant has recently met with staff to discuss the proposed location of the sign. The application has submitted additional information showing detailed measurements of the exact location. As stated before, this property has a dual zoning of "SF-4" Single Family Dwelling District and "MF" Multi-Family with the portion adjacent to Hyde Park being zoned "SF-4" with the proposed location of the sign being in the "SF-4" district. According to Section 156.07 Monument Signs are not allowed in "SF-4". The applicant does not have any permanent identifying sign at this time.

Speakers: Paul Fulks, proponent’s representative, spoke in favor of this item

MOTION: to deny

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

OTHER COUNCIL MATTERS

OC2.

SET A PUBLIC HEARING ON THE 2008 TAX RATE AS REQUIRED BY SECTION 5.05 OF THE TAX CODE, ALSO KNOWN AS "TRUTH-IN-TAXATION".

Greg Wilmore, Director of Finance stated that this is the first step in the Truth-in-Taxation process that is necessary when a proposed rate (\$.62/\$100 Valuation) exceeds the effective rate (\$.58246). The taxing unit's governing body must vote to place a proposal to adopt the rate on the action agenda of a future meeting. This vote must be recorded and the proposal must specify the proposed rate. If the motion passes, the governing body must schedule two public hearings on the proposal. Staff suggests that the first public hearing be the regular council meeting of August 26, 2008 and the

second public hearing would be a special called meeting on September 2, 2008. Both meetings would be at 7 P.M. in City Hall, 10 North Robinson, Cleburne, TX. This action would meet all requirements of the law.

MOTION: to set public hearings for August 26 and September 2 at 7:00 p.m.

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

OC3.

APPOINTMENT TO THE PLANNING & ZONING COMMISSION.

Donna Jackson, Director of Development Services stated that Cliff Holden's first term expires August 8, 2008. Mr. Holden has advised that due to meeting time conflicts with his employer, Burleson Independent School District, he will be unable to serve a second term. A replacement needs to be appointed effective August 9, 2008.

MOTION: to appoint Wayne Duke

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

CITIZENS COMMENTS

NONE

ADJOURNED AT: 7:45 p.m.

APPROVAL OF MINUTES

APPROVED BY MAJORITY VOTE OF COUNCIL ON: August 26, 2008

CITY OF CLEBURNE

Ted Reynolds, Mayor

ATTEST:

Shelly Doty, City Secretary