



REGULAR CITY COUNCIL MEETING MINUTES
SEPTEMBER 23, 2008
7:00 PM
CITY HALL COUNCIL CHAMBERS
10 NORTH ROBINSON

I. ROLL CALL AND CALL TO ORDER BY MAYOR @ 7:02 PM

City Council:

- ✓ Ted Reynolds, Mayor
- ✓ 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
- X Terry Powell, Police Services
- ✓ Max Robertson, Parks & Recreation
- ✓ Greg Wilmore, Finance

Department Heads:

- ✓ Kim Galvin, Budget & Purchasing
- ✓ Ann Powell, Planning & Zoning
- ✓ Kent Glover, Police Services

Media:

- ✓ Matt Smith, Times-Review
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II. INVOCATION by Dr. Robert Noel, Cleburne Baptist Temple Church

III. PLEDGE OF ALLEGIANCE

IV. CEREMONIAL MATTERS

V. CITY SECRETARY READ THE GUIDELINES TO SPEAK BEFORE COUNCIL

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. There will be no separate discussion of these items unless a Council Member or citizen so request. For a citizen to request removal of an item, a speaker card must be filled out and submitted to the City Secretary prior to the beginning of the meeting.

C1. MINUTES

APPROVAL OF MINUTES FOR THE SEPTEMBER 9, 2008 REGULAR COUNCIL MEETING.

RS1. RS09-2008-52

A RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW THE INTERLOCAL COOPERATION AGREEMENT WITH JOHNSON COUNTY FOR THE PROVISION OF JAIL SERVICES.

Person presenting this item: Kent Glover, Police Commander

BRIEF: Since 2001, the City of Cleburne has had an agreement in place with Johnson County for the incarceration of our Class C Misdemeanors. Incarceration of all other prisoners is provided for under other agreements and state statutes. This proposed new Interlocal Agreement is a renewal with no changes.

RS2. RS09-2008-53

A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CONTRACT RENEWAL WITH INTEGRATED FORENSIC LABORATORIES INC. TO PROVIDE CRIME SCENE ASSISTANCE ON MAJOR CASES, LAB ANALYSIS AND COURTROOM TESTIMONY.

Person presenting this item: Kent Glover, Police Commander

BRIEF: Staff is requesting renewal of this contract. The cost will remain the same at \$1,891.18 a month. The contract would be effective from October 1, 2008 to September 30, 2009.

RS3. RS09-2008-54

A RESOLUTION AUTHORIZING EXPENDITURE OF FUNDS RELATED TO INFRASTRUCTURE IMPROVEMENTS AT THE WAL-MART DISTRIBUTION CENTER; AS REQUESTED BY THE BOARD OF DIRECTORS OF TAX INCREMENT FINANCING ZONE #1.

Person presenting this item: Greg Wilmore, Director of Finance

BRIEF: The development agreement approved on August 28, 2001 with Wal-Mart stated that the City of Cleburne would reimburse the company for expenses related to the infrastructure improvements in TIF #1(industrial park) as property tax revenue become available. In your backup you have a cost breakdown of those improvements. In addition to the infrastructure payback the City of Cleburne incurred administrative cost associated with the public improvements. This payment of related cost will complete the sixth reimbursement to Wal-Mart. The other company that was due a reimbursement was Best Bio Fuels (then changed their name to Smithfield BioEnergy and on 5/21/08 sold to Beacon Energy). We are not asking for reimbursement for Smithfield (now Beacon) at this time as we have to get a copy of the contract for sale to know what assets were sold and/or retained by Smithfield. This part of the item will be brought back at a later date.

OC1.

APPROVE FINAL PLAT OF LOTS 1, 2 AND 3, BLOCK ONE, BLACKWELL ADDITION, LOCATED AT 1901 CR 312, BEING 11.325 ACRES IN THE CLEBURNE ETJ, REQUESTED BY TERESA J. BLACKWELL.

Person presenting this item: Donna Jackson Zimmerman, Director of Development

BRIEF: The Planning and Zoning Commission considered this request at its meeting of August 25, 2008. Notice was given as required by State law. We have received no objections. P&Z recommended approval by a vote of 7-0.

MOTION: to approve in its entirety

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

RESOLUTIONS

****OPENED PUBLIC HEARING***

RS4. RS09-2008-55

A RESOLUTION AUTHORIZING CITY/COUNTY TRANSPORTATION SERVICES (CLETRAN) RATE CHANGES.

Rick Holden, Director of Public Services stated that rates for City/County Transportation services have not been adjusted since 1991. Normal increases in operating costs and substantial fuel cost increases make these adjustments necessary. The City of Cleburne operates the system throughout the County. The services are funded through Federal and State appropriations along with County and local contributions from area cities.

Speakers: none

****CLOSED PUBLIC HEARING***

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	<i>Motion Carried</i>			<i>Motion Failed</i>				<i>Roll Call</i>

RS5. RS09-2008-56

A RESOLUTION ACCEPTING THE GUARANTEED MAXIMUM PRICE FROM HARRISON, WALKER AND HARPER FOR CONSTRUCTION OF THE CLEBURNE CONFERENCE CENTER IN THE AMOUNT OF \$9,417,758.00.

Adam Miles, Assistant City Manager stated that Harrison, Walker & Harper received bids for construction of the Civic/Convention Center and Theater Project (Cleburne Conference Center) and have submitted their guaranteed maximum price for construction of this project. The Cleburne 4B Economic Development Corporation considered and approved this amount at their regular meeting held Thursday, September 18, 2008. If approved, work will begin the week of October 1, 2008. The Cleburne 4B Economic Development Corporation has committed \$7,600,000.00 for the development of this project. The remainder of funds has been allocated from Fund 21. This is a joint project of the Cleburne 4B Economic Development Corporation and the City of Cleburne. The cost includes renovation of the existing Civic Center, construction of the theater, lobby area, and 10,000 square feet exhibition center as well as parking lot improvements.

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>

RS6. RS09-2008-57

A RESOLUTION AUTHORIZING THE CITY MANAGER TO RELEASE FUNDS TO TEXAS DEPARTMENT OF TRANSPORTATION AS ADDITIONAL FUNDS REQUIRED FOR THE CONSTRUCTION OF THE LEFT TURN LANE AT THE NEW TRAFFIC SIGNAL LOCATED AT HWY 171 AND WEST INDUSTRIAL BLVD.

David Esquivel, Director of Public Works stated that on February 7, 2007 Council authorized the Agreement to Contribute Funds with TxDOT for the addition of a left turn lane for the new traffic signal at Hwy 171 and Industrial Blvd. TxDot estimated costs at \$76,000. Bids have been received for the low bid amount of \$152,696.70 requiring an additional \$76,696.70 from the City.

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	Motion Carried		Motion Failed			Roll Call	

ORDINANCES

OR1. OR09-2008-61

AN ORDINANCE APPROVING A NEGOTIATED RESOLUTION BETWEEN THE ATMOS CITIES STEERING COMMITTEE AND ATMOS ENERGY CORP., MID-TEX DIVISION REGARDING THE COMPANY'S RATE REVIEW MECHANISM FILING IN ALL CITIES EXERCISING ORIGINAL JURISDICTION; DECLARING EXISTING RATES TO BE UNREASONABLE; ADOPTING TARIFFS THAT REFLECT RATE ADJUSTMENTS CONSISTENT WITH THE NEGOTIATED SETTLEMENT AND FINDING THE RATES TO BE SET BY THE ATTACHED TARIFFS TO BE JUST AND REASONABLE; APPROVING ATMOS' PROOF OF REVENUES.

Greg Wilmore, Director of Finance stated that the City of Cleburne, along with 150 other cities served by Atmos Energy Mid-Tex Division, is a member of the Atmos Cities Steering Committee. On April 14, 2008, Atmos filed with the City an application to increase natural gas rates pursuant to the Rate Review Mechanism tariff approved by the City earlier this year. The Company's April Rate Review Mechanism filing seeks a \$33.5 million rate increase. The City worked with the Steering Committee to analyze the schedules and evidence offered by Atmos to support its request to increase rates. The Ordinance and attached tariff approving rates that will increase the Company's revenues by \$20 million effective October 1, 2008, are the result of negotiation between the Steering Committee and the Company to resolve issues raised by the Steering Committee during the review and evaluation of the rate review mechanism filing. The monthly bill impact for the average residential customer is \$0.81. The Atmos Cities Steering Committee's Executive Committee recommends that all Steering Committee cities adopt the ordinance implementing the rate change.

*Mayor Reynolds filed a Conflict of Interest Affidavit and abstained from discussion and voting on 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	Motion Carried		Motion Failed			Roll Call	

***OPENED PUBLIC HEARING**

OR2. OR09-2008-62

AN ORDINANCE REZONING 207 EDGEWOOD LANE FROM SF4-SINGLE FAMILY DWELLING DISTRICT TO M2-HEAVY INDUSTRIAL DISTRICT, AS REQUESTED BY SHELLY SMAJSTRLA.

Donna Jackson, Director of Development Services stated that the Planning and Zoning Commission considered this request at its meeting of August 25, 2008. Notice was given as required by State law and the property owners within 200 feet were notified. The Comprehensive Land Use Plan calls for this area to be low density residential use. P&Z stated that this was an area that it felt should be shown as industrial when the Comprehensive Land Use Plan was revised due to the development in the area and the proximity of the railroad tracks. We have received no inquiries or objections. The Planning & Zoning Commission approved the rezoning of this property by a vote of 7-0.

Speakers: Shelly Calahan Smajstrla, proponent spoke in favor of this item
 Ken Simnett-Pratt spoke against this item

***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>

***OPENED PUBLIC HEARING**

OR3. DENIED

AN ORDINANCE REZONING 812 EAST CHAMBERS STREET SF4-SINGLE FAMILY DWELLING DISTRICT TO D-DUPLEX DWELLING DISTRICT, AS REQUESTED BY VINCENT P. HAWKES.

Donna Jackson, Director of Development Services stated that the Planning and Zoning Commission considered this request at its meeting of August 25, 2008. Notice was given as required by State law and the property owners within 200 feet were notified. The Comprehensive Land Use Plan calls for this area to be commercial and low density residential use. We have received inquiries but no objections. Because duplex zoning is considered moderate and/or high density residential in the Comprehensive Land Use Plan the P&Z denied the request by a vote of 7-0. **It will take a three-fourths vote of the City Council to overturn the denial by P&Z.**

Speakers: Vincent Hawkes, proponent spoke in favor of this item

***CLOSED PUBLIC HEARING**

MOTION: to deny

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

***OPENED PUBLIC HEARING**

OR4. OR09-2008-63

AN ORDINANCE REZONING 3416 NORTH MAIN STREET FROM C3- COMMERCIAL DISTRICT TO C3/SUP-EQUIPMENT STORAGE YARD, CONTRACTOR, AS REQUESTED BY ALLGAYER & ALLGAYER, LLC.

Donna Jackson, Director of Development Services stated that the Planning and Zoning Commission considered this request at its meeting of August 25, 2008. Notice was given as required by State law and the property owners within 200 feet were notified. The Comprehensive Land Use Plan calls for this area to be industrial/commercial mixed use. We have received no inquiries or objections. The Planning & Zoning Commission approved the rezoning of this property by a vote of 7-0.

Speakers: none

***CLOSED PUBLIC HEARING**

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					Denied
Warren	X		X					Withdrawn
Reynolds			X					Postponed until:
X	<i>Motion Carried</i>		<i>Motion Failed</i>					<i>Roll Call</i>

***OPENED PUBLIC HEARING**

OR5. OR09-2008-64

AN ORDINANCE REZONING 206 WEST DABNEY FROM MF-MULTIPLE FAMILY DWELLING DISTRICT TO MF/SUP-MULTIPLE FAMILY DWELLING DISTRICT WITH A SPECIFIC USE PERMIT FOR A BED AND BREAKFAST INN, AS REQUESTED BY MICHAEL AND DANIELLE PETTY.

Donna Jackson, Director of Development Services stated that the Planning and Zoning Commission considered this request at its meeting of August 25, 2008. Notice was given as required by State law and the property owners within 200 feet were notified. The Comprehensive Land Use Plan calls for

this area to be low density residential use. The property has been zoned for many years as MF-Multiple Family Dwelling District. We have received inquiries but no objections. *P&Z approved the rezoning of 206A West Dabney ONLY for a bed and breakfast inn by a vote of 7-0.*

Speakers: Danielle Petty, proponent, spoke in favor of this item
**CLOSED PUBLIC HEARING*

MOTION: to approve rezoning of 206A W. Dabney only

	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>		

OTHER COUNCIL MATTERS

OC2.

APPOINTMENTS TO THE 4B ECONOMIC DEVELOPMENT CORPORATION BOARD OF DIRECTORS.

Adam Miles, Assistant City Manager stated that the first terms of Randy McKinney and Jim Abt expire September 2008. Both are unable to serve a second term due to schedule conflicts. Staff requests appointments of two new members to fill these vacancies.

Don Wilson’s second term also expires in September. However, his initial appointment was to fill an unexpired term left by Rebecca Roe’s resignation. This term was only a six-month period. Mr. Wilson has expressed a desire to continue his service on the 4B Board, should the Council appoint him, to a “limited term of 18 months”.

MOTION: to reappoint Don Wilson for a limited term of 18 months and to appoint the remainder at a later date

	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.

APPOINTMENTS TO THE AIRPORT ADVISORY BOARD.

Rick Holden, Director of Public Services stated that with resignations and term expirations from Bill Bukin, Eli Strange and Mike Mann, the Airport Board currently has three openings. John Pollock, Peter Bennis and Daniel Hunt have all expressed interest in serving on the Airport Board.

MOTION: to appoint John Pollock, Peter Bennis and Daniel Hunt

	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>

OC4.

APPOINTMENTS TO THE LIBRARY ADVISORY BOARD.

Rick Holden, Director of Public Services asked the Council to consider reappointment of Gayanne Shaffer to the Library Board. Her term expires September 26, 2008 and she is willing to serve another term.

MOTION: to reappoint Gayanne Shaffer

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

Mayor Reynolds announced that Adam Miles would be leaving the City to serve as City Manager for the City of Hewitt and wished him well.

Mayor Reynolds also thanked the staff for their work sheltering evacuees from Hurricane Ike.

Bill Miller spoke on working well with Adam Miles.

ADJOURNED AT: 7:54 p.m.

APPROVAL OF MINUTES

APPROVED BY MAJORITY VOTE OF COUNCIL ON: October 14, 2008

CITY OF CLEBURNE

Ted Reynolds, Mayor

ATTEST:

Shelly Doty, City Secretary