



**REGULAR CITY COUNCIL MEETING MINUTES**  
**DECEMBER 14, 2010**  
**7:00 PM**  
**CITY HALL COUNCIL CHAMBERS**  
**10 NORTH ROBINSON**

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

**City Council:**

- ✓ Justin Hewlett, Mayor
- ✓ John Warren, Mayor Pro Tem
- ✓ Dr. Bob Kelly, SMD 1
- ✓ Gayle White, SMD 2
- ✓ Dale Sturgeon, SMD 3

**Administration:**

- ✓ Chester Nolen, City Manager
- ✓ Rick Holden, Assistant City Manager
- ✓ Shelly Doty, City Secretary
- ✓ Ivy Peterson, Deputy City Secretary
- ✓ Rob Allibon, City Attorney

**Division Directors:**

- ✓ Jerry Cash, Economic Development
- ✓ David Esquivel, Public Works
- ✓ Kim Galvin, Finance
- ✓ Clint Ishmael, Fire Services
- ✓ Terry Powell, Police Services
- ✓ Debra Powledge, Human Resources

**Department Heads:**

- ✓ Ann Powell, Planning & Zoning

**Media:**

- ✓ Matt Smith, Times-Review
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**II. INVOCATION**

**III. PLEDGE OF ALLEGIANCE**

**IV. COMMUNITY INTEREST MATTERS**

Presentations: Parks Volunteer Appreciation Certificates

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

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**CONSENT ITEMS**

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**C1. MINUTES**

**APPROVAL OF MINUTES FOR THE NOVEMBER 23, 2010 REGULAR COUNCIL MEETING.**

**RS1. RS12-2010-79**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO REQUEST A LICENSE FROM THE DEPARTMENT OF THE ARMY CORPS OF ENGINEERS TO TEST WATER FILTRATION EQUIPMENT AT LAKE WHITNEY.**

Person presenting this item: David Esquivel, Director of Public Works

BRIEF: The Department of the Army Corps of Engineers requires a license be issued to the City to conduct testing on water filtration equipment at Lake Whitney. This testing is a necessary part of the component of the study for the interbasin water transfer from Lake Whitney to Lake Aquilla. Cost of the license is \$195.00 and will have a term of 6 months.

**RS2. RS12-2010-80**

**A RESOLUTION AUTHORIZING THE RENEWAL OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR 2011 TO PRINE TOWING & RECOVERY, INC. FOR PROVIDING WRECKER SERVICES IN THE CITY OF CLEBURNE; PROVIDING FOR PLACEMENT ON POLICE ROTATION LIST.**

Person presenting this item: Terry Powell, Chief of Police

BRIEF: Prine Towing & Recovery is requesting the renewal of a Certificate of Public Convenience & Necessity to provide wrecker services in the City of Cleburne for the year 2011. All required applications, inspections, certificates and fees have been submitted as required.

**RS3. RS12-2010-81**

**A RESOLUTION AUTHORIZING THE RENEWAL OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR 2011 TO RICK'S WRECKER SERVICE FOR PROVIDING WRECKER SERVICES IN THE CITY OF CLEBURNE; PROVIDING FOR PLACEMENT ON POLICE ROTATION LIST.**

Person presenting this item: Terry Powell, Chief of Police

BRIEF: Rick's Wrecker Service is requesting the renewal of a Certificate of Public Convenience & Necessity to provide wrecker services in the City of Cleburne for the year 2011. All required applications, inspections, certificates and fees have been submitted as required.

**OR1. OR12-2010-67**

**AN ORDINANCE PROPOSING THE CREATION OF A FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT.**

Person presenting this item: Clint Ishmael, Fire Chief

BRIEF: Chapter 344 of the Texas Local Government Code establishes the rules and procedures for a City to consider the creation of a Fire Control, Prevention, and Emergency Medical Services District. Under the law, the City Council may propose the creation of the District and define the boundaries of the proposed District. If approved by the voters in an election, the proposed District will be funded by a 1/8 cent sales tax within the City of Cleburne. Staff is requesting the Council to approve the ordinance proposing the Fire Control, Prevention, and Emergency Medical Services District.

**OR2. OR12-2010-68**

**AN ORDINANCE PROPOSING THE CREATION OF A CRIME CONTROL AND**

**PREVENTION DISTRICT.**

Person presenting this item: Terry Powell, Chief of Police

**BRIEF:** In accordance with the Act, when the creation of the District is proposed, authorization of the sales and use tax for support of such District shall occur only after approval by vote of the majority of the qualified voters of the City at an election ordered by the District's temporary board of directors.

**OC1.**

**APPROVE ACCOUNTS PAYABLE FOR THE MONTH OF NOVEMBER 2010.**

Person presenting this item: Kim Galvin, Interim Director of Finance

**OC2.**

**APPROVE FINAL PLAT OF LOT 1R-1, BLOCK 351 (BEING 0.351 ACRES LOCATED AT 306 NORTH WASHINGTON STREET), AS REQUESTED BY TIMOTHY D. WHITESIDE; REPRESENTED BY GEOMATIC SOLUTIONS, INC.**

Person presenting this item: Ann Powell, Planning and Zoning Coordinator

**BRIEF:** The Planning & Zoning Commission (P&Z) considered this request at its meeting of November 22, 2010. Notice was given as required by State law. The Comprehensive Land Use Plan shows this area to be Low Density Residential and Mixed Use-Transitional Use. We have received neither inquiries nor objections. The plat meets the platting requirements for the City. P&Z recommended approval by a vote of 7-0.

**OC3.**

**APPROVE FINAL PLAT OF LOT 1, BLOCK 1, CLEBURNE CAR WASH ADDITION (BEING 2.2071 ACRES LOCATED AT 1724 WEST HENDERSON STREET), REQUESTED BY JERRY W. HAMILL; REPRESENTED BY GRANT ENGINEERING, INC.**

Person presenting this item: Ann Powell, Planning and Zoning Coordinator

**BRIEF:** The Planning & Zoning Commission (P&Z) considered this request at its meeting of November 22, 2010. Notice was given as required by State law. The Comprehensive Land Use Plan shows this area to be Low Density Residential and Commercial. We have received neither inquiries nor objections. The plat meets the platting requirements for the City. 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
White			X					Approved as amended

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

**RESOLUTIONS**

**RS4. RS12-2010-82**

**A RESOLUTION AUTHORIZING THE MAYOR TO NEGOTIATE AND EXECUTE A CONTRACT WITH A MANAGEMENT CONSULTING FIRM, FOR RECRUITMENT AND SELECTION OF A CITY MANAGER.**

Mayor Hewlett stated that upon announcement of Chester Nolen's retirement effective January 31, 2010, the City Council felt that it would be advantageous to employ a management consulting firm to assist in the recruitment and selection of a new city manager. The City of Cleburne solicited proposals for these services and received proposals from Chris Hartung Consulting, Strategic Government Resources, and The Mercer Group, Inc. The Council has considered these proposals and interviewed each of the three firms.

**MOTION: to authorize the City Manager to negotiate and execute a contract with the Mercer Group**

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

**RS5. RS12-2010-83**

**A RESOLUTION APPOINTING A TEMPORARY BOARD OF DIRECTORS OF THE PROPOSED CLEBURNE FIRE CONTROL, PREVENTION, AND EMERGENCY MEDICAL SERVICES DISTRICT.**

Clint Ishmael, Fire Chief stated that Chapter 344 of the Texas Local Government Code establishes the rules and procedures for a City to consider the creation of a Fire Control, Prevention, and Emergency Medical Services District. If a City proposes the creation of a Fire Control, Prevention, and Emergency Medical Service District, the Council must appoint a seven member "Temporary Board" to develop and adopt a two year service plan as well as a two year budget plan. After adopting the required plans, the Temporary Board may call for and hold a confirmation election on the proposed District. Staff is requesting the Council to appoint seven citizens to a Temporary Board for the proposed Fire Control, Prevention, and Emergency Medical Services District.

**MOTION: to appoint Landy Bennett, Francis Hafford, Garey Wylie, Ben Oefinger, Richard**

**Sikes, Becky Snider, Cathy Marchel, and John Warren as Council Liaison**

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

**RS6. RS12-2010-84**

**A RESOLUTION APPOINTING A TEMPORARY BOARD OF DIRECTORS OF THE PROPOSED CLEBURNE CRIME CONTROL AND PREVENTION DISTRICT.**

Terry Powell, Chief of Police stated that Chapter 363 of the Texas Local Government Code establishes the rules and procedures for a City to consider the creation of a Crime Control and Prevention. If a City proposes the creation of a Crime Control and Prevention District, the Council must appoint a seven member "Temporary Board" to develop and adopt a two year service plan as well as a two year budget plan. After adopting the required plans, the Temporary Board may call for and hold a confirmation election on the proposed District. Staff is requesting the Council to appoint seven citizens to a Temporary Board for the proposed Crime Control and Prevention District.

**MOTION: to appoint Albert Archer, Jr., Robert Childress, Kristi Dempsey, Kathleen Mims, Robert Force, Daniel Griffith, and Dr. Robert Long, and Dr. Bob Kelly as Council Liaison**

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

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**ORDINANCES**

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***\*OPENED PUBLIC HEARING***

**OR3. DENIED**

**AN ORDINANCE AMENDING CHAPTER 155: ZONING, SECTION 155.30, "LAND USE TABLE" TO PROVIDE THAT AMUSEMENT, COMMERCIAL (INDOOR) USES ARE PERMITTED IN AN M-1 ZONING DISTRICT WITH A SPECIFIC USE PERMIT; AND TO PROVIDE THAT SWIM, TENNIS AND HANDBALL CLUBS ARE NOT PERMITTED IN AN M-2 ZONING DISTRICT; BY AMENDING SECTION 155.31, "LAND USES DEFINITIONS AND EXPLANATIONS" TO AMEND THE DEFINITION OF "AMUSEMENT, COMMERCIAL (INDOOR)".**

Ann Powell, Planning and Zoning Coordinator stated that this Ordinance was considered by the Planning & Zoning Commission (P&Z) in workshop on October 11, 2010, and at its regular meetings on October 25, 2010, November 8, 2010 and November 22, 2010. This Ordinance was developed in response to a request from a citizen to allow the use of a warehouse zoned M1 (Light Industrial District) for batting cages. Amusement (Commercial) Indoors does not allow for uses in an Industrial District. This Ordinance would allow the use in the M1 (Light Industrial District) as well as in the C1 (Local Business District), C2 (General Business District) and C3 (Commercial District) and require a Site Plan for this type of use in the M1 (Light Industrial District). Concurrently P&Z reviewed the Recreation and Entertainment Uses for Swim, Tennis and Handball Clubs and determined that this use should not be allowed in the M2 (Heavy Industrial District) for the safety of the public. P&Z recommended approval of this Ordinance by a vote of 6-1 with Mrs. Wileman voting in opposition.

Speakers: None

**\*CLOSED PUBLIC HEARING**

**MOTION: Denied**

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

**\*OPENED PUBLIC HEARING**

**OR4. OR12-2010-69**

**AN ORDINANCE REZONING 204 AND 206 ELMO FROM M1 (LIGHT INDUSTRIAL DISTRICT) TO SF-4 (SINGLE FAMILY DWELLING DISTRICT); AS REQUESTED BY MAYRA RUIZ.**

Ann Powell, Planning and Zoning Coordinator stated that the Planning & Zoning Commission (P&Z) considered this request at its meeting of November 8, 2010. Notice was given as required by State law and the property owners within 200 feet were notified. The Comprehensive Land Use Plan shows this area to be Mixed Use-Transitional Use. We have received no protests or objections. P&Z recommended approval by a vote of 5-0.

Speakers: Mayra Ruiz

**\*CLOSED PUBLIC HEARING**

**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
Hewlett			X					Postponed until:
X	<i>Motion Carried</i>		<i>Motion Failed</i>					<i>Roll Call</i>

**OR5. OR12-2010-70**  
**AN ORDINANCE APPROVING AN ISSUANCE AND SALE OF GENERAL OBLIGATION REFUNDING BONDS, SERIES 2011.**

Kim Galvin, Interim Director of Finance stated that the attached is a draft copy of the Ordinance used to authorize the issuance of the refunding bonds for the Series 2001 Certificates of Obligation, callable in February 2011. The final numbers including the interest rate and net present value savings will be available after the bonds are priced, but will not be significantly different than those presented previously.

Jim Sabonis, First Southwest, gave a brief overview of the bond issuance and sale.

**MOTION: to approve as presented**

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

**OR6. OR12-2010-71**  
**AN ORDINANCE APPROVING AN ISSUANCE WATERWORKS AND SEWER SYSTEM REVENUE REFUNDING BONDS, SERIES 2011.**

Jim Sabonis, First Southwest, gave a brief overview of the bond issuance and sale.

**MOTION: to approve as presented**

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

**OR7. OR12-2010-72**  
**AN ORDINANCE APPROVING A SIGN VARIANCE FOR AN ELECTRONIC MESSAGE CENTER SIGN AT 403 N MAIN, AS REQUESTED BY FIRST FINANCIAL BANK.**

Rick Holden, Assistant City Manager stated that First Financial Bank will be building a new building at this location. Their proposed new sign does not meet distance, or square footage requirements of the sign ordinance. The Council has authority to issue waivers. The proposed sign along N. Main is approximately 180' from the intersection with Willingham Street (250' required) and the square footage of the sign is 50 SF where the ordinance calls for a maximum of 32 SF.

Speakers: Daniel Griffith spoke in favor of the item  
 Tom Purvis and Jim Hagle, sign contractor, spoke in favor of the item

**MOTION: to approve as presented**

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

**OTHER COUNCIL MATTERS**

**OC4.**  
**APPROVE FINAL PLAT OF LOTS 1-5, BLOCK 1, K. SMITH NOLAN RIVER ADDITION (BEING 7.09 ACRES LOCATED ON THE WEST SIDE OF SOUTH NOLAN RIVER ROAD SOUTH OF LAKE SHORE DRIVE) AS REQUESTED BY JOHNIE FAE SMITH AND JUDY SMITH; REPRESENTED BY DUMAS LAND SURVEYING, INC.**

Ann Powell, Planning and Zoning Coordinator stated that the Planning & Zoning Commission (P&Z) considered this request at its meeting of November 22, 2010. Notice was given as required by State law. The Comprehensive Land Use Plan shows this area to be Moderate & High Density Residential, Open Space/Flood Plain and Low Density Residential. We have received neither inquiries nor objections. The applicants have requested a waiver of curb, gutter and sidewalks. Sidewalks would not be required for this plat. The plat meets the platting requirements for the City. P&Z recommended approval with a waiver of curb and gutter by a vote of 7-0. If the plat is approved the motion should also address the request for waiver of curb and gutter.

Speakers: Eric Dumas, Dumas Land Surveying spoke in favor of this item

**MOTION: to approve as presented with waiver for curb and gutter**

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

**OC5.**

**APPOINTMENT TO THE BUILDING AND STANDARDS COMMISSION.**

Clint Ishmael, Fire Chief stated that the first two year term expired for Doris Sims and she does not wish to renew her appointment. No recommendation for replacement at this time.

**MOTION: to postpone until the next meeting**

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

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**CITIZENS COMMENTS**

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Angela Marx spoke on the need to increase the hours of operation at Booker T. Washington Community and Recreation Center, including Sundays and Mondays and later in the evenings to allow for people that work during the day to be able to utilize it (an additional 44 hours a week).

**ADJOURNED AT: 8:26 p.m.**

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**APPROVAL OF MINUTES**

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**APPROVED BY MAJORITY VOTE OF COUNCIL ON: January 11, 2011**