

City Council met for the monthly City Council meeting on February 20, 2018 in the Council Chambers at City Hall, 907 E. Houston, with Mayor Otis Cohn presiding.

MEMBERS PRESENT: Mayor Otis Cohn, Councilmember Mike Penry, Councilmember Marilyn Clay, Councilmember Carolyn McWaters, Councilmember Jennifer Bergman, Councilmember Danny Lee, City Manager Kelly McDonald, City Secretary Angela Smith and City Attorney David Olson

VISITORS PRESENT: Scott Lambert, Jim Carson, Greg East, Derra Purnell, Clay Dean, Bob Bartlett, Tracey Brodeur, Lance Blackwell, Ron Wildredge, Debbie Young, Fred Terrell, Carolyn Comeaux, Joe Bob Croley, Jacob McAdams, Laura Davis, Fred Terrell

EMPLOYEES: Bobby Pennington, Glen Barnhill, Darrel Broussard, Sean Anderson, Rod Hainey, Mary Cohn

Mayor Otis Cohn called the meeting to order at 6:02 pm and stated there was a quorum. Pastor Ron Wilridge with Grace Church gave the invocation and Councilmember Lee led the pledge to the Texas flag and Councilmember Penry led the pledge to the US flag.

Public Hearing

1. **Public Hearing on proposed ordinance amending Chapter 106, "Subdivisions," of the City Code; amending rules governing plats and subdivisions of land, including providing for development plats; providing a penalty; and making other provisions related to the subject.**

Mayor Cohn opened the public hearing at 6:05 pm and read the agenda information. He asked for comments or questions regarding this topic but none were received so therefore the public hearing was closed at 6:06 pm.

Presentations and Comments

2. **Presentation by Tracey Brodeur-Entergy on advanced metering system for smarter energy**
Ms. Brodeur gave an update on the smart meter project in this territory.
3. **Presentation of Employee Service Award for February 2018**
City Manager McDonald stated that Judge Steely was not able to be present tonight to receive his five year service award pin.
4. **Annual update of the Teen Advisory Board from Austin Memorial Library**
This item was removed from the agenda prior to the meeting.
5. **Public Comments.**
Jim Carson – Chamber update
6. **Reports and comments from City Council, Mayor or City staff.**
City Secretary Smith provided election updates.
City Manager McDonald provided dates for upcoming events.
Councilmember Clay gave details on the meeting at the Cleveland Historical Museum for Black History Month.

Consent Agenda

7. **Consider acceptance of monthly financial report for month ending January 2018**

8. **Consider minutes from Special Called City Council meeting on January 3, January 22 and re-scheduled monthly City Council/public hearing meeting on January 23, 2018**
9. **Consider request for waiver of rental fees at the Cleveland Civic Center for Douglass Learning Academy Class of 2018 for graduation date of May 24, 2018 at 6:00 pm**
10. **Consider ordinance calling for a joint public hearing of the Zoning Commission and City Council to be scheduled for March 20, 2018 on a proposal to amend the City's comprehensive Zoning Ordinance**

Mayor Cohn read the consent agenda items and asked if any needed to be pulled for discussion and action. No responses.

Councilmember Lee made a motion to approve consent agenda items 7-10 with a second from Councilmember Bergman. All members present voted "AYE". Motion carried.

Discussion and Action

11. **Consider a revised bid previously approved by council on tax trust property in the amount of \$4,120 from Ovidio Hinojosa for property located at 918 Hanson Street, Joseph Fenner Survey, Tract 94, Acres .57**

Greg East with Perdue Brandon addressed council and presented this bid. He stated that the reason the county did not approve the item was that the City was not discounting the lien cost however the school district approved the bid. The bidder submitted this new bid for a slightly higher amount and it will go back to the county and school if the City approves the new bid.

Councilmember Penry made a motion to approve the bid amount of \$4,120 from Ovidio Hinojosa with a second from Councilmember Clay. All members present voted "AYE". Motion carried.

12. **Consider a bid on tax trust property from Jorge Enciso in the amount of \$2,688, plus \$5,119 for city's demo cost and \$2,213.08 for 2013-2014 tax years for the property located at Hanks Ave, Hayes Hank Block 3, Lot 8 and Part of Lot 9, Acres .2749**

Greg East with Perdue Brandon addressed council and presented this bid.

Councilmember Bergman made a motion to approve the bid as presented from Jorge Enciso with a second from Councilmember Penry. All members present voted "AYE". Motion carried.

13. **Consider a bid on tax trust property from David Matlock in the amount of \$8,901 for property located at Magruder Ave, Northside, Sec 2, Block 16, Lot 1-4, 5 TR 2, Acres .7748**

Greg East with Perdue Brandon addressed council and presented this bid. This bid was previously denied by council so the bidder submitted a new bid for a higher amount.

Councilmember McWaters made a motion to approve the bid from David Matlock as presented with a second from Councilmember Penry. All members present voted "AYE". Motion carried.

14. **Presentation by Weaver and Tidwell L.L.P. of Fiscal Year 2017 Financial Audit and Consider Acceptance as presented**

Debbie Young with Weaver and Tidwell LLP met with the Audit Committee prior to the council meeting. She addressed council and gave kudos to the city and city staff on a clean

audit. The fund balance is the best it has been in a long time. On page 75 of the audit report, is the summary of audit results and it states the City has been given an unmodified opinion which is a clean opinion (the highest level audit a city can get). There were no material defects and no non-compliant issues.

Councilmember Bergman made a motion to accept the audit report as presented by Weaver and Tidwell LLP with a second from Councilmember McWaters. All members present voted "AYE". Motion carried.

15. Consider developer's request for City staff to install water line at their new construction location in Glen Park at the developer's expense

Public Works Director Hainey addressed council and spoke on this subject.

Councilmember Bergman made a motion to approve the developer's request for City staff to install water line in Glen Park as presented with a second from Councilmember Clay. All members present voted "AYE". Motion carried.

Councilmember Penry asked about responsibility on possible digging issues and Public Works Director Hainey stated that if his staff does the digging and an issue is created then it is his responsibility to fix it. However that is why they do locates prior to digging.

16. Consider contract between City of Cleveland and Wendell Kelley Construction for the T-Hanger Airport bid awarded by Council January 2018

City Attorney Olson stated that they just finalized the move back into their offices after Harvey's flooding so that was the delay in getting this information back for review. The reason the review has draft on it is that it requires a special software to update the A101 form which the contractor will need to update.

Councilmember Bergman made a motion to approve the contract as amended and allow staff to negotiate with contractor if needed with a second from Councilmember McWaters.

Prior to voting, City Attorney Olson stated that the amendments need to be in the motion so Councilmember Bergman amended her motion to add liquidated damages from \$500 to \$100 and the liquidated clause to start 30 days later. Councilmember McWaters seconded the amendment.

Councilmember Penry stated he still has the same objection as before which is relying on one bidder for such a large project. Mr. Bartlett (contractor) stated that there has already been a price increase in steel and concrete since January 2018.

Council voted on the amended motion – Councilmember Lee, Bergman, McWaters and Clay voted "AYE", Councilmember Penry voted "NAY". Amended motion passed.

17. Consider submission of nominee(s) for the Liberty County Appraisal Review Board to replace Milton Fregia (Pct 3) for remainder of his term – Jan 2018 to Dec 2018

Councilmember Penry made a motion to nominate Joe Bazar for the LCARB nominee with a second from Councilmember Clay. All members present voted "AYE". Motion carried.

18. Consider adoption of Procurement Policy for the City of Cleveland and approval of resolution for the same

Assistant City Manager/Finance Director Pennington spoke on this topic. This policy will be reviewed annually and mirrors state law.

Councilmember McWaters made a motion to approve the procurement policy and resolution of the same with a second from Councilmember Lee. Councilmembers McWaters, Lee, Bergman and Clay voted "AYE", Councilmember Penry voted "NAY". Motion carried.

19. Consider a one-year Cleveland Municipal Park Facility Use Agreement for CYBA for usage of the City Municipal Sports Park for March 2018 to March 2019

City Manager McDonald stated that she spoke with CYBA and they are fine with the contract as presented and they are ready to go forward. She has a meeting next week with them on the dirt project. The fence request for bid is due back on Thursday.

Councilmember Penry made a motion to approve the CYBA contract with a second from Councilmember Bergman. All members present voted "AYE". Motion carried.

20. Consider approval of a funding agreement between the Cleveland Economic Development Corporation and the City of Cleveland for repayment of Texas Department of Agriculture Grant funds in the amount of \$730,000

Councilmember Bergman still feels that EDC needs to pay the full amount back to the City in a lump sum. Assistant City Manager/Finance Director Pennington had spoken with the auditors and the City needs an agreement to hold EDC on track for the reimbursements. The actual amount of the repayment is \$716,105 and not \$730,00 due to administrative costs. EDC does have other obligations they have to handle and they have already transferred \$350,000 to the City as part of the repayment process. City Manager McDonald reminded council that EDC will also need to approve the funding agreement and it will be on their February meeting agenda.

Councilmember Clay made a motion to approve the funding agreement between Cleveland Economic Development Corporation and the City of Cleveland for repayment of the TDA funds in the amount of \$716,105 with a second from Councilmember McWaters. Councilmember Bergman voted "NAY", Councilmembers Penry, Lee, McWaters, and Clay voted "AYE". Motion carried.

21. Consider adoption of an ordinance annexing, pursuant to a landowner petition for voluntary annexation, 233.421 acres situated in the T.J. Williams Survey, A-593 and the Lawrence Martin Survey, A-310 fully in Montgomery County, Texas, located near the intersection of Morgan Cemetery Road and Rutherford Road.

City Attorney Olson stated that LGI provided an annexation survey map and at the staff level it was added to the ordinance so the motion will need to reflect that the ordinance has been amended.

Councilmember Penry made a motion to accept the amended ordinance which includes the survey map approving the annexation, pursuant to a landowner petition for voluntary annexation, 233.421 acres situated in the T.J. Williams Survey, A-593 and the Lawrence Martin Survey, A-310 fully in Montgomery County, Texas, located near the intersection of Morgan Cemetery Road and Rutherford Road with a second from Councilmember Bergman. All members present voted "AYE". Motion carried.

22. **Consider adoption of an ordinance consenting to the creation of a Municipal Utility District wholly within the corporate limits of Cleveland, Texas to include approximately 291.421 acres near the intersection of Morgan Cemetery Road and Rutherford Road.**

Derra Purnell with Olson & Olson explained the MUD ordinance.

Councilmember Penry made a motion to accept the ordinance consenting to the creation of a Municipal Utility District wholly within the corporate limits of Cleveland, Texas to include approximately 291.421 acres near the intersection of Morgan Cemetery Road and Rutherford Road with a second from Councilmember Bergman. All members present voted "AYE". Motion carried.

23. **Consider an ordinance adopting a preliminary project and financing plan to be considered in the creation of Reinvestment Zone No. 2, Cleveland, Texas.**

This is the preliminary project plan and preliminary financing plan for the creation of TIRZ Zone 2 (LGI Homes). The public hearing and ordinance will be on the March agenda.

Councilmember Penry made a motion to approve the ordinance adopting a preliminary project and financing plan to be considered in the creation of Reinvestment Zone No 2, Cleveland Texas with a second from Councilmember Lee. All members present voted "AYE". Motion carried.

24. **Consider adoption of an ordinance amending Chapter 106, "Subdivisions," of the City Code; amending rules governing plats and subdivisions of land, including providing for development plats; providing a penalty; and making other provisions related to the subject.**

Derra Purnell with Olson & Olson spoke on the subdivision ordinance and stated that we held the statutory public hearing at the beginning of this meeting. During the Zone 1 creation with McKinley we found out that our ordinance was more stringent so staff had meetings and cleaned up the ordinance with state laws and also provided developers more leeway. This ordinance has been submitted to both developers and they are willing to comply with it voluntarily.

Councilmember Bergman stated that she has read some of the ordinance and has some concerns. Due to the importance of the subdivision ordinance, she would prefer to have additional time to review.

Councilmember Bergman made a motion to table to subdivision ordinance to a later meeting for additional review time with a second from Councilmember Clay. All members present voted "AYE". Motion carried.

It was requested that all concerns be filtered through to City Manager McDonald.

Executive Session

25. **Closed Executive Session under Texas Local Government Code 551.071 for Consultation with Attorney**

Council left for executive session at 7:31 pm.

Open Session

26. **Return to open session and take action on items from Executive Session if needed**

27. Consider and take action on possible cemetery plot issue

Council returned to open session at 7:53 pm.

Councilmember Bergman made a motion to authorize staff to send position letters as presented regarding cemetery plot issues with a second from Councilmember Clay. All members present voted "AYE". Motion carried.

Adjourn

Councilmember Penry made a motion to adjourn with a second from Councilmember Bergman. Meeting adjourned at 7:54 pm.

PASSED AND APPROVED this 20th day of March 2018.

_____/signed_____
Mayor Otis Cohn

ATTEST:

_____/signed_____
Angela Smith, City Secretary