

City Council met for the monthly City Council meeting on May 15, 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: Tracy McWaters, Brent McWaters, James Carson, Jim Bloss, Becky Lake, Brandy Durham, Fred Terrell, Mary Terrell, Carl Williamson, Clay Dean, Bob Bartlett, Shelby Reger, Nico Reger, Hayden McWaters, Trisha McWaters, Matt Bloss, Chuck Robinson, Jacob McAdams, Greg East, Bernest Mitchell Sr., Brad Browder, Alf Vien, Leslie Langston

EMPLOYEES: Wendy Thorp, Mary Ann Harrison, Bob Steely, Mary Cohn, Bobby Pennington, Rod Hainey, Darrel Broussard, Scott Felts, Sean Anderson

Mayor Otis Cohn called the meeting to order at 6:00 pm and stated there was a quorum. Pastor Carl Williamson gave the invocation and Councilmember McWaters led the pledge to the Texas flag and to the US flag.

Election Action (Elección Acción)

1. Issue Certificate of Election to Council Position 3-Fred Terrell, Council Position 4-Jennifer Bergman and Council Position 5-Danny Lee

(Emitir el certificado de elección para Consejo de Posición Tres-Fred Terrell, Consejo de Posición Cuatro-Jennifer Bergman y Consejo de Posición Cinco-Danny Lee)

Mayor Cohn issued certificates of elections.

2. Administer the oath of office for Council Position 3-Fred Terrell, Council Position 4-Jennifer Bergman and Council Position 5-Danny Lee

(Administrar el juramento de la oficina para Consejo de Posición Tres-Fred Terrell, Consejo de Posición Cuatro-Jennifer Bergman y Consejo de Posición Cinco-Danny Lee)

City Secretary Smith administered the oaths of offices.

3. Presentation to outgoing Council Position 3 – Carolyn McWaters

Presentación a saliente Consejo de Posición Tres – Carolyn McWaters)

Mayor Cohn and City Manager McDonald presented the plaque to outgoing councilmember Carolyn McWaters.

Presentations and Comments

4. Proclamation for National Public Works Week, May 20-26, 2018

Mayor Cohn read the proclamation out loud.

5. Proclamation for Motorcycle Safety Awareness Month – May 2018

No one was present to receive the proclamation.

6. Proclamation for Municipal Clerks Week, May 6-12, 2018

Mayor Cohn read the proclamation out loud.

7. Presentation of Service Awards for May

City Manager McDonald spoke about Cody Arnold and his time with the City as he was not present to receive his service award pin. Mr. Arnold has been with the City for five years in Public Works.

8. Presentation of Employee High Five Award – 1st Quarter 2018

City Manager McDonald presented the High Five Award to City Secretary Angela Smith and read the nomination letter out loud.

9. Presentation about creating Friends of the Library

Wendy Thorp with Austin Memorial Library along with Becky Lane and Ms. Durham made their presentation for creating the Friends of the Library group.

10. Public Comments.

Jim Carson – Chamber of Commerce update

11. Reports and comments from City Council, Mayor or City staff.

Each of the council members spoke and wished outgoing council member Carolyn McWaters best wishes and thanks for her service to the City. Mayor Cohn read two additional proclamations for Support of Israel and National Police Officer Week Proclamation. There is also a March for Israel on May 26th. Incoming council member Fred Terrell was welcomed.

Consent Agenda

12. Consider acceptance of monthly financial report for month ending April 2018

13. Consider minutes from monthly City Council meeting on April 17, 2018

14. Consider approval of budget calendar for FY 2018-2019

15. Consider approval of quarterly investment report for quarter ending March 31, 2018

16. Consider waiver of taxes and penalties by a governing body of taxing unit

17. Consider resolution authorizing the temporary closure of Hanson Street from Bonham Ave. to College Ave. for a March to Support Israel to be held May 26, 2018 from 8 a.m. to 11 a.m.

Prior to motion being taken, there were several questions about items on the consent agenda: Item 12 – Monthly Financial Report: why were legal fees higher than last year? Mr. Pennington replied that the audit required more GASB34 so additional time/money was spent, some of the fees may be due to Earth Energy and could be classified incorrectly to Admin instead of EDC. The audit fees were \$10k higher so he will send the detail to council on those charges.

Item No. 16 – Tax and Penalties waiver: Councilmember Penry asked if the school and county waived these fees as well? Mr. Pennington stated that this request comes from Liberty County Tax Offices and that this particular property is now a church but was previously a residential location. City Attorney Olson stated that we received tax money in error so it has to be repaid; it is a procedural issue under the tax code.

Councilmember Penry made a motion to approve the consent agenda items 12-17 as presented with a second from Councilmember Clay. All members present voted “AYE”. Motion carried.

Discussion and Action**18. Presentation on Health Benefits by Gallagher Benefits Services for Fiscal Year 2018-2019 Employee Benefits and consider approval for staff and Gallagher Benefit Services to pursue proposal requests for employee health benefits for FY 2018-2019**

Chuck Robinson with Gallagher Benefit Services and City Secretary/HR Manager Angela Smith spoke on this topic and explained that the Request for Proposals in the packet has the plan design as in the past but also listed an alternative plan for quoting purposes.

Councilmember Bergman made a motion to approve the request for RFP for employee benefits for FY18-19 with a second from Councilmember Lee. All members present voted "AYE". Motion carried.

19. Consider a bid on tax trust property account no. 53356/005400-00009-008 in the amount of \$1,200 from Jorge Enciso for property located at 1704 ½ Ross Ave, Holts, Sec 1, Block 5, Lot 13, Acres .1722

Greg East with Perdue Brandon addressed council. The winning bidder of this property must also pay the demolition lien and the post judgment taxes. It was asked why the school district and Liberty County is combined in the distribution. The reply is that is how they are listed in the judgement for this case.

Councilmember Penry made a motion to approve Agenda Number 19 for the \$1,200 bid from Jore Enciso/USA Acquisitions.

Councilmember Bergman stated that agenda item no. 20 for the same property by Clarissa Jones needs to be reviewed as she owns the property next to it and has been maintaining the property for years. However, as Mayor Cohn, pointed out Mr. Enciso's bid was received first. Ms. Bergman stated that Cleveland is Ms. Jones's home and she is paying taxes here. Mayor Cohn asked if council could reject the bids and have both bidders resubmit another bid. It was reminded that the school and county would still have to approve whichever bid was approved by council as well. City Attorney Olson stated that Council could accept a lower bid. It was asked that Mr. East contact both of the bidders to let them know they will need to submit their best bid.

Motion to accept the bid for \$1,200 was withdrawn by Councilmember Penry.

Councilmember Penry made a motion to reject both bids (agenda item 19 & 20) with a second from Councilmember Clay. All members present voted "AYE". Motion carried.

20. Consider a bid on tax trust property account no. 53356/005400-00009-008 in the amount of \$700 from Clarissa Jones for property located at 1704 ½ Ross Ave, Holts, Sec 1, Block 5, Lot 13, Acres .1722

Councilmember Penry made a motion to reject both bids (agenda item 19 & 20) with a second from Councilmember Clay. All members present voted "AYE". Motion carried.

21. Consider a bid on tax trust property account no. 002590-000011-004 in the amount of \$2,000 from Lester and Jerry Johnson for property located at 604 Lamer, Blagg Fenner, Block B, Lot 1

Councilmember Penry made a motion to approve the bid for \$2,000 by Lester and Jerry Johnson with a second by Councilmember Clay. All members present voted "AYE". Motion carried.

22. Review and approve purchase agreement for 5 acres of commercial real estate and an twenty foot wide access easement and dedication of taxiway relating to the same agreement location is at the Cleveland Municipal Airport site

Assistant City Manager/Finance Director Bobby Pennington presented this to council. LSA Ventures is negotiating property with EDC near the Municipal Airport. The purchase price for the property is \$50,000 for 5 acres. A perpetual non-exclusive easement (20' in width) across undeveloped EDC property back to FM 787, for vehicular access, this easement is likely to remain unimproved as well as a shared easement on the remaining developable tract of EDC development. The buyer will dedicate to public use, and the city will accept such dedication, of a non-exclusive taxiway easement for aircraft ingress and egress over that portion of the 5 acres, connecting to the airport, new hanger facility and any aviation development north of the 5 acres. The buyer agrees to construct the taxiway within 180 days of closing. Buyer agrees to construct a fence along the northern and eastern boundaries of the property. The buyer has a right to direct aircraft access to the Airport from the property and buyer will not engage in competitive business, including: the leasing of aircraft storage space to third parties and selling of aviation fuel to third parties for a fee. EDC maintains first right of refusal on a legitimate offer received by LSA on the future sale of the 5 acres. EDC met today in a special called meeting and approved the purchase agreement. The reason it is being brought before Council is the taxi way easement that would need to be approved by council. Mayor Cohn asked EDC President Brad Browder to speak. He stated that this has been under review for several months and it is a great opportunity. The purchase is for aircraft maintenance repairs and market price was obtained on the land.

Councilmember Penry made a motion to approve the purchase agreement with a second from Councilmember Bergman.

City Attorney Olson stated that the agreement approved by EDC has two simple changes made to it that need to be added to the motion for council. On page 2, if they cause damage to the public easement they are obligated to repair it and this also applies to Moon Young Way and the same language will be cut and pasted into the General Warranty Deed. The motion needs to be revised to state the revised purchase agreement with the changes recommended by the City Attorney.

Councilmember Penry amended his motion to include the changes as listed by City Attorney Olson with a second from Councilmember Bergman. All members present voted "AYE". Motion carried.

23. Authorize staff to sign and approve the Grand Oaks Section 1 Plat and file accordingly with court house

City Manager McDonald stated that staff approved the plat as presented and just needs formal approval by Council for Section 1 of Grand Oaks. Councilmember Bergman asked if the City had hired a City engineer to review the plat. Leslie Langston with LSquare Engineering stated that she believed that the plat had been submitted to a City engineer and they have no objections to someone else reviewing the plat. They also submitted the infrastructure plans to the City engineer and the City engineer had no objection to those plans. This is just the model home section. The City engineer being mentioned is HR Green which the City has a professional services agreement to review plats.

Councilmember Penry made a motion to approve the plat submitted and authorize staff to sign with a second from Councilmember Terrell.

Rod Hainey, Public Works Director addressed council and stated that the email with the plat was sent to him, City Manager McDonald and Rebekkah Sandt with HR Green and Ms. Green had no comments on the plat. It is a small plat just for the model homes. Councilmember Bergman has an issue with the signature block on the plat as it is stated. It reads that; I the City Engineer has certificated the plat but then the signature line says Public Works Director so she is okay with approving the plat; subject to that signature block being changed as it is not correct. City Attorney Olson said it is just a typo, the signature block needs to refer to who is going to sign off on it, is HR Green signing it? Mr. Hainey stated that according to the City ordinance, City staff signs off on the plats. Mr. Olson stated then we just need to change the signature block from Engineer to Public Works Director. However Councilmember Bergman would prefer that the City Engineer sign off on the plats.

Mayor Cohn asked Councilmember Penry if his motion was amended to include the change to the signature block and he agreed. All members voted "AYE". Motion carried.

24. Consider ordinance for budget amendments for Fiscal Year 2018 and Fiscal Year 2017 Budget Carryover for Fiscal Year 2018 Adopted Budget

Assistant City Manager/Finance Director Pennington stated that the following are the items being requested:

- Carryover 18-03 Sports Park Restroom - \$150k (GF 100)
- Amendment 18-05 Dispatch Radio Console (Part I) - \$15,243 (GF 100)
- Amendment 18-06 Dispatch Radio Console (Part II) - \$12,682 (Fund 900)

The Dispatch Radio Console amendments are due to emergency repairs needs from a lighting strike.

Councilmember Bergman made a motion to approve ordinance for budget amendments and carryover as submitted with a second from Councilmember Lee. All members present voted "AYE". Motion carried.

25. Consider letter of agreement for pipeline within the city limits of Cleveland from Breviloba, LLC

Marie Taylor with Breviloba, LLC spoke on the pipeline location. It is a natural gas pipeline which will span 570 miles. She met with Rod Hainey and Kelly McDonald and looked at different options. The one presented has no city roads or right-of-ways affected or crossed. They have already gotten permits for the pipeline from Liberty County, Dayton and North Cleveland as well as permits from Department of Transportation. They are following the line of existing pipeline with an in-service date of March 2019. Breviloba LLC does not owe the City anything like some pipelines because there is no impact to the city right-of-ways or roads so no easements are required. They are just letting us know they will be skirting the city limits.

Councilmember Bergman approved the letter of agreement with Breviloba, LLC with a second from Councilmember Lee. All members present voted "AYE". Motion carried.

26. Consider request from Chamber of Commerce for reduction or waiver of rental fees for Stancil Park for Friday, June 15, 2018 for set up time for the Outdoor Expo occurring on June 16, 2018

Councilmember Bergman made a motion to approve the reduction or waiver of rental fees for Stancil Park for the Chamber of Commerce for June 15, 2018 with a second from Councilmember Penry. All members present voted "AYE". Motion carried.

27. Authorize budgeted purchase of new playground equipment for Campbell Park in the amount of \$59,635.75

Public Works Director Hainey stated that this is a regular capital item that was approved in the budget. They met with Kraftsman and the amount quoted is under the budget figures. The quote is complete with installation and includes the fall material. As a note, the swings currently on site are still there and not being updated.

Councilmember Clay made a motion to approve the budgeted playground equipment purchase for Campbell Park with a second from Councilmember Penry. All members present voted "AYE". Motion carried.

28. Consider authorizing staff to go out for Request for Proposals to replace a truck in Public Works that was totaled due to vehicle accident

Mr. Hainey stated that this vehicle request is due to a vehicle accident where the City vehicle was totaled by insurance company and now needs to be replaced.

Councilmember Bergman made a motion to approve the RFP request for replacement truck with a second from Councilmember Clay. All members present voted "AYE". Motion carried.

29. Consider approving the creation of the Friends of the Library

Councilmember Lee made a motion to approve the creation of the Friends of the Library group with a second from Councilmember Bergman.

Councilmember Penry likes the idea but not sure on accountability since they would be totally independent from the City. Mary Cohn, Library Director, stated that it was addressed during the presentation that the group would send their finance reports to the City as needed and that the contract would make them legally bound. City Attorney Olson stated that this can be addressed in the agreement which would state all issues and then hold the group accountable.

All members present voted "AYE". Motion carried.

30. Consider ordinance of the City Council amending Chapter 50 "Environment" by Creating Article III "Unattended Donation Dumpsters"; establishing a permit; establishing regulations and other provisions relating thereto; making certain findings; providing for a penalty; and providing for severability

Councilmember Bergman made a motion to approve the ordinance amending Chapter 50, Environment by Creating Article III as submitted with a second from Councilmember Penry. All members present voted "AYE". Motion carried.

Agenda items 31-33 were not needed and not used. They were on the agenda in case council had questions about the purchase agreement for the airport property.

Executive Session

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

32. Closed Executive Session under Texas Local Government Code 551.072 to deliberate the purchase, exchange, lease or value of real property

Open Session

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

Adjourn

Councilmember Bergman made a motion to adjourn with a second from Councilmember Penry.
Meeting adjourned at 8:00 pm.

PASSED AND APPROVED this 19th day of June 2018.

_____/signed_____
Mayor Otis Cohn

ATTEST:

_____/signed_____
Angela Smith, City Secretary