

City Council met for the monthly City Council meeting on May 21, 2019 in the Council Chambers at City Hall, 907 E. Houston, with Mayor Pro-Tem Lee presiding at the beginning and Mayor Cohn presiding when he arrived.

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

**VISITORS PRESENT:** Chuck Robinson, Marcus Gutierrez, Jim Bloss, Brent & Tracy McWaters, Robert Pickering, S May-Bahan, Jim Carson, Vanesa Brashier, Lance Blackwell, Melvin Cates, Chris Trotter and wife, Robert Enloe, Betty Enloe, Beatrice Rhoden, Charles Patrick,

**EMPLOYEES:** Rod Hainey, Sean Anderson, Bobby Pennington, Jeremy Chesnutt, Darrel Broussard, Mary Cohn, Scott Felts, Ben Burnett, Tommye Pressley, Deanna Prentiss, Bobby Steely, Mary Ann Harrison, Clifford Wise, Joey Foderie, and Jennifer Jeude

Mayor Pro-Tem Lee called the meeting to order at 6:10 pm and stated there was a quorum and that Mayor Cohn was running slightly behind. The invocation was given by Superintendent Chris Trotter with Cleveland ISD and Mike Penry led the pledge to the US flag then to the Texas flag.

Mayor Pro-Tem Lee moved Presentations up on the agenda since the Mayor was running behind.

#### **Presentations and Comments**

4. **Presentation of Proclamation for National Public Works Week – May 19-25, 2019**

Mayor Pro-Tem Lee read the proclamation and took a photo with Public Works Director Hainey.

5. **Presentation of Employee Service Awards for May 2019**

City Manager McDonald presented service awards to the following people:

- Ben Burnett – 5 years – Fire Department. Photo taken.
- Michael Palmer – 5 years – Public Works. Not present.
- Tommye Pressley – 20 years – Police Department – Photo taken
- Scott Felts – 20 years – Police Department – Photo taken.

Fire Chief Anderson presented a plaque to honor Ripley, search & rescue animal, who had recently passed away. Joey Foderie had Ripley for 7 ½ years for search and rescue and they both participated in community events and the Fire department for years. Joey was presented a plaque for their service and the loss of Ripley will be mourned.

Mayor Cohn arrived at 6:18 pm.

#### **Election Action (Elección Acción)**

1. **Issue Certificate of Election to Mayor-Otis Cohn, Council Position 1-Carolyn McWaters, and Council Position 2-Marilyn Clay.**

**(Emitir el certificado de elección para Alcaldé-Otis Cohn, Consejo de Posición Uno-Carolyn McWaters, y Consejo de Posición Dos-Marilyn Clay)**

Mayor Cohn issued the certificates of elections.

2. **Administer the oath of office for Mayor-Otis Cohn, Council Position 1-Carolyn McWaters, and Council Position 2-Marilyn Clay.**  
**(Administrar el juramento de la oficina para Alcaldé-Otis Cohn, Consejo de Posición Uno-Carolyn McWaters, y Consejo de Posición Dos-Marilyn Clay)**

City Secretary Angela Smith administered the oath of office to the elected officials.

3. **Presentation to outgoing Council Position 1 – Mike Penry**  
**Presentación a saliente Consejo de Posición Uno – Mike Penry)**

Mayor Cohn presented an appreciation plaque to Mike Penry for his service to the City of Cleveland. Mr. Penry gave a short speech before leaving the meeting at 6:33 pm. Councilmember McWaters was seated as Position 1 at 6:33 pm.

6. **Public Comments**

- Jim Bloss – spoke on noise ordinance issue.
- Charles Patrick – spoke on noise ordinance issue.
- Jim Carson – provided Chamber update

7. **Reports and comments by City Council, Mayor to City staff.**

- Carolyn McWaters - glad to be back and gave update on old train depot.
- Marilyn Clay – grateful to serve citizens.
- Fred Terrell – spoke on Santa Fe train depot.
- Otis Cohn – sad to see Mike Penry leave but great that Carolyn McWaters is replacing him. Lots of people did not agree with Mike Penry but he was always looking at the bottom line. Finance Director Pennington and Mike Penry did great things together. He doesn't want the questioning voice to be gone and wishes council to speak up if needed.
- Kelly McDonald – Glad to have Carolyn back and looking forward to the future. On the 23rd, Painting with a Twist at the Civic Center, Memorial Day Ceremony at 9 am at the Civic Center, June 4th is Hurricane Preparation in Liberty, June 16th Trade Days Stancil Park.
- Jennifer Bergman – Excited about new council and possibility for a splash pad.
- Danny Lee – Thanked Mike Penry for his service. He learned a lot watching him. Welcome back Carolyn, Marilyn and the Mayor.

Mayor Cohn pulled agenda number 15 from the Consent Agenda to Discussion and Action.

**Consent Agenda**

8. **Consider acceptance of monthly financial report for month ending April 2019**
9. **Consider acceptance of quarterly investment report for period ending March 31, 2019**

10. **Consider minutes from City Council meeting held on April 16, 2019 and special called meeting held on Feb. 13, 2019 minutes not previously approved.**
11. **Formally approve motions from the April 16, 2019 City Council Return to Open Session from posted Executive Session:**
  - a. **Motion to approve settlement agreement and release of claims with Waste Management**
  - b. **Motion to approve amendment to agreement with Waste Management**
12. **Consider directing staff to proceed with Request for Qualifications for grant management and planning services**
13. **Consider resolution in support of HR 759-the Ysleta del Sur Pueblo and Alabama-Coushatta Tribes of Texas Equal and Fair Opportunity Settlement Act**
14. **Consider reappointment of board member positions 2, 4 & 6 for Reinvestment Zone 2 (LGI Homes).**
16. **Consider right-of-way agreement with Oneok Arbuckle II Pipeline LLC for area fifty feet (50') in width consisting of twenty-five feet (25') on each side of the location of the centerline of the facilities as actually laid, installed or constructed and a temporary construction right-of-way and an additional fifty feet (50') across the lands of Licensor – Daniel Donahoe Survey, Abstract No. 24, Liberty County, Texas**

Mayor Cohn read the consent agenda items out loud and commented that number 13 resolution in support of the tribes is not binding to the city but to support their community involvement.

Councilmember Bergman wanted it on the record that she works for the tribe as their prosecutor and that they were going to be here tonight but their senior chief passed away today.

Councilmember Bergman made a motion to approve all the consent items as presented on the agenda except agenda item number 15 with a second from Councilmember Lee. All members present voted "AYE". Motion passed.

### **Discussion and Action**

15. **Consider ordinance of the City of Cleveland, Texas, amending the budget of such city for the fiscal year beginning October 1, 2018 and ending September 30, 2019 to recognize the transfer of cash to Pay-As-Go Capital Improvements**

Agenda item no. 15 was pulled to Discussion and Action. Mayor Cohn said that the \$797,036 budget amendment was money that was going to be paid next fiscal year but needs to be paid this year as the project will be completed early. The vendor is Principal Plant Services a local vendor hired to rehab the oldest water well in the Glen Park area. The projected completion date was for 18 months but the company announced it would be completed in 8 months.

Councilmember Bergman made a motion to approve the ordinance amending the budget for the transfer of cash with a second from Councilmember Clay. All members present voted "AYE". Motion passed.

**17. Presentation on Health Benefits by Gallagher Benefits Services for Fiscal Year 2019-2020 Employee Benefits and consider approval for staff and Gallagher Benefit Services to pursue proposal requests for employee health benefits for FY 2019.**

Chuck Robinson with Gallagher Benefit Services addressed Council. The City only needs to go out for medical benefits this year as the vision and life and AD&D have rate guarantees and the dental received a rate pass this year. The current vendor for medical is Blue Cross Blue Shield. They only provides rate renewals 90 days prior to renewal. The city received a rate pass on medical for the past two renewals. The medical plan is doing well so crossing fingers that we will receive a rate pass this year.

Councilmember Bergman made a motion to authorize Gallagher Benefits Services to pursue Request for Bids for medical benefits with a second from Councilmember Bergman. All members present voted "AYE". Motion carried.

**18. Consider tax bid received from Carl Edwards for suit CV64589 for address 1020 Green Ave, Wiley Samuel, Block 1, Lot 2, Acres .1492 for the amount of \$4,000.**

Item was pulled from agenda by Mr. Edwards prior to the meeting beginning.

**19. Consider awarding or rejecting bids received from Request for Bids opened on May 8, 2019, for two (2) budgeted vehicles for the Police Department - one (1) command type sport utility vehicle and one (1) marked police packet patrol vehicle or approve bids presented through BuyBoard vendor(s) for same type vehicles.**

Chief Broussard addressed council and asked for the rejection of bids received from the sealed bids. The city received two bids which were too high and from too far off. He presented BuyBoard quotes for vehicles that were lower than \$10-\$12k for more durable vehicles and engine sizes. The bigger style vehicles are needed now so he is recommending purchase of two Tahoe's.

Councilmember Bergman made a motion to reject the sealed bids and approve the BuyBoard quote for two Tahoes from Caldwell County Chevrolet for \$32,860 each with a second from Councilmember Clay.

Councilmember Terrell asked why no local bidders. The response was that Anderson Ford stated that their fleet guy retired and that Martin Dodge had no options available at this time so they did not bid.

All members present voted "AYE". Motion passed.

**20. Consider acceptance of resignation from the Zoning Commission from Niki Coats.**

Councilmember Clay made a motion to accept the resignation of Niki Coats from the Zoning Commission with a second from Councilmember Lee. All members present voted "AYE". Motion carried.

**21. Consider nominations for the Zoning Commission to replace Niki Coats and Carolyn McWaters (due to becoming councilmember).**

Councilmember Lee made a motion to nominate Eisha Jones to the Zoning Commission with a second from Councilmember Bergman. All members present voted "AYE". Motion carried.

Councilmember Bergman made a motion to nominate Mike Penry, if he accepts, to the Zoning Commission with a second from Councilmember Lee. All members present voted "AYE". Motion carried.

**22. Consider nominations for the Charter Review Committee to replace Jill Kirkonis due to non-residency.**

A requirement for this board is to live in the city limits. Ms. Kirkonis has moved away and asked to be removed from the committee.

Councilmember Bergman made a motion to nominate Brent McWaters to the Charter Review Committee to replace Jill Kirkonis with a second from Councilmember Lee. All members present voted "AYE". Motion carried.

**23. Consider nomination for the Airport Advisory Committee to replace Dennis Kirkonis due to non-residency.**

City Attorney Olson said that the Airport Board does not have a residency restriction and asked if Mr. Kirkonis asked to resign, if so then council could accept his resignation. The reply is that he did ask since he has moved out of the area. City Manager McDonald stated that the Airport Board had recommended adding Cassie Campbell Yeager, who is a pilot and holds a flight school at the airport to be added to the board.

Councilmember Lee made a motion to accept the resignation of Dennis Kirkonis and replace him with Cassie Campbell Yeager to the Airport Advisory Board. All members present voted "AYE". Motion carried.

**24. Consider an ordinance of the City Council of the City of Cleveland, Texas amending Chapter 50 of its Code of Ordinances by deleting Section 50-32(3) in its entirety and adopting a new Section 50-32(3), providing for Enumeration of Specific Noises; providing for severability; and providing a penalty as provided by Section 1-10 of the Code of Ordinances.**

City Attorney Olson said that this ordinance currently allows noise until 2 am and the proposed ordinance will reduce it to 1:00 am. It was discussed that the lower decibel level would be better with a maximum of 65 decibels during the day with a 58 decibel level during nighttime and the maximum permitted would be 75 decibels. The police department can measure decibel levels. It was asked if this would solve the problem and then suggested that a fee needs to be charged for violation. City Attorney Olson stated that citizens can't file criminal complaints in court and that the ordinance provides for maximum penalty allowed. Police Chief Broussard states that a Class C misdemeanor carries a fine up to \$500. Mayor Cohn commented that maybe a better

way would be to get businesses together to talk to them about the issue instead of passing another ordinance.

Councilmember Bergman made a motion to table the item for more review with a second from Councilmember Clay.

Jim Bloss from the audience made a comment that the bass is the problem in this residential neighborhood as well. He provided a copy of City of Houston’s ordinance as an example of how to handle. City Attorney Olson will review and revise the ordinance and bring back to council. Discussion occurred about the business Papa Ro’s which will be reopening and that it will be having live music again.

Voting occurred – all members present voted “AYE” on the motion to table. Motion carried.

Councilmember Bergman left the meeting at 7:54 p.m.

**Executive Session**

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

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

Council left for executive session at 7:54 p.m.

**Return to Open Session**

**27. Take action on any other items from executive session as needed.**

Council returned to open session at 8:36 pm. No action taken.

**Adjourn**

Councilmember Clay made a motion to adjourn with a second from Councilmember McWaters. Meeting adjourned at 8:37 pm.

**PASSED AND APPROVED** this 18<sup>th</sup> day of June 2019.

\_\_\_\_\_/signed\_\_\_\_\_  
Mayor Otis Cohn

ATTEST:

\_\_\_\_\_/signed\_\_\_\_\_  
Angela Smith, City Secretary TRMC