

City Council met for the monthly City Council on January 15, 2019 in the Council Chambers at City Hall, 907 E. Houston, at 6:00 pm with Mayor Otis Cohn presiding.

MEMBERS PRESENT: Mayor Otis Cohn, Councilmember Marilyn Clay, Councilmember Jennifer Bergman, Councilmember Danny Lee, Councilmember Mike Penry, Councilmember Fred Terrell, City Attorney David Olson, City Manager Kelly McDonald and Assistant City Manager Bobby Pennington performing as Deputy City Secretary.

ABSENT: City Secretary Angela Smith

VISITORS PRESENT: Jim Carson, Lance Blackwell, Vanesa Brashier, Derra Purnell, Clay Dean, Karl Uherek, Marcus Gutierrez, Ms. Comeaux, Earl Faust, Bob Bartlett, Beth Tiderman, David Bett, Fred Terrell, and Angie Tamplain

EMPLOYEES: Julia Hanson, Darrel Broussard, Sean Anderson, Mary Cohn, Jeremy Chesnutt, Rod Hainey, Frieda Joyce, and Scott Felts.

Mayor Cohn called the meeting to order at 6:00 pm and stated there was a quorum. The invocation was given by Pastor Earl Faust with Cornerstone Church of Cleveland and Bobby Pennington led the pledge to the US flag and Lance Blackwell led the pledge to the Texas flag.

Presentations and Comments

1. Proclamation for Day of Humiliation, Fasting and Prayer on February 12, 2019.

2. Presentation of Service Awards for May

City Manager McDonald presented service awards to Library Department employee Julia Hanson and Police Department employee John Shaver, both receiving a 10-year award with the City of Cleveland. Ms. Hanson was present for the award and Mr. Shaver was not in attendance.

3. Public Comments

Jim Carson – Chamber update.

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

Councilmember Lee, Bergman and Clay commented on positive work environment and looking forward to the New Year. City Manager Kelly McDonald provided information on the upcoming City election and application process for Mayor, Council Position 1, and Council Position 2. Ms. McDonald also delivered a reminder for upcoming Strategic Goal-Setting Workshop on January 18, 2019. Mayor provided positive remarks on the new La Costa Restaurant, the prospect of another healthcare facility - Millennium Oncology, confirmed closing of the Williams Property with BNSF Railroad bringing major jobs to Cleveland. The Mayor commented that Cleveland ISD is interested in additional \$250 million in school bonds to bolster student growth capacity at CISD facilities, supported by an increase in tax base growth. Councilmember Terrell stated he would comment on development concerns at the Strategic Goal-Setting Workshop. Councilmember Penry stated that Austin Bank is locating in Cleveland and that he will be employed by Austin Bank. Mary Cohn stated that the Library's first Sunday open to the public was a success. Mr. Hainey, Mr. Anderson and Mr. Chesnutt added encouraging feedback on their department status. Ms. Joyce gave a detailed update on scheduled activities at the Civic Center. Clay Dean plans on the Municipal Airport doubling activity once the new hangers are open for business. Mr. Felts provided detail on recent and successful seizure of criminal activity.

Consent Agenda

5. Consider acceptance of monthly financial report for month ending December 2018.

6. Consider minutes from City Council meeting December 18, 2018.

7. **Consider ordinance to continue authorization of participation with other Entergy service area cities in matters concerning Entergy Texas Inc. at the Public Utility Commission of Texas.**
8. **Consider a 2019 Joint Election Agreement between Cleveland Independent School District, the City of Cleveland and Liberty County Clerk Office for Election Services and approve resolution for 2019 Election Services.**
9. **Consider an Ordinance ordering and calling the General Election for the purpose of electing Mayor, Council Position 1, and Council Position 2 to be held May 4, 2019, with a runoff date of June 22, 2019.**

The Mayor read the consent agenda items and item number 8, 9 was pulled from Consent not to be approved at this time as awaiting information from the county clerk's office.

The Mayor asked if the City was in good financial shape and Mr. Pennington provided revenue and expenditure totals for the General Fund and stated that Council would receive an annual audit presentation in February and a list of recommended carryovers from the prior year.

Councilmember Penry made a motion to approve consent agenda items 5, 6 & 7 with a second from Councilmember Bergman.

AYES: All members present **NAY:** None **MOTION:** Passed

10. **Consider resolution calling February 12th of each year an annual event for the Day of Humiliation, Fasting and Prayer and for it to be held at the Cleveland Civic Center each year on that date.**

Councilmember Clay made a motion to approve the resolution calling February 12th of each year an annual event for the Day of Humiliation with a second from Councilmember Lee.

AYES: All members present **NAY:** None **MOTION:** Passed

11. **Consider request from Chamber of Commerce for council's support by signing the Chamber resolution concerning State of Texas Rate of Funding for Public Schools Where Our Constitution Requires the State to Provide Free Education to be presented at the trip to the State Capital in Austin by the Chamber of Commerce.**

Jim Carson discussed the purpose of the resolution as an endorsement to be presented to the State Legislature in February. The author and language of the resolution was clarified during a lengthy discussion and several Councilmembers expressed differences of opinion on the language of the resolution as written.

Councilmember Clay made a motion to approve the Chamber resolution concerning State of Texas Rate of Funding for Public Schools with a second from Councilmember Lee.

City Attorney David Olson reminded Council that school financing is outside the jurisdiction of City Council. The resolution should only advocate for the State Legislature to address school financing reform and the resolution should be redrafted to only advocate, not provide specific programs or solutions for education reform as currently presented. Councilmember Terrell stated he is in favor of the resolution and called for a vote as school financing reform is a community issue.

Councilmember Terrell made a motion to approve the resolution. The Mayor asked for a second to the motion. The motion did not receive a second, therefore the motion died for lack of second.

12. **Consider amendment to existing lease agreement with Cleveland Municipal Airport Fixed Base Operator Clay Dean d/b/a Aviation Services.**

Mr. Pennington presented Council with background information for the proposed ninth amendment to existing lease agreement with Cleveland Municipal Airport Fixed Base Operator Clay Dean, Aviation Services.

The proposed change would allow the City to maintain a higher percentage of income due to the cost advantage the enterprise can now obtain with the availability of 30 additional T-Hangar units.

Councilmember Bergman asked Clay Dean directly if he was in favor of the change. Mr. Dean responded with a “yes,” stating that the amendment would simplify the agreement between the City and the FBO.

Councilmember Bergman made a motion to approve the resolution with a change in the first paragraph to reflect Aviation Services as the “Lessee” with a second from Councilmember Clay.

Further conversation by Councilmember Penry was raised requesting information on other forms of compensation to the FBO for managing the airport. It was stated that the City receives 10 cent per gallon on fuel sales and the FBO retains any other remaining earnings on fuel. Discussion also clarified that the FBO has the benefit of a hangar space primarily to house equipment for maintaining the Airport facilities. Further discussion and clarification was addressed on the adjustment to the percentage of collection and the increase on projected collection by both parties of the contract.

AYES: All members present **NAY:** None **MOTION:** Passed

13. Consider a Utility Installation Request (UIR) for permit in Texas Department of Transportation’s right-of-way from Entergy’s Cleveland Service Center

Utility Installation Request is for a water and sewer easement to Entergy’s new Cleveland Service Center. Entergy was unsuccessful at getting access from adjacent property owners and is requesting the alternative option with an extension across FM2025, which is TxDOT right-of-way. Karl Uherek reviewed the UIR process as the application was submitted to TxDOT in the prior week for approval. Staff is requesting Council to approve the 900 ft. extension within the TxDOT right-of-way. Councilman Penry is in favor of the request with an agreement that Entergy is responsible for removal and relocation of the lines in the event TxDOT expands FM2025.

Councilmember Penry made a motion to approve subject to an agreement that if the line ever has to be removed, that Entergy will pay for the cost with a second from Councilmember Terrell.

Further discussion by Councilmember Bergman advised that the agreement should be in perpetuity. David advised to approve “as is” or “not,” otherwise will complicate the application process. Rod Hainey addressed placement of the lines in TxDOT right-of-way and stated that it is not a unique situation. Council discussed current and future cost of potential line replacement, as well as the optional approaches of getting the line to the property. Mr. Olson called for a potential compromise as a pro rata share not conditioned in the application.

Councilmember Penry amended the original motion to approve subject to Entergy paying the pro-rata share if TxDOT request the line be removed, with a second from Councilmember Lee.

AYES: All members present **NAY:** None **MOTION:** Passed

14. Consider request to conduct a Request for Qualifications for engineering services for electrical repairs needed at the Municipal Sports Park due to water damage from Hurricane Harvey.

The City Manager led the discussion to conduct a RFQ for engineering services on Municipal Sports Park electrical repairs. The request is ultimately a requirement for FEMA reimbursement as electrical damages were due to Hurricane Harvey.

Councilmember Lee made a motion to Request for Qualifications for engineering services for electrical repairs at the Municipal Sports Park with a second from Councilmember Bergman.

In further discussion, members of Council inquired about the cost and details of the request. The City Manager clarified that there were no additional cost associated with the RFQ and that the project is to raise the

electrical services above the Harvey benchmark. City Manager stated the City had an estimate of \$80,000 to \$100,000 to mitigate the electrical services.

The City Manager requested a scoring committee. Council recommended Councilmember Lee and Councilmember Clay to be included on a scoring committee.

Councilmember Bergman made a motion to amend motion to recommended Councilmember Lee and Councilmember Clay to be included on the scoring committee with a second from Councilmember Penry.

Mayor asked if there was any further discussion, and hearing none, led the call for a vote:

AYES: All members present **NAY:** None **MOTION:** Passed

15. Consider appointments for boards and committees and possible abolishment of boards for 2019.

Library Board

Councilmember Lee made a motion to recommended Library Board as presented with a second from Councilmember Penry.

In further discussion, Councilmember Clay asked if Carrie Nickson is still on the Board which was clarified by the City Manager as a "Yes."

Mayor led the call for a vote on the motion to recommended Library Board as presented:

AYES: All members present **NAY:** None **MOTION:** Passed

Building and Standards Commission

City Manager stated that all current members of the Building and Standards Commission would continue to serve if recommend by Council.

Councilmember Penry made a motion to recommend Building and Standards Commission as presented with a second from Councilmember Clay.

AYES: All members present **NAY:** None **MOTION:** Passed

Charter Review Commission

City Manager recommends reappoint of current members to the Charter Review Commission.

Councilmember Lee made a motion to recommend Charter Review Commission as presented with a second from Councilmember Terrell.

In further discussion, the City Manager clarified Councilmember Penry's question on a member's term length on the Charter Review Commission as a five-year term.

AYES: All members present **NAY:** None **MOTION:** Passed

CVB Tourism Committee

Councilmember Clay made a motion to recommend CVB Tourism Committee as presented with a second from Councilmember Lee.

AYES: All members present **NAY:** None **MOTION:** Passed

Mayor acknowledged that Councilmember Jennifer Bergman departed the meeting at 7:35pm.

Economic Development Corporation

City Manager stated that positions occupied by Brad Browder, Kelly Jenkel-Axton, Fred Terrell and Marilyn Clay expired at the end of calendar year 2018, and that Niki Coats was appointed to a vacant unexpired term previously occupied by Alfred Anderson.

Councilmember Penry made a motion to renew appointments to the Economic Development Corporation with a second from Councilmember Lee.

AYES: All members present **NAY:** None **MOTION:** Passed

Reinvestment Zone #1 Board

City Manager stated that the Chairman of the Board is appointed by Council for a one-year term. David Nemeth served as the previous Chairman.

Councilmember Lee made a motion to renew David Nemeth as Chairman to the TIRZ #1 Board with a second from Councilmember Penry.

AYES: All members present **NAY:** None **MOTION:** Passed

Zoning Board

City Manager stated that the appointments to the Zoning Board are two-year terms with all incumbent members wishing to continue to serve.

Councilmember Clay made a motion to renew current members to the Zoning Board with a second from Councilmember Lee.

AYES: All members present **NAY:** None **MOTION:** Passed

Zoning Board of Adjustments and Appeals

City Manager stated that the appointments to the Zoning Board of Adjustments and Appeals must be different members than the Zoning Board and recommends tabling appointments at this time.

Councilmember Clay made a motion to table appointments to Zoning Board of Adjustments and Appeals with a second from Councilmember Terrell. Councilmember Penry abstained from vote.

AYES: 3 **NAY:** None **MOTION:** Passed

Executive Session

19. Closed Executive Session under Texas Local Government Code 551.072 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 7:45 pm.

20. Return to open session and take action as needed.

Council returned to open session at 8:21 pm. No action taken from executive session.

Adjourn

Councilmember Clay made a motion to adjourn with a second from Councilmember Penry. Meeting adjourned at 8:21 pm.

PASSED AND APPROVED this 19th day of February 2019.

_____/signed _____
Mayor Otis Cohn

ATTEST:

_____/signed by Angela Smith City Secretary _____
Bobby Pennington, Acting as Deputy City Secretary