

City Council met for the monthly City Council meeting on April 16, 2019 in the Council Chambers at City Hall, 907 E. Houston, with Mayor Cohn presiding.

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

VISITORS PRESENT: Carolyn McWaters, Logan Wise, Kelly Bosworth, Sid Medford, Jeff Medford, William Tammingt, Jim Carson, Lance Blackwell, Terry Woodson, Julianne Kugle, Clint Pendleton, Vanesa Brashier

EMPLOYEES: Rod Hainey, Sean Anderson, Bobby Pennington, Jeremy Chesnutt, Darrel Broussard, Clifford Wise, Deanna Prentiss, Kim Castleman, Allyson Lopez

Mayor Cohn called the meeting to order at 6:07 pm and stated there was a quorum. The invocation was given by David Zajicek with Gideon International and Jim Carson led the pledge to the US flag and Bobby Pennington led the pledge to the Texas flag.

Presentations and Comments

1. **Presentation of Proclamation for National Day of Prayer – May 2, 2019**

Mayor Cohn read proclamation.

2. **Presentation of Proclamation for Safe Digging Month for April – Centerpoint Energy**

Mayor Cohn read the proclamation.

3. **Presentation of Proclamation for National Public Safety Telecommunicators Week – April 14-20, 2019**

Mayor Cohn read the proclamation. A photo was taken with the dispatchers in the audience.

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

Mayor Cohn asked that this be moved to May's agenda since this event occurs then.

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

City Manager McDonald presented the service awards for April. Clifford Wise with the Fire department has been with the city for 10 years. He was present to accept. Erica Fleming with the Police department has been with the city for five years. She was not present to accept her lapel pin.

6. **Presentation of First Quarter 2019 – Employee High Five Award**

City Manager McDonald read the submission for the high five award recipient who is Mary Cohn, Library Director. Ms. Cohn was not present as she was at a library convention that week.

7. **Presentation by Julianne Kugle, SK Law regarding a proposed development on Fostoria Road**

Ms. Kugle was at the meeting on behalf of the developers for this project. The developers want to do a ETJ MUD on Haden Tract, south of 105, east of Fostoria. There is currently no city water or sewer available at this location. The developers will work with the school district and will also create a water plant onsite. For fire services, Montgomery County ESD will provide service as well as Splendora Volunteer Fire department.

The developers talked to several home builders and if the city annexes the property with the city taxes and MUD taxes it will be too high to sell. They want to work with the City but will have to enter into annexation at a later date so that the MUD has time to develop and sell. They will prohibit manufactured homes and trailer parks. Councilmember Terrell asked about the narrow 45 foot plots. Ms. Kugle replied that the trend is smaller lots and the price point will be \$200-\$250k. Councilmember Penry asked what is the benefit for the City of Cleveland. She replied that they are not asking anything from the City at this time. Later it would benefit the city with a larger tax base and water and sewer facilities at no cost. The City would also assume the parks and public infrastructure after the dissolution of the MUD. State law says that 90 days after a MUD annex goes away the City assumes all assets and debts (if left). The developer is fronting all the cost of the infrastructure up front. They hope to sell 10-15 homes a month. Mayor Cohn asked if a TIRZ would be an option instead of MUD. She replied that a TIRZ, even a TIRZ/MUD would not be sufficient to build infrastructure. The LGI Homes development is in Splendora school district so that helped them with their TIRZ/MUD. This development needs a ETJ MUD.

Mayor Cohn expressed concern with MUD now and then annexing later as the City has no involvement in the development of the infrastructure to the city's codes. Ms. Kugle asked that would if the city had the rights to require codes to be met, would they be more amiable to the request. The reply was that it could be discussed and that this item would be addressed during Executive Session later.

8. **Public Comments.**

Jim Carson provided chamber update.

9. **Reports and comments from City Council, Mayor or City staff.**

Mike Penry – Austin Bank is open for business. They closed on the land purchase last Friday. Mayor Cohn appreciates Austin Bank for coming to Cleveland. Thursday is the ribbon cutting ceremony.

Marilyn Clay – happy to see Jennifer Bergman back at council. Commended the dispatchers for great work.

Otis Cohn – Commended the dispatchers as well. Congratulated Mary Cohn for her award. She told him that she had a meeting with the Tocker grant staff at convention and it was a great discussion. The city is lucky to have her as an employee. Happy Easter to all.

Kelly McDonald – Expansion Solutions Magazine advertising completed. Port of Houston meeting completed. City offices closed Friday. Bunny Blast is Saturday. April 25 – 3:30 –Austin Bank ribbon cutting, 26th Relay for Life, 27th Prescription drop off event, 27th is also Spring Bazaar for Senior Citizens' Center, Dr. Myers retirement party held at Civic Center, May 4th 5k Fun Run at El Burrito, May 18th is Clean Up Cleveland, May 21st, council reception for outgoing/incoming members.

Jennifer Bergman – Good to be back.

Danny Lee – Good to have Jennifer back. Thankful he is here for a front row seat to growth.

Consent Agenda

10. **Consider acceptance of monthly financial report for month ending March 2019**
11. **Consider minutes from City Council meetings held in March 2019**
12. **Consider resolution adopting the policies for Citizen Participation Plan and Grievance Procedures, Section 3 Policy, Excessive Force Policy, Section 504 Policy and Grievance Procedures, Limited English Proficiency Plan, Fair Housing Policy and Code of Conduct Policy for participation with Texas Community Development Block Grant Projects.**
13. **Consider acceptance of budget calendar for FY19-20**
14. **Consider directing staff to proceed with three separate Request for Bids on the following services that relate to natural emergencies:**
 - a. **Disaster Restoration and Recovery**
 - b. **Debris Removal Monitoring**
 - c. **Debris Removal**
15. **Consider ordinance of the City of Cleveland, Texas suspending the rates proposed by Centerpoint Energy Resources Corp., d/b/a Centerpoint Energy Entex and Centerpoint Energy Texas Gas (“Centerpoint” or “company”) company’s gas reliability infrastructure program (“grip”) filing made with the city on March 28, 2019; finding that the meeting complies with the open meetings act; making other findings and provisions related to the subject, and declaring an effective date**
16. **Consider an ordinance by the City of Cleveland, Texas (“City”) denying the distribution cost recovery factor rate increase request of Entergy Texas, Inc. filed on March 28, 2019; setting just and reasonable rates for Entergy Texas, Inc. for service within the municipal limits; finding that the meeting complies with the open meetings act; making other findings**
17. **Consider directing staff to proceed with Request for Proposals for copier services for City facilities**

Mayor Cohn asked council if any consent items needed to be pulled to Discussion and Action. Councilmember Penry said that he had a couple of questions on financials but did not need it pulled. On page 3, what was use of \$117k debt svc fund? ACM/Finance

Director Pennington replied that the city purchased a fire truck and sewer truck and this was a transfer from fund 701 to support the debt for those purchases.

Consent items 12 & 17 were pulled to discussion and action section.

Councilmember Penry made a motion to approve consent items 10, 11, 13, 14, 15 & 16 with a second from Councilmember Bergman. All members present voted "AYE".

Motion passed.

Discussion and Action

12. **Consider resolution adopting the policies for Citizen Participation Plan and Grievance Procedures, Section 3 Policy, Excessive Force Policy, Section 504 Policy and Grievance Procedures, Limited English Proficiency Plan, Fair Housing Policy and Code of Conduct Policy for participation with Texas Community Development Block Grant Projects.**

City Manager McDonald said that these policies and procedures are required by CDBG for grant approval. Approving them keeps us in compliance and the only new one is the limited English proficiency. That is due to recent population changes.

Councilmember Clay made a motion to approve the resolution adopting the polices that are listed in the agenda item with a second from Councilmember Bergman.

Councilmembers Bergman, Lee, Clay and Terrell voted "AYE" and Councilmember Penry voted "NAY". Motion carried.

17. **Consider directing staff to proceed with Request for Proposals for copier services for City facilities**

City Manager McDonald stated over the years we added copiers to our contracts but now we want to put them all out for bids to get the best possible prices. There is no issues with our current service.

Councilmember Bergman made a motion to approve the Request for Proposals for copier services request with a second from Councilmember Lee.

Prior to voting, a request was asked that the RFP only list the ones that need maintenance since the list in the packet was all encompassing.

All members present voted "AYE". Motion carried.

18. **Discussion on the status of approved budget projects for FY18-19**

This is what we have in the current budget and where we are at in the progress of the projects. We are currently pulling the costs and as soon as new council is seated we will hold another goals workshop meeting. Councilmember Terrell stated that item 15 – AV upgrade at Civic Center at the last meeting he was at the microphone use was embarrassing. City Manager McDonald stated that the company has come out and reviewed the system and ordered new microphones and retrained the staff. The staff said they had it tested that morning and it was fine.

Councilmember Terrell asked about the records management plan. Ms. McDonald said that we are looking at different vendors and getting prices.

19. **Consider approval of preliminary plat for Section 1 Pinewood Trails from LGI**

This is the LGI subdivision off Morgan Cemetery and Rutherford Road in Montgomery County. The plat has been reviewed by Public Works Director Hainey and HR Green. City Attorney Olson asked for an approval block on the plat for city signature.

Councilmember Bergman made a motion to approve subject to adding the signature block for city approval with a second from Councilmember Clay. All members voted "AYE". Motion carried.

20. **Consider acceptance of request from BurgerWorks Cleveland Ltd (Whataburger) to abandon a portion of Mayo Street from US 59 to Lovett Street and approve an Ordinance finding and determining that public convenience and necessity no longer require the continued existence of a portion of Mayo Street running east/west between Highway 59 access road and Lovett Street located within the City of Cleveland, Liberty County, Texas; vacating; abandoning, and closing said public right-of-way; authorizing the Mayor to execute and the City Secretary to attest, respectively, quit claim deed conveying said abandoned easement to the property owners; providing for severability; and containing other provisions relating to the subject.**

Mr. Sid Medford, his son Jeff and William Tammingt addressed council on this item. This project has been in the works for four years to purchase the properties around the current Whatburger location. They are asking the City to abandon the road (.274-acre tract) which is only partially useable now. They are planning on keeping the current Whatburger open for business during the construction of the new location.

Councilmember Terrell made a motion to approve the request from BurgerWorks to abandon a portion of Mayo Street from US 59 to Lovett Street and approve the presented ordinance and quit claim deed for the same and authorize the Mayor to execute with a second from Councilmember Clay. All members present voted "AYE". Motion carried.

21. **Consider contract with Public Management Inc. for grant management and planning services**

City Manager McDonald said that the current contract is with J. Rice and since he has sold the business to the employees that changes the agreement. The agreement is \$100 retainer paid monthly to assist with grant services. Councilmember Bergman expressed her concerns and displeasure with Public Management. City Manager McDonald stated that the city could go out for Request for Proposals if council wishes. Mayor Cohn said that Public Management has grown and doing business in different states and hope to find smaller company. Councilmember Clay commented that we should consider trying to find someone else.

Let the record reflect that Councilmember Bergman left the meeting at 7:50 pm.

City Manager McDonald commented that we could go out for RFP or add a grant writer on staff. Councilmember Penry asked if J. Rice got the monthly \$100 and the EDC money and the reply was yes. City Attorney Olson said that we have to formally

terminate our current contract that shows J. Rice/Public Management. It is an open ended contract but requires 30-day notice of termination. It is just formality as the agreement should be void anyway.

Councilmember Terrell made a motion to send the letter terminating the current agreement with Public Management and explaining why the city is terming the old agreement with a second from Councilmember Lee.

The payments will cease after 30 days-notice.

Councilmembers Lee, Terrell, Clay & Penry voted "AYE". Motion carried.

22. Consider nominations for the Zoning Commission to replace Niki Coats

City Attorney Olson stated that there is a potential for conflict with Mr. Coats being on both the Zoning Commission and the EDC Board. Councilmember Lee said that he would like to nominate Eisha Jones as a nominee for replacement and Councilmember Bergman agreed. City Manager McDonald will contact her. It was suggested that this item be tabled until next month's meeting so that a formal resignation letter is received from Mr. Coats.

Councilmember Lee made a motion to table the item until May's meeting with second from Councilmember Terrell. All members present voted "AYE". Motion carried.

23. Consider directing staff to proceed with a Request for Proposals for ambulance services for the City of Cleveland

The current contract expires in August 2019. They have a 90-day termination notice clause. With the growth in the area the city needs to look at the current and future service needs. City Manager McDonald had conversations with Mike Koen who is with the current vendor, Liberty County EMS. He stated he has some issues with rates and insurance and will try to bring a proposal back to council. He probably would need an increase in the contracted amount. City Manager McDonald stated that the RFP would help us know what else is out there to serve our citizens. Mayor Cohn commented to include Mary Cohn in the discussions with bidders as she is familiar with ambulance services and can provide good input.

Councilmember Clay made a motion to direct staff to proceed with a Request for Proposal for ambulance services for the City with a second from Councilmember Lee. All members present voted "AYE". Motion carried.

24. Consider tax bid approved by Liberty County received from Carl Edwards for suit TX13102199 for address 925 Green Ave, Fisher Leo, Lot Tract 26, Acres .1205 for the amount of \$1,580 (Bid received 4/11/2019)

This bid was approved by the county and the school district approved it last night at their meeting.

Councilmember Lee made a motion to approve the bid with a second from Councilmember Terrell.

Mayor Cohn stated that there needs to be some mechanism to protect ourselves on the taxes owed. City Attorney Olson said that improvements in the past were taken out so the taxes were higher at that time. He will contact Greg East, tax attorney, to see if he has any suggestions on how to fix the tax issue.

Councilmember Lee said that it is an eyesore now and that Mr. Edwards is trying to keep it maintained. Councilmember Clay said that the bid shows the appraised value is more than bid amount.

Voting occurred – Councilmember Lee & Terrell voted “AYE”, Councilmember Penry & Clay voted “NAY”. Mayor Cohn voted “NAY” as the tie breaker. Motion failed.

25. **Consider nominations to the Liberty County Central Appraisal District to replace Larry Wadzeck and approve a resolution nominating the chosen candidate who will complete his term (ends December 31, 2019)**

Councilmember Penry expressed interest in being the candidate nominated. He would be eligible to serve if chosen since he would be off council at that time.

Councilmember Terrell made a motion to approve the resolution nominating Mike Penry as the candidate for Liberty County Central Appraisal District with a second from Councilmember Lee. All members present voted “AYE”. Motion carried.

26. **Consider directing staff to proceed with a Request for Bid on two budgeted vehicles for the Police Department - one (1) command type sport utility vehicle and one (1) marked police packet patrol vehicle**

These vehicles are budgeted in this fiscal year.

Councilmember Penry made a motion to approve the RFP request for two police vehicles with a second from Councilmember Lee. All members present voted “AYE”. Motion carried.

27. **Consider directing staff to proceed with a Request for Bid on one command vehicle for the Cleveland Fire Chief to replace existing vehicle due to repair issues/costs.**

Recently council approved bids for skid unit and ATV for the Fire department however the 2006 fire command pickup has a significant crack in the motor and a front end issue. This vehicle was previously a Public Works truck. Funds to cover the purchase would be the insurance proceeds from the fire calls and the skid unit/ATV fund expense would be reallocated to the fire command pickup purchase.

Councilmember Clay made a motion to approve the RFP request for a Fire Command Pickup with a second from Councilmember Terrell. All members present voted “AYE”. Motion carried.

Executive Session

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

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

Left for executive session at 8:27 p.m.

Return to Open Session

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

Returned to open session at 9:12 p.m. Mayor Cohn asked if there was any action needed.

Councilmember Clay made a motion to approve Waste Management settlement agreement and release of claims with a second from Councilmember Lee. All members present voted "AYE". Motion carried.

31. Consider approving amendment to Waste Management contract which will result in slight rate increase

ACM/Finance Director Pennington stated that there will be a slight rate increase. The franchise fee will be charged as part of service. The increase is around \$1.10 monthly, it should cover franchise and CPI charge.

Councilmember Clay made a motion to approve the amended agreement to Waste Management contract with a second from Councilmember Terrell. All members present voted "AYE". Motion carried.

32. Consider request from SK Law to formalize and move forward with the proposal regarding proposed development on Fostoria Road

City Attorney Olson stated based on conversation with council, they stated they are not interested unless SK Law provides something in writing that council can review and discuss.

Councilmember Terrell made a motion for City Attorney Olson to state the council's position with SK Law with a second from Councilmember Penry. All members present voted "AYE". Motion carried.

Adjourn

Councilmember Clay made a motion to adjourn with a second from Councilmember Penry. Meeting adjourned at 9:15 pm.

PASSED AND APPROVED this 21st day of May 2019.

_____/signed_____
Mayor Otis Cohn

ATTEST:

_____/signed_____

Angela Smith, City Secretary TRMC