

Minutes
CLEVELAND CITY COUNCIL
Thursday, June 13, 2019

Members of the Cleveland City Council met in a regularly scheduled meeting at 6:00 p.m. on Thursday, June 13, 2019, in the Council Chambers of the Cleveland Municipal Building located at 201 North Broadway, Cleveland, Oklahoma with Vice Mayor Brian Torres presiding. The agenda for this meeting was posted on the front door of the Cleveland City Hall on June 11th, 2019, at 12:03 p.m.

1. **Call to order.** Vice Mayor Torres called this meeting to order at 6:08 p.m.
2. **Roll Call.** Deputy Clerk Michelle Lehnus called the roll with the following members present:
Present: David Carter, Lee Merrifield, Brian Torres, Mike Carroll
Absent: Scott Rusher (arrived at 7:03 p.m.)
3. **Discussion and action to approve or reject the minutes of the previous meetings. Discussion concerning actions taken in relation to the minutes of the previous meetings.** Discussion of the previous month's meetings occurred. Councilor Carroll noted that the Cleveland City Council minutes dated May 14, 2019, Item 4.b. erroneously shows that the motion to return to open session was made by David Carroll. The minutes should reflect that the motion to return to open session was made by David Carter. A motion was made by Brian Torres and seconded by David Carter to approve the minutes for May 9, 2019 (regular meeting), May 14, 2019 (special meeting), May 28, 2019 (special meeting), and June 4, 2019 (special meeting), with the correction in regards to the minutes dated May 14, 2019, Item 4.b. to show the motion to return to open session was made by David Carter. The motion carried with the following roll call vote:
Aye: Lee Merrifield, David Carter, Brian Torres, Mike Carroll
Nay: None
4. **Discussion and action to approve or reject the Treasurer's Report.** Deputy Clerk Michelle Lehnus explained that the Treasurer's Report shows items listed under Adjustments and Corrections. These items were for checks that had been previously written and were never received by the intended recipient; therefore, the original check was voided and the checks were rewritten and sent again. City Manager Elzie Smith noted that the Jay C. Byers Library Memorial accounts have been paying for library expenses. A motion was made by Brian Torres and seconded by Lee Merrifield to approve the Treasurer's Report for May 2019. The motion carried with the following roll call vote:
Aye: Lee Merrifield, David Carter, Brian Torres, Mike Carroll
Nay: None
5. **Discussion concerning list of purchase orders paid.** During review of purchase orders Councilor Merrifield noted that the new basketball goal was listed as a purchase order. She commented about how good it is to have it and that kids are already playing there. Councilor Brian Torres noted that he had seen kids there every day and hoped that there could be a 3 v 3 tournament played at Pioneer Day or during the Freedom Celebration. Councilor Mike Carroll asked for explanation regarding payment of Shane Stiger for mowing. City Manager Elzie Smith advised Councilor Carroll that Mr. Stiger was contracted for mowing and had been for the last three years. Councilor Lee Merrifield requested explanation about the video installation by RCR Computing. Chief Clint Stout advised that was for one of the police computers so that the police officers could monitor the City Hall lobby.

- 6. Public Comments. All comments will be limited to agenda items only. Participants are required to sign in prior to the start of the meeting.** Pat Bundy signed in to talk about the pool, pool committee and Hansen Park.
- 7. Discussion and possible action to approve or reject the Option Agreement to Purchase Communications Easement between American Tower Asset Sub II, LLC and The City of Cleveland regarding the purchase of the communications easement of the cell phone tower located at the little league baseball fields.** City Manager Elzie Smith advised the council that the Option Agreement to Purchase Communications Easement had been reviewed extensively by city attorney Eric Nelson. Mr. Nelson had vocalized concerns about not being able to sell the property in the future but City Manager Smith noted that the easement was located at the little league baseball fields and would never be sold in the future. City Manager Smith recommended that the council approve the Option Agreement to Purchase Communications Easement and accept the purchase price payment instead of monthly lease amounts. A motion was made by David Carter and seconded by Mike Carroll to approve the Option Agreement to Purchase Communications Easement between American Tower Asset Sub II, LLC and The City of Cleveland as it is written. The motion carried with the following roll call vote:
Aye: Lee Merrifield, David Carter, Brian Torres, Mike Carroll
Nay: None
- 8. Discussion and possible action to appropriate monies received from the Option Agreement to Purchase Communications Easement as listed in Agenda Item Number 7.** Councilor Brian Torres reminded the council of discussion at the previous meeting about using the money for the little league ball fields. He mentioned that the Capital Improvement Plan had the little league ball fields listed for \$100,000 worth of improvements and that appropriating this money to the little league ball fields would take care of \$88,000 of that expense. Councilor Torres also noted that Alaback Design is working on designing a multi-phase plan for the little league ball fields. He also mentioned that Indian Electric Cooperative is looking at what they can do for lighting in the city. He mentioned that the little league baseball organization has always helped the city complete projects such as the concession stands, buying field draggers, and paying for half of the sidewalks. He said they make an impact in the town. Councilor Mike Carroll asked when Alaback's design would be finished and was told by Councilor Torres that there was not a date set. Councilor Torres advised that he requested that the council be provided with three or four options to review and choose from. Councilor Lee Merrifield asked that this money be appropriated to the parks department for future use. Councilor Torres asked that the money be 'earmarked' for Billy Vessels Park little league fields; Councilor Merrifield wanted to know why the monies needed to be 'earmarked' if it was deposited into the parks department. Councilor David Carter asked how long it would be before the check from American Tower Asset Sub II, LLC was received. City Manager Smith stated that it would probably be approximately 30 days. A motion was made by Brian Torres and seconded by David Carter that this issue be tabled until a future meeting. This motion carried with the following roll call:
Aye: Lee Merrifield, David Carter, Brian Torres, Mike Carroll
Nay: None
- 9. Discussion and possible action to approve or reject the Council Handbook, dated June 11, 2019.** Councilor Lee Merrifield noted that the Open Meetings Act Summary needs to be corrected to reflect that an informal get-together involving three council members can constitute a meeting, not four members due to the size of our city council. It was also noted that the handbook would be dated June 13, 2019 to reflect the date it was approved by the council. A motion was made by Lee Merrifield and seconded by David Carter to approve the Council Handbook, dated June 13, 2019, with the correction to the Open Meetings Act Summary

to reflect that an informal meeting of three members can constitute a meeting. The motion carried with a roll call vote as follows:

Aye: Lee Merrifield, David Carter, Brian Torres, Mike Carroll

Nay: None

10. Discussion and possible action regarding trash and dumping of limbs during the weekend.

Councilor Lee Merrifield mentioned that this was a 'how' item on the agenda and questioned if it should be a management decision. Councilor Brian Torres said that he requested that it be placed on the agenda because there had previously been a process in place but it had been changed. City Manager Elzie Smith explained that the previous process of allowing citizens access to dump limbs and brush on the weekends had been abused because people kept throwing items that were not limbs or brush out and that staff would have to spend half of their day on Monday cleaning up the area. Councilor David Carter asked if any of the employees that are currently working in that department have an opinion on how it is handled. Councilor Brian Torres asked if the patrol officer could unlock the gates for people on the weekend. Chief Stout advised that wouldn't be feasible for his officers due to the unpredictability of their availability and schedule. Councilor Torres asked if the city could have a crew pick up limbs once a month from the curb side. Councilor Carter asked if it would be cost effective to implement video surveillance to allow for weekend access or if the city could staff it one Saturday per month from 8 a.m. – 12 p.m. Councilor Mike Carroll suggested that an employee's shift be altered once per month to allow dump access later into the evening. City Manager Smith thought that the once a month adjusted shift was a feasible idea. No action was taken on this matter; City Manager Smith advised that he would implement a plan that would allow access to dump limbs and brush once per month during non-business hours.

11. Discussion and possible action regarding lot split at 906 Waterstone Drive, Cleveland, OK, 74020 to allow purchase of property.

City Manager Elzie Smith advised that Mike Southward had built a new home and that his house has taken up most of his lots. Mr. Southward has spoken to Aaron Espolt about the purchase of a portion of Dr. Espolt's lot; however, splitting a lot requires council approval. City Manager Smith advised that both Mr. Southward and Dr. Espolt are in favor of the lot split to allow for the purchase of property. A motion was made by Brian Torres and seconded by Lee Merrifield to approve the lot split at 906 Waterstone Drive, Cleveland, OK 74020, to allow the purchase of property. The motion carried with the following roll call:

Aye: Lee Merrifield, David Carter, Brian Torres, Mike Carroll

Nay: None

12. Discussion and action to approve or reject the Worker's Compensation Plan Renewal with the Oklahoma Municipal Assurance Group and apply \$40,000.00 of the escrow funds to premium.

City Manager Elzie Smith recommended that the council approve the Worker's Compensation Plan Renewal with the Oklahoma Municipal Assurance Group and to apply \$40,000.00 of the escrow funds to the premium. Councilor Brian Torres asked how we continue to have such a high amount in escrow. City Manager Smith advised that the city has not had a lot of workman's compensation claims but noted that there may be a difference in next year's escrow and premiums. A motion was made by Brian Torres and seconded by Lee Merrifield to approve the Workman's Compensation Plan Renewal with the Oklahoma Municipal Assurance Group and to apply \$40,000.00 of the escrow funds to the premium. This motion carried with the following roll call:

Aye: Lee Merrifield, David Carter, Brian Torres, Mike Carroll

Nay: None

13. Discussion and possible action regarding construction of new swimming pool. Action may include approval or rejection of lowest bid for pool construction, future plans for Hansen Park,

and any other matters related to pool and park upgrades/construction. Pool construction bids were opened June 7, 2019 as follows:

Pool Creations Inc. - \$1,050,797.00

JP Construction, Inc. - \$746,249.00

It was noted that this bid is for the construction of the pool itself, to include the slide and water toys, not for buildings or site prep. City Manager Elzie Smith advised the council that the bid was sent to Alaback Design and they said it was a good bid. Alaback Design also stated that they knew this company. Councilor Brian Torres stated that he had gotten good feedback about JP Construction, Inc. Councilor Lee Merrifield asked for confirmation that we would still be within the amount that was borrowed even with needing to get the site prepped to be at the correct grade. Councilor Torres confirmed that we should still be within the borrowed amount of \$1,000,000. A motion to approve and accept JP Construction, Inc. as the lowest bid was made by Lee Merrifield and seconded by David Carter. The motion carried with the following roll call vote: (4-0)

Aye: Lee Merrifield, David Carter, Brian Torres, Mike Carroll

Nay: None

- 14. Proposed executive session to discuss the employment of the City Manager where the disclosure of information would violate confidentiality requirements of federal and state law as authorized by OKLA. STAT, Title 25, Section 307 (B) (1) & (7).** City Manager Elzie Smith reminded the council that the final two city manager interviews are scheduled for June 18, 2019. There was no motion made to convene in executive session; no action was taken.
- 15. Consider City Manager's Report and various department reports which may include: Utility report, sales tax report, cemetery and park reports, library construction update, Cedar Creek bridge project update and possible hospital re-financing. This report may include council comments.** City Manager Elzie Smith began by complimenting the crews that prepared the cemetery for Memorial Day. He gave recognition to them because they worked in preparation of the incoming weather and was able to get the cemetery ready for Memorial Day before any rain moved in. City Manager Smith gave the utility report and noted the following: Gas - \$38,209, down \$12,297; Water - \$79,956, up \$8,834; Water Plant Construction - \$38,600; Sewer - \$36,402, up \$3,232; Garbage - \$34,037, up \$5,555; Total Billing - \$243,579, up \$39,733 for the month and up \$732,841 year to date. City Manager Smith let the council know that the construction at the library had stopped temporarily due to having to find a new supplier for steel. The original supplier wanted payment before the product had been received; therefore, a new supplier had to be found. They are currently waiting on the steel to arrive. City Manager Smith advised that he had met with Barbara Spess, hospital administration, and American Heritage Bank regarding the possible re-financing of the hospital. City Manager Smith provided the council with the Sales Tax Report for May 2019 which was as follows: Sales Tax - \$164,300, up \$25,404 for the month, up \$136,431 year to date; Use Tax - \$12,234, up \$6,075 for the month, up \$59,538 year to date; Tobacco Tax - \$1,166, down \$281 for the month, down \$4,380 year to date. Council members Lee Merrifield, David Carter, and Mike Carroll had no comments. Councilor Brian Torres agreed with City Manager Smith that the cemetery had looked good for Memorial Day. Councilor Torres also pointed out that our sales tax increases indicated that the City of Cleveland was up \$5.6 million in sales for this fiscal year.
- 16. New Business. New business being defined as any business that could not be foreseen at the time of posting the agenda.** There are two items that were received June 13, 2019, that are considered new business.

Notice was received from CBEW Professional Group, LLP for accounting and consulting services for the years ended June 30, 2019 and 2020. City Manager Smith read from the notice that CBEW provides general accounting and consulting services throughout the

year, prepare financial statements, and provide an independent monthly review of accounts. Total Estimated Engagement Fees for these services is \$15,200.00. A motion was made by Brian Torres and seconded by Scott Rusher to approve the CBEW Professional Group, LLP Accounting and Consulting Services for the 2019-2020 Fiscal Year. The motion carried with the following roll call vote:

Aye: Lee Merrifield, David Carter, Brian Torres, Mike Carroll, Scott Rusher

Nay: None

City Manager Elzie Smith and Bryan Drummond reviewed the Fraternal Order of Police Bargaining Agreement on June 13, 2019. The following changes were made to the Bargaining Agreement: vacation leave and accrual/carry-over time will be reflected in hours, not days; uniform allowance will remain the same, however, non-uniform items that may be destroyed can now be replaced with monies from the uniform allowance; eyeglasses replacement limit increased to a maximum of \$500.00; a minimum of two vehicles will have cages separating the officer from the detainee. A motion was made by Lee Merrifield and seconded by David Carter to approve the Fraternal Order of Police Bargaining Agreement with the changes noted by City Manager Smith. This motion passed with the following roll call:

Aye: Lee Merrifield, David Carter, Brian Torres, Mike Carroll, Scott Rusher

Nay: None

17. Adjournment. A motion to adjourn was made by Brian Torres and seconded by Lee Merrifield. The motion carried with the following roll call vote:

Aye: Lee Merrifield, David Carter, Brian Torres, Mike Carroll, Scott Rusher

Nay: None

The meeting adjourned at 7:12 p.m.

Signature on File
Scott Rusher, Mayor

Signature on File
Annetta Franks, City Clerk