



Meeting Minutes
City Council

Monday, March 21, 2016

6:00 PM

Johnnie Arolfo Civic Center
400 West Walker Street

Council Work Session

The City Council of the City of League City, Texas, met in a work session in the Johnnie Arolfo Civic Center at 400 West Walker Street on the above date at 6:00 p.m.

Mayor: **Tim Paulissen**

City Council Members: **Dan Becker**
Vacant
Heidi Hansing
Todd Kinsey
Geri Bentley
Keith Gross
Nick Long

City Manager: **Mark Rohr**
Deputy City Manager: **John Baumgartner**
Asst. City Manager/Director of Finance: **Rebecca Underhill**
City Attorney: **Nghiem V. Doan**
City Secretary: **Diana M. Stapp**
Chief of Police: **Michael Kramm**
Director of Engineering: **Earl Smith**
Director of Human Resources/Civil Service: **Queenell Fox**
Director of Parks & Cultural Services: **Chien Wei**
Director of Planning & Development: **Paul Menzies**
Director of Public Works: **Rick Harrah**

1. CALL TO ORDER AND ROLL CALL OF MEMBERS

Mayor Paulissen called the meeting to order at 6:00 p.m. and called the roll. All members of Council were present except Mr. Long.

Absent 1 - Mr. Nick Long

Present 6 - Mayor Tim Paulissen, Mr. Dan Becker, Ms. Heidi Hansing, Mr. Todd Kinsey, Ms. Geri Bentley and Mr. Keith Gross

2. **DISCUSSION REGARDING THE ECONOMIC DEVELOPMENT EFFORTS OF VARIOUS HIGH-GROWTH COMMUNITIES AND ASSOCIATED REGULATIONS THAT PROMOTE SALES TAX GENERATING BUSINESSES**

Paul Menzies, Director of Planning/Development said a few weeks ago Council Member Bentley attended a seminar discussing cities in Texas that have recently adopted amendments to their zoning ordinance to promote sales tax generating businesses, exclusively in some of their commercial zones. So she had asked the City Manager to have staff do some research into that and have a work session discussion. The two cities that were looked at were Shenandoah and Oak Ridge North, both located in Montgomery County.

Council Member Bentley said I appreciate the urgency in getting this done. We had a round-table discussion at TML and the Mayor from Shenandoah was there. He said what the Woodlands is tending to do is push the non-tax paying entities into their city (Shenandoah). The Woodlands take in the big box stores that produce a lot of sales tax and send the hospitals who don't pay a lot of sales tax into Shenandoah. So they came up with an idea of requiring the hospitals, tax exempt or not, to put retail (tax generated) on the first level and then having medical on the upper floors. I thought that was very interesting. He said people are coming and asking to be included in these facilities. So I came back and talked with Mark and Rick and they have done a lot of work on this. The cities of Shenandoah and Oak Ridge have been very generous in sharing their information on this. I think it would behoove us to really take a look at this because we are developing a hospital zone, whether we did it by purpose or not. We now have a collection of hospitals in one area and they tend to do this. I think this is a good idea that we address now and take advantage of what is coming in now.

Rick Beverlin, Director of Economic Development, said I would like to give credit to Cameron Goodman who has been working in our department for two months and did a lot of this research. In the case of Shenandoah and Oak Ridge North, having also in another life worked on some things in the Woodlands, the most likely reason some of those clusters occurred is because of the price per foot of some of the Woodlands proper land is quite frankly getting up there. You see how dense some of the things on the waterway are getting but as you also mentioned, once you get to the point that get one or two they tend to cluster regardless of the price per foot. So what they've done in Shenandoah and in Oak Ridge is they have went through their zoning ordinances, and have effectively for medical space to come required the bottom floors to have some other type of retail or commercial product and they both individually outline what those are. They also get into masonry requirements and some façade issues. If you look at Shenandoah, one example would be their largest commercial center is across from their city hall on the other side of the freeway. It's the one that looks like it is almost middle-eastern type architecture. So they are a small city, pretty much a large neighborhood that's incorporated. It has a pretty large commercial footprint, probably not dissimilar to Clear Lake Shores. So with what remaining property they have, I'm certain that they would like to see that go to a retail use.

The one caveat that I would bring into this, if we're dealing with a public entity such as state hospital systems or something like that, or a school district our capability to applying that ordinance to them would be nil, would be the blunt way to say it. The one thing is to get them to voluntarily work with us at every opportunity. Another one I want to use as an example, we are not sure what will go in the space where Sports Authority is. But we also have a lot of commercial space that has been built on spec and may have an inline tenant come in and that's a whole different question in itself. If it's something on the tax rolls already, do you want to see that turned into additional medical space, maybe off the tax rolls, or pad sites that are yet to be developed. It looks like we're going to have medical on both sides, to some extent. There may be a private hospital at some point or a medical professional office building or something like that comes in that is for a profit and in those cases something like this would provide some ability to have real true mixed use maybe blended in the project.

3. **DISCUSSION OF THE MERITS OF CREATING A MUNICIPAL COURT OF RECORD**

Nghiem Doan, City Attorney, said I'm bringing this discussion to the council tonight because I'm familiar with the process having spearheaded a somewhat effort when I was in Pearland. During my interview process here it was a topic that came up, we discussed it briefly and I promised that I would bring it back to the council for you all to consider whether or not it makes sense to do. Last year my office, myself and deputy city attorney, sat down with court staff and the municipal judges, Judge Cope and Judge McCumber, to let them know that this was something we were exploring, taking a look at and also to hear what feedback and input that they had to offer to that. As a result of the feedback that we did get at that meeting, which was some concerns that were voiced, I did further research and wanted to come back and present the data that I have accumulated. So the main thrust of the concerns regarding the thought of going to a court of record is that the numbers don't justify making that change. I would like to start by pointing out that when you say the numbers don't justify the change then there is an assumption that the change would bring some significant cost and I wanted to make that very clear that it does not. A city when it becomes a court of record would have to appoint an official court reporter to be the official reporter that would transcribe a record but that does not in any way mean that we would have to have a court reporter present for the proceeding. In fact that is absolutely not the case. State Law, Chapter 30 of the Local Government Code absolutely allows for the recording of proceedings using high quality audio recording equipment which we already have in existence in the Council Chambers where court is held. And actually with that the only recording that is done is for a trial, not any other proceedings that are held before that, but only a trial and only if the defendant actually requests that a recording be done. So the reality for the typical defendant, who gets a traffic ticket, comes to court to show up at arraignment and is informed of the charges, pleads not guilty and gets set for trial that experience would not change in any way. It is totally transparent.

That person shows up for court, goes through all the proceedings and doesn't request that a recording be made it proceeds as if the court was still a non-record court. There is no change what so ever. And if the person (defendant) does request that a recording be made then all you are talking about is the clerk that sits up there near the judge just hits the record button. So that is my walking the Council through what a trial looks like in a court of record. It is not any big change at all. There is concern that this change would result in additional court staff and judge time for the holding of more trials or the handling of paperwork on appeals. I want to let the Council know that the numbers here simply don't bear out that concern. There is not an increase in the number of trials or appeals so there would be no reason why there would be increased cost there. I know there has been some talk with the defense bar (various attorneys that represent defendants in our court) that if this happens we will just plead not guilty to all these cases and try them all. When I was in Pearland in the year 2000 and leading that court through the change we heard the exact same thing. It did not happen, it did not materialize as you will see with the data. So looking at data, I compiled a list of other cities in the surrounding Houston metro area that have Municipal Courts of record. I did a five year study and the middle year is the year that the court became a court of record. I did that to show the two years before and after to see the trend. Something else to also note is that some of the way these courts enter their numbers, for example bench trials, Angleton did not have that many bench trials. Every time you have an arraignment docket and defendants get up there, told what their charges are and the defendant enters a plea, those can be marked down as a bench trial (mini trial). Often times those numbers will get added onto the actual bench trials held or you might have a number where the actual cases set for trial plead out and don't go to trial. So it's unfortunate that some of these courts the way they keep their records were not as precise but all we need is for them to be internally consistent for us to see the trend for that city. So looking at the numbers, Angleton became a court of record in 2010 and their appeals stood at 35. It is not a question of whether you have to have a large number of appeals to justify doing this because once again you are assuming there is some big cost to justify and there just isn't. Angleton is a smaller city than League City and their trials have not been impacted. The percentage of cases that have been set for trials, as the percentage of the cases filed in the years after it became a court of record, you don't see any big jump. It is staying the same. However the number of appeals have gone down significantly which, I will explain in a little bit. The City of Baytown, closer to League City in population but still not as big as we are, in 2011 went to a court of record. This city, at least for the settings of bench trials, saw a slight uptick but it is not a significant number. Taking a step back, if we buy the defense lawyers argument that we are going to clog the court dockets by trying a lot of these cases, the assumption there is you are going to try them and then appeal them, we don't see the appeals match up to that. Those numbers of trials set for appeal the year after Baytown became a court of record were zero and in 2013 there was only one. That matches my experience in Pearland as well. If you look at the appeals that Baytown had in 2009 (17) and 2010 (15), we are also not talking about a city that was inundated with a lot of appeals and that being the reason why it went to a court of record.

The footnotes for the bench trials and jury trials columns indicate that these are the number of trials set, not actually held. The way that we do it now with an appeal from our court, it is as you know a trial DE novo as if the proceedings never happened in our court at all, it becomes a new trial down at County Court. This advantage to us is that rather than that police officer having to show up to testify as a witness and be paid overtime once it now happens twice. He/she shows up for our trial in our court but then when it is appealed (non-record appeal) at the County and that police officer gets notice to show up he/she has to show up and be paid again because it is a new trial. That is a clear cost to us. If at the County that case pleads out or the defendant is found guilty that revenue goes to the County coffers not ours, even though we paid the police office to write the ticket and show up twice to testify. In a court of record the appeal is from what happens at the Municipal Court level and if it goes down to County and resolved in our favor and we get some disposition where the defendant has to pay a fine we get that money.

City of Galveston and City of Texas City are also courts of record. At a meeting several months back I was unaware that Galveston County had any Municipal Court of record. So there was some concern that if we did this and we have an appeal from our court of record the County folks may not know how to handle it. I have since found out that the City of Galveston became a court of record in 2014. So looking at their numbers, under trials we see the number of appeals (percentage wise) fluctuate, before becoming a court of record in 2012 (116) and 2013 (112). After becoming a court of record they have zero appeals. This is exactly consistent with what my own experience was in Pearland. Lake Jackson, city in Brazoria County, maybe 30,000 in population became a court of record in 2012. You look at the numbers of cases filed, clearly a much less active court. Once again there is not a cost to it, it is not a matter of you having to be big enough to do this, and we see much smaller cities doing it because there is not that big cost. Here in League City the cases fluctuated between 2010 and 2015. If you look at the number of appeals we see they are not insignificant. That was significant when I examined the financial impact of that. Pearland became a court of record very early on, quite soon after the State Law was changed to allow cities who simply adopted an ordinance to become a court of record. The total trials, those are cases set and pleas taken at arraignments as well. Internally you can see the actual number of cases filed trended down from 51% in 1999/2000 to 36%, as well as the number of appeals. Texas City became a court of record in 2013. Once again the total number of trials set dropped from 13% to 8% in the latest year, as well did the appeals.

So going to the financial impact of potentially going to a court of record, I have already alluded to the reduction of officer overtime pay because officers are not having to show up for trial twice (once in our court and once at the County). At the County it would just be an appeal on the record, not a new trial. For traffic tickets the fine range is between \$1 and \$200 and then court costs would be added on top of that. On a non-traffic Class C type those would be up to \$500.

So I took for the years of 2010-2014 the number of cases that were filed and the number of cases that resulted in either a guilty or deferred position (meaning the defendant paid some money) to arrive at a success rate. In 2010, out of the 18,932 cases the success rate was about 67.59% where the result was some money being paid. Out of those cases that year there were 217 appeals. So if we use the same success rate of the 217 cases that were appealed we would have received money in about 147 of them, and if at \$125 each (average fine) we lost \$18,375 in revenue because all of those cases that were appealed went down to the County and the County got all the money that resulted from a guilty or deferred plea. I did the same exact thing for the remaining years of 2011-2014 to find out what that meant to us in terms of lost revenue. For 2015, I had numbers up through July and when I averaged out what I saw as potentially lost revenue it came out to be \$13,000. If it appears to be trending downward for now I would think that as the City continues to grow and our police officers continue to increase one would expect the total number of cases filed to also increase along with that and the lost revenue would continue to grow.

Municipal Court Judge McCumber and Associate Judge Cope addressed the Council.

Judge McCumber said when Nghiem was hired the first meeting we had with him he said we were going to become a court of record. So I started looking into this and did some research. I agree with Nghiem that it might reduce some of the number of appeals but I disagree that it would be a cost savings in fact I still think it would cost the city more. It is funny that I would come in and think this was a bad idea because the people who would probably make money and benefit most would be Judge Cope and myself. The first page of my handout lists the cities with a population similar to ours. These are all courts of record except for League City. They are similar populations with the number of cases filed, the appeals and then it shows the judges salaries. Right now my salary and Judge Cope's salary allotted per year doesn't even come close to what the presiding judges make in this counties. I suspect that it is because of the number of dockets that they have. When Nghiem and I first met he told us he came from Pearland and he believed that it was successful there. When we checked on the number of dockets, right in League City we have got it streamlined, the number of dockets that the judges appear at are 6 per month. There is a pre-trial conference where the Deputy City Attorney tries to work out cases the judges don't appear at. The jail arraignment docket that I do has 75-80 people, there is no way you are going to be able to do that in one docket. It takes about 1/2 of a day to do that. For jury trials we set aside the whole day because we usually have 20-30 cases where the prosecutor tries to resolve them and are tried. There is no way we are going to be able to do all those cases in one day if we are a court of record. Sometimes we do one trial a day but if we have more trials it is going to cost us more in jury money. For the cost in judges if you go to a court of record, we pulled the clerk schedule for Pearland and they have 8 dockets a week, we have 6 dockets a month. The presiding judge in Pearland makes \$110,000 per year, I make \$55,000. Just those numbers there add up to an increase. There is no way in a city of this size that we can do all those 6 dockets by becoming a court of record.

In having litigated for 21 years you have to be very clear in the recordings. If a court reporter is going to take this down you can't have people talking over each other, you have to take things slowly and make sure one person is talking at a time. You have to have good recording equipment. I have talked to some people who work in Texas City and Seabrook and they have told me it is significantly slow. In an email from Pat Ripple who I think Mr. Doan worked with in Pearland (court of record) who is now in Friendswood (not a court of record) she laid out the fact it is more timely. Looking over some of the other things, I talked with Police Chief Kramm about the concern of the overtime with the police officers. I think with things moving slower you are going to have more overtime from the police officers. A lot of times they have to come in for the court session when it is not their shift. Also our court Bailiff Adam is the warrant officer too, goes around knocking on doors, leaving door tags and trying to collect warrants that are owed. So if he has to spend more time in court because of the increased sessions then it will be less time for that.

Judge Cope said the reason we are having less appeals is the DA's are now taking cases more seriously and the lawyers know it, they don't appeal so often because the fines and fees are getting so much higher. When you have a trial in a court of record it is probably going to take at least 50% more time for the trial because everything has to be clear and you have to take everything slower. I have known attorneys, prosecutors and judges in this county for 30 years and few of them say it goes slower on the trial dockets. I think between our prosecutor working things out and things getting stricter on appeals in Galveston those numbers are going to go down significantly.

4. CONDUCT A WORK SESSION OF THE CITY COUNCIL TO RECEIVE INFORMATION CONCERNING AGENDA ITEMS APPEARING ON THE MEETING AGENDA FOR THE MARCH 22, 2016 MEETING OF THE CITY COUNCIL OF THE CITY OF LEAGUE CITY.

NO VOTE OR ACTION WILL BE TAKEN ON ANY ITEM UNDER CONSIDERATION

5. ADJOURNMENT

There being no further business, at 8:01 p.m. Mayor Paulissen adjourned the meeting.

TIMOTHY PAULISSEN
MAYOR

DIANA M. STAPP
CITY SECRETARY

(SEAL)

MINUTES APPROVED: