



City of League City, TX

300 West Walker
League City TX 77573

Meeting Minutes City Council

Monday, August 8, 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 special work session in the Johnnie Arolfo Civic Center at 400 West Walker Street on the above date at 6:00 p.m.

Mayor:	Pat Hallisey
City Council Members:	Dan Becker Hank Dugie 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	Gabriel Menendez

1. CALL TO ORDER AND ROLL CALL OF MEMBERS

Mayor Hallisey called the meeting to order at 6:00 p.m. and called the roll. All members of Council were present except Mr. Dugie and Mr. Long. Mr. Becker arrived at 6:03 p.m.

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

Paul Menzies, Director of Planning/Development said just a quick recap, at the councils request the council discussed in late March a couple of ordinances recently passed by some suburban Houston cities that steered uses in their commercially zoned areas towards that of retail sales tax generating businesses. Direction at that time was for staff to come back with a proposed set of regulations based on those two that were reviewed as well as a white paper. Again we are talking about the City of Shenandoah and Oak Ridge North. And as part of their regulations they steered those uses towards those that generate retail sales tax and they had certain design regulations in their commercial corridors and so that is what staff has drafted. A couple of weeks ago we reviewed this in detail and the direction at the time was to bring this back in a couple of weeks and then have the remainder of council that wasn't there at that time have a chance to add their comments. Effectively I am going to go in reverse order, Sections 4 and 5 introduce to our zoning ordinance a masonry design standard for all new commercial and residential construction. Section 2, I think is the meat of what the council wanted to see, again would steer in our major commercial corridors new commercial uses to those retail sales tax generating businesses and would not limit or prohibit other types of uses, but would certainly steer them towards uses that wouldn't meet the definition of sales tax generating could be allowed by SUP. So if that is what the council would like to move forward with, again this is not on the agenda tomorrow night for consideration, this would be an amendment to the city's zoning ordinance which by statute and local code requires a pretty significant public hearing process as do all the zoning requests that come forward. And so if you were to ask the staff to move forward with this it would likely not come back to you until the fall.

Nghiem Doan, City Attorney said as a reminder there was a question last time raised by a member of council regarding some sort of exception for a UTMB type of establishment and really the fact that the SUP could be granted by council and would allow that entity to locate exactly there really takes cares of it and is built into this ordinance already.

3. **PRESENTATION AND DISCUSSION REGARDING THE BUTLER LONGHORN MUSEUM LEASE**

Chien Wei, Director of Parks & Cultural Services, said the last time the lease agreement was approved was in 2013. We are making some presentations on some highlights of the existing agreement and differences from the proposed agreement with the agreement that is currently expiring at the end of August 2016. The current proposed agreement is for a 3-year term with an automatic 3-year renewal unless the city notifies the Butler Longhorn Museum 90 days before the expiration of the first agreement. The changes from the existing agreement with the new agreement are that any indication or mention of phone and fax services have been removed. Those items are now accounted for by accounting funds.

Exhibit B regarding the outdoor mural, that mural no longer exists so it has been removed from the contract. The only new addition that has been requested by the Butler Longhorn Museum Board is for waiver of utilities. Staff has put together some numbers from reports given to us by the Butler Longhorn Museum. Annual Visitors, in 2013 there were 13,043 visitors; in 2014 there were 17,489 visitors; in 2015 there were 29,382; and in 2016 (thru June) there have been 6,714. The projected total for 2016 is between 24,714 and 30,714. The annual electricity costs have been the responsibility of the museum and for the past three years was \$13,213.69 in 2013; \$15,056.71 in 2014; \$15,258.67 in 2015; and \$8,304.43 so far for 2016 (thru June). The museum balance sheet shows an annual net income of \$1,213.41 for 2013; (\$1,413.70) for 2014; (\$3,760.97) for 2015; and (\$3,044.52) for 2016 (thru June). This includes their cash, checking balance and liabilities. This item is on the work session to get council direction on how to move forward on the proposed renewal agreement. Currently the proposed renewal agreement does not have the waiver of utilities but if we hear from council that they would like that included we could always make that adjustment.

Rebecca Underhill, Assistant City Manager, said we provided council some information late this afternoon. There is some support provided by a variety of sources throughout the organization through the budget. The museum is required to pay the electric bill under the current lease that they are under and the water and sewer services are provided by the city. They receive support from the Information Technology Department, they have a phone and internet service. There is some maintenance that the IT Department does provide when they have problems with the computer. The Communications Department provides support to help publicize their events. The Police Department responds to calls for services. The bulk of the operating funds that are expended are in the Facilities Department. They work on as contracts for alarm services, fire extinguishers, sprinklers, building maintenance, pest control, HVAC, electrical, plumbing and exterior maintenance. I would also mention that in the Capital Improvement Budget that you are considering currently for the upcoming year there are funds in there to work on the issues at the building and Mr. Baumgartner can speak more to the details of that project.

John Baumgartner, Deputy City Manager said we didn't get specific quotes but I believe there is an allowance between \$50,000 and \$100,000 to repair the exterior damage, weatherproof it and then paint the exterior of the building. If there are funds left over, then we look at insulation to help on the energy bills.

4. DISCUSSION REGARDING THE CREATION OF A MUNICIPAL COURT OF RECORD

Nghiem Doan, City Attorney, said to remind the council we had a previous work session discussion on this before, it was on council's last meeting agenda. At that time Judge McCumber came forward, had some concerns and the council decided to postpone the item. So tonight I think we give opportunity for the judges to go through their concerns and if given the chance I will talk about it when they are done.

Judge McCumber said we did this workshop back in March and then Judge Cope and I met with Nghiem two times since then and gathered some more information. We thought it would appropriate to reconvene and go through the information and the numbers that we have crunched since then and kind of tell you where we are on it. In the packets that we handed out we did a study on those cities and what those judges earn. These are cities that are similarly situated in size to ours, roughly 100,000 population. My salary as a presiding judge is \$65,000 per year, Judge Cope gets paid hourly and roughly budgeted at \$21,000 per year. If you look at these other cities, they range from \$104,000 per year up to \$147,000 per year for the judges. You are getting both of us for way lower. One of the things that we didn't have last time that I wanted to point out was the change in budgets of these cities after they went to a court of record. There are five cities and all but one have significant budget increase for the court. I don't know why that is but I actually put pencil to paper and worked out the numbers. Texas City went up \$93,000, Angleton went up \$53,000. The only one that went down was Baytown at \$41,000. Galveston went up \$74,000 and Lake Jackson went up \$38,000. That is an average of an increase of \$43,385 for your core budget. On all our 180 tickets or so per year, assuming we win them all, we only collect \$100 on each ticket. If you do the math, in 2014 if we collected all the money on every single appeal ticket it would have been \$11,300. In 2015 it would have been \$19,100, assuming we collected and won every case that got appealed. Also I provided an article from the Texas Municipal Recorder titled "Should Your Municipal Court Become a Court of Record". It pretty much says if you have a high number of appeals then it is probably worth the time and effort of doing it, but if you don't it probably not worth it. Our total budget is \$673,865 so we are looking at less than 2% of what the cost would be.

Nghiem Doan said thank you Judges and Council. I do have some additional data to share with Council tonight. Let me address a couple of things that I heard the judges bring up. One, regarding my not coming over to the court. Actually I have been to two pretrial dockets, those are dockets where defense lawyers are set to come and discuss their cases with the prosecutor. Judges are not there for those dockets so that was why the Judges wouldn't have known I had been there. It was actually at working one of those dockets that reinforced for me one of the reasons why I think that going to a court of record is so beneficial. I had a defense lawyer who represented a client, the client had two cases charged against her. One was for no driver's license and one was expired registration. The no driver's license case more serious, higher fine. The other just a tag and not as big of a deal. I offered to kick the registration case and have the client pay the no DL case. That attorney said no, how about you flip it. I said no and he said if I don't get the deal I want here I will just appeal it down at County. And it was that kind of trump card because what happens in this court at the end of the day being a non-record court doesn't matter. The County doesn't care about these class of tickets. Speaking of the Commercial Vehicle Enforcement cases (CVE), I had a meeting with Officer Fletcher last week and he tells me in the 10 plus years in doing these cases he has not been called down to the County on appeals. Why not, because typically they dismiss them. Those CVE cases get appealed all the time because of the repercussions it has on those drivers and their licenses. So we are talking about serious charges, matters where

these commercial drivers are concerned about maintaining their CDL's so they can drive those big rigs on our roadways. It is a loophole for them to escape the system that would hold them accountable on their drivers' licenses for a variety of moving violations that endanger all of us that share the road with them.

But given that this has been such a serious grave type of discussion I wanted to put some data together and present it to council tonight but do it in more of a light way with a top 10 list 'Top Ten Myths Heard About Becoming a Municipal Court of Record'. Myth #10, this change is part of a conspiracy to use the Court of Record for unsafe building abatement to facilitate downtown redevelopment. This brings up a benefit of going to this court of record is that a court of record does have the jurisdiction to hear unsafe building abatement cases. There was a recent Texas Supreme Case, City of Dallas v. Stewart, where the city got popped for demolishing a structure. Even though the city had gone through its procedure, because that city had not done so in front of a court where a record is kept the Supreme Court held that because we are dealing with property rights which are constitutionally protected you still risk liability for doing it that way. So having this change would allow us to continue our process. Right now we do these unsafe building abatement cases in the city but we have them heard by the Zoning Board of Adjustments, a panel of volunteers but they are lay persons and not attorneys. It is not a matter where records are kept of proceedings and proceeding under normal rules of evidence. So having this changed to a court of record and allowing us to file such cases in the Municipal Court of Record would actually strengthen this unsafe building abatement process that we have.

Myth #9, this change is being pushed by unnamed members of Council with unknown motives. Absolutely not true. As you know very well this has been my proposal all along. I discussed this during my job interview with the Council early last year when I talked about the things that I had accomplished in the City of Pearland and one of those I was very proud of was when I was the prosecutor in Pearland spearheading that change to go to a court of record. We will see this in the numbers that I will show but the Judges often point out that Pearland is not the same size city and are bigger and have more dockets. Please keep in mind that the change that Pearland made happened 16 years ago. If we want to compare apples to apples, then let's compare League City today with Pearland 16 years ago and see how those relative sizes compare.

Myth #8, if the clerk performs her duties under the direction and control of the Municipal Judge, this would violate our charter. Truth, yes. It is true that right now Article V, Section 7 of our Charter requires that the court clerks be appointed by and report to the city council. Unfortunately, as I have found out checking with HR none of the current clerks we have were appointed using that procedure. They were all hired by the court supervisor hired by the Finance Director. It has all been under the umbrella of City Manager or designee. We don't treat as city council employees but yet it is right there in our charter, if we want to talk about charter violations. Making this move actually allows us to solve that because Texas Government Code Section 30.0009 provides "clerks and other personnel perform the duties under the direction and control

of the presiding judge” and that section only applies if you are a court of record. That section trumps our Charter, State Law trumps city law, even the city Charter. So by going to a court of record we would actually allow that section to apply and allow our clerks to have their job without going through an appointed process in front of council.

Myth #7, having the City Manager or his designee hold the power to hire or fire the clerks would violate our charter. Once again this section of the Government Code allows the city to retain the employment decisions, the hiring and firing decisions under the city administration while the performance of court duties would be under the direction and control of the presiding judge. This actually is exactly how we are currently operating. It is just we don’t have adventive right now of the Texas Government Code section because we are not a Court of Record. I am hoping to change that to make it all correct.

Myth #6, League City is too small to justify changing to a court of record. True, League City is bigger than all of the seven area cities when they adopted their courts of record. Most of those were done fairly recently and we are bigger than all of them except Pearland. Pearland made the change in 2000 with a population of 37,600. We are almost 3 times that size.

Myth #5, this would constitute impermissible meddling with the judiciary by the legislative branch. True, the legislative branch at all levels of government has always possessed the power to create courts. In the US Constitution, Congress has the power to create federal district courts. In the Texas Constitution, Texas Legislature can and does create additional district courts whenever there are additional needed and can also adjust their jurisdictional limits. Texas Government Code, Chapter 30 allows cities to create courts of record by having an ordinance adopted by city councils. Please keep in mind that creating a court, which we are talking about, is very different from interfering in the operation of that court.

Myth #4, this change will lead to more trials, and trials will take longer. In the data that I have presented to council before, in the majority of the area courts that became courts of record, percentages of cases filed that resulted in a trial actually decreased. And that’s because the realization is you have that trial that goes badly for you, then your appeal is just so much tougher. It is now no longer this easy appeal at the county and now is an appeal on the record. The defendant has to shell out money to have a transcript prepared by the court reporter from that audio recording. So even in cities that saw an increase in the numbers of trials, this also can be controlled by what the prosecutor chooses to do. Because whether a case goes to trial or not, that is based on whether the prosecutor offers a good plea bargain and is taken.

Myth #3, the number of appeals we handle just don’t justify becoming a court of record. I have looked at the numbers for League City, we average about 157 appeals per year since 2010. I looked at the appeal numbers for the courts in the area that are courts of record in the two years before they became court of record. Their averages are

Angleton 30, Baytown 16, Galveston 144, Lake Jackson 9, Pearland 102, Seabrook 0, Texas City 110. So when you look at these numbers they are the same thing as you looked in population numbers. Being moved to a court of record is not driven by appeals. When we talk about cost there is not a big cost to justify by some huge appeal number. If Seabrook had zero appeals before they became a court of record it's clearly not the appeals numbers that was driving their change to a court of record, but yet they did. It is true, we see it by the numbers that appeals do in fact drop to all zero after becoming court of record.

Myth #2, becoming a court of record is not cost effective and drives budgets up. The actual costs to transition to a court of record are comprised of acquiring audio recording equipment, arranging or acquiring for the storage capacity to store those audio recordings, and printing new forms with the name change. The audio recording equipment, clearly the council meeting mics work just fine so the equipment we currently have already that capacity and capability already exists and we would not be out any additional capital outlay for that. Financial benefits, if our police officers have to testify in our court we will incur overtime. Our clerks, if we have a few appeals a year our clerks will still look at saving the time from handling about 150 appeals fewer per year. And then importantly the city doesn't lose fines from the cases that get appealed to the county. By the numbers I crunched come up to a savings of \$11,000, a conservative estimate based on assuming a 70% success rate of the 157 average number of appeals at a \$100 fine per case. And those fine amounts can be more than \$100. The judges bring forth the point that the numbers we have looked at when we look at other court budgets that those budgets have gone up. True, they have gone up, however they increase for all sorts of reasons. If you want to see an example of budget increases not tied to becoming a court of record look at our court. In 2010 we saw a little less than 19,000 cases filed, keeping in mind that the sole function of the municipal court is to process those cases filed to their conclusion. Those cases were handled with a budget of \$543,609. In 2016, with an estimated 15,100 cases filed we see a year-end estimated budget of \$718,724. For the breakdown, even though the cases filed decreased between 2010 and 2016 by a little over 20% we saw the budget increase by a little over 32%. The conclusion here is clearly the court budget increases cannot be blamed on changing to a court of record.

I have provided you some emails where I have reached out and talked with some folks. Myth #1, becoming a court of record is just a bad idea. I think the empirical data, the numbers overwhelming support the change. But let's also look at the anecdotal reports from the area courts. First one, "as the court administrator, I like the fact that we are a court of record because it makes the process a more formal process and the county court has to consider the case that was heard in our court", Dana Alsobrook, Administrator, Angleton Municipal Court of Record. Second, "negative experiences, from becoming a court of record, none", Gladys Lopez, Clerk of the Court, Galveston Municipal Court of Record. Third, "very positive, less trials altogether, cases going to trial take no longer, only 1 case appealed in two years so much less time spent working on appeals", Tammy Odom, Court Supervisor, Texas Municipal Court of Record.

Lastly, “the overall impact of being a court of record has been very positive”, Judge Carolyn Webbon, Seabrook Municipal Court of Record. This has been unanimous; it is not like I cherry picked emails. We sent out to seven courts, Pearland responded saying that was so long ago they didn’t have any data. The responses have all be positive. I think this is also borne out by realizing a city can easily undo the change to court of record by simply repealing the ordinance. Guess what, no city has. That right there shows that it is working and must be a good idea.

5. CONDUCT A WORK SESSION OF THE CITY COUNCIL TO RECEIVE INFORMATION CONCERNING AGENDA ITEMS APPEARING ON THE MEETING AGENDA FOR THE AUGUST 9, 2016 MEETING OF THE CITY COUNCIL OF THE CITY OF LEAGUE CITY.

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

6. ADJOURNMENT

At 8:18 p.m. Mayor Hallisey said, there being no further business this meeting is adjourned.

PAT HALLISEY
MAYOR

DIANA M. STAPP
CITY SECRETARY

(SEAL)

MINUTES APPROVED: October 11, 2016