

# City Council

520 E Ocean Blvd.

## Regular Meeting

Los Fresnos, TX 78566

<http://citylf.cloudaccess.net/en/>

### ~ Minutes ~

Tuesday, December 17, 2019

6:00 PM

City Hall

#### Agenda

- A. Call meeting to order

Mayor called the meeting to order at 6:01 p.m.

- B. Invocation and Pledge of Allegiance

Mr. Milum gave the invocation and led the audience in the Pledge of Allegiance.

#### **Visitors remarks-To speak you must sign in with the City Secretary prior to the meeting you have a limit of 3 minutes to speak.**

Ramón Ortiz explained he is present as a visitor, voter and resident and was interested in the outcome on items F 4 & 5 pertaining to the City Attorney, Henry Juarez.

Manuel Abrego congratulated the City Manager, Mark Milum and the city staff for the great job during the grand opening.

Mr. Abrego explained he was present in support of the City Attorney, Henry Juarez. Mr. Abrego shared with the council how he met Mr. Juarez, gave a brief summary on how Mr. Juarez became the City Attorney and what Mr. Juarez does for the city as the City Attorney.

#### **Presentation**

#### **Presentation on services provided by Republic Services.No Action**

Mr. Milum introduced Rey Tamez, Nick Barrera and Omar Rodriguez with Republic Services.

Mr. Tamez explained the brush pickup procedure and handed out a map of the city showing the route.

Mr. Tamez and Mr. Rodriguez answered questions for the board and discussed brush and garbage pickup.

Mayor Narvaez and the council thanked the gentleman for their presentation.

made a motion to approve Presentation on services provided by Republic Services., seconded by the vote was .

#### **Consent Agenda**

Mayor Narvaez asked the council if they had any questions, comments or concerns on the consent agenda. There were none.

#### **Consideration and ACTION to approve the minutes from November 12, 2019 & November 20, 2019.Adopted**

Motion was made and seconded to approve the minutes from November 12, 2019 & November 20, 2019.

James Herrera made a motion to approve Consideration and ACTION to approve the minutes from November 12, 2019 & November 20, 2019., seconded by Yolanda H. Cruz the vote was [Unanimous].

**Consideration and ACTION to approve a budget amendment for the Police Department.**Adopted

Motion was made and seconded to approve a budget amendment for the Police Department.

James Herrera made a motion to approve Consideration and ACTION to approve a budget amendment for the Police Department., seconded by Yolanda H. Cruz the vote was [Unanimous].

**Consideration and ACTION to approve the Planning & Zoning Commission's approval of the preliminary plat for Feather Ridge Phase II.**Adopted

Motion was made and seconded to approve the Planning & Zoning Commission's approval of the preliminary plat for Feather Ridge Phase II.

James Herrera made a motion to approve Consideration and ACTION to approve the Planning & Zoning Commission's approval of the preliminary plat for Feather Ridge Phase II., seconded by Yolanda H. Cruz the vote was [Unanimous].

**Action Items**

**Approval or rejection of the Order of Election and Notice of Election for the February 1, 2020 City Election.**Adopted

Mr. Milum explained the election timeline was based on the limits of what the charter allows as well as state law. Mr. Milum listed the filing dates, early voting dates and election dates. He explained the the deadlines that have to be met to hold the special election to fill a vacancy according to the charter, election code and state law.

Motion was made and seconded to approve the Order of Election and Notice of Election for the February 1, 2020 City Election.

Juan Munoz made a motion to approve Approval or rejection of the Order of Election and Notice of Election for the February 1, 2020 City Election., seconded by James Herrera the vote was [Unanimous].

**Consideration and ACTION to approve or reject bids for the Henderson Road Resaca Crossing Project.**Adopted

Mr. Milum introduced, Vicente Mendez with Ambiotec. Mr. Milum handed out documents with information on the submitted bids. He explained the bids that were received and the recommendation made by Ambiotec. Mr. Milum explained the decision

made on the Henderson Road Resaca Crossing Project would affect the next item which was the 2019 Street Improvement project. Mr. Milum handed out documents with information on the submitted bids for the 2019 Street Improvement project.

Mr. Milum handed out a sheet itemized information on the combined projects. Mr. Milum explained where the funding for the project would come from. Mr. Milum explained the options for the combined projects. Option 1 would be to accept the bids as is with TIRZ account borrowing \$583,802.35 from general fund to pay back over several years. Option 2 would be to accept bids and allow the City Manager to negotiate to delete items and or alter processes that could save additional funds and borrow from general fund to pay back over several years. Option 3 would be option 1 & 2 but not do alternate 1 & 2 on street project. Option 4 would be to reject and re-bid Henderson Road Project and approve streets.

Mr. Milum and the council discussed the options provided.

Motion was made and seconded to accept bids and allow the City Manager to negotiate in deleting item 13-Guardrails in the amount of \$169,000.00 and Item 27-Fence in the amount of \$22,000.00 and or alter processes that could save additional funds and borrow from general fund to pay back over several years.

James Herrera made a motion to approve Consideration and ACTION to approve or reject bids for the Henderson Road Resaca Crossing Project., seconded by Juan Munoz the vote was [3 to 2].

**Consideration and ACTION to approve or reject bids for the 2019 Street Improvements Project.****Adopted**

Mr. Milum stated the council had already gone over the project in the previous item.

Motion was made and seconded to approve the lowest bid by G&T Paving for the 2019 Street Improvements Project, including the base bid, alternate 1 and alternate 2.

Andres Lopez made a motion to approve Consideration and ACTION to approve or reject bids for the 2019 Street Improvements Project., seconded by Polo Narvaez the vote was [Unanimous].

**Consideration and ACTION to terminate the services of City Attorney Enrique Juarez.****Defeated**

Council member Juan Munoz asked the council if they could move to item 5 then go back to discuss item 4.

Mayor Narvaez stated he felt they council needed to continue in the order that the agenda was presented.

Mr. Munoz stated it was up to the council. Mayor Narvaez responded it was up to him because he was leading the meeting and continued with the item. Council member Herrera commented it did not matter to him. Mr. Munoz stated then the other council members do not have a vote and he is asking the council if they can move to item 5 then go back to item 4. Mayor Narvaez asked Mr. Munoz what reason he had to request the change. Mr. Munoz responded because he had to discuss item 5 first then come back to

item 4. Mayor Narvaez did not feel that was a good reason and did not agree with Mr. Munoz. Mr. Munoz again insisted he was asking the council. Mayor Narvaez explained to Mr. Munoz that the agenda had been posted for a long time and he should have requested the items be changed prior to the meeting or when it was posted. He was not willing to change it and would like to continue with the meeting in the order it was presented.

Mr. Munoz stated if the council wishes to change it the Mayor can allow them to do so. Mayor Narvaez responded he alone was not the council and if Mr. Munoz wanted the Mayor to put it to a vote he would if it pleases him.

Mayor Narvaez asked the council if they would like to move to item 5 then go back to discuss item 4. Three members voted to leave the agenda as presented and 2 voted to make the change requested by Mr. Munoz.

Mayor Narvaez then continued with the meeting. He asked Mr. Munoz made the recommendation to terminate City Attorney, Enrique Juarez.

Mr. Munoz responded to the Mayor that the Mayor was running the meeting and that is what the Mayor wanted.

Mayor Narvaez answered ok and asked Mr. Munoz why he or anyone would want to terminate the contract.

Mr. Munoz explained that the problem was that the city attorney no longer has a contract with the city and he was voted out in the last meeting by 3 to 2 vote. He continued to explain that they are stating that the City Charter reads it takes 4 votes to terminate the City Attorney but he is under a contract, he is not a city employee.

Mayor Narvaez responded that nobody was saying he was a city employee.

Mr. Munoz then asked then why does the City Charter apply and 4 votes are needed to terminate him if he is not a city employee. The City Charter is made for city employees not made for contracted individuals and that's what everyone needs to understand.

Council member James Herrera commented that if the council approves item 5 then item 4 is automatically a mute point. He suggested the council just move to item 5 and approve it.

Mr. Milum asked the Mayor if he could read to the council the City Attorney section of the Charter.

Mr. Mium read section 3.06 of the Charter to the council. He explained that the critical part of the section was were it read it takes 4 votes to terminate the City Attorney and reminded the council that in the October meeting the item on the agenda was to renew the contract not to terminate. It was voted to not renew the contract.

Mr. Milum and council discussed the section of the charter explaining that the charter does not differentiate if it apply to an employee or contracted employee.

Mr. Munoz explained if this city charter does not specify whether it applies to an employee or contracted individual and the contract is signed by the mayor and Mr. Juarez therefore what the contract says is what the contract is about. It does not state that Mr. Juarez is a employee. Mr. Munoz stated that is why he is filing to terminate Mr. Juarez because the council had already voted not to renew the contract with Mr. Juarez because

he is not a city employee therefore the four votes as stated in the charter are not needed. Mr. Munoz stated he asked Mr. Milum for Mr. Juarez's W2's and he is not filing a W2. It is a 1099 form and that form is for a contracted individual not an employee and 1099 forms are not given to city employees. Mr. Milum agreed. Mr. Munoz stated since he is contracted he can not be disciplined by the city charter. Mr. Milum explained that the City Charter did not state that. Mr. Munoz said exactly it does not say that because he is not a city employee. Mr. Milum again explained that the charter does not differentiate if it applies to contracted individual or a city employee.

Mayor Narvaez commented that if Mr. Juarez was not doing a good job he had no problem terminating him but he is doing a great job. Mayor Narvaez asked Mr. Munoz why should the services be terminated if he is doing a good job.

Mr. Munoz explained there was a lot of issues. First Mr. Munoz stated that the City Attorney could not be disciplined by the City Charter because he is not a city employee. Mr. Munoz accused Mr. Juarez of speaking to council member to change their votes and that was illegal. Mr. Munoz explained that the employee manual and bylaws state that city employees can not talk bad about candidates or city commissioners which Mr. Juarez has done but nothing can be done because he is not a city employee.

Mayor Narvaez stated that was an allegation Mr. Munoz was making and it does not necessarily mean that it is true because Mr. Munoz is the only one that claims this occurred.

Mr. Munoz asked Mayor Narvaez if Mr. Juarez came to his house if he would admit it. Mayor Narvaez answered if Mr. Juarez was doing something illegal then yes he would admit it. Mr. Munoz told the Mayor no he would not and he had evidence of what Mr. Juarez had done. Mayor Narvaez explained to Mr. Munoz if what he was saying was not true he was opening up the city to a lot of liability and that will cost the city. Mayor Narvaez asked Mr. Munoz if he had a motion.

Mr. Munoz made a motion to terminate the services of City Attorney Enrique Juarez. There was no second. The motion died.

Juan Munoz made a motion to approve Consideration and ACTION to terminate the services of City Attorney Enrique Juarez., seconded by the vote was [1 to 4].

**Consideration and ACTION to approve the renewal contract for City Attorney Enrique Juarez.**Adopted

Mayor Narvaez read the action item and asked the board if there were any questions, comments or discussions. Mayor Narvaez made a motion to approve the contract for a minimum of three years.

Council member Andy Lopez explained that he did not know Mr. Juarez and he did not have any information that could help him make the decision whether to vote for or against it. Mr. Lopez suggested an evaluation of some sort that had data on Mr. Juarez's work to help him make his vote. Mr. Lopez also asked why the increase from \$125 to \$150 and merits the raise. He also asked what was the reason for the three year contract.

Mr. Juarez asked if he could he speak he would answer most of Mr. Lopez's questions.

Mr. Juarez introduced himself and stated he would like say a little about himself. Mr. Juarez briefly explained to the council where he was born, raised, his education background, his experience and how he became a lawyer.

Mr. Juarez explained he had been with the city for approximately 15 years and he has turned down several job opportunity because he feels it will dilute his representation of the city. He loves Los Fresnos.

Mr. Juarez explained that he is not above the law nor is his family. His wife and daughter have received tickets and were they paid because he believes no one is above the law.

Mr. Juarez explained the assistance he provided the city in the annexation of a portion of the city, he also defended the city in litigation in a double CCN lawsuit. He also explained his participation in other cases and the amount that he charged. Mr. Juarez gave example of what other city attorneys are paid. He showed the council an invoice he billed the city in 2006 that showed 12 hours of service for the October-December at \$125 an hour. He asked who in the room had not had a raise in 14 years because he had not.

Mr. Juarez then explained the reason he was asking for a three year contract was because that is how long the councils terms are and he will be with the city as long as the council is.

Before Mr. Juarez concluded he addressed Council Member Munoz and suggested he abstain from voting on the item. Mr. Juarez explained that Mr. Munoz had violated the City Charter by using his position of power to obtain benefit for a family member who was incarcerated. The individual was in jail because he owed tickets in the Los Fresnos Municipal Court. Mr. Munoz used his position as a city council member to get the individual released without having to pay anything. Mr. Juarez reminded Mr. Munoz that he nor himself was above the law however Mr. Munoz used his power to get the individual released without paying any money anybody else would have had to stay in jail or pay the fine. Mr. Juarez believes that was an abuse of power and Mr. Munoz contacted a department head directly which is in violation of the City Charter. Such violation of the charter calls for removal of council member Mr. Juarez explained he was not asking that, but Mr. Munoz did need to abstain from voting.

In addition Mr. Juarez explained to Mr. Munoz that the business he was running out of his house was illegal because he does not have a permit and the property is zoned a residential family. Mr. Juarez explained that if a legal matter would occur he as the city attorney would have to defend him and that is a huge conflict for Mr. Juarez thanked the council for the opportunity to speak.

Council member Lopez thanked Mr. Juarez for his information.

Mr. Milum, Mr. Juarez and the council discussed evaluation procedures.

Motion was made and seconded to approve the renewal contract for City Attorney, Enrique Juarez for 3 years and increase \$150 per hour.

Polo Narvaez made a motion to approve Consideration and ACTION to approve the renewal contract for City Attorney Enrique Juarez., seconded by Yolanda H. Cruz the vote was [Unanimous].

**Consideration and ACTION to approve changes to the tower lease with American Tower.Adopted**

Mr. Milum explained the location of the tower to the council and the agreement that was approved by the council in 2006. The agreement began at \$650.00 per month or \$7,800 per year. Each year the amount increased by 3% or the CPI which ever is less. The company feels the rent amount is not their benefit and the requested to renegotiate.

Mr. Milum explained each proposed option by the company.

Motion was made and seconded to approve to reduce the amount to \$664.00 per month or \$7,968.00, increase it annually by the 3% or the CPI, whichever is less and extend the agreement out to 2056.

James Herrera made a motion to approve Consideration and ACTION to approve changes to the tower lease with American Tower., seconded by Polo Narvaez the vote was [Unanimous].

**Consideration and ACTION for the Mayor and Council to support the It's Time Texas Community Challenge.Adopted**

Mr. Milum explained the challenge to the council and the city's previous participation.

Mr. Milum introduced Christine Martinez, Community Health Worker. Mrs. Martinez gave detailed information on the challenge to the council and the participation of the Los Fresnos School District. Mrs. Martinez introduced local volunteers in the audience that have helped with the program.

Motion was made and seconded for the Mayor and Council to support the It's Time Texas Community Challenge.

Yolanda H. Cruz made a motion to approve Consideration and ACTION for the Mayor and Council to support the It's Time Texas Community Challenge., seconded by Polo Narvaez the vote was [Unanimous].

**Consideration and ACTION to nominate a person for the 2020 RGV Walk of Fame.Adopted**

Mayor Narvaez recessed the meeting at 7:39 p.m.

Mayor Narvaez re-opened the meeting at 7:47 p.m.

Council member Yolanda Cruz nominated Edward Moody and provided an article with information on him.

Council member Andy Lopez suggested Mercedes Cantu. Mr. Milum explained the Los Fresnos Chamber of Commerce had nominated her in 2011 but it did not prevent the council from nominating her under the city.

Council member James Herrera suggested Desi Martinez the Los Fresnos CDC consultant.

A member of the audience suggested Terrance Schraut, Boy Scout leader for many years.

Mr. Milum suggested placing all nominees on a list for other years.

Council member Juan Munoz suggested Jimmy Graybill.

Mayor Narvaez asked Mr. Milum to list the suggested nominees. Mr. Milum listed Edward Moody, Desi Martinez, Jimmy Graybill. Terrance Schraut and Mercedes Cantu.

Motion was made and seconded to nominate Edward Moody for the 2020 RGV Walk of Fame.

Polo Narvaez made a motion to approve Consideration and ACTION to nominate a person for the 2020 RGV Walk of Fame., seconded by Yolanda H. Cruz the vote was [3 to 2].

**Consideration and ACTION to appoint members City Charter Review Committee. Adopted**

Mr. Milum explained that the City Charter went into effect on January 1, 2008. In 2012 the council had a Charter Review Committee. Mr. Milum explained the process the city would have to make if any changes were made to the charter. Mr. Milum listed the prior members and explained they could reappoint them again, remove them or add them.

Council member Andy Lopez asked to appoint Council member James Herrera. Mr. Milum explained the role Mr. Herrera would have as council member. He explained Mr. Herrera could be added but there could not be a quorum.

Mr. Milum and the council discussed the possible members and suggested to keep the previous members and add Mr. Herrera.

Motion was made and seconded to appoint Manuel Abrego, Enrique Juarez, Manuel Cruz, Kenneth Wolcott, Sharon Sato and James Herrera.

Polo Narvaez made a motion to approve Consideration and ACTION to appoint members City Charter Review Committee., seconded by Andres Lopez the vote was [Unanimous].

**Consideration and ACTION to appoint volunteers to plan a 75th Anniversary function on November 2020. Adopted**

Mayor Narvaez asked if any names had been given. Mr. Milum stated 12 names had been given to him. Mr. Milum would like the names soon so a meeting could be called at the beginning of the year.

Motion was made and seconded to appoint volunteers to plan a 75th Anniversary function on November 2020. Gonzalo Salazar, 2 school representatives, City Department Heads, Gene Daniels, Val Champion, Donald Henderson, Leo Casanova, Terry Sandate, Pam Denny, Manuel Abrego, Mercedes Cantu, Yolanda Cruz, Irene Romero, Inis Gomez, Cynthia Lopez, Aida Mellendore, Irma Abrego, and Letty Rodriguez.

Polo Narvaez made a motion to approve Consideration and ACTION to appoint volunteers to plan a 75th Anniversary function on November 2020., seconded by Andres Lopez the vote was [Unanimous].

**Acknowledgement of City Manager's Report**

**City Manager Report A. Wastewater Update B. Water Update C. Nature Park D. Hike & Bike Trails E. CDBG Disaster Grant F. Henderson Road Project G. Street Project H. City**



**Hall Project I. Update Planning & Zoning Ordinance J. Drainage Update K. Garbage/Brush Complaints L. Grand Opening Celebration****Adopted**

Mr. Milum explained he was pending funding information for the drainage improvement project. If he receives it he would like to have a special meeting to discuss. The council discussed times for the special meeting and agreed to meet Monday, December 23, 2019 at 11:30 a.m.

Motion was made and seconded to acknowledge the City Managers Report.

Polo Narvaez made a motion to approve City Manager Report A. Wastewater Update B. Water Update C. Nature Park D. Hike & Bike Trails E. CDBG Disaster Grant F. Henderson Road Project G. Street Project H. City Hall Project I. Update Planning & Zoning Ordinance J. Drainage Update K. Garbage/Brush Complaints L. Grand Opening Celebration, seconded by Andres Lopez the vote was [Unanimous].

**Acknowledgement of Department Head Reports**

**Financial Report 1. Monthly 2. Year to Date 3. Sales Tax****Adopted**

Motion was made and seconded to acknowledge the Financial report.

Polo Narvaez made a motion to approve Financial Report 1. Monthly 2. Year to Date 3. Sales Tax, seconded by James Herrera the vote was [Unanimous].

**Public Works Report 1. Water and Wastewater Activity 2. Calls for Service 3. Building Permits 4. Recycling****Adopted**

Motion was made and seconded to acknowledge the Public Works report.

Polo Narvaez made a motion to approve Public Works Report 1. Water and Wastewater Activity 2. Calls for Service 3. Building Permits 4. Recycling, seconded by James Herrera the vote was [Unanimous].

**Police Department 1. Arrests 2. Incidents 3. Accidents****Adopted**

Motion was made and seconded to acknowledge the Police Department report.

Polo Narvaez made a motion to approve Police Department 1. Arrests 2. Incidents 3. Accidents, seconded by James Herrera the vote was [Unanimous].

**Municipal Court 1. Monthly Report****Adopted**

Motion was made and seconded to acknowledge the Municipal Court report.

Polo Narvaez made a motion to approve Municipal Court 1. Monthly Report, seconded by James Herrera the vote was [Unanimous].

**Library Report 1. Monthly Report****Adopted**

Motion was made and seconded to approve the Library report.

Polo Narvaez made a motion to approve Library Report 1. Monthly Report, seconded by James Herrera the vote was [Unanimous].

**Fire Marshal's Report 1. Monthly Report**Adopted

Motion was made and seconded to acknowledge the Fire Marshal's report.

Polo Narvaez made a motion to approve Fire Marshal's Report 1. Monthly Report, seconded by James Herrera the vote was [Unanimous].

I. Adjournment

Mayor Narvaez adjourned the meeting at 8:15 p.m.

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Presiding Officer of the Council

\_\_\_\_\_  
Recorder