

CITY OF ROSENBERG

REGULAR CITY COUNCIL MEETING MINUTES

On this the 19th day of August, 2014, the City Council of the City of Rosenberg, Fort Bend County, Texas, met in a Regular Session, in the Rosenberg City Hall Council Chamber, located at 2110 4th Street, Rosenberg, Texas.

PRESENT

Vincent M. Morales, Jr.	Mayor
William Benton	Councilor at Large, Position 1
Cynthia McConathy	Councilor at Large, Position 2
Jimmie J. Pena	Councilor, District 1
Susan Euton	Councilor, District 2
Amanda Bolf	Councilor, District 4

ABSENT

Dwayne Grigar	Councilor, District 3
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STAFF PRESENT

Robert Gracia	City Manager
Linda Cernosek	City Secretary
Scott Tschirhart	Attorney for the City
John Maresh	Assistant City Manager for Public Services
Jeff Trinker	Executive Director of Support Services
Joyce Vasut	Executive Director of Administrative Services
Maritza Salazar	Budget Analyst
Lisa Olmeda	Human Resources Director
Charles Kalkomey	City Engineer
Dallis Warren	Police Chief
Wade Goates	Fire Chief
Travis Tanner	Executive Director of Community Development
Tonya Palmer	Building Official
Darren McCarthy	Parks and Recreation Director
Randall Malik	Economic Development Director
Jeremy Heath	Assistant Economic Development Director
Angela Fritz	Executive Director of Information Services
James Lewis	Information Services Manager
Kaye Supak	Executive Assistant
Tommy Havelka	Police Department
John Johnson	Police Department

The City Council reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by Title 5, Chapter 551, of the Texas Government Code.

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CALL TO ORDER.

Mayor Morales called the meeting to order at 7:00 p.m.

INVOCATION AND PLEDGE OF ALLEGIANCE.

Pastor Randy Beck, Water's Edge Community Church, Richmond gave the invocation. Zachary Lawrence of Scout Troop 1656 led the pledge of allegiance to the flag.

GENERAL COMMENTS FROM THE AUDIENCE.

Citizens who desire to address the City Council with comments of a general nature will be received at this time. Each speaker is limited to three (3) minutes. In accordance with the Texas Open Meetings Act, the City Council is restricted from discussing or taking action on items not listed on the agenda. It is our policy to have all speakers identify themselves by providing their name and residential address when

making comments.

COMMENTS FROM THE AUDIENCE FOR CONSENT AND REGULAR AGENDA ITEMS.

Citizens who desire to address the City Council with regard to matters on the Consent Agenda or Regular Agenda will be received at the time the item is considered. Each speaker is limited to three (3) minutes. Comments or discussion by the City Council Members will only be made at the time the agenda item is scheduled for consideration. It is our policy to have all speakers identify themselves by providing their name and residential address when making comments.

CONSENT AGENDA

1. REVIEW OF CONSENT AGENDA.

All Consent Agenda items listed are considered to be routine by the City Council and may be enacted by one (1) motion. There will be no separate discussion of Consent Agenda items unless a City Council Member has requested that the item be discussed, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Regular Agenda.

A. CONSIDERATION OF AND ACTION ON SPECIAL MEETING MINUTES FOR JULY 29, 2014.

B. CONSIDERATION OF AND ACTION ON AUTHORIZATION TO SELL THE PROPOSED LIST OF SURPLUS PROPERTY ITEMS TO BE INCLUDED IN THE ON-LINE AUCTION.

Executive Summary: For City Council's consideration, staff has provided items on the attached list to be included in the City-wide auction to retire surplus equipment, confiscated items, and other salvaged property. The on-line auction is ongoing with PropertyRoom.Com.

Staff recommends approval of the surplus list as presented.

C. CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2014-32, AN ORDINANCE AMENDING THE CODE OF ORDINANCES BY AMENDING SECTION 24-190 OF ARTICLE VII OF CHAPTER 24 THEREOF, ESTABLISHING SURETY BONDS TO GUARANTEE THE RESTORATION OF RIGHT-OF-WAY IN THE EVENT THE APPLICANT LEAVES A JOB SITE IN THE RIGHT-OF-WAY UNSAFE, INCOMPLETE OR UNFINISHED; PROVIDING AN EFFECTIVE DATE; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR VIOLATION OF ANY PROVISION HEREOF; AND PROVIDING FOR SEVERABILITY.

Executive Summary: Article VII, of Chapter 24 of the Code of Ordinances addresses public street right-of-way management pertaining to the construction, installation, or operation of facilities within the City's public rights-of-way. More specifically, Section 24-190(b)(7)(f), includes a requirement for an applicant submitting a permit request to file a surety bond in the amount of \$25,000.00 to guarantee the restoration of the right-of-way in the event the applicant leaves a job site in the right-of-way unsafe, incomplete or unfinished. Based on recent experience with the construction of a pipeline to transport oil products under certain City public rights-of-way, staff has determined the \$25,000.00 surety bond amount is insufficient to cover the potential damages that can occur to the public infrastructure such as street and drainage infrastructure. In order to be prepared for future infrastructure construction projects, such as pipelines and telecommunications cables that will be installed in, or cross public right-of-ways, staff has prepared Ordinance No. 2014-32 which will increase the surety bond requirement from \$25,000.00 to \$100,000.00. Staff believes the \$100,000.00 bond is reasonable and should be adequate to cover the restoration costs that would otherwise be incurred by the City in the event an applicant fails to complete a project.

Staff recommends approval of Ordinance No. 2014-32 which increases the surety bond requirement from \$25,000.00 to \$100,000.00 for permitted work performed in the City rights-of-way.

D. CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1834, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, A GENERAL SERVICES CONTRACT EXTENSION FOR THE PROVISION OF MOSQUITO CONTROL SERVICES, BY AND BETWEEN THE CITY AND CYPRESS CREEK PEST CONTROL FOR A PERIOD OF ONE (1) YEAR, EFFECTIVE OCTOBER 01, 2014, IN THE AMOUNT OF \$38,000.

Executive Summary: A new Contract for mosquito control services was executed for FY2014 with the option to renew the Contract for one (1) additional year. The contractor, Cypress Creek

Pest Control, has performed in a satisfactory manner, and City staff recommends extension of this Contract for FY2015.

The only anticipated change to Contract is the addition of the paved alley encircling Bayou Park. Cypress Creek Pest Control has stated they will spray this alley at no additional cost. This additional area has been included on the Contract Extension.

The Contract Extension is attached to Resolution No. R-1834 as Exhibit "A". Staff recommends approval of Resolution No. R-1834 as presented.

E. CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1835, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND BEHALF OF THE CITY, A GENERAL SERVICES CONTRACT EXTENSION FOR THE PROVISION OF JANITORIAL SERVICES, BY AND BETWEEN THE CITY AND CLARON BUILDING MAINTENANCE, FOR A PERIOD OF ONE (1) YEAR, EFFECTIVE OCTOBER 01, 2014, IN THE AMOUNT OF \$58,336.

Executive Summary: A new Contract for janitorial services was executed for FY2014 with the option to renew for one (1) additional year. The contractor, Claron Building Maintenance, Inc., has performed in a satisfactory manner. City staff recommends extension of this Contract for FY2015.

Janitorial service will be added to the Contract Extension for the Animal Control facility for \$650 per month, or \$7,800 per year. This will increase the annual Contract amount from \$50,536 to \$58,336.

The Contract Extension is attached to Resolution No. R-1835 as Exhibit "A". Staff recommends approval of Resolution No. R-1835 as presented.

F. CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1836, A RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE, FOR AND ON BEHALF OF THE CITY, A PROFESSIONAL SERVICES AGREEMENT FOR SERVICES RELATED TO THE CREATION OF A FACILITIES MASTER PLAN, BY AND BETWEEN THE CITY AND PIERCE GOODWIN ALEXANDER AND LINVILLE (PGAL), IN AN AMOUNT NOT TO EXCEED \$52,500.

Executive Summary: At the June 30, 2014 Special City Council Meeting, the City Council authorized the City Manager to negotiate with PGAL, for and on behalf of the City, a Professional Services Agreement for services related to the creation of a Facilities Master Plan. The proposed fees for the Facilities Master Plan break down as follows:

- Basic Services: \$30,000
- Reimbursable Expenses: \$2,500 (estimate)
- Level II Building Analysis (mechanical, electrical and plumbing systems): \$4,000 per building

Total fees for this Agreement, attached to Resolution No. R-1836 as Exhibit "A", are not to exceed \$52,500.

Staff recommends approval of Resolution No. R-1836 as presented.

G. CONSIDERATION OF AND ACTION ON QUARTERLY FINANCIAL REPORT AND QUARTERLY INVESTMENT REPORT FOR QUARTER ENDING JUNE 30, 2014.

Executive Summary: Overall, the financial status of the City is stable. Most funds have positive variances when compared to budget and prior year actual. The largest revenues of sales tax and property tax are positive when compared to budget and expenses which are within the 75% benchmark for the third quarter of FY2014.

Staff will continue to monitor the revenues and expenses. At this time, no major changes need to be made to meet budget projections. Additionally, the Quarterly Investment Report is included for your review as required by the Public Funds Investment Act.

Staff recommends the acceptance of the Quarterly Financial Reports and the Investment Report for the third quarter of Fiscal Year 2014.

Councilor Benton asked to move Item C to the Regular Agenda. The item was moved to the

Regular Agenda as Item 2A. Councilor Euton asked to move Item G to the Regular Agenda. The item was moved to the Regular Agenda as Item 2B.

Action: Councilor McConathy made a motion, seconded by Councilor Benton to approve Items A, B, D, E and F on the Consent Agenda. The motion carried by a unanimous vote of those present.

REGULAR AGENDA

2A. *This item was previously Item C on the Consent Agenda.*

CONSIDERATION OF AND ACTION ON ORDINANCE NO. 2014-32, AN ORDINANCE AMENDING THE CODE OF ORDINANCES BY AMENDING SECTION 24-190 OF ARTICLE VII OF CHAPTER 24 THEREOF, ESTABLISHING SURETY BONDS TO GUARANTEE THE RESTORATION OF RIGHT-OF-WAY IN THE EVENT THE APPLICANT LEAVES A JOB SITE IN THE RIGHT-OF-WAY UNSAFE, INCOMPLETE OR UNFINISHED; PROVIDING AN EFFECTIVE DATE; PROVIDING A PENALTY IN AN AMOUNT NOT TO EXCEED \$2,000 FOR VIOLATION OF ANY PROVISION HEREOF; AND PROVIDING FOR SEVERABILITY.

Executive Summary: Article VII, of Chapter 24 of the Code of Ordinances addresses public street right-of-way management pertaining to the construction, installation, or operation of facilities within the City's public rights-of-way. More specifically, Section 24-190(b)(7)(f), includes a requirement for an applicant submitting a permit request to file a surety bond in the amount of \$25,000.00 to guarantee the restoration of the right-of-way in the event the applicant leaves a job site in the right-of-way unsafe, incomplete or unfinished. Based on recent experience with the construction of a pipeline to transport oil products under certain City public rights-of-way, staff has determined the \$25,000.00 surety bond amount is insufficient to cover the potential damages that can occur to the public infrastructure such as street and drainage infrastructure. In order to be prepared for future infrastructure construction projects, such as pipelines and telecommunications cables that will be installed in, or cross public right-of-ways, staff has prepared Ordinance No. 2014-32 which will increase the surety bond requirement from \$25,000.00 to \$100,000.00. Staff believes the \$100,000.00 bond is reasonable and should be adequate to cover the restoration costs that would otherwise be incurred by the City in the event an applicant fails to complete a project.

Staff recommends approval of Ordinance No. 2014-32 which increases the surety bond requirement from \$25,000.00 to \$100,000.00 for permitted work performed in the City rights-of-way.

Key discussion points:

- John Maresh, Assistant City Manager for Public Services read the Executive Summary.

Questions:

- **Q:** The suggested bond requirement limits are raised from \$25,000 to \$100,000. Will this make the bond too expensive? What is the cost difference from \$25,000 to \$100,000?
- **A:** This will primarily affect the large utility companies doing multi-million dollar projects. An oil pipeline was constructed about a year ago and the company did \$50,000 worth of damage to one road and \$45,000 of damage to another.

Action: Councilor McConathy made a motion, seconded by Councilor Benton to approve Ordinance No. 2014-32, an Ordinance amending the Code of Ordinances by amending Section 24-190 of Article VII of Chapter 24 thereof, establishing surety bonds to guarantee the restoration of right-of-way in the event the applicant leaves a job site in the right-of-way unsafe, incomplete or unfinished; providing an effective date; providing a penalty in an amount not to exceed \$2,000 for violation of any provision hereof; and providing for severability. The motion carried by a unanimous vote of those present.

2B. *This item was previously Item G on the Consent Agenda.*

CONSIDERATION OF AND ACTION ON QUARTERLY FINANCIAL REPORT AND QUARTERLY INVESTMENT REPORT FOR QUARTER ENDING JUNE 30, 2014.

Executive Summary: Overall, the financial status of the City is stable. Most funds have positive variances when compared to budget and prior year actual. The largest revenues of sales tax and property tax are positive when compared to budget and expenses which are within the 75% benchmark for the third quarter of FY2014.

Staff will continue to monitor the revenues and expenses. At this time, no major changes need to be made to meet budget projections. Additionally, the Quarterly Investment Report is included for your review as required by the Public Funds Investment Act.

Staff recommends the acceptance of the Quarterly Financial Reports and the Investment Report for the third quarter of Fiscal Year 2014.

Key discussion points:

- Joyce Vasut, Executive Director of Administrative Services gave an overview of the item.

Questions:

- **Q:** What was the percentage for TEXPOOL?
- **A:** TEXPOOL is at 59% and the cutoff is 55% within the individual pool. We have evened the pools.

Action: Councilor Bolf made a motion, seconded by Councilor McConathy to approve the Quarterly Financial Report and Quarterly Investment Report for quarter ending June 30, 2014. The motion carried by a unanimous vote of those present.

2. **HEAR AND DISCUSS A PRESENTATION REGARDING A PROPOSED EAGLE SCOUT PROJECT TO BUILD OWL NESTING BOXES FOR SEABOURNE CREEK NATURE PARK, AND TAKE ACTION AS NECESSARY.**

Executive Summary: On July 24, 2014, Zachary Lawrence of Troop 1656 presented a proposed Eagle Scout Project (Project) to be placed in Seabourne Creek Nature Park to the Parks and Recreation Board (Board). After reviewing his presentation regarding the proposal to build owl nesting boxes, the Board unanimously recommended the Project plan for approval as presented.

Staff recommends approval of the proposed Eagle Scout Project at Seabourne Creek Nature Park based upon Zachary Lawrence's presentation and the recommendation of the Parks and Recreation Board.

Key discussion points:

- Darren McCarthy, Director of Park and Recreation introduced Zachary Lawrence.
- Zachary Lawrence of Scout Troop 1656 presented his project to build owl nesting boxes for Seabourne Creek Nature Park.
- Council thanked him for his hard work and project.

Action: Councilor McConathy made a motion, seconded by Councilor Bolf to approve a proposed Eagle Scout Project to build owl nesting boxes for Seabourne Creek Nature Park. The motion carried by a unanimous vote of those present.

3. **Item No. 3 was tabled.**

HEAR AND DISCUSS A PRESENTATION REGARDING A PROPOSED EAGLE SCOUT PROJECT TO RESTORE BLEACHERS FOR SUNSET PARK, AND TAKE ACTION AS NECESSARY.

Executive Summary: On July 24, 2014, Joshua Garcia, Troop 1000 presented a proposed Eagle Scout Project (Project) to be placed in Sunset Park to the Parks and Recreation Board (Board). After reviewing his presentation regarding the proposal to restore bleachers, the Board unanimously recommended the Project plan for approval as presented.

Staff recommends approval of the proposed Eagle Scout Project at Sunset Park based upon Joshua Garcia's presentation and the recommendation of the Parks and Recreation Board.

Action: Councilor Benton made a motion, seconded by Councilor McConathy to table the item regarding a proposed Eagle Scout Project to restore bleachers for Sunset Park. The motion carried by a unanimous vote of those present.

4. **HEAR AND DISCUSS A CITIZEN REQUEST TO ADDRESS CITY COUNCIL REGARDING A PREVIOUS DONATION OF CERTAIN PROPERTY FOR USE AS PARKLAND, AND TAKE ACTION AS NECESSARY.**

Executive Summary: Ms. Joan Williams McLeod has requested an opportunity to address City Council regarding a certain six (6) acres of land donated by her family approximately twenty (20) years ago for parkland use.

Key discussion points:

- Ms. Joan Williams McLeod, Galveston, Texas addressed Council regarding the park land she and

her mother donated. She had a letter from the Farm Bureau regarding an eminent domain they passed that no profit is to be made off the land donated or under eminent domain. That was her legal point. The City has been putting hay on it and made some profit. This was in the last twenty years and those twenty years expired last Christmas. She expressed her concern with the pipeline that came through this spring and the Boy Scouts use of the park. She asked that one-half of the land be given back to her. She does not think anything should be built on it or the Boy Scouts should play on it or use it.

- When they bought the land from General Homes, they were in bankruptcy. She was afraid she would lose her agricultural exemption and she and her mother donated the land to the City with the understanding that they might name some of it after the Williams. She thinks that Seabourne Park is a good name for the park but it would have been nice to have a walking trail or something named after her family.
- Mayor Morales asked with Council's permission to defer this to our Attorney because there are some legal issues and our Attorney should address them.
- Scott Tschirhart, Attorney for the City addressed Ms. McLeod and stated it sounds like you are asking this Council to abandon a part of the property back to you. There is a procedure in the City Code on abandonment in Section 24-1. Before the Council would have any power to do what you are asking to do you really would have to go through this process. It involves submitting a petition to abandon the property and requires a reason for it, a survey plat, written consent of all the landowners around, etc. The problem is a little different because it is a park now. This City can't abandon a piece of park property so easily as an unused roadway. Both the Texas Government Code Section 15.02.55A and the Local Government Code say that we would have to put it up for election and the majority of the voters in that election would have to vote to divest the City of that park property or any portion. Even if the voters said we could sell this property it would have to be sold on competitive bid.
- Ms. McLeod referenced an article regarding eminent domain passed by Rick Perry that says you cannot make profit off of eminent domain property or property that has been given to you. You can't sell it. TxDOT can't take land from me and make a profit on it.
- Scott Tschirhart stated he is very familiar with the statute and has litigated several cases involving that and has one in district court in another county now. Unfortunately, this donation was made long before that law was passed and it does not apply to this property.
- Councilor Benton suggested that Council be allowed to consult with legal counsel to work this out.
- Mayor Morales stated we need to take this under advice of legal counsel.

5. **HOLD FIRST PUBLIC HEARING TO CONSIDER COMMENTS RELATING TO THE PROPOSED AD VALOREM TAX RATE FOR THE FISCAL YEAR BEGINNING OCTOBER 01, 2014, AND ENDING SEPTEMBER 30, 2015, AND TAKE ACTION AS NECESSARY.**

Executive Summary: Chapter 26 of the Property Tax Code requires that taxing units comply with Truth-in-Taxation laws during the tax rate adoption process. These laws were designed to make taxpayers aware of tax rate proposals and to provide an avenue for comment. On Saturday, August 09, 2014, City Council set two (2) public hearing dates for Tuesday, August 19, 2014, at 7:00 p.m., and Tuesday, August 26, 2014, at 6:00 p.m., to receive public comment regarding the proposed Ad Valorem Tax Rate for the fiscal year beginning October 1, 2014, and ending September 30, 2015.

The required notice was published in the newspaper on August 12, 2014, to give the public the proper notification.

The Truth-in-Taxation laws also require that at each public hearing, the governing body must announce the date, time and place of the meeting at which it will vote on the tax rate. The meeting to vote on the tax rate has been set for Tuesday, September 02, 2014, at 7:00 p.m., at the Rosenberg City Hall Council Chamber at 2110 4th Street, Rosenberg, Texas 77471.

Key discussion points:

- Joyce Vasut, Executive Director of Administrative Services read the Executive Summary regarding the item.
- Mayor Morales open the public hearing at 7:33:12 p.m., There were no speakers. He closed the public hearing at 7:33:24 p.m.

6. **HOLD FIRST PUBLIC HEARING TO CONSIDER COMMENTS RELATING TO FISCAL YEAR 2014-2015 PROPOSED BUDGET, WHICH INCLUDES THE CITY OF ROSENBERG'S CAPITAL IMPROVEMENT PLAN (CIP), AND TAKE ACTION AS NECESSARY.**

Executive Summary: Section 9.06 of the Rosenberg City Charter requires the Rosenberg City Council to hold a public hearing on the proposed Budget submitted; and, all interested persons shall be given an opportunity to be heard for or against any item or the amount of any item contained in the proposed Budget.

Notice of this public hearing was published in the newspaper on Sunday, August 10, 2014. The second public hearing on the proposed Budget will be held on Tuesday, August 26, 2014.

This public hearing is held to provide the citizens the opportunity to present their comments regarding the proposed FY2014-2015 Budget.

Key discussion points:

- Joyce Vasut read the Executive Summary regarding the item.
- Councilor Benton commented that we are proposing a tax rate reduction from \$0.50 cents to \$0.49 cents per \$100.
- Mayor Morales opened the public hearing at 7:34:25 p.m. There were no speakers. He closed the public hearing at 7:35:07 p.m.

7. **HOLD DISCUSSION BY CITY COUNCIL ON THE FISCAL YEAR 2014-2015 PROPOSED BUDGET, WHICH INCLUDES THE CITY OF ROSENBERG'S CAPITAL IMPROVEMENT PLAN (CIP), AND TAKE ACTION AS NECESSARY.**

Executive Summary: Section 9.08 of the Rosenberg City Charter requires that after the conclusion of the public hearing on the proposed Budget, the City Council may insert new items or may increase or decrease the items of said Budget, except items in proposed expenditures fixed by law. However, if City Council requests to increase the total proposed expenditures, it shall also provide for an increase in the total anticipated revenue to at least equal such proposed expenditures.

At this time, City Council shall have an opportunity to discuss the proposed FY2014-2015 Budget, any changes thereto, and by a majority vote direct staff to make such changes.

City Council may vote to direct staff to make changes to the Budget. A second public hearing and Budget discussion will be held on Tuesday, August 26, 2014, to finalize the Budget. The final FY2014-2015 Budget will be considered for adoption at the September 02, 2014 City Council Meeting.

Key discussion points:

- Joyce Vasut read the Executive Summary regarding the item.

Questions/Comments:

- Councilor McConathy commented regarding the addition for several departments to allow for an auto allowance. Information was received from the City Manager and his reason for doing that. She understands his reason for doing so. To be equitable and fair to all employees because this allowance had been given to male employees at the oversight of some of the female directors. This City Manager stated the reason being the equal pay act Section 1620.11 – Fringe Benefits. She wanted to make sure everyone understands that she is not against giving employee benefits and not against people being reimbursed for the personal use of vehicles. In order to be equitable and fair she thinks this Council should adopt a policy that IRS Code provides for which allows the reimbursement of \$.56 per mile for any employee that utilizes their vehicle for business use. That would avoid the potential possibility of discrimination. This entitles every employee to receive reimbursement for personal use of their vehicle.
- Councilor Benton stated he will backup what Councilor McConathy said. He stated he did not receive any information although he requested it from the City Manager.
- Robert Gracia, City Manager stated the memo was sent to all City Councilors.
- Councilor Benton stated he thinks employee should be reimbursed the \$.56 per mile for use of their personal vehicles for City business.
- Councilor Bolf stated she looked at it per department need. Some departments drive more than others. She suggested that the Human Resource Department, City Secretary Department and Director of Finance proposed amount be cut in-half for the yearly allowance.
- Councilor Pena concurred with Councilor Bolf. He thinks the way it was setup all issues were looked at before. This would be the easiest way to accomplish that goal.
- Councilor Euton stated she thinks when this was initially setup it was to eliminate the paperwork to turn in mileage.

- Joyce Vasut stated that was probably true. She asked Councilors McConathy and Benton if they mean for all employees to go by the \$.56 reimbursement rate.
- Councilor McConathy stated the policy states it would be approved by either the City Manager or the supervisor for those that would be reimbursed for mileage. Understanding the other benefit of following the IRS Code as opposed to a generic allowance would be that the City would be reimbursing for actual expenses as opposed to picking an arbitrary number that could exceed this amount, which in some cases it would. In adopting the IRS Code it would be a wiser use of City funds. She understands that in some cases we want to get qualified employees and in some cases we utilize an auto allowance as an added benefit where we can't provide that in terms of compensation. But, in order to be fair, which was the move behind adding three more, this would be more fair and equitable to those that qualify.
- Councilor Benton concurred and stated it would be easier for all. Public safety and police are a priority and there were no Police Department on the list. Some of these positions have really high salaries and in addition to that an additional \$4,800 is a lot. When people heard about it he got feedback.
- Councilor Bolf stated keeping up with mileage takes a lot. We know these department heads drive for City business. Some departments drive more than others but to keep up to pay the \$.56 is a lot to keep up with.
- Councilor Euton asked if Council wants to take away the auto allowance totally.
- Robert Gracia stated there are department heads that negotiated a car allowance as part of their fringe benefits to come to work here.
- Scott Tschirhart stated being a part of their compensation changing this in mid-stream would become problematic from a legal point for the City. State employees get paid \$.56 per mile for reimbursement for personal use of their vehicles. But when you have it as part of the negotiated contract of certain employees of the City we can't unilaterally change that without consequences.
- Councilor Benton asked if these employees have contracts.
- Robert Gracia stated that is not what he said. During the time the job was offered part of the agreed upon compensation package was upon management and the employment during that time an automobile allowance would be a fringe benefit. He wants to make sure that there is no question that all administrative staff travels on behalf of the City and after discussion with the administrative team it was apparent that travel in one form or another is unavoidable for all departments. Thus, the decision was made to present all department heads with travel related compensation. His concern was the equal pay act specifically Section 1620.11 which addresses fringe benefits and he read "a fringe benefit includes such terms as medical, hospital, accident, life insurance and retirement benefits. Profit sharing and bonus plan, leave and other such concepts." An automobile allowance in his opinion falls into this category as defined in Section 1620.11 and he wants to make sure we are in compliance to minimize liability.
- Councilor Euton stated that according to what the City Manager and Attorney are saying she does not think it's Council's right to be able to change the compensation for employees at this time. The only thing we could do is approve the new ones. From a legal standpoint they want to add those few employees that it didn't occur so the City would not be in violation of that law and subject to any jeopardy. If Council wants to address every employee by adding the \$.56 mile IRS Rule, which that has probably already been added. When Council goes on City trips they are reimbursed at the IRS rate. She thinks other employees are offered that reimbursement.
- Councilor Bolf stated that looking at these departments that don't drive as much she thinks it is fair to reduce the amount to one-half of the proposed amount.
- Councilor Benton asked if these agreements were in writing.
- Robert Gracia stated he understands it was part of the negotiation. He does not know if it was in writing or not.
- Joyce Vasut stated some of them are. There are letters that are issued when someone is hired and it states what they will get if they accept employment. It is not an employment contract but a letter that states the terms they accept when being hired.
- Robert Gracia stated it was brought to his attention in November of last year that there were issues regarding the car allowance and salaries. He looked into the matter and there were discrepancies. After reviewing salaries and fringe benefits, in order to make it an equal playing field it was only proper to make those adjustments to be in compliance with the act. He is concerned and his job is to minimize liability and that is why this is being proposed for Council to consider for this next year. Emergency personnel are issued take home vehicles. There are no car allowances provided to the Police Chief or Fire Chief or any employee that is assigned a City vehicle.
- Councilor Pena stated that as Councilor Bolf requested it was an amendment to the policy. It

wasn't a complete change. Anybody that works in a capacity where a car or car allowance comes with the job it is something that should not be changed. Those have been established and he thinks that would breach a contract.

- Councilor Benton stated there is no contract but then you say we have an agreement and it is part of their package but there is nothing in writing.
- Scott Tschirhart stated it is not strictly an employment contract. The employees of the City are at will employees. They don't have an employment contract in the traditional sense of the word, but; they do have a compensation package that some have negotiated and this is part of the negotiated compensation package. These are the terms under which they agreed to take the job.
- Councilor Benton stated they take the job. He addressed record keeping and mileage logs and stated he has a limousine service and the IRS requires that he keeps logs in order to deduct expense for doing business. He is required to keep logs on all his vehicles. It is done every day in business and to say we will pay someone \$4,800 a year because they can't write down mileage where they go he is opposed to it.
- Mayor Morales stated Council has two proposals. One the \$.56 per mile IRS proposal for the three departments that are in question at this point. We also have a proposal of those three departments giving them \$2,400 per year which currently they receive nothing at this point.
- Joyce Vasut clarified that all City employees can submit for \$.56 per mile except ones that already get an auto allowance.
- Mayor Morales stated that as part of the compensation package of those that have been getting it that needs to stay in place. From what he has heard tonight from a legal standpoint it should be distributed equally.
- Scott Tschirhart stated he concurs with the City Manager's assessment of the situation but he also understands that different department heads travel different distances depending on their job description. That is a policy decision up to Council to make but he sees the City Manager's concern about this. He will not say that legally you have to but he understands the concern. You have only one item because the policy exists that employees can submit for the \$.56 reimbursement for mileage. The only item before Council is whether to give these three department heads a vehicle allowance.
- Councilor Benton asked about the others.
- Mayor Morales stated the others already have a compensation package we should not change at this point.
- Robert Gracia stated that agreement was made when they were offered employment with the City.
- Councilor McConathy stated for clarity, that is not all directors. That is some of the directors that were recently hired.
- Robert Gracia stated yes, he thinks that is correct.

Action: Councilor Bolf made a motion, seconded by Councilor Pena to add the Executive Director of Administrative Services, City Secretary and Human Resources Director to the car allowance list at a rate of \$2,400 per year.

Further discussion:

- Councilor McConathy stated she is changing her vote as a matter of record.
- Mayor Morales stated he stands with what the City Manager and what Council has said from a legal standpoint.

Upon voting the motion carried by a vote of 4 to 2 as follows: Yeses: Mayor Morales, Councilors McConathy, Pena and Bolf. Noes: Councilors Benton and Euton.

Further comment:

- Joyce Vasut stated at the budget workshop there were a few other items that Council asked staff to change. Staff could not get the one Council voted on tonight. There are four items. Next week when this item comes back for Council to discuss there will be a formal memorandum that lists these items so we are all clear. These are four items that would be changed from the proposed budget to the budget that Council plans to adopt on September 2nd. Those items include removing the assessment fee for Fire Station No. 3; adding the expense for the shared cost of the helicopter with the County to a special revenue fund, increasing the street sweeping contract and now reducing three of the auto allowances from \$4,800 to \$2,400. All numbers will be available in the memorandum coming to Council.

8. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1837, A RESOLUTION AUTHORIZING THE RESALE OF PROPERTY DESCRIBED IN EXHIBIT "A", ATTACHED HERETO FOR ALL PURPOSES, HAVING BEEN ACQUIRED THROUGH TAX FORECLOSURE PROCEEDINGS.**

Executive Summary: Mike Darlow with Perdue, Brandon, Fielder, Collins and Mott LLP (PBFCM), provided a list of property held in trust by the City or Fort Bend County on lots in the City that did not sell at the initial tax sale. Mr. Darlow suggested that the City Council authorize the tax attorneys to conduct a second tax sale to try to sell the lots. City staff has reviewed the list and approved those properties in Exhibit 'A' for resale. Yolanda Humphrey from PBFCM will be available at the meeting to answer any questions that council may have.

Staff recommends approval of Resolution No. R-1837, a Resolution authorizing the resale of property described in Exhibit "A" that was acquired through tax foreclosure proceedings. Upon approval of the Resolution, staff will include the required approval date in the Resolution.

Key discussion points:

- Joyce Vasut read the Executive Summary regarding the item.
- Yolanda Humphrey of Perdue, Brandon, Fielder, Collins and Mott, LLP was present for any questions from Council. She gave an overview of the item.

Questions/Comments:

- Councilor Benton stated these properties will go back at a lower amount.
- Yolanda Humphrey stated they will look at the value of the property, judgment, etc., and the bid amount may be less than the cost of these properties.

Action: Councilor McConathy made a motion, seconded by Councilor Benton to approve Resolution No. R-1837, a Resolution authorizing the resale of property described in Exhibit "A", properties having been acquired through tax foreclosure proceedings. The motion carried by a unanimous vote of those present.

9. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1838, A RESOLUTION AUTHORIZING AMENDMENTS TO THE EMPLOYEE BENEFITS TRUST DECLARATION OF TRUST, A TRUST CREATED FOR THE PURPOSE OF PROVIDING CITY OFFICERS, EMPLOYEES, AND QUALIFIED RETIREES AND THEIR DEPENDENTS, WITH LIFE, DENTAL, DISABILITY, SICKNESS, ACCIDENT, AND OTHER HEALTH BENEFITS, EITHER DIRECTLY OR THROUGH THE PURCHASE OF INSURANCE, AND TO PERFORM OPERATIONS IN FURTHERANCE THEREOF.**

Executive Summary: Staff worked with Burke Sunday to establish the Employee Benefits Trust (Trust) for the purpose of providing City personnel and retirees with specific benefits. City Council approved the Declaration of Trust document on September 02, 2008, thus creating the Trust. The City Council also amended the Declaration of Trust on March 01, 2011, July 19, 2011, and also on August 20, 2013, in regards to Trustee membership and updated legislative requirements.

On Tuesday, August 19, 2014, the Employee Benefits Trust Committee will meet to discuss the necessary changes to the Declaration of Trust, Section I to reflect the change in Trustees, and also to Schedule "A" to reflect the new plan year of 2014. Therefore, the Declaration of Trust document would need to be amended to reflect these changes.

A redlined copy of the recommended changes to same was included in the agenda packet for City Council consideration. Mr. Sunday will be available at the City Council meeting to answer any questions.

Staff recommends approval of Resolution No. R-1838, authorizing the amendment to the Employee Benefits Trust Declaration of Trust, attached as Exhibit "A" to said Resolution.

Key discussion points:

- Lisa Olmeda, Human Resources Director read the Executive Summary regarding the item.

Action: Councilor Bolf made a motion, seconded by Councilor Benton to approve Resolution No. R-1838, a Resolution authorizing amendments to the Employee Benefits Trust Declaration of Trust, a Trust created for the purpose of providing City Officers, employees, and qualified retirees and their dependents, with life, dental, disability, sickness, accident, and other health benefits, either directly or through the purchase of insurance, and to perform operations in furtherance thereof. The motion carried by a unanimous vote of those present.

10. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1839, A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE, FOR AND ON BEHALF OF THE CITY, AN ADMINISTRATIVE SERVICES AGREEMENT, BY AND BETWEEN THE CITY AND THE ROSENBERG EMPLOYEE BENEFITS TRUST, FOR THE PROVISION OF CERTAIN ADMINISTRATIVE SERVICES FOR A TERM OF ONE (1) YEAR.**

Executive Summary: This Administrative Services Agreement (Agreement) will accommodate certain administrative services that may be performed by the City of Rosenberg on behalf of the Rosenberg Employee Benefits Trust (Trust).

The Trust will meet on Tuesday, August 19, 2014, immediately preceding the Regular City Council Meeting. During the meeting, the Trust will be asked to approve the Agreement.

Staff recommends approval of Resolution No. R-1839, a Resolution authorizing the City Manager to execute an Administrative Services Agreement, attached to Resolution No. R-1839 as Exhibit "A", for the provision of certain administrative services for a term of one (1) year, commencing October 01, 2014.

Key discussion points:

- Lisa Olmeda read the Executive Summary regarding the item.

Questions/Comments:

- Councilor Benton asked if the City will be reimbursed for administering the Trust.
- Burke Sunday with Benefit Services explained when the Trust was adopted in 2008 the City Attorney at that time believed that there should be a bridge between the Trust and City in terms of providing certain administrative services. There is really no expense involved here. The duties that the City staff are executing on behalf of the Trust are the duties they were previously executing prior to the Trust. The Trust is a legal vehicle that allows you under Chapter 222 of Texas Insurance Code to save 1.75% of the gross premium. This premium tax you can avoid and have been avoiding for approximately 7 to 8 years now. The City has saved approximately \$300,000 as a result of this.

Action: Councilor Benton made a motion, seconded by Councilor Bolf to approve Resolution No. R-1839, a Resolution authorizing the City Manager to execute, for and on behalf of the City, an Administrative Services Agreement, by and between the City and the Rosenberg Employee Benefits Trust, for the provision of certain administrative services for a term of one (1) year. The motion carried by a unanimous vote of those present.

11. **Item No. 11 was tabled.**

CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1840, A RESOLUTION APPROVING EMPLOYEE AND RETIREE PREMIUM CONTRIBUTION RATES TO THE CITY'S HEALTH INSURANCE PLAN.

Executive Summary: On January 21, 2003, the City Council adopted a policy that qualified retirees would pay the same premium contribution rates as active employees. The premium contribution rate for health insurance coverage for employees and retirees is 10%.

On August 20, 2013, the City Council approved Resolution No. R-1688, which adopted a Premium Incentive Program under the Affordable Care Act (ACA) health care reform law, effective January 1, 2014. In January 2014, the Biometric Screening and Risk Assessment requirements were implemented. In Fiscal Year 2014-2015, the Biometric Screening, Risk Assessment, and Tobacco Use requirements were implemented. In order to receive a premium incentive deduction, the employee must comply with the established regulations.

During the July 29, 2014, Employee Benefits Committee Meeting, the Committee Members requested the City staff to provide options for the premium contribution rate from the 10%. City staff prepared options as requested, which included the Premium Incentive Program and will be presented to the Trust for discussion.

The Employee Benefits Trust will discuss the options at the meeting on August 19, 2014, and will provide a recommendation to the City Council.

Staff recommends approval of Resolution No. R-1840, a Resolution approving employee and retiree premium contribution rates to the City's health insurance plan.

Key discussion points:

- Mayor Morales stated the item will be tabled due to the circumstances of it coming in a little later than with the budget but it is something that Council would like to bring back and look at in the next budget cycle.

Action: Councilor Benton made a motion, seconded by Councilor McConathy to table Resolution No. R-1840, a Resolution approving employee and retiree premium contribution rates to the City's health insurance plan. The motion carried by a unanimous vote of those present.

12. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1841, A RESOLUTION AUTHORIZING FUNDING FOR A CONTRACT WITH BLUECROSS BLUESHIELD OF TEXAS, FOR HEALTHCARE BENEFITS FOR CITY EMPLOYEES, QUALIFIED RETIREES, AND THEIR DEPENDENTS; AND, AUTHORIZING THE ROSENBERG EMPLOYEE BENEFITS TRUST TO NEGOTIATE AND EXECUTE A CONTRACT FOR SAME.**

Executive Summary: Staff has worked with Burke Sunday to obtain quotes for the City's health insurance benefits. BlueCross BlueShield of Texas submitted a Best and Final 6.87% decrease from the current rates.

Staff recommends approval of the funding for the proposed Contract with BlueCross BlueShield of Texas for the PPO Plan. The Employee Benefits Trust will meet on August 19, 2014, prior to the City Council meeting and their recommendation on said health insurance benefits will be presented to City Council at its meeting. Action by the City Council to approve funding for the Contract and proposed rates for FY2014-2015 at \$2,024,326.80 would provide one (1) year coverage with BlueCross BlueShield of Texas, beginning October 01, 2014, through September 30, 2015.

In FY2013-2014, the annual premium was \$2,173,710.72. The annualized reduction to current annual proposed premium rates will be \$149,385.

Staff recommends approval of Resolution No. R-1841, a Resolution authorizing funding for a Contract with BlueCross BlueShield of Texas, for healthcare benefits for City employees, qualified retirees, and their dependents; and, authorizing the Rosenberg Employee Benefits Trust to negotiate and execute a Contract for same.

Key discussion points:

- Lisa Olmeda read the Executive Summary regarding the item.

Questions/Comments:

- Councilor McConathy stated at one time there was a question about covering the employee 100% as opposed to 90%. Is the approval of this resolution for 90% coverage or 100% coverage?
- Lisa Olmeda stated this is for the employee still paying the 10%. For the dependents it is a difference percentage.

Action: Councilor McConathy made a motion, seconded by Councilor Bolf to approve Resolution No. R-1841, a Resolution authorizing funding for a contract with BlueCross BlueShield of Texas, for healthcare benefits for City employees, qualified retirees, and their dependents; and, authorizing the Rosenberg Employee Benefits Trust to negotiate and execute a contract for same. The motion carried by a unanimous vote of those present.

13. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1842, A RESOLUTION AUTHORIZING FUNDING FOR A CONTRACT WITH ASSURANT EMPLOYEE BENEFITS FOR DENTAL CARE BENEFITS FOR CITY EMPLOYEES, QUALIFIED RETIREES, AND THEIR DEPENDENTS; AND, AUTHORIZING THE ROSENBERG EMPLOYEE BENEFITS TRUST TO NEGOTIATE AND EXECUTE A CONTRACT FOR SAME.**

Executive Summary: Staff has worked with Burke Sunday to obtain quotes for the City's dental care benefits. Assurant Employee Benefits submitted a proposed 7.05% decrease for the DHMO and 16.05% decrease for the PPO Plan, with a total of 14.97% decrease from the renewal rates with Guardian. In FY2013-2014, the annual premium was \$116,041.44 with Guardian.

The rate was guaranteed for two (2) years for FY14-15 and FY15-16. The employees pay 100% of the premium. The annual renewal premium will be \$85,791.00 for the PPO Plan and \$12,877.20 for the DHMO Plan, totaling \$98,668.20.

The Employee Benefits Trust (Trust) will meet on Tuesday, August 19, 2014. At that time, the Trust will consider approval of the Contract with Assurant Employee Benefits. It will then be necessary for City Council to consider funding said Contract. Action by the City Council approving the funding for the Contract and proposed rates at \$98,668.20 would provide one (1) year coverage with Assurant Employee Benefits beginning October 01, 2014, through September 30, 2015.

Staff recommends approval of Resolution No. R-1842, a Resolution authorizing funding for a Contract with Assurant Employee Benefits for dental care benefits for City employees, qualified retirees, and their dependents; and, authorizing the Rosenberg Employee Benefits Trust to negotiate and execute a Contract for same.

Key discussion points:

- Lisa Olmeda read the Executive Summary regarding the item.

Action: Councilor McConathy made a motion, seconded by Councilor Benton to approve Resolution No. R-1842, a Resolution authorizing funding for a Contract with Assurant Employee Benefits for dental care benefits for City employees, qualified retirees, and their dependents; and, authorizing the Rosenberg Employee Benefits Trust to negotiate and execute a contract for same. The motion carried by a unanimous vote of those present.

14. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1843, A RESOLUTION AUTHORIZING REPLACEMENT OF THE W. FAIRGROUNDS ROAD BRIDGE AT SEABOURNE CREEK THROUGH THE TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT) OFF-SYSTEM BRIDGE REPLACEMENT PROGRAM UTILIZING THE "PARTICIPATION WAIVED" PROJECT FORM OF AGREEMENT, APPROVING IMPROVEMENTS TO OTHER BRIDGES EQUAL TO THE 10% LOCAL FUNDING CONTRIBUTION IN THE ESTIMATED AMOUNT OF \$88,209.00; AND, AUTHORIZING THE CITY MANAGER AND/OR MAYOR TO EXECUTE ALL APPROPRIATE AGREEMENTS AND/OR DOCUMENTS REGARDING SAME.**

Executive Summary: Staff recently received correspondence from TxDOT regarding the Off-System Bridge Replacement Program. The City has one (1) bridge, located at Seabourne Creek and West Fairgrounds Road, that qualifies for replacement under this Program.

The City has two (2) options to facilitate the bridge's replacement. One option is to enter into a structured agreement with TxDOT that would consist of federal government funding at 80%, state funding at 10%, and City funding at 10%, or \$88,209.00. TxDOT also offers a "participation-waived" project option that allows the City to perform certain other projects that qualify as an equivalent match. Equivalent-match projects must be completed within three (3) years of letting of the first participation-waived project. According to TxDOT staff, the W. Fairgrounds Road bridge is scheduled for replacement in 2018, therefore the City would have up to three (3) years from that date in which to complete the "participation-waived" project(s) to improve other qualifying deficient structures or drainage facilities. Likewise, the "participation-waived" projects can be completed in advance of the 2018 replacement date. For example, if the existing bridge over Dry Creek is replaced as a part of the Bryan Road improvement project, this would qualify as the local equivalent match project.

Staff is recommending that the City participate in the Off-System Bridge Replacement Program utilizing the "participation-waived" project form of agreement with TxDOT that would require an equivalent dollar amount of \$88,209.00 to structurally improve other qualifying deficient structures of drainage facilities. Resolution No. R-1843 authorizes the replacement of the bridge, authorizes the "participation-waived" project form of agreement, and authorizes the Mayor and/or City Manager to execute all appropriate agreements and other documents to facilitate the project.

Key discussion points:

- John Maresh read the Executive Summary regarding the item.

Questions/Comments:

- Councilor McConathy stated "if" the existing bridge over Dry Creek is replaced as a result of the Bryan project. It is really not an "if" it's we are going to replace the existing bridge--correct?
- John Maresh stated yes the plan is to replace it.
- Councilor Benton asked if this is the bridge by the treatment plant and the Jehovah's Witness Church that has wooden planks. The City's portion is \$88,209 and that's 10% so the project is an \$880,000 for that small bridge.

- John Maresh stated it will probably be more than that based on the cost of bridges. Typically bridges are concrete structures.
- John Maresh explained that after the agreement is done we will submit a list of different things we want to do to TxDOT and then we can start doing those projects.

Action: Councilor Bolf made a motion, seconded by Councilor Euton to approve Resolution No. R-1843, a Resolution authorizing replacement of the W. Fairgrounds Road Bridge at Seabourne Creek through the Texas Department of Transportation (TxDOT) Off-System Bridge Replacement Program utilizing the "participation waived" project form of agreement, approving improvements to other bridges equal to the 10% local funding contribution in the estimated amount of \$88,209.00; and, authorizing the City Manager and/or Mayor to execute all appropriate agreements and/or documents regarding same. The motion carried by a unanimous vote of those present.

15. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1826, A RESOLUTION AWARDED BID NO. 2014-09 FOR CONSTRUCTION OF THE BAMORE ROAD PHASE IV PAVING AND DRAINAGE IMPROVEMENTS PROJECT; AND, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE, FOR AND ON BEHALF OF THE CITY, APPROPRIATE DOCUMENTS AND/OR AGREEMENTS REGARDING SAME.**

Executive Summary: During the August 05, 2014 City Council Meeting, action was taken to table this item for further discussion at the next meeting. Representatives from Gonzalez Construction Enterprise, Inc., are planning to be available at the City Council meeting to answer any questions that may arise.

Bids were received on Wednesday, July 16, 2014, for the Bamore Road Phase IV Paving and Drainage Improvements Project. A total of two (2) bids were opened and tabulated as indicated on the attached bid summary form. The Phase IV project primarily includes construction of the three (3) lane concrete curb and gutter street with underground storm sewer from south of Avenue K to FM 1640 (Avenue I). The portion of Bamore Road between FM 1640 (Avenue I) and Spur 529 will be reconstructed as an asphalt roadway with open ditches. Replacement of the water lines is also included.

Staff recommends Bid No. 2014-09 be awarded to Gonzalez Construction Enterprise, Inc., for the base bid in the amount of \$851,317.67. The attached correspondence from Larry Janak, Project Manager, IDC Engineering, recommends same. Should the bid be awarded as recommended, the proposal from Gonzalez Construction Enterprise, Inc., will be attached and serve as Exhibit "A" to Resolution No. R-1826. The contract time is 210 calendar days.

Staff recommends approval of Resolution No. R-1826 which will award Bid No. 2014-09 and provide authorization for the City Manager to negotiate and execute all required documents necessary to facilitate the Agreement.

Key discussion points:

- John Maresh read the Executive Summary regarding the item.

Questions/Comments:

- Councilor Euton asked Gonzales Construction if they are able to do this project with all of their other commitments they have and when do they anticipate completing the cleanup in the other phase.
- Pete Cavazos of Gonzales Construction stated the projects consist of another agreement off Bryan Road and an agreement off of Damascus Road. They have an agreement to keep their materials on the Damascus Road property.
- Councilor Euton stated there is material and tall grass where those materials are. Will that stay there? Will you take care of the weeds on that property?
- Pete Cavazos stated it will not stay there but they do have an agreement to keep materials there until the projects are complete. Yes.
- Councilor Pena stated his concern is the inability to move on projects. You were running late on the Airport Avenue job. My concern is your firm is taking on a project and complete it when it is suppose to be complete and meet the time limits. We have project managers on the projects that can report to us. We have a history of not holding our contractors' feet to the fire. The wishes of this Council is to have the projects completed by contractors who take the projects in the timeframe allotted for the job. There were two timeframes regarding Bamore Road. One was 210 days by your company and 150 days by another company. That is a lot of difference. What would constitute a 60 day differential between the completion of that job?

- Pete Cavazos distributed some information to Council and explained if they would have added in the overtime cost on the phases of Bamore Road Phase II, Phase III and Airport Road it would have been much more costly. There were revised extensions due to rain delays and added change orders. Total savings for the City for these projects was \$658,836.90. On Bamore Road Phase IV the total savings to the City will be \$1,016,394.23 based on base bid difference in the first and second place bid.
- Councilor Bolf stated she was told utilities were a problem on Bamore Road. There have been questions about the road and the start of school.
- Pete Cavazos explained some of the waterlines were connected to others and the City was not aware of that. A lane will be open for school and the plan is to complete the project on October 10, 2014.
- Councilor Benton asked if the change orders are by the City and do we have penalties for these contracts if they are not completed in time?
- John Maresh stated yes change orders are by the City. The proposal is included in the agenda packet and the number of days but the dollar amount of liquidated totals are not in the packet.
- Councilor Benton expressed concern with the road having an up and down pitch. Larry Janak of IDC designed the road.
- Larry Janak of IDC explained most of this part of southeast Texas is a soft tooth design for any drainage on the road. That is the design that TxDOT uses. If you go with a curb and gutter that is the standard design.
- Councilor McConathy referenced the question by Councilor Euton regarding the cleanup. Is the concrete part of the cleanup?
- Pete Cavazos explained they owned the property and it was a staging area. They are utilizing the excess dirt. All the reinforced concrete will be removed by Gonzalez Construction.
- Councilor Benton asked about property on Klare Street and Bamore Road and the reason for the drain in the front yard of that property.
- Larry Janak stated that will be removed and a metal grate will be put in. These are items that are being taken care of.
- Mayor Morales stated a progress report has probably been in the report to staff. These items are probably in the report Robert Gracia sent out. If there is something that is substantially off that he asked staff to make Council aware of that so everyone can answer the questions they are being asked.
- Robert Gracia stated staff will make sure Council gets that information.
- Councilor McConathy asked if there were or were not other bidders than this gentleman and the other company. Going out for a rebid would probably not accomplish much.
- John Maresh stated there were only two bids turned in for this project. Generally what happens in a rebid is the contractors that bid the first time will come in higher.
- Councilor Benton stated maybe we could pay a little more and get it done quicker. Is 365 days standard timeframe for that length of road?
- John Maresh stated IDC gave the length of 365 days. We contacted the contractors in the area trying to get them to bid the job but we can't make them bid.

Action: Councilor Euton made a motion, seconded by Councilor Pena to approve Resolution No. R-1826, a Resolution awarding Bid No. 2014-09 for construction of the Bamore Road Phase IV Paving and Drainage Improvements Project to Gonzalez Construction Enterprise, Inc., and, authorizing the City Manager to negotiate and execute, for and on behalf of the City, appropriate documents and/or agreements regarding same. The motion carried by a unanimous vote of those present.

16. **HOLD EXECUTIVE SESSION TO CONSULT WITH CITY ATTORNEY TO RECEIVE LEGAL ADVICE REGARDING A POTENTIAL ALTERNATIVE WATER SUPPLY PROJECT IN ASSOCIATION WITH BRAZOSPORT WATER AUTHORITY PURSUANT TO SECTION 551.071 OF THE TEXAS GOVERNMENT CODE; AND, TO DELIBERATE THE APPOINTMENT, EMPLOYMENT, EVALUATION, REASSIGNMENT, DUTIES, DISCIPLINE, OR DISMISSAL OF THE PRESIDING JUDGE OF THE MUNICIPAL COURT PURSUANT TO SECTION 551.074 OF THE TEXAS GOVERNMENT CODE.**

Action: Councilor Benton made a motion, seconded by Councilor McConathy to adjourn for Executive Session. The motion carried by a unanimous vote of those present.

An Executive Session was held to consult with City Attorney to receive legal advice regarding a potential alternative water supply project in association with Brazosport Water Authority pursuant to Section 551.071 of the Texas Government Code; and, to deliberate the appointment, employment, evaluation,

reassignment, duties, discipline, or dismissal of the Presiding Judge of the Municipal Court pursuant to Section 551.074 of the Texas Government Code.

17. **ADJOURN EXECUTIVE SESSION, RECONVENE INTO REGULAR SESSION, AND TAKE ACTION AS NECESSARY AS A RESULT OF EXECUTIVE SESSION.**

Mayor Morales adjourned the Executive Session and reconvened into Regular Session.

18. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1844, A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A LETTER OF INTENT, BY AND BETWEEN THE CITY AND BRAZOSPORT WATER AUTHORITY REGARDING AN ALTERNATIVE WATER SUPPLY PROJECT.**

Executive Summary: This item has been placed on the Agenda to allow City Council the opportunity to consider authorizing the Mayor to execute a Letter of Intent with the Brazosport Water Authority (BWA) regarding the supply of an alternative water source. This is necessary in order to comply with the Fort Bend Subsidence District mandate to reduce groundwater withdrawals by 30%, effective October 01, 2016.

If the Letter of Intent is approved by City Council, staff will continue to negotiate a surface water supply contract with the BWA for consideration by City Council at a subsequent meeting.

Action: Councilor Bolf made a motion, seconded by Councilor McConathy to approve Resolution No. R-1844, a Resolution authorizing the Mayor to execute a Letter of Intent, by and between the City and Brazosport Water Authority regarding an alternative water supply project. The motion carried by a unanimous vote of those present.

19. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1817, A RESOLUTION PROVIDING FOR THE APPOINTMENT OF THE PRESIDING JUDGE OF THE MUNICIPAL COURT OF THE CITY, FOR A TWO (2) YEAR TERM BEGINNING OCTOBER 01, 2014, AND ENDING SEPTEMBER 30, 2016.**

Executive Summary: The City's current appointment of the Presiding Judge of the Municipal Court of the City of Rosenberg will expire September 30, 2014. Making the appointment of the Judge in July, but effective October 01, 2014, allows for the associated Compensation Agreement, to be considered under the following Agenda item, to be completed during the Budget preparation for FY2014-15, thereby simplifying the FY2014-15 Budget process.

James A. Baker, the present Presiding Judge, requests appointment as the Presiding Judge of the Municipal Court of the City of Rosenberg, Texas, for a two (2) year term commencing October 01, 2014, and ending September 30, 2016; and, therefore approval of Resolution No. R-1817.

Action: Councilor McConathy made a motion, seconded by Councilor Benton to approve as written with deletion of a car/transportation allowance, Resolution No. R-1817, a Resolution providing for the appointment of the Presiding Judge of the Municipal Court of the City, for a two (2) year term beginning October 01, 2014, and ending September 30, 2016. The motion carried by a unanimous vote of those present.

20. **CONSIDERATION OF AND ACTION ON RESOLUTION NO. R-1818, A RESOLUTION PROVIDING FOR AN ANNUAL EVALUATION AND AUTHORIZED COMPENSATION FOR THE POSITION OF PRESIDING JUDGE OF THE ROSENBERG MUNICIPAL COURT.**

Executive Summary: City Council has established an evaluation date of on or before October 1st of each year for certain "direct report" administrative positions. This item provides an opportunity for City Council to take action out of Executive Session with regard to said evaluation and establish compensation for the position of Presiding Judge of the Rosenberg Municipal Court.

City Council having contemporaneously appointed James A. Baker, Presiding Judge for the two (2) year term beginning October 01, 2014, and ending September 30, 2016, it is incumbent upon City Council to establish the compensation to be paid for that position for that term and to authorize the execution of a Compensation Agreement between the City and James A. Baker stating the compensation to be paid as so established; and, to provide for other benefits of a full time employee of the City for the two (2) year term beginning October 01, 2014, and ending September 30, 2016.

Therefore, approval of Resolution No. R-1818 is recommended with the associated Compensation Agreement attached as Exhibit "A" once compensation has been established.

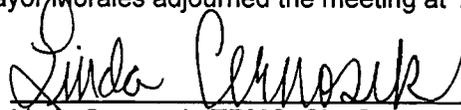
Action: Councilor Bolf made a motion, seconded by Councilor McConathy to table Resolution No. R-1818, a Resolution providing for an annual evaluation and authorized compensation for the position of Presiding Judge of the Rosenberg Municipal Court. The motion carried by a unanimous vote of those present.

21. **ANNOUNCEMENTS.**

There we no announcements.

22. **ADJOURNMENT.**

There being no further business Mayor Morales adjourned the meeting at 10:15 p.m.



Linda Cernosek, TRMC, City Secretary