



The City of West University Place

A Neighborhood City

CITY COUNCIL

Bob Higley, Mayor
Kevin Trautner, Mayor Pro Tem
John P. Barnes, Councilmember
Lauri Lankford, Councilmember
Ed Sobash, Councilmember

STAFF

David J. Beach, City Manager
Scott Bounds, Olson and Olson, City Attorney
Thelma Gilliam, City Secretary

CITY COUNCIL SPECIAL MEETING MINUTES

The City Council of the City of West University Place, Texas, **met via Zoom** in a special meeting on **Thursday, May 6, 2021**, beginning at **6:00 p.m.** due to social distancing guidelines suggested by the CDC in light of the Novel Coronavirus (COVID 19).

Agenda items were as follows:

1. Call Special Meeting to Order/Roll Call

Mayor Higley called the special meeting to order at 6:00 p.m.

Council and staff attending remotely were Mayor Pro Tem Trautner, Councilmembers Barnes, Lankford and Sobash, City Manager Beach, City Secretary Gilliam, City Attorney Bounds, and Assistant to the City Manager Thompson.

2. Discussion on 2021 Budget

Matters related to options for supporting youth sports. *Recommended Action: Discuss and take any desired action. Mayor Bob Higley*

Mayor Higley provided a brief introduction regarding the election and funding for youth sports and then called on Councilmembers to provide thoughts on the subject.

Councilmember Barnes said he has serious reservations about taxpayer dollars going to fund a private youth activity as much or more so than any one on this Council. He said by Council's decision both in 2019 and 2020 as having been the appropriate course of action at the time both in light of what Tri-Sports was requesting and the information they were willing to provide, as well as the advice Council received from the City Attorney.

Councilmember Barnes said as the mayor noted, the central issue, if not the only issue, in the recent election was, for better or for worse, whether to give \$125,000 of taxpayers money to youth sports. He said to that extent the voters have spoken and the policy question is decided – the funding will happen and the only question left is how to fund it. Councilmember Barnes said that division, and the brutal campaign that led to it, have left a deep decision in the community, with some expressing actual fear even as others celebrate their victory. He said as long as this issue remains, that wound will remain and the healing process cannot begin so this Council's task is to help move the City forward now, in a legally defensible direction that achieves the will of the people, while being fair to all concerned and restore an environment of friendship and good will to the City. He said, with that in mind, he fully supports examining how the City can provide the voter-directed funding to youth sports in the community in a legal and equitable manner and without further delay.

Mayor Pro Tem Trautner said he agrees with Councilmember Barnes. He said the voters have spoken and the City should give youth sports the money and added that the City needs accountability and transparency to go with it.

Councilmember Sobash said he agrees that the direction is clear and thinks anything the City can do to begin the process of reuniting what divisions there are and he hopes the City can restore them to the best it can and as soon as it can.

Councilmember Lankford said she has somewhat of a different view. She said while she would have been willing to work with Tri-Sports had they been willing to negotiate, she thinks it should be up to the new council to establish the level of support as they will have to monitor Tri-Sports and the youth sports and the legality of giving such money. Councilmember Lankford said she has always operated under the standard that it was not legal to give a private company taxpayer money and so she is not willing at this point to subject herself to personal liability for the issue and is happy to have the new Council work on it themselves. She said she is not willing to risk personal liability to give Tri-Sports \$125,000.

Mayor Higley said having heard everyone's position, he is not willing to risk his finances in terms of retirement to satisfy somebody else's curiosity about what the law is. He said the City has had two city attorneys consult with Council on this and both come to one mind.

Mayor Pro Tem Trautner said he feels it is important that this Council put this issue behind them to unite the City in order for the new Council to focus on issues like drainage and security. He said this Council has dealt with this issue for two years so they know it more than any one with the information given.

Mayor Pro Tem Trautner said Council should look for a way to distribute \$125,000 so there is tangible indicia of value coming back to the City – maybe through a sponsorship structure. He said whether the funds are given to Tri-Sports or to the individual leagues, they should be required to produce financial statements each year to the City that would be subject to a City audit if requested by the City, and to be paid for by the league, which can be set off by the \$125,000, if needed.

Councilmember Barnes said he thinks the sponsorship idea makes sense with naming rights with respect to the teams to make sure that West U is always represented. He said that gives the City a tangible, quantifiable benefit that any marketing person could attach a dollar figure to with some degree of objectivity. He said if the City is directly talking about giving funds directly to the Tri-Sports organization, then some degree of accountability is required. Councilmember Barnes said it is probably a little less necessary with respect to the leagues because the leagues will be actually providing the rights back and the City will be receiving something immediately back as opposed to giving money to an entity that would then spend it in some fashion with the rights coming from a different direction.

Mayor Pro Tem Trautner said he would still like the financials from the leagues, even if unaudited, so the City can see that the money is being used to support the kids, which he is sure it is.

Councilmember Sobash said he would defer to legal representation for advice on how to address accountability. He said he is more concerned with finding a way to get the funding to them in the most practical and legal way.

Councilmember Lankford said she personally does not see how this is different from the discussions at Thanksgiving. She said Council has already tried to do this and her understanding was Tri-Sports said no to a sponsorship, but maybe now the difference is the City wants to do a higher dollar

sponsorship. She said Kevin (Mayor Pro Tem Trautner) had offered to give \$30,000 or \$50,000 for the leagues individually as a sponsorship and Council was getting itself comfortable to the position in that it could get some City benefit back from that if they advertised this City and promoted this City more and possibly gave a discount to West U kids. She said she just does not see how this proposition is different from what was previously proposed.

Mayor Higley said he thinks there are two differences. Number one the dollar amount, which is a firm amount in the minds of the taxpaying homeowners in West U. He said everybody knows what the dollar amount is and it does not seem to fit the argument of \$40,000, \$60,000, \$80,000 or \$100,000. He said \$80,000 was his personal limit because that is where it was when the number jumped from to \$125,000 due to \$45,000 added per year for capital improvements on the Rec Center field. He said that argument does not suffice because the number the City has voted on, which is what has changed, is \$125,000. Mayor Higley said if \$125,000 is the will of the people, it is incumbent on this Council to get it right and to protect the City from lawsuits and protect the local government officials from lawsuits. He said his proposal would include \$62,500 to each of the West U identified leagues.

Mayor Higley said he thinks that the West U name on the leagues established by West U and for West U in perpetuity would be something valuable to the City. He said he does not have any doubt about the value of West U to West U's real estate. He said that Tri-Sports does not drive the real estate values frankly, but it is something that carries the prestigious West U name and the City is proud of what its created and he thinks that a proposal gets Council passed the true legal impediment it has.

Mayor Higley asked City Attorney Bounds if Council was to give the \$62,500 to each of the West U teams in exchange for the continued use as West University Softball Association and West University Little League and include a caveat of a request for full disclosure, would the City achieve the goal it has in mind with those two objects. City Attorney Bounds said yes, the City could enter into a contract with West U Little League and the West U Softball Association and include the request for name recognition and transparency of financial transactions so that there is a fair disclosure of how the money is being used in order to provide a sports program in West U. He said he and staff could work on an agreement that can do that, but ultimately Council has to judge whether that agreement is fair and is a prudent expenditure of the City's funds.

Mayor Pro Tem Trautner asked if the City provides the money directly to the leagues, couldn't the City make the leagues parties in their own rights to that same contract where Tri-Sports is maintaining the fields in exchange for access, because the leagues and Tri-Sports are all affiliated. City Attorney Bounds said it would not be uncommon for a municipality to enter a multi-part program for the different sports leagues that basically use the same field during the course of the year. Mr. Bounds also stated that doing so would add to the value because now it would include general programming and not just maintenance of the fields.

Councilmember Barnes asked if there would be separate MOUs with the leagues apart from Tri-Sports. Mayor Higley said he thinks so, because there is an existing MOU with Tri-Sports and it is not his intent to circumvent that agreement.

Councilmember Lankford asked City Manager Beach if the contract is with Tri-Sports is for maintenance because it was signed by the presidents of the three leagues and not by Tri-Sports. City Attorney Bounds said he would look into the legalities of this.

Discussion ensued regarding soccer. Mayor Pro Tem Trautner said, though maybe not as large as little league and softball, there are a number of people in West U who participate in soccer. He asked should a prorated amount go to soccer or should the City stick with the brand name entities that were developed and raised in West U.

Councilmember Barnes asked if RISE Soccer still bears the West U name. City Manager Beach said he believes they named a division "West U." Councilmember Barnes said then in terms of naming rights and sponsorships, the City can do the same thing with that division that Council is talking about doing with West U Softball and the West U Little League.

Mayor Higley said Council probably could, but he does not know if the referendum got down into Soccer. He said he believes it was about West U monies going to West U children. He said his point is people identify West U Little League and West U Softball but, in his mind, there is something more fundamental. Mayor Higley said fields and dollars are fungible and said he does not know how soccer fits into this and does not want to sort that out.

Councilmember Barnes said he feels that a separate MOU actually helps. He said the MOU relating to the Tri-Sports entity signed in December talks about services related to specific fields. He said what is being discussed here is more a broad blanket of youth sports programming. He said the MOU Council is discussing having with the leagues is not tied to a particular geographic location. He said it is tied to those entities and the naming rights they would be providing back and for that reason he thinks there is at least a justification to include Rise Soccer albeit, as Mayor Pro Tem Trautner suggested, on a pro rata basis.

Mayor Pro Tem Trautner said he is flexible as long as youth sports gets \$125,000.

Mayor Pro Tem Trautner moved to approve for a 5-year term period to tie-in with the term of the Tri-Sports MOU to grant to West U Little League \$62,500 and West U Softball \$62,500, and require the leagues to provide their financial statements as they normally provide them to the City annually and if the City has any questions or concerns, the City would have the right to have an independent audit of their financials at the expense of Tri-Sports and the West U Little League name will remain and be included in West U Little League and West U Softball.

In regards to Tri-Sports bearing the costs of the audit, Mayor Higley said he does not agree and feels that the City should bear audit costs.

Councilmember Sobash said would that not fulfill the constitutional requirement regarding financial traceability and audited results. Mayor Higley said yes, but who pays for it is the question. Councilmember Sobash said he believes the leagues should pay for it.

Councilmember Barnes said the voters have clearly decided that they want \$125,000 to go the leagues for their benefit and use. He said if the City takes some of those funds back in the form of having them pay for an audit, then the City is not giving the leagues the full \$125,000. Mayor Higley said he agrees and said the City did not say it would provide \$125,000, minus the cost of an audit. Mayor Trautner said the people expect accountability and transparency. Councilmember Barnes said the City should require them to provide financial disclosures so that the City can conduct the audit.

Councilmember Lankford said she is still of the same opinion as before. She said there are so many statements about a "gift" and she is still not comfortable. She said she does not think what the City gets in return rises to the level of the \$125,000. She said though the election was a referendum on one subject, it really was not. She said it was also an election of individuals and about a third of West U residents voted, about 48% voted for Kevin, which she assumes is sort of the group that does not want the money to go to Tri-Sports and 52% said they want it to go to Tri-Sports. Councilmember Lankford said she does not think that every one of the 48% side of the coin was voting as a referendum. Mayor Pro Tem Trautner said Councilmember Lankford makes a good point and he does not believe that 48% was an anti-youth sports vote. He said he thinks everyone on Council likes youth sports,

supports it and have supported it. He said he thinks most people in West U do support youth sports. Mayor Pro Tem Trautner said he has always been open to negotiations with youth sports to be supportive and fair to everybody. He said what Council is trying to do today is finalize the issue, put it to bed so this is no longer a distraction in the City and let the next Council start with a new slate and address drainage and security and other higher dollar value issues. Mayor Pro Tem Trautner said youth sports is an amenity of the City and he has always agreed with Tri-Sports on that. He said it is an exceptional program and his only problem all along has been the value and how much money. He said now the voters, in some sense, have given Council an indication that they want the \$125,000 to go to the youth sports program.

Councilmember Lankford said based on the people she talked to, there were some who would agree with that, but she also had supporters that did not want the \$125,000 to go to Tri-Sports and that after walking the City a couple months and talking to people, she will not turn her back on those supporters. Councilmember Lankford said she is also not comfortable with the liability. She said she also believes Tri-Sports has done great and is a victim of its own success. She said she never said they were not a good organization she just is not comfortable with the "gift" and the liability. Councilmember Lankford said if the City is going to be giving away money to different entities, she hopes the other ones get some, too.

Councilmember Barnes said what he is hearing, in terms of what is being proposed right now is a new MOU with West U Little League and West U Softball for a 5-year term, providing \$62,500 to each of the two leagues in exchange for the City receiving naming rights, the designation of sponsor, and the right to review an audit of each of the leagues financial records at the City's cost. He said with those terms in mind would that satisfy the three factor test required by the constitution as interrupted by the Attorney General and the Supreme Court and would that address the issue of potential liability. City Attorney Bounds responded that the City might want some other minor terms and certainly want the leagues to be required to be on its sports programs as a condition of that, but what is being proposed could be a defensible contract.

In response to the question as to whether the City's current MOU has an audit provision, Councilmember Barnes said it does not and the reason for that is that no funds are actually leaving the City's hands and going to Tri-Sports, with the exception of in-kind support. Councilmember Lankford noted that there was no provision in the earlier MOUs, either. Mayor Higley asked if the City needs the audit provision and City Attorney Bounds said it is not required, but it would be helpful.

After discussion, Councilmember Barnes noted that the motion on the table is to Direct City Attorney Bounds to prepare a proposed MOU with West U Little League and West U Softball Association, with a five-year term providing \$62,500 to each of them, in exchange for naming rights as to the two organizations during the term of the agreement, the right to review and audit their financial records at the City's cost and whatever other terms the City Attorney deems required legally.

Councilmember Sobash asked City Attorney Bounds if a motion is needed. City Attorney Bounds said no, he could draft the agreement based on the direction given. City Manager Beach said based on the direction given tonight, the goal will be to return to the meeting on Monday, May 10, with an agreement for Council's consideration and approval.

Regarding where the money would come from (if approved), Mayor Higley suggested taking it from reserves. Councilmember Barnes said his problem with that is that reserves are intended for one-off, unforeseen events. He said because this is a 5-year agreement next year it would, or should, come from somewhere else and the next Council would be faced making a cut somewhere or raising taxes to pay for it.

City Manager Beach stated with the discussion on the \$125,000, the City's 20 percent reserve requirement would be maintained. He said the City has an unassigned fund balance that could be used to fund this year's unanticipated/unbudgeted expense. He said going into the 2022 Budget, per the direction of the new Council, his goal will be to find the \$125,000 within the existing operating budget, with minimal impact on operations. .

Mayor Pro Tem Trautner said he agrees that this Council take it out of reserves, which he thinks also gives flexibility going forward as to how it gets worked into the budget.

City Manager Beach confirmed that staff will bring to the meeting on Monday an MOU for Council's consideration and a Budget Amendment ordinance.

Councilmember Sobash said it is important that the City gets back to what people want West U to be. He said there will still be folks out there that will not be happy, but the voice is clear to get this done and move forward and he thinks this is the first step.

3. Adjourn

At approximately 7:00 p.m., Councilmember Sobash moved to adjourn. Councilmember Barnes seconded the motion. **MOTION PASSED.**

Ayes: Higley, Trautner, Barnes, Lankford, Sobash
Noes: None
Absent: None

Audio of this meeting in its entirety is on the City's website or you can obtain a copy from the City Secretary.

Prepared by: City Secretary Thelma A. Gilliam

Approved by City Council on: May 24, 2021